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The Mosaic of Institutional Culture and Performance:
Trial Courts as Organizations

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Preface

INTRODUCTION

Culture, work, and performance in a public sector setting constitute the conceptual framework for this book. These topics have received attention from both contemporary private and public sector scholars. Saliency of organizations as an object of study among seemingly different schools of thought invites investigation using an interdisciplinary framework. Despite the skepticism by some experts that public and private organization can be compared meaningfully, we embrace essential aspects of private sector organizational and management scholarship, especially the tools and measures of organizational culture, because they prove quite adaptable to the study of culture in the public sector. As a result, we marry insights and working hypotheses from public sector experts with the methodologies of leading management and organizational scholars. By building on the literatures of both private- and public-sector organizational culture, our research strategy and results should have relevance for subfields in political science, public policy and public administration as well as organizational and management studies.

PLACING OUR STUDY IN CONTEXT

Organizational Culture

In a paradigm-setting manner, Quinn and Rohrbaugh (1983) introduce a highly innovative approach to the study and measurement of the organizational culture construct. Their contribution includes the development of a spatial model of four cultural archetypes to facilitate the study of organization effectiveness. A key thesis underlying their framework is that organizations operate under a competing values tension. In this context, no one cluster of values

exclusively orients an organization, thereby accentuating the role of managerial leadership in balancing and contending with complementary and contradictory orientations. Quinn and Rohrbaugh (1983, 376) conclude their article with the following expectation that:

> the present framework will provide a clarification in language and allow us to more fruitfully pursue the current debate about the utility and the future of the effectiveness construct in organizational analysis, develop, and design.

Their platform provides a solid foundation for the applied analysis of organizational effectiveness.

Following the original Quinn and Rohrbaugh (1983) essay, Quinn and his colleagues have embarked on nearly two decades of subsequent studies exploring the cultural implications of competing values in organizations. Popularly thought of as "how things are done around here," Cameron and Quinn (1999, 14) define culture as:

> ...the prevailing ideology that people carry inside their heads. It conveys a sense of identity to employees, provides unwritten and, often unspoken guidelines for how to get along in the organization, and enhances the stability of the social system they experience.

Cameron and Quinn (1999, 3-4) make clear the relevance of culture as they summarize the traits of successful private sector companies:

> The major distinguishing feature in these companies, their most important competitive advantage, the most powerful factor they all highlight as a key ingredient in their success, is their organizational culture.
> The sustained success of these firms has had less to do with market forces than company values; less to do with competitive positioning than personal beliefs; less to do with resource advantages than vision. In fact, it is difficult to name even a single highly successful company . . . that does not have a distinctive, readily identifiable, organizational culture.

Growing awareness that culture matters to performance and long-term success in the world of business triggered the emergence of culture analysis as a definable area in the field of

management and organizational studies largely beginning in the 1980s (e.g., Ouchi, 1981; Pascale & Athos, 1981; Peters & Waterman, 1982; Deal & Kennedy, 1982).[1]

Culture in Public Sector Organizations

As organizational culture became a presence in private sector research, Wilson (1989) made the case for including organizational culture in the study of public sector organizations. Wilson opens the door for integrating work on private sector organizational culture into the study of the public sector with the following claim: "Organizations matter, even in government agencies" (Wilson 1989, 23). He offers a provocative means to bridge the private-public dichotomy when he says "[e]very organization has a culture, that is, a persistent, patterned way of thinking about the central tasks of and human relationships within an organization" (Wilson 1989, 91).

Wilson believes culture is a core topic for public sector organizational analysis since organizations have a culture just as an individual has a personality (Wilson 1989, 93). Building upon this analogy he goes on to provide his own definition of culture: "Organizational culture consists of those patterned and enduring differences among systems of coordinated action that lead those systems to respond in different ways to the same stimuli" (1989.93). Organizational culture is a relevant and important facet of all bureaucracies – public and private.

When shifting the focus to public institutions, Wilson (1989, 91) notes some difficulties in diagnosing a public organization's culture. Specifically, public organizations do not necessarily have a single culture:

> Many government agencies have multiple, competing cultures. Some manage the competition well, some do not. A major responsibility of an executive is not only . . . to

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[1] Rainey (2003, 307) agrees with this conclusion when he notes: "The topic [culture] really came alive in the management literature, however, when management experts began to find that leaders in excellent corporations in the United States and other nations placed heavy emphasis on managing the cultural dimensions of their firms."

> infuse the organizations with value, it is also to discover a way by which different values (and the different cultures that espouse those values) can productively coexist (Wilson 1989, 101).

If multiple cultures are a hallmark of government agencies, this raises the specter of managing the multiple cultures within an organization.[2] We might, therefore, expect to observe a <u>mosaic</u> of complementary and competing cultures. Identifying and understanding the resulting mosaic becomes vital to public sector management.[3]

The Search for the Public Management Variable

The idea that culture is germane to understanding how public sector organizations go about their business is compelling. It is not surprising, therefore, to find DiIulio (1992) suggesting that the measurement of organizational culture is an important part of any public policy/administration improvement strategy. DiIulio (1989) proposes the following agenda for doing so:

> to observe how members at every level of an organization "really behave", (2) to relate systematically these observations to the formal character of the organization in order to see what (if any) connections exist, and (3) to search systematically for the connections (if any) between organizational activities and real world outcomes.

The key research focus is to discover the relationship between "the way things are" in an organization and the ability of the organization to reach its stated ends. If the "public management variable" is present <u>and</u> important, it remains for researchers to demonstrate the connection. DiIulio goes on to say

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[2] The suggestion in the private sector culture literature is that organizations should aspire to a single dominant cultural type.

[3] The importance and difficulty of management in public sector organizations is reinforced by Rainey's observations (2003):

> Although virtually everyone accepts the premise that all executives and managers face very similar tasks and challenges, a strong and growing body of evidence suggests that public managers operate within contexts that require rather distinctive skills and knowledge.

An important question is whether the distinctive skills and knowledge from the private sector studies of organizations can be transferred to the public domain.

> . . . the immediate future of public management studies ought to lie largely in exploratory
> efforts at "recovering" this variable, which means defining it, measuring it, and
> specifying the conditions under which it matters to the actual quality of citizens' lives,
> either in conjunction with or independent of variables that are not directly related to how
> public organizations are led, structured, and coordinated. (1987, 127)

We assert that DiIulio's inclinations are on target and can be effectively implemented by taking a

page from of the work done in management and organization studies in the private sector.

THE CULTURE OF AMERICAN TRIAL COURTS

Our focus is on the judicial branch of government. Specifically, we examine culture,

work and performance in 12 felony criminal state trial courts selected from California, Florida

and Minnesota.[4] These courts handle "serious" criminal matters; cases in which a convicted

defendant can be sentenced to prison for one or more years.

Trial courts are undoubtedly a major American public institution. They are the forums

where serious charges are prosecuted, negotiated, or tried and resolved. Because very few trial

court sentences of incarceration are reversed on appeal, the decisions of these bodies are of

profound significance. Given the loss of liberty to those convicted as well as the resulting

expenditures for their incarceration (and the resulting opportunity costs across state general fund

budgets), trial courts have a tremendous and growing impact on our society.

Trial Courts as an Understudied Institution

Yet, despite their crucial role in society, trial courts are perhaps the most understudied

major public institution in terms of organizational culture and performance. Executive agencies

or departments are much more likely to be objects of study in those spheres. Some nibbling

around the edges has occurred, but no research program has been mounted to formulate and test

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[4] Florida courts – Duval and Pinellas; California courts – Contra Costa, Napa, and Ventura; Minnesota courts –
Dakota, Duluth, Hennepin, Kandiyohi, Olmsted, Ramsey, and Virginia

through systematic measurement the effects of cultural variation on how criminal court business is conducted.

Courts have been on the periphery of organizational culture and performance assessment largely because the conventional wisdom cites intractable obstacles to the enterprise (e.g., Gallas, 1987). Common perceptions include the following:

- Courts are viewed as so decentralized, fragmented and autonomous that they defy comparison and contrast along common dimensions.

- Courts are seen as lacking measurable performance goals due to their pursuit of justice, quality and other intangible objectives.

- Local court culture is inchoate.

Hence, courts are regarded as the polar case of a public institution unsusceptible to the study of organizational culture and performance in the public sector.

As a result, in relevant literatures to the study of culture, work and performance in the public sector, (e.g., Wilson, 1989; Diluilo, 1989; and Rainey, 2003), courts are omitted from the discussion. Trial courts are seemingly outside the framework of modern public organizational studies except in their appellate role as constraints on other organizations.

A Short History of Trial Court Research

There is a history of understanding courts as organizations (e.g., Blumberg, 1967; Feeley, 1979; Heumann, 1976; Eisenstein and Jacob, 1977). The consensus, although many years old, is that organization theory does not have a lot to say about trial courts. For example, Mohr (1976, 840) observes: ". . . as an organization theorist I feel that although the fit between courts and organizations is not an altogether comfortable one, there are some themes in organization theory that may be helpful in the study of the courts." Although Mohr's focus is different than ours and in spite of the fact that he thinks the contribution of organization theory will be small, his article

is the primary acknowledgement in the court field that trial courts – as institutions – are
susceptible to being studied as public organizations.

Researchers have investigated the role of culture as a source of explanation for timeliness
in criminal court performance. Nimmer was one of the first court scholars to contend the
successful achievement of goals within the criminal justice depends on whether they are
consistent with practitioners' views extant in what he called the "local discretionary system"
(1971; 1978).[5]

A significant conceptual development occurred when Church relabeled Nimmer's notion
and claimed "local legal culture" shapes the pace of felony criminal litigation to a greater degree
than the number of cases per judge, the jury trial rate, the size of case backlog and other
"objective" factors. He defined local legal culture as "the expectations, practices and informal
rules of behavior of judges and attorneys" (1978)[6] and concluded that the "distinctive norms"
regarding the "proper pace of litigation" shape the actual pace of litigation (1981).

Despite the fact that Church's intuitively comprehensible notion of "local legal culture"
has been embraced by court practitioners and has gone essentially unchallenged by court
administration experts, three central questions remain unanswered. What exactly are the
distinctive norms? Is there a typology of cultures resulting from different clusters of values,
beliefs or expectations? Do culture types affect a court's performance?

These questions were initially addressed in a second wave of studies based on three
criminal courts each selected from Illinois, Michigan, and Pennsylvania (Nardulli, Eisenstein and

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[5] Other scholars also commented on how the dominant perspectives in a court's local discretionary system shape
decisions made by judges and attorneys on how to handle cases (Levin, 1977; Eisenstein and Jacob, 1977).
[6] Church offered as a test of his proposition, a comparison of estimated and actual processing times in four selected
jurisdictions. Specifically, he asked judges, prosecutors and defense attorneys to estimate the "appropriate" elapsed
time from the date of filing to the start of a jury trial in twelve hypothetical cases, involving serious offenses. His
results indicated the average cluster of estimated times corresponded to the relative time taken to resolve actual
cases in the four jurisdictions.

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Fleming, 1988; Eisenstein, Flemming and Nardulli, 1988; and Flemming, Nardulli and Eisenstein 1992). Basically, the three authors claim "norms" exist within every community on how the courts should "operate" and differences in these norms contribute greatly to the varieties of ways business is conducted. They advance Church's insight by more completely identifying what the norms are all about. Nardulli, Eisenstein and Flemming (1988) referred to these as "work orientations," which "are rationalizing principles" court leaders "use to explain why particular tasks or functions" are structured in the way they are in their respective courts.

These powerful forces are not the same from court to court, but they also are not unique to each court community. Indeed, Nardulli, Eisenstein and Flemming see three types of distinctive work orientations in the courts they studied: (1) "structural or formal," (2) "efficiency"; and (3) "pragmatic" orientations. While the concept of "work orientations" is a unique contribution by Nardulli, Eisenstein and Flemming, the actual content of these "work orientations" remains anecdotal and unmeasured.

APPROACH AND ANTICIPATED CONTRIBUTIONS

To bring courts into the sphere of public management, address the identification of the public management variable, and gain the benefit of hypotheses and ideas in the established literature, we have adapted the compelling methodology pioneered by Quinn and Rohrbaugh (1983). The basic generic "inputs" in their measurement process include:

- Identification of the core values of the public organization

- Similarity/dissimilarity evaluations of the values from a set of content experts

- Extract and name cultural dimensions and the resulting culture types

- Identify a set of salient content or work areas for the organization

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- Create a "cultural values matrix" describing each culture's approach to each content
  area

- Translate the cultural values matrix into a cultural assessment questionnaire

As detailed in Chapters 2 and 3, we argue this measurement strategy can be applied to a range of

public and private organizations by specifying the core values and the primary work areas in

which culture matters. The public organization of state trial courts is used to illustrate the case.

The payoff is found to be a workable approach to define, measure, and specify the conditions

under which court organizational culture (i.e., public management variable) matters to court

performance.

In developing a rigorous methodological approach to the measurement of court

management culture, we limit our focus to the court as an individual organization. We do not

attempt to investigate the entire panorama of local legal culture or court work orientations, which

include the duties, roles, and values of those inside and outside the courthouse. Instead, we seek

to deepen our understanding of internal courthouse culture. We anticipate subsequent research

will extend our cultural studies to other "players" in the larger notion of local legal culture.

The first of three unique contributions lies in our effort to understand how a major public

institution goes about its work in accordance with its management culture. Whereas public

policy, public administration and governmental scholars have elevated the search for the public

management variable high on the research agenda, our monograph is one of the first instances of

original inquiry to carry out that priority.

Second, our monograph contributes to a rethinking of the traditional distinction between

private and public organizations and the debate over whether knowledge of one is transferable or

relevant to the other. By adapting the tools and techniques developed by business school experts

in studies of private organizational effectiveness to the study of public courts, we uncover non-

obvious similarities and differences in the cultures of public and private organizations, and by extension a more fruitful appreciation for the similarities and differences between the two types of organizations.

Third, the monograph's focus on courts, court culture and court performance brings the study of judicial institutions into the center of intellectual debate and ideas within the disciplines and schools of public policy, public administration and governmental institutions, which tend to focus on legislative and executive institutions, processes and decisions. Courts have been on the fringe in these discussions in part because they are regarded as distinctively different from other institutions. The monograph's degree of success in understanding the public management variable in the court context should stimulate a more unified view of governmental institutions in the future.

EXECUTIVE SUMMARY

Central Finding

Four cultural orientations shape the conduct and performance of American state felony criminal trial courts. Communal, Networked, Autonomous and Hierarchical culture types each constitute a particular way of completing work related responsibilities common to all courts, such as handling cases, managing relationships between judges and court staff and exercising courthouse leadership.

Distinctions among cultures make a difference in the extent to which courts achieve the fundamental values of timeliness, access, fairness and managerial effectiveness. For example, courts with a Hierarchical orientation meet the timeliness criterion more closely than courts with other cultures, but do not satisfy the other three criteria as closely as courts with other cultures. Looking to the future, a common preference among all courts is for a cultural mosaic where particular orientations dominate particular areas of work. A Hierarchical type culture is preferred in the area of case management and change management, a Networked orientation in judge-staff relations and internal organization, and a Communal culture for courthouse leadership. An Autonomous culture is not preferred for any work area.

This central conclusion is drawn from an inquiry into 12 felony criminal trial courts selected from the states of California, Florida and Minnesota. In California, the research sites are the Superior Courts for Contra Costa, Napa and Ventura Counties. Florida's sites are the Circuit Courts for Duval and Pinellas Counties. In Minnesota, six county-wide District Courts were selected, including Dakota, Hennepin, Kandiyohi, Olmsted and Ramsey. Within St. Louis County, Minnesota, the trial courts for the cities of Duluth and Virginia participated in the study.

Data on organizational culture in each of the 12 courts were obtained by administering a questionnaire, adapted from parallel private-sector management research, to all judges with a felony criminal court docket and to all senior court administrators. To determine the affect of alternative court cultures, performance data were gathered from each court. Case records were used to measure timeliness from the date of arrest to resolution. Additionally, surveys were conducted of all prosecuting and public defender attorneys to gauge their views on how well the courts in which they practice achieve the goals of access, fairness and managerial effectiveness. Information on preferred court culture was gained from the same questionnaire used to determine current cultural orientations.

The central finding emerges from addressing a basic question researchers and practitioners have considered over the last 30 years in trying to understand how courts operate the way they do: what is the nature and significance of local legal culture? Local legal culture is the name given to the insight that the beliefs, norms and expectations held by judges, court staff and attorneys shape how well courts perform. Cultural orientations are thought to be more powerful forces influencing the timeliness of case resolution than "objective" factors, such as differences in how cases are calendared, the number of case assigned to individual judges, the jury trial rate, the size of a court's backlog and so forth.

The current research seeks to advance previous thinking on the subject by providing systematic and thorough, quantitative measures of culture within conceptual framework adapted from organizational effectiveness research by management experts and business school scholars. As a result, the current inquiry provides more precise ways to assess the complex configurations of individual court cultures and to see several court cultures in comparative perspective than previous research. Consequently, the project's final work products provide diagnostic tools and

strategic guidance in moving courts to more desired methods of operation and levels of performance.

Analytical Framework

An analytical framework is developed to determine the basic cultural orientations judges and court administrators have toward how they get their work done. The framework provides much needed clarity on the values court leaders and managers adhere to in discharging their multiple responsibilities. For example, what is the perceived role of such norms and values as efficiency; discretionary authority; formal rules, and working cooperatively with others?

Additionally, the framework is intended to assess how underlying orientations are expressed in observable, familiar areas of court work. Variation in court culture is found to be a critical component in how courts implement case management, adapt to changing environmental conditions and exercise court leadership.

The framework's foundation is based on previous court researchers' insights that work orientations are fundamental to understanding court activities and decision making, and for distinguishing one court from another. However, the structure of the framework is adapted from successful efforts by scholars of private-sector enterprises who emphasize the need to focus on the values of the organizational members in how they go about discharging their work responsibilities. The importance of classifying cultures based on combinations of values is championed as a platform to assess whether different cultures are associated with different performance patterns. The way things are done is a critical determinant of how well the organization meets its goals. This conception of culture, drawing in particular on the work of business school experts, Robert Quinn and his colleagues, and sociologists, Rob Goffee and

Gareth Jones, is at the heart of how we view the work of courts and associated efforts to improve organizational effectiveness.

With this transfer of private sector methodology to the courts, it is possible to define, measure, and specify how a court's organizational culture drives performance. We begin by isolating twenty important values and, using the statistical technique of multi-dimensional scaling, extract two key dimensions: (1) solidarity and (2) sociability. Solidarity is the extent to which a court pursues common goals. Sociability is the extent to which judges, court administrators and other court staff coordinate and work together to accomplish the work of the court. Taken together, the two dimensions form four quadrants, each of which represents a distinct court culture type: (1) Communal, (2) Networked, (3) Autonomous, and (4) Hierarchical. Each culture type emphasizes a distinct blend of values that represent different ways of seeing the world of judicial administration.

Communal Courts emphasize flexibility and creativity, with individual judges and court staff able to modify the application of court rules to fit variable circumstances. Networked courts emphasize judicial consensus, based on planning involving the entire bench, a commitment to meet the expectations of court users and other groups outside the court, and leadership from a presiding judge. Autonomous courts emphasize self-management, considerable judicial discretion and limited court-wide goals and policies. Hierarchy culture emphasizes clear rules, structured division of labor and the pursuit of efficiency.

We measure how cultural values are exhibited by examining practitioners' views toward multiple areas of work including case management, judicial-staff relations, change management, courthouse leadership and internal organization. Each culture has a particular manner of conducting business in those spheres. The specific ways work is done in each of these five areas

are how we define and characterize a given type of culture. The overall variation in cultural types and orientations is captured in the Court Culture Values Matrix (Table 1), with the four cultures arrayed across the top and the five work areas down the side.

The benefit of the value matrix is that it summarizes the basic cultural orientations and easily translates into a questionnaire suitable for field research. Judges and court administrators are asked to rate how closely the ways things get done in their court across each of the five work areas resemble the alternative ways characterized in the value matrix.

Court Culture Value Matrix

	Communal	Networked	Autonomous	Hierarchical
Dominant Case Management Style	**Flexibility**—General agreement on performance goals exists, but centralized judicial and administrative staff leadership is downplayed and creativity is encouraged. As a result, individual judges apply court rules, policies, and procedures in alternative, acceptable ways.	**Judicial Consensus**—Judicial expectations concerning the timing of key procedural events come from a working policy built on the deliberate involvement and planning of the entire bench. Follow through on established goals is championed and encouraged by a presiding (administrative) judge.	**Self-managing**— Limited discussion and agreement on the importance of court wide performance goals exist. Individual judges are relatively free to make their own determinations on when key procedural events are to be completed.	**Rule oriented**—Judges are committed to the use of case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges.
Judicial and Court Staff Relations	**Egalitarian**—An effort is made by judges to limit the psychological distance between them and administrative courtroom staff. Hierarchy and formal processes exist, but court staff members go outside normal channels when it seems appropriate to "do the right thing."	**People Development**—Judges value and promote a diverse workforce and diversity of ideas; act to enhance professional administrative and courtroom staff development; and seek to treat all staff with fairness and respect	**Personal Loyalty**—Individual judges use their own criteria to monitor, evaluate, and motivate courtroom and other staff. Judges have wide discretion in how they recruit, manage and organize their courtroom support staff.	**Merit**—Administrative and courtroom staff members are closely monitored and evaluated through regular and structured performance appraisals. Work related feedback, merit recruitment, and promotion are emphasized.
Change Management	**Negotiation** – Changes in court policies and procedures occur incrementally through judicial negotiation and agreement. In practice, procedures are seldom rigid, with actual application open to interpretation by semi-autonomous work teams of individual judges and corresponding court staff.	**Innovation**—Judges and court managers seek input from a varied set of individuals (e.g., judges, court staff, attorneys, and public) and measure court user preferences concerning policy changes. Individual judges and administrative staff are encouraged to monitor court performance and to recommend necessary adjustments.	**Continuity**—Judges resist a rule- and process-bound organizational setting. Centralized change initiatives may be considered unfeasible because each judge exercises a wide scope of latitude in the choice of case processing practices and judges are perceived to resist court wide monitoring.	**Modern Administration**—Judges and administrative staff seek cutting edge technology and modern administrative methods to support administrative procedures that reduce errors and enhance the timeliness of case processing and the accuracy of record keeping.
Courthouse Leadership	**Trust**—Judicial and administrative staff leaders seek to build personal relationships and confidence among all judges and court staff members; emphasize mutually agreed upon goals with staff members; and attempt to help all obtain satisfaction from work.	**Visionary**—Judicial and administrative staff leaders seek to build an integrated justice system community. All judges and court staff are asked to meet organizational performance goals that focus on results that matter to those served by the courts rather than simply those who run them.	**Independence**—Centralized court leadership is inhibited because judges prefer to work with few external controls. Each judge and corresponding courtroom staff members are concerned primarily with their own daily responsibilities and exhibit little interest in efforts aimed at improving court or system wide performance.	**Standard Operating Procedures**—Judicial and administrative leaders rely on clearly established rules and directives—preferably in writing—to guide court operations. The system may appear impersonal given the emphasis on knowing and using the proper channels to get things done.
Internal Organization	**Collegiality**—Information on a wide variety of topics (e.g., caseflow, resources, personnel) is shared through informal channels reflecting personal relations among judges, administrative, and courtroom staff. Judges and court staff strive for consensus and to reconcile differences	**Teamwork**—Judges and administrators seek a shared court-wide view of what needs to be accomplished. This knowledge facilitates judges and court staff, drawing from different departments and divisions if necessary, to work collaboratively to perform case processing and administrative tasks.	**Sovereignty**—Courtroom practices reflect the policies and practices employed by individual and autonomous judges. Therefore, accepted practices are slow to change, stability and predictability are emphasized, and confrontation minimized.	**Chain of Command**—Explicit lines of authority among judges, administrative staff, and courtroom staff create a clear division of labor, and formalize expectations that judges and court staff will do the jobs that they are assigned

Results and Implications

The bulk of this report is directed toward reporting (1) what current court cultures look like based on an application of the analytical framework; (2) how courts in different cultures fare in terms of meeting key goals, such as timeliness, access, fairness and managerial effectiveness, and (3) what sorts of cultures judges and court administrators aspire to achieve in the future. These three elements are quite different in nature and each one involves a different type of analysis and examination. Hence, they are discussed separately below.

Current court culture. The determination of what contemporary court cultures look like involved the administration of a questionnaire based on the value matrix. It is called the Court Culture Assessment Instrument (CCAI). This diagnostic tool was given to all criminal court judges and administrators in the twelve research sites to complete. Based on analysis of the responses, the following patterns emerged.

- Every court exhibits a combination of cultures. No court is wholly Communal, Networked, Autonomous, or Hierarchy on all five work areas. Therefore, it is critical that judges and court staff understand where the different cultures exist, and how they work together or conflict.

- In every court, a particular culture tends to dominate each work area. However, the dominant culture type in each work area is not consistent from court to court. While there is no "correct" culture for a particular area of work, different cultural orientations do affect how work is accomplished.

- Looking at the courts' *overall* cultures, there are instances of each of the four types of cultures among the 12 research sites. As a result, conventional wisdom that American courts are generally loosely run organizations dominated by autonomous judges chaffing at administrative controls is called into doubt.

Assessing court performance. Assessing the consequences of court culture involves comparing the overall type of culture present in each court with measures of timeliness, access, fairness and managerial effectiveness. Timeliness was measured according to the elapsed number of days from arrest to resolution. The American Bar Association has established numerical criteria on what percentage of felony cases should be resolved within particular time frames (i.e., 120 days, 180 days and 365 days). Information on the degree of expedition and timeliness of each court was compared to ABA criteria.

Additionally, access, fairness and managerial effectiveness were measured from the perspectives of prosecutors and public defenders handling felony cases in the courts under study. Every prosecutor and public defender with two years or more experience in representing the state or criminal defendants in felony cases was asked to complete a questionnaire probing their thoughts on how well their court acted promoting access to records through availability and staff cooperation; treating litigants, witnesses, jurors and others fairly; and demonstrating concern for the rights and interests of others in the criminal trial process, including attorney and victims. Based on analysis of the case-related and the attorney survey data, the following patterns emerged.

- Courts with Hierarchy cultures demonstrated greater timeliness in resolving felony cases than courts in other cultures. As expected, courts with cultural orientations favoring solidarity (Hierarchy and Networked) over sociability better used the techniques of case management to approximate ABA guidelines more closely than those with opposite cultural orientations (Communal and Autonomous).

- While more timely, both prosecutors and public defenders in courts with a Hierarchical culture view their judicial institutions as achieving access, fairness, or managerial effectiveness to a *lesser* degree than attorneys practicing in courts operating with other cultures.

- Attorneys' views on how well courts perform on access, fairness and managerial effectiveness are influenced by the advantages they gain from the "courtroom work group" and their position in the adversary legal system. In Autonomous court cultures,

the familiarity and predictability associated with the assignment of particular attorneys to specific courtrooms and ability to more directly shape case processing lead both sets of attorneys to see these court cultures as enhancing access, fairness and managerial effectiveness more than courts with Hierarchical cultures emphasizing the role of uniform rules. As expected, prosecutors and public defenders in courts with Autonomous cultures view their courts as performing better than attorneys practicing in courts with Hierarchical cultures.

- Attorneys have different views on how well other court cultures approximate access, fairness and managerial effectiveness. These differences arise because of the distinctions in the position and mission of prosecutors and public defenders. Whereas an overarching goal of prosecutors is to protect society, public defenders seek to protect criminal defendants' constitutional rights. As a result, prosecutors are most favorably disposed toward Networked cultures which are responsive to groups outside the court (e.g., victims, victims' families and related organizations); pubic defenders are most favorably disposed toward communal cultures. In Communal cultures, public defenders can work effectively to gain favorable outcomes for their clients because plea negotiation operates in a context of naturally agreed upon norms, not externally imposed rules and constraints.

Preferred court culture. The determination of what culture judges and court administrators desire to establish in the near future was obtained through the application of the same instrument (CACI) used to gauge current cultural orientations. Practitioners were asked to indicate the type of culture in each work area (or content dimension) they would like to see in their court in the next five years. Based on an analysis of their responses, the following patterns emerged.

- Judges and court administrators from all courts under study tended to prefer a cultural configuration different from the one that currently exists in their court.

- Although current court culture varied widely across the courts, there was considerable agreement among judges and court administrators in all courts on what preferred court culture would be. A similar pattern emerged across the courts on what the "most appropriate" culture would be for each of the five work areas.

- All courts reject preserving or increasing an autonomous cultural orientation in any work area.

- Instead, courts tend to embrace a cultural mosaic where particular cultures are preferred to operate in particular work areas. Hierarchical culture is embraced for the areas of case management and change management, Networked culture is desired for

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judge-staff relations and internal organization, and Communal for courthouse leadership.

- Judges, prosecutors and defense counsel differ in their views on what constitutes an effective court. Courts are confronted with managing an adversary process in which the adversaries have quite different senses of the kind of court cultures most and least conducive to achieving important values. Therefore, court leaders must strive to articulate their views on the most appropriate culture and at the same time clarify, describe and explain the benefits accruing to litigants, attorneys, policy makers and the public.

Taken together, these findings both advance the understanding of court culture and uncover challenges to the effective governance of the third branch of government. The current research indicates court culture is a richer concept than previously thought. Four types of culture have been identified. Moreover, a broad spectrum of cultures is not just a theoretical possibility. Culture is the product of conscious choices as evidenced by the ability of judges and administrators to envision changing their current situation to more preferred configurations in the future. The challenge for court leaders is to move beyond the notion culture is unknowable and kaleidoscopic and develop means to make sense of the work environment.

Additionally, culture's consequences are not limited to what some critical observers claim are details and, perhaps, unimportant details (i.e. timeliness through case management). Based on attorneys' views, culture impacts access, fairness and managerial effectiveness. Attorneys see some cultures as more conducive to these values than other cultures. As expected, their views are influenced by their position in the adversary system, but the effect of their clashing positions hardly invalidates their opinions. In fact, the evidence confirms the expected, rational relationship, between attorneys' views and their position, thereby strengthening the importance of the results and their implications. Courts need to be cognizant of demonstrating clear interest in and commitment to access, fairness and managerial effectives. If judges and administrators thought it was a challenge to convince attorneys of the utility and value of

timeliness, they face considerably more daunting tasks to convince attorneys of the court's agenda, commitment and efforts in furthering access, fairness and managerial effectiveness.

Chief judges and senior court administrators must be able to chart a path on which different cultures operate simultaneously and the navigation must be done in a manner consistent with a Communal courthouse leadership style. Achieving effective performance means the chief judge needs not only the trust and respect of colleagues, administrators and other staff, but also the ability to promote adherence to rules in case management and change management and encourage inclusivity and the value of every court worker in the areas of judge-staff relations and internal organization. The weave of multiple cultures into a functional mosaic undoubtedly will prove to be an internal challenge for any court. However, if the complexities of multiple cultures are not attended to, the desired mosaic might degenerate in a crazy-quilt pattern of fragmentation and conflict. For all these reasons, the findings call for rethinking, if not new thinking, on the role and importance of the chief judge. To the extent courts realize their preferred cultures in the future, chief judges will have to possess skills in achieving agreement among all judges and staff on how the court's different kinds of business are to be done. Developing, teaching and enhancing needed skills should be on the agenda of national, state and local judicial and administrative training programs.

The results of this study show that courts can assess their cultures systematically and with definite purpose and deliberation, using the instrument developed with the current research. Additionally, drawing on an appropriate set of performance measures, they will learn if their culture is having desired effects. With this information, courts can outline their preferred cultures. Once courts know the direction they want to move in, the tools of strategic planning can be used to specify what cultural changes are necessary in work areas, monitor progress in

making those changes and periodically evaluating how cultural changes are impacting values, such as timeliness, access, fairness and managerial effectiveness. In this way, American trial courts are consciously constructing their own cultural mosaic.

CHAPTER 1: AMERICAN CRIMINAL TRIAL COURTS: EXAMINING A CULTURAL MOSAIC

At a recent national state court conference, two trial court administrators from different areas of the country sat comparing notes on how things were going back in their home courts. They discovered they had a lot in common. Both manage mid-sized courts with about twenty-five judges and cope with court-wide perceptions that workload levels are on the rise. During the past few years, both had been deeply involved in the design and construction of new courthouses and both oversaw the implementation of new case management systems. Finally, each court used a master calendar for resolving criminal cases.

However, when conversation turned to day-to-day processing of criminal caseloads, they found less to agree about. The first administrator noted that time to disposition in her court had steadily improved over the past three years. The last two presiding judges had made effective criminal case management a priority and it remained a topic covered at every monthly judges' meeting. Data from the new automated system on time to disposition, age of pending caseload, and average number of continuances focused the discussion of potential strategies for additional improvements in caseflow. Judges were setting and enforcing rules of criminal case management. Issues raised by the police, prosecutors and public defenders related to case scheduling practices were addressed at quarterly meetings convened by the presiding judge and court administrator. By no means did all of the meetings' participants always agree, but the conversation was taking place and all were learning to improve the overall operation of the criminal justice system. In fact, many members of the bench, enthusiastic about improvements in case processing, were openly recommending the creation and use of additional performance measures related to access and fairness.

The second administrator noted how work was a bit different in his court. He wasn't really sure what the average time to disposition was because the judges had limited interest in knowing. In addition, the new automated system was proving hard to use. One thing he did know was continuances were readily available and trial calendars typically had over thirty cases set per judge. The administrator had a number of ideas to improve the situation, but felt he had essentially no support from the judges. Meetings of the bench were infrequent and unstructured. And it was widely known that the head prosecutor and head public defender were reluctant to be in the same room with each other.

"Given all our similarities in size and structure," said the first administrator, "I wonder why everything else is so different?"

"I don't know," said the second, "but our culture has always been kind of dysfunctional."

"Yeah, I guess it's just two different local legal cultures."

"We do seem to have a different culture—but how do you get a grip on something like culture and, if you do, what can you do to change it?"

INTRODUCTION

If the scenario laid out above were unique, then it would merely be a frustration for the people involved. But it is not. It has long been recognized by managers and judges that culture plays an important role in how courts function.

Some cultures are thought to inhibit modernization, reform and performance. Others are seen as more conducive to the development and adoption of better ways of doing things. For at least the past thirty years, there has even been a term for it: "local legal culture."[7] In essence, this notion has emerged as a shorthand phrase to refer to a host of norms and resulting behaviors not otherwise easily explained. Unfortunately, simply naming a phenomenon is not the same as measuring it and using it to both explain and improve court performance. Without a vocabulary and set of tools to distinguish fundamental types of cultures, courts likely will continue to struggle in designing and adapting innovations to achieve timeliness and enhance quality of case resolution. Hence, the objective of the current research is to provide a workable means to define, measure, compare and assess the implications of court culture.

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[7] The term local legal culture arose in studies of delay reduction in criminal courts during the 1970s. In 1971, Nimmer observed that the "local discretionary system" is a major obstacle to criminal court reform efforts. He went on to claim that lengthy case processing times are "most directly associated with prevailing informal norms of the judicial process and with the personal motivations of participating attorneys and judges" (1978: 87). Following a comprehensive study in state trial courts, Church, et al.(1978, 54) concluded:

> The speed of disposition of civil and criminal litigation in a court cannot be ascribed in any simple sense to the length of its backlog, any more than court size, caseload, or trial rate can explain it. Rather, both quantitative and qualitative data generated in this research strongly suggest both speed *and* backlog are determined in large part by established expectations, practices, and informal rules of behavior of judges and attorneys. For want of a better term, we have called this cluster of related factors the "local legal culture (1978, 54).

The concept of local legal culture has come to imply that court performance is *primarily* governed by shared beliefs, expectations, and attitudes within the local court community about how fast criminal cases *should* move.

BASIC NOTIONS ABOUT COURT CULTURE

Typically, people, when they think of it at all, view court culture as something fuzzy, amorphous and "hard to get your arms around." And for good reason—culture is not something easily to define with precision.[8]

To be relevant for public organizations in general and court management in particular, we need to make firm what traditionally has been a loose and slippery concept. The material in this book provides a comprehensive framework and set of steps and tools to determine the prevailing cultural form guiding the management and performance of an essential public institution. We contend that "culture assessment" should become an explicit part of court management and reform efforts. Assessing culture yields systematic information compatible with and useful to understanding court performance and the allocation of court resources. To substantiate that claim, a framework is developed to fill a gap in the literature and for use by practitioners in the field. This book helps explain the core dimensions of court culture and is designed to assist students of public policy and court managers work through a systematic culture analysis.

Our focus is on courts as public organizations. When we speak of court culture, we are referring to the organizational culture operating inside the courthouse. Often culture is described as the "glue" that operates at many different levels in an organization. Schein (1999) tells us comprehension of what matters in culture means we must strive to understand the espoused values (i.e., the values that shape why an organization acts in a particular way) and basic assumptions (i.e., jointly learned values, beliefs, and assumptions that become shared and taken for granted in an organization) that shape the way work gets done in the organization. That is, the mental representation of the work environment that individuals in the organization carry in

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[8] When asked to define culture, the most typical answer echoes U.S. Supreme Court Associate Court Justice Potter Stewart's famous comment about obscenity: "I may not be able to define it, but I know it when I see it."

their heads. Following this advice, our approach to the study of court culture is to seek greater clarity on the shared mental models that judges, administrators, and staff hold and take for granted. A court's management culture is reflected in what is valued, the leadership style, the procedures and routines, and the definition of success that makes the court unique.

While recognizing the important contributions of broader conceptions of court culture, in particular the notions of local legal culture (e.g., Church, 1986) and courtroom workgroups (e.g., Eisenstein and Jacob, 1977), we see benefit in a clearly circumscribed study – namely, a closer examination of the individual culture within the courthouse. Because the court is the focal point of each community's legal environment, limiting our study to the culture of internal courthouse operations will help build a foundation for enhancing our understanding of the broader justice system community. In addition, specific attention to court management cultures will help clarify the relationship between "the way things are" and the ability of the court to reach articulated performance goals.

The idea that organizational culture is a key determinant of performance has gained wide currency in recent years (e.g., Deal & Kennedy, 1982). Although the research community recognizes the value of culture as an explanatory construct, comparatively little empirical knowledge exists about the effects of organizational culture on performance especially in the public sector. Because our concept of court culture focuses on the conduct of court business, we systematically explore the impact of court culture on court performance. We hypothesize and successfully test the proposition different court management cultures are associated with different levels of achievement in institutional performance.

Traditionally, the focus in court administration has been on the linkage between culture and the time taken to resolve cases. Culture's influence in shaping the degree of timeliness

certainly establishes that relationship's importance as a subject for research and understanding. However, as will be seen in the results from the current research, culture also has consequences for other key justice values, such as access, fairness and managerial effectiveness. These findings heighten the importance of culture in assessing the work of courts.

The settings for our research are twelve felony criminal trial courts selected from three states: California, Florida and Minnesota. As a result, while the framework we develop is applicable to the resolution of civil cases, our initial test of the framework concerns felony criminal cases. Our focus follows in the tradition of previous researchers who have sought to understand how culture affects court performance primarily in the context of the criminal trial process.[9]

Courts and Timeliness

In the last four decades, research has been conducted on all levels and types of courts in different sized communities located in various regions. Some areas have received more attention than others and not all of the findings have been clear, consistent, and well integrated into a cumulative knowledge base. Yet, despite these limitations, two fundamentally important patterns have been uncovered through systematic inquiry and act as guideposts in directing needed study.

The first proposition concerns caseload composition. Similarities in cases coming to courts are more striking than their differences. For example, if felony criminal cases are grouped

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[9] Previous research on local legal culture has tended to focus on general jurisdiction state felony criminal trial courts, although this notion is relevant and applicable to other judicial bodies including those with limited, federal, appellate, or civil jurisdiction. Researchers simply have not chosen to examine court culture in these related settings. Despite the differences in procedures, the bar and the kinds of cases handled in these state forums, culture should provide as robust an explanation in these other settings as it does in felony trial courts. Furthermore, the conceptual framework and the measurement developed in Chapters 2 and 3, respectively, should be helpful in clarifying and understanding court culture's consequences. As a result, we believe the ideas and methodologies associated with the current research should contribute to expanding the scope and the rigor of with which the concept of court culture is applied.

by the seriousness of the offense (e.g., homicide, other crimes against the person, property crimes, drug crimes and other types of felonies), the rank ordering of the categories is the same in most communities, regardless of population size or geographic location. Property crimes, including burglary, theft and fraud are generally the most frequent cases, followed by drug sale and possession violation cases. Other crimes against the person, including rape, assault and robbery, usually constitute the third largest category. Homicide cases and other types of felonies (e.g., kidnapping) are each small fractions of the caseload compared to the other three categories (see, e.g., Hanson, Ostrom et al. (1992); Ostrom and Hanson (1999); Hanson, Ostrom, and Jones (20021).

The second proposition is that similar caseloads are resolved quite differently. The manner of resolution can be measured in alternative ways, but a simple and observable indicator is timeliness. What is striking from the literature and experience is the wide variety of case processing times. Some courts take five or more times as long as the more expeditious courts to resolve cases, despite little difference in caseload composition.[10] Hence, an intriguing question arises, how and why do some courts get the same basic work done in noticeably different time frames than other courts?[11]

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[10] For example, Church et al. found among criminal courts the median number of days from the date of arraignment to resolution ranged from 33 days in Wayne County, Michigan to 328 days in Bronx County, New York (1978). Ostrom and Hanson found the median number of days from date of arrest to resolution ranged from 81 days in Cincinnati, Ohio to 336 days in Hackensack, New Jersey (1999).

[11] In our search for court culture, one of our assumptions is that the similarities in courts' caseload compositions are more striking than their differences. Workload responsibilities might vary because some courts have a higher percentage of very serious, high stakes contested cases (e.g., homicide cases that go to trial) than other courts. However, we doubt if any trial court is confronted with a caseload where the percentage of homicide cases exceed the percentage of the less serious, more routine burglary or illegal drug possession cases. It is possible and even probable that some trial courts have dockets where percentage of crimes against the person are greater than burglary, or drug possession violations. Such situations, which run counter to our sense of what cases look like, might occur because of vigorous law enforcement and prosecutorial action to deter, apprehend and convict sexual or child abuse offenders. In such a context, the emergent or latent culture might not fit very well with the conceptual typology of cultures developed in the current research. We assume courts make conscious choices on alternative ways to get the job done. If the job to be done varies radically from court to court, the alternatives might not be truly comparable. Therefore, we do not claim all the typology is universal. A few courts with highly unusual caseloads might have a

Previous research has addressed this question, but with limited success. In fact, the last wave of academically oriented research (e.g., Luskin and Luskin 1986, 1987; Flemming, Nardulli and Eisenstein 1987) found case characteristics (e.g., severity of offense) and court procedures (e.g., types of calendars) accounted for only a minimal amount of inter-court variation in the processing time of felony criminal cases. Moreover, the best predictors of the pace at which individual cases are resolved are found to be different across courts.

Case management has not fared much better. Claims are made that modern management techniques will reduce delay. These assertions, however, are not equivalent to conclusions demonstrating some courts are faster than others because of the presence and degree of case management. Very little evidence has been adduced to demonstrate case processing times have been reduced and those gains sustained because of the introduction of modern case management techniques. More frequently, crash programs reduce backlogs only to be followed by a return to the status quo. Without doubting the efficacy of case management, the question still arises why have not more courts embraced it and, thereby, achieved faster times?

Role of Culture

From our perspective, the answer to the question of why courts take different amounts of time to resolve similar workloads lies in organizational culture. We believe this concept is fundamental to understanding how and why courts go about resolving cases in particular ways. And, more importantly, the concept of culture has significance for court management well beyond reducing delay.

For at least three reasons, we believe the time is right for courts to take seriously the role of culture. First, few courts today boast about maintaining the status quo compared to ten years ago. Court leaders and managers now speak more freely and expansively about their

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culture that fails to fall on the dimensions where almost all cultures fit.

The Mosaic of Institutional Culture and Performance
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administrative responsibilities and efforts to create a "high performance workplace." Effective management is seen as integral to promoting institutional goals of meaningful judicial governance and meeting public expectations for fairness and quality service delivery. Experimenting with new kinds of problem solving courts; adopting explicit outcome based performance measures; meeting higher customer expectations; and using more sophisticated technology are a few of the signs of how courts are changing.

Some organizations attempt to deal with ever-increasing complexities of their environment by changing their organizational culture; however, change is difficult. A great deal of investment in past practices makes leaders reluctant to take on the challenge of changing embedded processes, structures and tasks. But, as Schein observes, "If we want to make organizations more efficient and effective, then we must understand the role that culture plays in organizational life," (1999, 14).

Second, strategic planning initiatives have swept through the courts much as they have in many other organizations. And, as elsewhere, the failure rate of planned organizational change in courts is dramatic. Quinn and Cameron report,

> "It is well known that about ¾ of reengineering, TQM, and strategic planning efforts
> have failed. Most interesting about these failures is the reported reasons for why they
> didn't work. The most cited reason was neglect of the organization's culture. In other
> words, failure to change the culture doomed other kinds of organizational change
> initiated" (1999, 1).

In fact, it is increasingly being realized that it is the nature of relationships within the organization that matters; the way people act toward each other, the "social capital" of the organization. This view is confirmed by research conducted by the Gallup organization. The most important variable in employee productivity and satisfaction, Gallup reports, is not pay or benefits or office space. Rather, the quality of the relationships between employees and

supervisors and managers accounts for the variance in the degree of workers' satisfaction. Effectively managing organizational relationships places a premium on court administrators and chief judges developing appropriate and flexible organizational skills for leading, directing and encouraging people.

Third, court management has focused historically on improving the process by which courts move cases from filing to resolution. Beginning with Roscoe Pound's speech on "the causes of popular dissatisfaction with the administration of justice" to the American Bar Association in 1906, the "conventional wisdom"[12] has held the problems of courts are best addressed by improving structure and process (Gallas, 1976). The causal link between structures, resources and processes (inputs) and court effectiveness and the well-being of those served by the courts (outcomes) was simply assumed. Quite often court assessment and improvement projects are prescriptive in nature. Many of the recommendations are grounded in experience from one or, at most, a few courts with the implicit assumption that "one size fits all" in state trial courts. However, as the history of court reform shows, the identification and transfer of "best practices" among courts has been particularly spotty.[13] What works in one court just does not take hold in most others. And the reason is often attributed to local legal culture.

To advance the explanatory power and managerial utility of culture, the task is to determine as precisely as possible what this idea means. This concept is not as observable as

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[12] This conventional wisdom, with its emphasis on structure and process over results and outcomes, is exemplified by the American Bar Association's *Standards Relating to Court Organization* (revised in 1990) and *Standards Relating to Trial Courts* (revised in 1992).

[13] For example, Ostrom and Hanson (1999, 84) describe a generic set of prescribed steps to reduce case processing delay: The field of court management has developed the ingredients for success in reducing court delay. The prescribed way to achieve timeliness consists of a series of specific actions that the court needs to take the lead in implementing. They include establishing time goals, promoting formal and informal communications among judges and attorneys, and creating opportunities for attorneys to provide input and advice on procedural changes. Despite the intuitive appeal of these steps, many delay reduction efforts are unsuccessful. In addition, the transfer of procedures found to work in one court to another court is often hindered because of differences in underlying cultural values and norms.

highly tangible objects, such as resources, caseload levels and court structures. That is why

culture frequently has been invoked in a post-hoc manner as an unmeasured, residual category.

To wit, when researchers find their efforts to explain variation in case processing times among

different courts based on caseload characteristics produces insignificant statistical results, they

say the variation is likely because of cultural differences among the courts.

We offer an alternative approach by focusing directly on culture and measure it with a

common set of indicators suitable for an individual court and groups of courts. Consequently,

we believe our efforts will make the following contributions:

> (1) Measure norms, views and beliefs of judges and court administrators on substantively meaningful and familiar areas of work and use the information to describe individual court cultures.

> (2) Provide a standard method for defining and distinguishing court cultures among a comprehensive and manageable number of categories.

> (3) Establish an analytical framework sufficiently flexible to permit courts to exhibit alternative combinations of cultural orientations.

> (4) Describe how prosecutors and public defenders working in different court cultures view the success of their respective courts in achieving the values of timeliness, access, fairness and managerial effectiveness.

> (5) Demonstrate the extent and the direction in which courts seek to change their cultural orientations.

> (6) Recommend policies and practices likely to increase court performance on timeliness, access, procedural fairness and managerial effectiveness from the perspective of practicing attorneys.

The underlying premise of the current research is that the cultural differences influencing the

different ways courts organize and operate are understandable. Key differences among courts

are rooted in variable values and attitudes manifested in views on common work areas, such as

case management, change management, judicial-staff relations, courthouse leadership and internal organization.[14]

A FRAMEWORK FOR UNDERSTANDING CULTURE

We conceive of court culture as the beliefs and behaviors shaping the way things get done by judges and court administrators; the individuals who have the responsibility of seeing to it cases are resolved fairly and expeditiously. Quinn, a leader in the study of organizational culture, offers a concise definition:

> When we think of the manifestation of values in organizations, it is their cultures we are thinking of. Simply put, culture is the set of values and assumptions that underlie the statement, "This is how we do things around here." Culture at the organizational level, like information processing at the individual level, tends to take on moral overtones. While cultures tend to vary dramatically, they share the common characteristic of providing integration of effort in one direction while often sealing off the possibility of moving in another direction. (1988, 66)

Applying this basic definition to criminal courts rests on the assumption judges and administrators are in the positions of initiating discussions concerning policies, procedures and practices and in communicating their ideas to the bar. The heads of the institutional offices (prosecutor and public defender) might have a view of the "big picture," but judges and administrators have the ultimate responsibility of drawing attention to problems of increasing numbers of cases and delay and the search for improvements in timeliness, access, fairness and

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[14] We are aware a common intellectual point of view is that American state trial courts are highly decentralized, inhabited by judges with considerable discretionary authority, and who by virtue of their role as an arbiter of disputes are autonomous decision makers. As a result, courts are thought to operate relatively free from the constraint of accountability. In short, courts are not good subjects for modern organizational analyses because they lack the attributes of what generally are the defining features of an organization and they certainly lack management. Our interest does not lie in arguing with this viewpoint. Debate and discussion are unlikely to prove or disprove its validity. Instead, the proof lies in the degree of success in establishing the existence and character of court organizational culture in the real world. Hence, whereas some observers might avoid the systematic study of courts because of the assumed atomistic nature of the judiciary and courts, we think such conceptions are meaningful only if they are verified empirically.

managerial effectiveness. Practicing attorneys are in a position to see how court actions affect litigants, witnesses, jurors and others. Hence, the views of attorneys are a fair and valid basis to determine how courts operating with different cultural orientations affect key values revolving around the fundamental value of justice.

To benefit from the insights and conclusions of previous researchers, we put the concept of court culture within an analytical framework developed by scholars of private enterprises (Cameron and Quinn (1999); Dennison, Hooijberg and Quinn (1995); Quinn (1988); and Quinn and Rohrbaugh (1983). Two strong advocates sum up the centrality of organizational culture in the business administration literature:

> The study of organizational culture has become one of the major domains of organizational research, and some might even argue that it has become the single most active arena, eclipsing studies of formal structure, or organization-environment research and bureaucracy (Ouchi and Wilkins 1985, 458).

Because the private sector has been the primary driver behind the development of organizational culture assessment, we draw upon and adapt to the court environment what appear to be the most workable strategies developed over last two decades. Previous research indicates the culture of an organization has a significant impact on the attitudes of current members, the hiring and retention of new members, the acceptance and learning of new ways of doing things, the informal performance norms, operational norms, the communication practices, the formal and informal accountability, the leadership and management practices, and the willingness of the organization to challenge itself and tackle difficult things. We want to take advantage of organizational culture's conceptual success and believe research on private profit-making organizations is a suitable and promising basis from which to study court organizational culture for several reasons.

First, our concept of court culture and the parallel private sector investigations both revolve around the idea that orientations toward work define the character of organizations.Second, we contend the critical elements of court culture shape the degree of organizational effectiveness. This linkage has been demonstrated in the private sector and we believe that a parallel relationship is worth exploring in public institutions, including courts. Finally, business school scholars have shown that private organizational culture is susceptible to measurement and the results are interpretable within a typology. For all these reasons, we choose to adapt the research strategy of private sector investigations to our inquiry.

A Classification of Court Cultures

Adapting the methodologies of private sector organizational effectiveness research, we identify four primary court culture types: communal, networked, autonomous, and hierarchy. They are described briefly as follows:

> *Communal*: Judges and administrators emphasize the importance of getting along and acting collectively. Rather than established rules and firm lines of authority, communal courts emphasize importance of group involvement and mutually agreed upon goals. Flexibility is a key to management. Procedures are open to interpretation and creativity is encouraged when it seems important to "do the right thing." The court environment is best managed through teamwork and developing a humane work places. Court customers often viewed as partners when designing court policies and procedures.

> *Networked*: Judges and administrators emphasize the importance of a shared view of what needs to be accomplished. Efforts to build consensus on court policies and practices extend to involving other justice system partners. Court leaders speak of courts being accountable for their performance, for the outcomes they achieve, not just the ways and means they use to achieve them. Members of this culture are open to new ways of doing business if the outcomes can be shown to improve quality as well as timeliness. Results are focused on those served by the courts, rather than on those who run them.

> *Autonomous*: Judges and administrators emphasize the importance of allowing each judge to conduct business as he or she sees fit. Centralized leadership is inhibited as individual judges exercise latitude on key procedures and policies. Limited discussion and agreement on court wide performance criteria and goals exist.

> *Hierarchy*: Judges and administrators emphasize the importance of order based on established rules and procedures governing who is to do what, when and how in meeting clearly stated court-wide objectives. Work processes tend to be formalized and structured. Effective leaders are good coordinators and organizers. Maintaining a smooth running organization is important. Concerns are stability, predictability and efficiency.

These cultures affect the way business is conducted in five work (or content) areas, including case management, judicial-staff relations, change management, courthouse leadership and internal organization. To validate these ideas, we went into the field to measure how closely 12 selected courts fit into one or more of these cultures. This effort proved feasible, as will be shown below. Moreover, we assessed the consequences of cultural configurations on the values of timeliness, access, fairness and managerial effectiveness.[15]

The 12 courts under study were selected from three states: California, Florida and Minnesota. Within each state, at least two countywide general jurisdiction courts participated. The 12 courts are located in Contra Costa, Napa and Ventura Counties in California [16]; Duval and Pinellas Counties in Florida [17]; and Dakota, Hennepin, Kandiyohi, Olmstead, Ramsey and St. Louis Counties in Minnesota.[18]

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[15] The three states and corresponding 12 courts were chosen purposively, not randomly. Because the research entailed the completion of questionnaires by judges, court administrators and attorney we deliberately chose jurisdictions where needed cooperation was expected to be forthcoming and that represented both different contexts and traditions. Participation by the courts in the research does speak to their "open" nature and willingness to cast light on "inner workings" seldom captured in most studies of judicial decision making (e.g., plea bargaining sentencing), performance, or timeliness. Consequently, the conceptual framework and the array of cultures among the twelve courts might be limited in generality to other "open" courts in the rest of the country. That limitation is hardly acute given the current paucity of information on what makes up culture. Future research can determine whether a random sample within the subpopulation of "open" courts produces results consistent or divergent with this initial study.

[16] The California trial court system is divided into 58 Superior Courts, one for each county. Each Superior Court is a unified trial court. Our inquiry focuses on the Superior Courts for Contra Costa, Napa and Ventura Counties.

[17] The Florida trial court system is divided into 20 regional Judicial Circuits. Each Circuit is a two-tiered arrangement of a general jurisdiction body called the Circuit Court and a limited jurisdiction body called a County Court. Our inquiry focuses on Duval County, coterminous with the City Jacksonville, which is in the 4th Circuit along with the two smaller Counties of Clay and Nassau. Additionally, Pinellas County is an object of study. Pinellas, which includes the Cities of Clearwater and St. Petersburg, is in the 6th Circuit. Pasco County, a smaller County is also in the 6th Circuit.

[18] The Minnesota trial court system is comprised of 87 courts divided into 10 judicial districts. Each District is a unified court system, but only the 2nd (Ramsey) and the 4th (Hennepin) are single county units. Other research sites

Basic practices for the processing of felony cases within the twelve courts and the numbers of judges and attorneys, both overall and with felony assignments, are provided below in Table 1. The primary focus is on mid- to large-sized communities in each state, although Minnesota contains a wider range due to the fact that seven courts within six counties are drawn from that State.[19]

Table 1
Courts Under Study

	Felony calendar type	Judicial Assignment to Felony Cases	Judges		Prosecutor		Public Defender	
			Total	Handling Felony	Total	Handling Felony	Total	Handling Felony
California								
Contra Costa	H	Chief Judge	40.5	11.2	93	65	80	40
Napa	M	Master Calendar Judge	8	2	20	15	13	6
Ventura	H	Chief Judge	33	6	102	57	49	23
Florida								
Duval	I	Random	61	11	86	60	65	40.2
Pinellas	I	Random	44	9	152	80	89	52
Minnesota								
Dakota	M	Random	18	4.5	35	14	11	7
Hennepin	H	Chief Judge Crim Division	75	17	148	56	91	56
Kandiyohi	H	Random	6	1	4	3	3	3
Olmsted	M	Court Administrator	6.5	1.5	14	7	6	5
Ramsey	M	Weekly block system	46	8	66	40	30	10
St. Louis	I	Random	13	3	28	10	7	7

Note: M = Master calendar; H = Hybrid calendar; I = Individual calendar

The 11 countywide jurisdictions containing the 12 courts under study (Virginia and Duluth are city-wide courts in St. Louis County, Minnesota) organize felony case processing in a variety of ways. Courts often structure their case assignment and calendar systems with an eye

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are in the following Districts: Dakota (1st District), Kandiyohi (8th District), Olmsted (3rd District), and St. Louis (6th District).

[19] Within St. Louis County, Minnesota are the cites of Duluth and Virginia. Duluth, a seaport on the western most point of Lake Superior has a population of 85,000 individuals. Virginia, a town in the Mesabi Range has a population of 9,000. Both communities participated in the current research yielding a study of twelve courts in eleven counties.

toward improving case management efficiency. In an individual calendar system, a court manager or administrative judge typically assigns felony cases (in some random fashion) to an individual judge soon after "bind over" or indictment. The assigned judge handles all motions or other proceedings until the case is concluded. Conversely, in a master calendar system, different judges may handle arraignments, motions and trial, depending on who is assigned to handle those duties and who is available on the scheduled date. Much has been written about the pros and cons of individual and master calendars, with the choice shaped by weighing the competing values of equity, efficiency and accountability (Luskin and Luskin 1986, 1987). Our view is that these procedural differences are likely indicative of more general distinctions in organizational culture. Therefore, to better understand the role of culture and in response to previous research (Eisenstein, Flemming and Nardulli 1988), we have sought to include a variety of court communities in the current research.[20]

In addition, prosecutors and criminal defense attorneys who practice in each of the 12 courts will be central to our assessment of the affect of court culture on court performance. We draw on attorney attitudes as an important perspective for determining the degree to which courts achieve standards of access, fairness and managerial effectiveness. These attitudes, which can be measured, are hypothesized to vary with different court cultural orientations.

ADVANCING THE FIELD OF COURT MANAGEMENT

Within the span of the past four decades, the court management field has taken appreciable strides in pursuing improvements in court operations. Specific initiatives are quite familiar and readily recalled. Timeliness was an initial focal point of attention with case

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[20] In Chapter 4, a statistical analysis is conducted to determine whether culture correlates with demography. Do particular court cultures arise under particular social and economic conditions? The evidence indicates there is very little connection between court culture and environmental conditions.

management techniques and standard time frames as key ideas. William Gladstone's maxim that "justice delayed is justice denied" provided the vision statement; the rallying cry for why court management mattered. *Toward Excellence in Caseflow Management* is not only the name of a monograph in the field but is viewed by many as the raison d'être for court administration as a profession. Identify and eliminate the constraints to efficient caseflow and the prospect for justice to flourish increases appreciably. Moreover, because achieving efficient caseflow is seen as essentially a scheduling problem, the solution can be engineered and implemented everywhere.

Delay reduction as the primary focus of court management is shifting slowly to a more expansive notion of what constitutes a well-performing court. In 1987, the court community took a major stride toward expanding the scope of performance assessment through the initiation of the *Trial Court Performance Standards* (Commission on Trial Court Performance Standards 1990) "The program's objective was to increase the capacity of the nation's courts to provide fair and efficient adjudication and disposition of cases…[based on] the theme of the court as an organization accountable for its performance" (Bureau of Justice Assistance 1997, 1). With the TCPS, timeliness has been supplemented by other values, such as access, fairness, integrity and public trust, and a generally broader notion of accountability than implied by timeliness alone.

Yet, articulation of multiple goals has not, on its own, produced substantial changes in court performance. The assessment by courts in areas such as access and fairness remains in its infancy. Even when performance assessment is limited to the traditional area of delay reduction, the track record is inconsistent. Despite substantial investment in multiple generations of management information systems, many courts continue to find it difficult to produce an evidence-based profile of cases and characteristics of basic operational interest (e.g., case

processing time, age of pending caseloads). Using data to manage remains problematic for the

making of crisp, prompt managerial decisions (e.g., determine whether backlogs are changing in

size, composition or age).[21] As a result, the emphasis placed on timeliness as well as broader

concepts of performance has not achieved its intended impact.

A primary reason why courts have lagged in the area of performance assessment is the

inherent management complexity. Court management has made significant progress in

articulating what it means to be an effective court, but the goals seem competing. Courts should

be timely, but also judges should devote sufficient time and attention to ensure justice is done.

Courts should be more accommodating and less intimidating to the public, but they also should

give priority to caring for the people in the organization. Efficient documented procedures are

desired, but flexibility in adapting to particular circumstances also is valued. Clearly, high

performance requires a means to resolve the dilemmas and apparent conflicts inherent in today's

court environment by gaining a manageable perspective on dealing with competing values.

An expansive concept of court performance assessment is clearly appropriate for a

comprehensive understanding the work of the court. Moreover, this approach is in line with

organizational theorists who have long argued that research has failed to establish any single

criterion by which an organization should be evaluated. For courts (and nonprofit, public

organizations), the issue is particularly pressing in that there is no dominant indicator of success

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[21] This state of affairs is not completely surprising for two interrelated reasons. First, questions linger in many
courts about the accuracy and completeness of case processing data. Care and attention need to be directed to
compiling, distilling and effectively presenting the most relevant information. Data entry procedures need to be
designed *and* implemented to ensure valid and reliable data are being entered in a timely fashion. More courts need
to consider periodic audits to alert court staff to the importance of accurate data entry and help increase awareness
throughout the court on improvements to data quality.

Second, attention to the "information foundation" will not just improve data accuracy and uniformity but also the
perception that the data has meaning. Court management depends on an alliance of professional managers, judges
and lawyers—all with different views on the utility of "management information." Enhancing the *willingness* of
judicial administrators to measure performance and manage caseflow begins with the recognition the data are
accurate and a clear understanding of how data can best be used in practice.

like "profitability". Management experts have long called for the development and use of multiple criteria to gauge effectiveness. Therefore, the unsettled issue is not with the current conception of court performance goals, but, rather, with the development of a management culture conducive to achievement of performance in a complex setting. Meeting performance targets based on multiple criteria puts a premium on finding ways to help court leaders develop a better understanding of their organizations and themselves.

Many leading business scholars, such as Simon, Argyris, and Quinn posit the handling of complexity and the accompanying uncertainty as the basic function of an organization. In the field of court administration, the task of management is becoming more complex as the environment becomes more dynamic. Greater clarity on court organizational culture is critical if substantive reforms, such as enhanced judicial governance, new kinds of specialty courts, more sophisticated forms of information technology and performance assessment, are to have a chance of succeeding. Said simply, those who manage poorly struggle in coping with conflict and complexity, while those who manage well succeed in dealing with uncertainty and multiple tensions.

The search for effective strategies in court organizational change and development should benefit from relevant literature on what makes organizations work and work well. The study of organizational culture in the private sector, what is often referred to as "organizational effectiveness," is a basis for elevating the field of court administration to the next level. Organizational effectiveness studies focus on a work centered notion of culture, which is exactly what court practitioners need for managing daily operations and as they lay the foundation for reforms. In a reversal of how concepts guiding court improvement is traditionally positioned, the organizational effectiveness framework places culture in the foreground as a critical antecedent

factor shaping work, and, through work, ultimately, contributing to performance. Culture is not an after-thought; it is where planning and measurement begin. The lessons to be learned from previous private sector inquiries do not require slavish adoption of foreign ideas. Instead, the ideas and principles of private sector analyses can be the grounds for parallel methodological developments in how to study court culture. The substantive meaning of measures and tools of analysis drawn from the private sector can and should be adjusted to the needs and circumstances of courts.

We have organized the remainder of this book to lay out the organizational effectiveness framework and its application in the court setting. The book's organizational road map corresponds to how we see the framework contributing to the advance of the field of court administration. A word of caution: the organizational effectiveness framework does not say what a leader should do; it does not provide a prescriptive package. The main benefit is in providing a means to bring coherency to what may appear to be chaos. It illuminates the ongoing, ever-present dilemmas within the court management process and suggests tools to be used in assessing such situations.

Chapter 2 begins with a review of court administration literature concerning "local legal culture" before moving on to highlight the efforts of private sector specialists to understand and explain organizational effectiveness in corporations and other for-profit organizations. The methods used by these scholars to develop conceptual categories of culture are examined and extended to the world of courts. Cultural orientations are found to show their influence in the types of beliefs held by individuals on specific work dimensions. Within the setting of courts and the larger justice system, the areas include case management, judicial-staff relations, change

management, courthouse leadership, and internal organization. Hence, culture is linked to work in the organizational effectiveness framework.

In Chapter 3, we combine the contributions of previous research and the insights and observations of court scholars with the structure, tools and measures described in Chapter 2. What emerges from integrating these two areas of inquiry is an organizational effectiveness framework tailored to the study of court culture and its consequences. Specifically, we develop the Court Culture Assessment Instrument (CCAI). We develop numerical and graphical ways to examine the responses and hence display cultural archetypes. We then look at the direction, strength, and congruency of culture in each of our sites.

Next, to make the adaptation of the organizational effectiveness framework to courts convincing and warranting consideration, Chapter 4 provides illustrative descriptions of the four court cultures. On a conceptual level, we explore ways that each culture should shape how work is done in different work areas, such as case management, change management and so forth. Site visit observations as well as literature drawn from earlier court studies are cited to render the court cultures vivid plausibility.

A test of the court culture typology is the basis for Chapter 5, with specific reference to the performance consequences of Communal, Networked, Autonomous and Hierarchy cultures. This issue is addressed by analyzing the impact of culture on multiple performance criteria including timeliness, access, fairness and managerial effectiveness. The association between culture and these values is examined from case level data on timeliness as well as the perspective of practicing attorneys, including prosecutors and public defenders in all 12 courts. The analysis finds a provocative relationship between the attorneys' views on court performance and the type of culture guiding the court where they practice.

In Chapter 6, we examine how and to what extent judges and court administrators seek to move their court's culture. Do courts want more of the same? Does every court tend to want to move to a different culture in the future? Or is there some common theme? The answers to these questions are noteworthy because there is a commonly preferred cultural mosaic emerges for the future. Despite the wide range of existing cultures the commonly desired culture is one where particular culture types are preferred for different areas of work.

Chapter 7 summarizes the key findings from the current research. Culture is a prism through which the multifaceted world of court work can be seen. Culture helps to explain how and why courts with strikingly similar caseload sizes and composition perform strikingly differently. Additionally, challenges to the governance of court surfaced by the data are discussed. Recommendations are offered on how performance might be enhanced in light of the challenges.

CHAPTER 2: A FRAMEWORK FOR COURT CULTURE

INTRODUCTION

Courts rightly proclaim the virtues of institutional independence and its necessary condition for the achievement and maintenance of civil society's fundamental precepts, such as the rule of law, individual rights and impartial resolution of disputes. Without questioning the critical nature of judicial independence, the American system of checks and balances imposes some restraint on every branch of government. The Conference of State Court Administrators has expressed, in a forceful and clear statement, what the check on courts entails:

> The administration of justice should reside with the courts, both as a constitutional matter—judicial administration is inherent in the courts' adjudicative role—and as good governance. [However] with judicial governance come the right and interests of the other branches of government and the public to hold the judiciary accountable for effective management of court business.

In this regard, some court experts have expressed doubts about the courts' abilities to discharge their institutional obligations effectively. The reason for the skepticism is the absence of an appropriate management culture. For example, Tobin writes:

> The executive and legislative branches…have been reluctant to accord broad management latitude to a branch that has been historically uncomfortable with a management culture and inclined to diffuse power among individual judges…. Courts must either create an effective and credible management system or lose control over their internal management, and ultimately, the independence of the judiciary. (1997, 8-9)

These two pronouncements imply a critical role for the "culture" of courts in shaping the future of the American court system, which can be stated in the form of a basic syllogism. Courts are independent bodies only if they administer justice effectively. They administer justice effectively only if they have a sound management culture. Therefore, courts will be independent only if they operate with a sound management culture.

The choice of one court culture over another is an enterprise with consequences, one judges and administrators should attend to as purposefully and deliberatively as they do making legal decisions, issuing orders and distributing institutional resources. To assist them, the research community has the role of providing information on the nature, significance and consequences of alternative cultures. Researchers have the responsibilities of clarifying the concept of culture, demonstrating its effects and pointing out the management challenges under different cultural configurations.

FRAMING THE STUDY OF COURT ORGANIZATIONAL CULTURE

A major purpose of this chapter is to review pertinent previous research on courts. One body of literature focuses on "local legal culture." That line of inquiry is familiar to both practitioners and scholars. However, the limitations of local legal culture studies call out for an examination of work on organizational culture, which has overcome many similar sorts of deficiencies. Our approach is to adopt the practice of key private sector analysts and focus on a single organization; specifically, the culture of the trial court. Because private sector research is where organizational culture has developed both a substantial body of results and tools for measuring culture systematically, we reference insights from well-known publications on local legal culture, yet draw principally from the field of business school research.

Local Legal Culture

Thomas Church et al. Church defines local legal culture as the "established expectations, practices and informal rules of behavior of judges and attorneys" (Church et al. 1978).[22] According to Church, the speed of disposition is attributable more to the views of judges and attorneys than to structural, resource or procedural distinctions among courts. He suggests these expectations are "stable" implying efforts to reduce court delay likely will be met by strong resistance, unless the expectations themselves are the subject of planned change.

Initially, Church invoked local legal culture as a working hypothesis to account for variation in the degree of timeliness among 21 courts found to be unexplainable on the basis of several variables generally thought to be determinants of the timeliness of litigation (e.g., types of cases, jury trial rates, resources and caseload levels). He had no direct measures of practitioners' expectations in the form of systematic data, but the plausibility of culture's potent effects led him to suggest courts where practitioners expect cases to be resolved in an expeditious manner tend to place tighter controls on case handling. Where courts have tighter controls, Church observed, the resolution times are shorter than where there is looser control. Therefore, expected timeliness is associated with observed timeliness.

To advance his notion, Church provided a more direct test of his hypothesized relationships in subsequent inquiries (1981, 1985). Specifically, he asked judges, prosecutors and criminal defense attorneys from four communities (Bronx, Detroit, Miami and Pittsburg) to estimate the "appropriate" amount of time from the date of filing to the start of a jury trial in

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[22] Church acknowledges the genesis for his proposition lies with other observers. He specifically points to an earlier study by Nimmer (1971), who contends reforms of criminal justice system are implemented successfully or unsuccessfully depending on whether they are consistent with the views extant in the "local discretionary system." Nimmer (1978) and others, such as Levin (1977) and Eisenstein and Jacob (1977) discuss how the dominant perspectives in a court's local discretionary system shapes decisions made by judges and attorneys on how to handle cases.

each of 12 different hypothetical cases. His results indicated practitioners from each court tend to form distinctive clusters of responses. For example, the average number of days estimated by Miami practitioners to set the twelve cases for jury trials is 60 days whereas Bronx practitioners' estimated average is 132 days. The pattern to the four sets of estimates coincided with what Church saw in the actual number of elapsed days from filing to trial (e.g., the actual time is much longer in the Bronx than in Miami). Hence, Church concluded "distinctive norms" regarding "the proper pace of litigation" vary from court to court and these constellations of norms shape the different paces of litigation (1985).

Limitations of Church's concept of culture surface when considering what the concept implies for the reduction of delay. Simply stated, very little in the nature of his concept suggests what "levers" might be manipulated to speed up litigation. What aspects of expectations, practices or informal rules should be adjusted to curb delay? Thus, "local legal culture" is a needed and welcome starting point to examine court culture, but a fuller understanding of its nature and significance calls for more extensive conceptualization and measurement making it possible to connect different norms together in a coherent analytical framework.

Peter Nardulli, James Eisenstein and Roy Flemming. Church's notion of "local legal culture" was the subject of considerable attention and conceptual enrichment in several interrelated studies by a subsequent group of three collaborators: Nardulli, Eisenstein and Flemming. These scholars studied three criminal courts in each of three states: including Du Page, Peoria and St. Clair Counties in Illinois; Saginaw, Oakland and Kalamazoo Counties in Michigan; and Erie, Dauphin and Montgomery Counties in Pennsylvania. (Eisenstein, Flemming and Nardulli 1987; Flemming, Nardulli and Eisenstein, 1992; and Nardulli, Eisenstein, and Flemming, 1988).

Their effort was threefold: First, they described the communities surrounding each court and sought to determine how different economic, social and political environmental elements shape court functioning. Second, the scholars described the positions, prominence, and outlooks of the leading professional participants in these criminal courts, especially key judges and prosecutors. Finally, the research focused on guilty plea rates and the reasons for the similarities and differences in the plea bargaining rates and the sentences based on guilty pleas among the nine courts. In the end, the greatest importance in accounting for what goes in courts was attached to a set of variables, which were not measured directly, but emerged from interpretations of collected data.

Basically, Nardulli, Eisenstein and Flemming (1988) claim "norms" exist within every community on how the courts should "operate" and differences in these norms contribute greatly to the varieties of ways business is conducted. They accept and agree with essential premise of Church's earlier discovery, but they advance his insight by suggesting what the norms are all about. The norms are called "work orientations," signaling norms are complex and have multiple consequences.

Work orientations "are rationalizing principles" court leaders "use to explain why particular tasks or functions" are structured in the way they are in their respective courts. These powerful forces are not the same from court to court, but they also are not unique to each court community. Indeed, the scholars see three types of distinctive work orientations in the courts they studied: (1) "structural or formal", (2) "efficiency"; and (3) "pragmatic" orientations.

The first orientation emphasizes the compliance with "professional norms" including close adherence to rules and the rejection of expediency. The second orientation places a premium on the efficient use of resources and promotes the expeditious handling of cases, even

if the achievement of "smooth" handling occasionally calls for deviation from rules. Finally, a pragmatic orientation is the most flexible approach to how work is to be done because it is whatever the consensus is at a specific point in time. No long-term commitment is made to a particular manner of conducting business. The prevailing norm is deemed satisfactory until a problem emerges calling the existing paradigm into serious question. Then, new agreements on ways of resolving cases are necessary and appropriate and the emerging consensus guides the court until it too, ultimately proves problematic.

The concept of "work orientations" is a unique contribution, although this idea of came to Nardulli, Eisenstein and Flemming after fieldwork completion and during the distillation of their research results. They are, thereby, constrained in indicating precisely and rigorously the orientation or combination of orientations fitting any of the nine courts under study. Hence, the actual content of practitioners' views called "work orientations" remains relatively unmeasured and undocumented.

Brian Ostrom and Roger Hanson. Ostrom and Hanson (1999) demonstrated in a subsequent inquiry the nature and utility of focusing on a combination of attitudes among legal practitioners. These two researchers conducted an examination of the patterns of views held by prosecutors and criminal defense attorneys in each of nine mid-sized communities: Albuquerque, Austin, Birmingham, Cincinnati, Grand Rapids, Hackensack, Oakland, Portland and Sacramento. They found several important and statistically significant connections between particular types of attorneys' outlooks and timeliness, thereby confirming both Church's basic claim and Nardulli, Eisenstein and Flemming's working hypothesis that attorneys' attitudes make a difference in the pace of criminal litigation.

Ostrom and Hanson first divided the nine courts into three equal sized subgroups according to degrees of timeliness: very expeditious, moderately expeditious and the least expeditious. They then surveyed front-line attorneys for their views on the workings of the state trial court where they practiced and how they assessed the opposing side. Specific findings from Ostrom and Hanson's investigation revealed attorneys have distinctive attitudes toward the leadership role played by a court; a court's ability to communicate its expectations clearly; the degree to which the opposing side is well trained and prepared for trial; and the extent to which the opposing side operates in an adversary manner. Simply stated, if attorneys see a court exercising firm leadership, a court stating its policies clearly and the opposing side is equipped for trial, the court is among the most expeditious subgroup. On the other hand, if the attorneys see a court as a foggy communicator, a source of weak leadership and the opposing side is as ill trained and ill prepared, the court is of lesser expeditiousness. Hence, Ostrom and Hanson provide strong evidence that culture is a combination of views and that particular sets of views vary across courts. Interestingly, in all three subgroups, attorneys view the opposing side as a strong adversary, suggesting the timely resolution of cases does not require counsel to abandon the goals of protecting society (prosecutor) or to defend a criminal defendant's constitutional rights (defense attorney).

However, Ostrom and Hanson did not address the nature and effects of parallel judicial and court administrators' views. Are there discernible distinctions in their attitudes and do those distinctions make a difference in timeliness and other aspects of court performance? If so, what are the dimensions on which influential judicial and court administrators' attitudes rest? For example, why are some judges more oriented to expect that attorneys are prepared? Or why

some judges more inclined to see communication with the bar an essential responsibility?
Answers to those key questions will help clarify court culture.

Coming to Grips with Culture

The consensus among the three bodies of previous research on "local legal culture" is the important influence norms, beliefs, and attitudes held by judges, attorneys and court administrators have in shaping how courts operate. Despite differences in how the researchers try to measure culture, Church; Nardulli, Eisenstein and Flemming; and Ostrom and Hanson stress the importance of practitioners' views in accounting for why courts perform differently. Consequently, previous research provides solid justification for inquiry into the nature and consequences of variation in culture.

However, whereas previous researchers have scouted the phenomenon of court culture, we wish to explore it more thoroughly. If court culture is important, then the concept needs to be formalized. Court culture must be defined and measured. In addition, venturing deeper into the concept means we must clearly demarcate our area of study. Whereas the previous research has looked at the larger legal community in discussing local legal culture (both inside and outside the courthouse), we focus our attention on the culture of a single organization: the court. We are primarily interested in helping court managers identify ways in which their organization's culture can be diagnosed and understood. Therefore we wish to draw a distinction between what has been referred to as local legal culture and court culture. This manuscript focuses its attention on the latter.

To do so, we draw on a well-established field of inquiry on organizational culture. This perspective is augmented by also incorporating the thinking and experience of people who work in and manage courts. We seek to move the discussion of court culture forward by appropriately

integrating relevant scholarly literature with the real-world experience of judges and court managers.

A court's culture comprises the values, norms, expectations, communication patterns, and power relationships or, simply stated, "The way things are done around here." Goffee and Jones say, "Culture comes down to a common way of thinking, which drives a common way of acting on the job.…" (1998,15). Coming to grips with this "common way of thinking" requires looking below the surface because these beliefs, assumptions, and values are usually unspoken and implicit. Yet, this definition by itself is not a framework for understanding or changing culture. Because culture is invisible compared to budgets and caseflow management plans, it is extremely difficult to identify and to adjust in desired directions. We need a methodology and some analytical tools to clarify and make sense of the organizational environment.

Learning from the Private Sector

Because we are interested in developing an instrument for diagnosing the culture types of state trial courts, we have an affinity for conceptual frameworks designed to study a wide range of organizations, not a particular type of institution (e.g. hospitals, schools, political parties). Consequently, we begin our inquiry into court culture with an overview of two preeminent approaches to the study of culture in all types of private organizations (Cameron and Quinn 1999 and Goffee and Jones 1998). Despite the stature and breadth of these organization experts, an immediate issue is whether the ideas from private sector culture studies are transferable to studies in the public sector, including courts. Many observers contend the two sectors are different, but we believe a convincing argument can be made that studies of private organizational culture are transferable to public bodies. Before moving to a review of the private

sector culture studies, the issue of the comparability between the public and private sector as objects of study is examined.

Public versus Private. Incorporating tools and lessons from the study of private organizations will help fill gaps in previous literature on local legal culture, although this extension is not straightforward. Public institutions are not the same as private organizations. Some scholars argue what we know about private organizations cannot be a basis for understanding public bodies. This viewpoint is exemplified in the oft-cited claim by Wallace Sayre that public and private organizations are "fundamentally alike in all unimportant respects." More specific assumptions underlying this argument are public agencies, in contrast to private bodies, lack a clear bottom line (e.g., profit and market performance), have a diverse set of goals and performance criteria, are more 'open' and with greater exposure to public scrutiny, and managers of public organizations have shorter time horizons (Allison 1988, 287-8).

Additionally, as Wilson asserts, three aspects of government agencies separate them conceptually from private bodies. He writes that to a "much greater extent than private bureaucracies, government agencies (1) cannot lawfully retain and devote to the private benefit of their members the earnings of the organization, (2) cannot allocate the factors of production (land, labor, capital) in accordance with the preferences of administrators, and (3) must serve goals not of the organization's choosing (Wilson 1989, 115)." Courts are an extreme case of a public institution governed by non-monetary criteria, such as justice, equality and fairness. Consequently, specialists in public administration seldom focus their attention on courts as organizational entities.[23] Yet, despite the traditional divide between the public and private

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[23] From the perspective of knowledgeable court observers, views on the challenges of employing private sector management techniques in the courts can be found in Friesen (1977, 38-44) and Wice (1995).

sectors, three reasons justify building a concept of court culture upon the foundation of courts as organizations and drawing on private sector studies.

First, our concept of court culture and the parallel private sector investigations both revolve around the same idea that work orientations define the character of the organizations. To the extent that judges and court staff have different views on how cases should be resolved, they will organize themselves differently. The centrality of work orientations as a basis for understanding courts is consistent with commonly heard conversations among practitioners. When judges get together and talk about their courts they almost always begin by saying, "Well, this is the way that we do it in my court." These statements are indicative of each court's culture.

Second, work orientations shape the degree of a court's effectiveness. This linkage has been demonstrated in the private sector and we think a parallel relationship is worth exploring in public institutions, including courts. Finally, business school scholars have shown private organizational culture is susceptible to measurement and the results are interpretable within a typology of cultures. For all these reasons, we choose to adapt the research strategy of private sector investigations to our inquiry on court culture.

As a result, we contend, when looking at the "temperaments, skills and techniques" of judges, court managers, and court employees, the differences between public sector and private sector organizations and management are minimal. Our point of view is consistent with Lynn's observation that

> [t]he two sectors are constituted to serve different kinds of societal interests, and distinctive kinds of skills and values are appropriate to serving these different interests. The distinctions may be blurred or absent, however, when analyzing particular managerial responsibilities, functions, and tasks in a particular organizations. The implication of this argument is that lesson drawing and knowledge transfer across sectors is likely to be useful and should never be rejected on ideological grounds (2003, 3).

Therefore, a useful starting point for the study of court culture is with the private management literature examining culture in a wide range of organizations.

Robert Quinn and Colleagues. Since the early 1980s, Quinn and his colleagues have sought to define and explain organizational culture. Recognizing the complexities of this construct, they chose to ground their characterization of culture in the language of organizational effectiveness. This focus was based on the fact most organizations only pay attention to a subset of many possible indicators of effectiveness. Quinn and his colleagues reasoned the selective use of indicators likely is accounted for by cultural differences. Different cultures have different conceptions and priorities on what constitutes effectiveness. As a result, a way to conceptualize and measure organizational culture can be gleaned from a thorough and quantitative analysis of attitudes toward organizational effectiveness.

In a ground-breaking paper, Quinn and Rohrbaugh (1983) identified 17 key indicators of organizational effectiveness: conflict/cohesion, morale, value of human resources, training and development, quality, flexibility/adaptation, readiness, growth, evaluation by external entities, utilization of environment, profit, productivity, planning goals, efficiency, information management and communication, stability, and control.[24] They represent what people value about an organization's behavior.

To determine whether particular values cluster together, Quinn and Rohrbaugh asked a number of organization theorists to engage in a paired comparison exercise and to indicate how closely each of the seventeen general effectiveness criteria is related to each of the other criteria. Their hypothesis is that different clusters form different cultures, which in turn, are the basis for different conceptions of organizational effectiveness.

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[24]This list was culled from a comprehensive list of 39 indicators of possible measures of organizational effectiveness identified in the literature previously by Campbell and his colleagues (1974).

In testing this hypothesis, Quinn and Rohrbaugh turned to the experts in the study of organizations and used their judgments to see whether distinct organizational archetypes might emerge. The payoff of this methodology was that it paved the way to combine a rigorous methodology with the insights of organization specialists. Using data from the experts' paired comparisons;[25] Quinn and Rohrbaugh subjected the results to quantitative analysis and two dimensions of organizational effectiveness criteria emerged.[26] The first dimension is related to organization structure and contrasts effectiveness criteria emphasizing flexibility, discretion, and dynamism from criteria emphasizing stability, order and control. At one end of the continuum, an organization is viewed as effective if it is changing and adaptable. At the other end, an effective organization is stable and predictable.

The second dimension is related to organization focus and contrasts an internal, employee-oriented focus with an external, community oriented focus. At one end of the second dimension, an organization is viewed as effective if it stresses cohesion, morale and internal communication. At the other end, an effective organization pays close attention to how it is viewed by external groups and individuals and its ability to manage the environment.

Taken together, these two dimensions define four quadrants, each representing a distinct culture type. Somewhat unexpectedly, Quinn and Rohrbaugh were able to connect these culture types to the traditional literature thereby providing a strong sense of plausibility to the experts' paired comparisons. The four types of organizational culture, their names and a short description are as follows (Cameron and Quinn, 1999):

- *Clan* – emphasizes flexibility and an internal focus; stresses cohesion, morale, and human resource development.

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[25] Quinn and Rohrbaugh (1983, 368) invited 76 organizational theorists to participate; 48 agreed to participate and 40 actually completed the 136-paired comparisons.

[26] The technique used by Quinn and Rohrbaugh was multidimensional scaling, which is discussed by Carrol and Chang (1970).

- *Adhocracy* – emphasizes flexibility and an external focus; stresses flexibility, readiness, growth, resource acquisition, and external support.

- *Market* – emphasizes control and an external focus; stresses planning, goal setting, productivity, and efficiency.

- *Hierarchical* – emphasizes control and an internal focus; stresses information management, communication, stability, and control.

Quinn and his colleagues have used their method usually referred to as the Competing Values Framework to assess a wide range of business-oriented organizations. In doing so, they find that over eighty percent of organizations fall into one of the four cultural types (Cameron and Quinn, 1999: 40).

In subsequent research, Cameron and Quinn (1999: 19) developed the concept of six key "aspects" of organizational life, which they refer to as the dimensions of organizational culture. They are: dominant characteristics, organizational leadership, management of employees, organizational glue, strategic emphases, and criteria for success. Cameron and Quinn contend every organization has these aspects, but each aspect operates in accordance with a particular type of culture. For example, underlying differences between cultures likely show up in the different ways employees are managed or alternative strategic emphases. The use of organizational aspects as a way to demonstrate cultural differences also raises the possibility of combinations of cultures. In fact, a specific focus of attention by Cameron and Quinn was to see if the presence or absence of a single culture over all six dimensions is related to the degree of effectiveness.

To understand each culture type as well as differences between them, we have put together a "values" matrix for the Competing Values Framework, as shown in Table 2. The values matrix provides a summary of the four culture types as well as an indication of how they differ across six content dimensions. A reading of the matrix provides further insight into the

competing values perspective. For example, looking at the Clan type of culture, we see this

organizational culture has the following characteristics across the six key aspects:

- Dominant Characteristics – very personal place; like an extended family

- Organizational Leadership – mentoring, nurturing, facilitating

- Management of Employees – teamwork, consensus, participation

- Organizational Glue – loyalty, mutual trust

- Strategic Emphases – human development

- Criteria for Success – concern for people

Table 2
Competing Values Value Matrix

	Clan	Adhocracy	Market	Hierarchy
Dominant Characteristics	The organization is a very personal place. It is like an extended family. People seem to share a lot of themselves	The organization is a very dynamic and entrepreneurial place. People are willing to stick their necks out and take risks.	The organization is very results oriented. A major concern is with getting the job done. People are very competitive and achievement oriented.	The organization is very controlled and structured place. Formal procedures generally govern what people do.
Organizational Leadership	The leadership in the organization is generally considered to exemplify mentoring, facilitating, or nurturing.	The leadership in the organization is generally considered to exemplify entrepreneurship, innovating, or risk taking.	The leadership in the organization is generally considered to exemplify a no-nonsense, aggressive, results-oriented focus.	The leadership in the organization is generally considered to exemplify coordinating, organizing, or smooth-running efficiency
Management of Employees	The management style in the organization is characterized by teamwork, consensus, and participation.	The management style in the organization is characterized by individual risk taking, innovation, freedom, and uniqueness.	The management style in the organization is characterized by hard-driving competitiveness, high demands, and achievement.	The management style in the organization is characterized by security of employment, conformity, predictability, and stability in relationships.
Organizational Glue	The glue that holds the organization together is loyalty and mutual trust. Commitment to this organization runs high.	The glue that holds the organization together is commitment to innovation and development. There is an emphasis on being on the cutting edge.	The glue that holds the organization together is the emphasis on achievement and goal accomplishment. Aggressiveness and winning are common themes.	The glue that holds the organization together is formal rules and policies. Maintaining a smooth running organization is important.
Strategic Emphases	The organization emphasizes human development. High trust, openness, and participation persist.	The organization emphasizes acquiring new resources and creating new challenges. Trying new things and prospecting for opportunities are valued.	The organization emphasizes competitive actions and achievement. Hitting stretch targets and winning in the marketplace are dominant.	The organization emphasizes performance and stability. Efficiency, control and smooth operations are important.
Criteria for Success	The organization defines success on the basis of the development of human resources, teamwork, employee commitment, and concern for people.	The organization defines success on the basis of having the most unique or newest products. It is a product leader and innovator.	The organization defines success on the basis of winning in the marketplace and outpacing the competition. Competitive market leadership is the key.	The organization defines success on the basis of efficiency. Dependable delivery, smooth scheduling, and low-cost production are critical.

Looking at a culture from these six different vantage points provides a more differentiated picture and suggests how a culture is manifested in specific ways. Using Table 2, each of the remaining three culture types can be described in a parallel manner.

Rob Goffee and Gareth Jones. Goffee and Jones (1998) provide a somewhat different approach to measuring and identifying culture. As a starting point, they focus their attention on culture as the social architecture of the organization and display this idea through the use of a two-dimensional diagram.[27] The vertical axis is the dimension of "Sociability" while on the horizontal axis is "Solidarity." Each dimension runs from low to high. The key to understanding their conception of organizational character lies in the definition of its two dimensions.[28]

Sociability is the degree of friendliness among the people working in an organization (1998, 23). For Goffee and Jones, this dimension is an essential element of culture. They suggest several benefits are associated with organizations indicating a high degree of sociability:

> ...working in such an environment is a pleasure, which promotes high morale and esprit de corps. Sociability is also often a boon to creativity because it fosters teamwork, the sharing of information, and an openness to new ideas. . . [it also] creates an environment in which people are more likely to go beyond the formal requirements of their jobs. They work harder than technically necessary to help their colleagues – that is, their community – look good and succeed. (1998, 25)

Goffee and Jones readily acknowledge sociability also potentially has a negative side manifesting itself in some organizations. They note:

> The prevalence of friendships may allow poor performance of members to be tolerated. . . In addition, high sociability environments are often characterized by an exaggerated concern for consensus. . . The result: the best *compromise* gets applied to problems, not the best *solution*. If that is not damaging enough, sociability in the extreme can develop

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[27] They call their construct the Double S Cube.

[28] Goffee and Jones (1998, 22) argue: Despite their lack of frequent mention in the popular business press, sociability and solidarity actually have a long, well-established, and respected pedigree; indeed, they are constants of the sociological tradition as it emerged from the philosophical legacy of the French Revolution with its ardent calls for Liberty, Equality, and Fraternity. What creates the last of these three – fraternity or more colloquially, community – has been a central focus of sociology ever since. Consequently, using these two dimensions is a return to the historical roots of the discipline of sociology.

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into cliques and informal, behind the scenes networks that can circumvent or even undermine "due process" in an organization (1998,28)

As Goffee and Jones indicate, sociability is neither good nor bad, it just is. The importance of this dimension, however, is that it brings squarely into focus the ways individuals relate to one another in the organization.

Solidarity addresses the degree to which members of an organization have clearly understood goals, shared commitments, and common tasks geared to getting the job done, regardless of "whether they personally like each other or not" (Goffee and Jones 1998, 28). A professional football team is an example of an organization seeking "high solidarity." In the current era of free agency, player "loyalties" go to the highest bidder. No requirement mandates teammates like each other. Instead, the primary consideration is the team's winning percentage. Players may have little to do with each other off the field. Success means producing a "well-oiled machine" on the field. Each team member has a role and set of tasks clearly articulated and aligned with the ultimate goal of winning. An organization with solidarity has clear goals, agreed upon procedures for reaching the goals, and an understanding of which behaviors will be rewarded.

Solidarity also has its potential downside. "Too much focus on the group's goals and requirements can be oppressive or hurtful to those individuals who get in the way." (Goffee and Jones 1998, 31.) Professional football provides a clear example of how a high solidarity culture might terminate individuals as soon as they are deemed to no longer satisfy the needs of the organization. While less extreme, courts can exhibit some of the same attitude. Courts seeking to make the workplace more structured, rule driven, and technology reliant will allocate training monies, make promotions and generally reward judges and administrators who are in harmony

with the hierarchical pursuit of performance. Individuals who value a more sociability-oriented environment likely will object to the more solidarity driven values and behaviors.

Goffee and Jones (1998, 54-5) have developed a series of 23 questions to locate an organization in their two dimensional space. Based upon the two dimensions, they posit four cultures occur at the intersection of Sociability (Low and High) with Solidarity (Low and High). The following provides the names and a short description of each cultural type:

- **Networked Culture** – emphasizes making friends throughout the organization; helping others who need it; and interpreting rules according to context.

- **Mercenary Culture** – emphasizes working until the job is done; doing only what is measured; and focusing on your own work while not worrying about others.

- **Fragmented Culture** – emphasizes doing what is necessary; making yourself valuable; keeping your eyes on your own work.

- **Communal Culture** – emphasizes creating a family-type atmosphere; living the organization's credo; following the leader.

Like Quinn, Goffee and Jones use "content dimensions" to describe more specific and detailed differences between various culture types. Using the four dimensions of Physical Space, Communication, Time, and Identity, Goffee and Jones indicate how each culture affects an organization in particular ways. How the four culture types vary across the four content dimensions is shown in Table 3. A reading of the matrix provides further insight into Goffee and Jones' perspective on organizational culture. Looking at the Networked Culture type, we see that it has the following characteristics across the four key dimensions:

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Table 3
Goffee And Jones Value Matrix

	Networked	**Mercenary**	**Communal**	**Fragmented**
Physical Space	Offices doors are open or unlocked; people move freely into and out of each other's rooms. Large allocations of space are for social activities	Space is allocated functionally – in ways to get the job done. An open plan or flexible desk use is possible – but in order to assist with simple, efficient, and cost-effective methods or means of task achievement, not "chatting".	Much space is shared either formally or informally. It may sometimes be difficult to determine whose office you are in, and there are few barriers between departments or functions. There are unlikely to be big differences in space allocation between people.	Space is designed to help individuals work without interruption. Office doors are closed and offices are well equipped so that employees are effectively self-contained.
Communication	There is a lot of talk. Although there are formal hierarchies and processes, much communication takes place around the formal systems in face-to-face conversation, on the phone, in "meetings before meetings:"	Communication is swift, direct, and work-focused. Terse memos and data laden reports leave little room for "idle" conversation.	There is communication in every channel, but oral, face-to-face methods are likely to dominate. Nonverbal communication is important; dress, color, and symbolism may all help individuals to feel close to others. Communication flows easily inside between all levels.	Talk is limited to brief one-to-one exchanges in the corridor or on the phone. Meetings are resisted (What's the point? Difficult to arrange; hard to manage). Individuals will talk only to those who are worth talking to; otherwise the deal is "I leave you alone if you leave me alone."
Time	People use work time to socialize – and they are not penalized for doing so. In addition, social activities are often extensions to the working day. People get to know each other quickly.	Long hours are the norm, although it is acceptable to leave once the job is done. This is clearly signaled, since time and performance measures are explicit. Private time is precious and, where possible, protected.	People live at work; professional life is so engaging that "conventional" time is ignored. Work and non-work like dissolve into one; even when at home work can be a preoccupation. Work becomes a way of life.	People go to the office only when they need to; absence is the norm. Achievement, not time is the measure. Most time is devoted to the pursuit of individual professional and technical excellence; anything that interferes with this can be considered a waste of time.
Identité	People identify with each other; close ties of sociability heighten feelings of similarity as individuals. Differences are understated and if expressed at all they are seen in subtle variations of dress code and speech patterns. Excessive displays of personal difference are resisted.	People identify with winning. Although norms of behavior emerge here as anywhere, differences between individuals are acceptable and encouraged if they assist in achieving the result. What draws people together are shared experiences, goals, and interests rather than shared sentiments or feelings.	People identify with the values and mission of their company. The credo is lived; the words are played out, enacted, debated, applied, developed. Work becomes a way of life. Logos, symbols, war cries abound. The company attracts fierce loyalty.	People identify with values of individualism and freedom; with personal technical excellence; with organizations that minimize interference. There are significant personal differences between individuals, but these are unlikely to impede achievement, and they confirm values of freedom.

- Physical Space – doors are open and unlocked; people move freely

- Communication – a lot of talking and communication; meetings before meetings

- Time – people use work time to socialize; social activities are extensions of work day

- Identity – close ties; people identify with one another

Using Table 3, one also can assess parallel aspects of each of the remaining three culture types.

From the review of these two important sets of scholarly studies, we glean five valuable

findings to guide our investigation of court culture.

First, organizations are classifiable and comparable using an appropriately developed framework.

Second, frameworks are built upon some type of values clarification, meaning cultures are

distinguished based upon the types of values they emphasize. Third, a cultural framework builds

upon the views of experts in the field as to what values are related to each other and what values

possibly range across separate dimensions. Fourth, values also are based upon the opinions and

insights of those who live and breathe the culture. Fifth, different scholars have produced

different arrays of different private sector culture types, but important similarities in the

classification schemes suggest the lessons learned are transferable to the study of court culture

types. The concepts of sociability and solidarity are promising ways to conceptualize court

culture.

This last finding is worthy of amplification because these two dimensions, which underlie

the nature of culture types, are compatible with the two fundamental challenges and

responsibilities confronting courts as organizations. One challenge revolves around the central

mission of courts to handle certain types of conflicts and disputes in their communities.

Solidarity is an idea harmonious with the goals of courts to get the job done of resolving all

cases. The second challenge, managing personnel including judges, court administrators and line

staff, is the most difficult task facing courts, especially when they grow in size and complexity.

Court employees have a wide range of educational and experience backgrounds. Therefore,

sociability bears on the kind and manner of attention given to judges and court staff by other

judges and staff.

CONCEPTUALIZING COURT CULTURE

Taking into account previous research suggesting courts have cultures made up

expectations, norms, and values, we extend those ideas by using the methodological advances of

others. Our starting point is the methodology pioneered by Quinn and Rohrbaugh (1983)

(Appendix 2-1). What attracts us to their method is its apparent universality through using a

standard set of steps that can be applied to both public and private organizations. When

specifically tailored to courts, the steps include:

- Locate a small set of core values that a trial court identifies as important by reviewing literature and consulting with disciplinary experts.

- Ask knowledgeable experts judges, court administrators to assess the degree of similarity/dissimilarity between the various values using a carefully formulated questionnaire.

- Employ the statistical analysis technique of multidimensional scaling to extract and name the two most important dimensions.

- Identify culture types based upon the values that cluster together in each quadrant.

- Determine primary work areas for court organizational assessment.

- Align the particular value that best describes each culture's approach in a given work area. Continue until all cultural values for each combination of work area and culture type are completed. The result is a "Court Cultural Values Matrix."

By following this methodology, it is possible to define, measure, and specify a court's

organizational culture(s). Beyond the direct relevance to court management, the approach

provides a means to address DiIulio's call for defining and measuring the public management variable.

The private sector culture literature stresses the importance of building a conception of culture on a comprehensive set of values. Therefore, as a first step in identifying elements of court culture, it is necessary to determine the range of values court personnel rely on in deciding how to make work related decisions.

We conducted a search of the literature to compile a list of court-related cultural norms and values (e.g., Boyum1979; Church 1982; Trial Court Performance Standards Commission, 1990; Eisenstein and Jacob 1977; Eisenstein, Flemming and Nardulli 1988; Flemming, Nardulli and Eisenstein 1992; Henderson and Kerwin 1982; Hewitt, Gallas, Mahoney 1990; Nardulli, Eisenstein, and Flemming 1988; Mohr, 1976; Ostrom and Hanson 1999; Stott 1982; and Warren 1998). From the available sources, we were able to isolate in excess of fifty possible values. Since there was substantial overlap between them, we tried to minimize redundancy and ended up with a set of sixteen cultural values. The set of 16 cultural values and norms are: case differentiation, chain of command, collaborative problem solving, collegiality, constrained change, continuity with the past, decentralization, discretion, efficiency, flexibility, innovation, judicial consensus, rule oriented, self managing, sovereignty and teamwork (see Appendix 2-2 for complete descriptions).

Second, to determine whether these values are the grounds for different culture types and which values are interrelated and which ones are quite opposite, we approached a set of knowledgeable individuals to complete a series of paired comparisons between each of the sixteen cultural values.[29] Using a questionnaire consisting of 120-paired comparisons with all

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[29] We recognize that the sample was not random. Instead, we sought a range of judges, administrators, attorneys, and scholars who were thoughtful and experienced. The sample is geographically diverse. The important factor for

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values presented in a randomized order, we targeted approximately 70 individuals from around the country with considerable experience in courts as possible respondents (See Appendix 2-3 for a more complete description of the paired comparison exercise). Fifty-three individuals returned completed questionnaires.[30] Based on responses from each of these individuals, we used the resulting proximity matrices as the primary data input into our analysis. Each element of the matrix is an ordinal measure of how similar (or dissimilar) two cultural values are viewed by a particular respondent.

Third, we then analyzed the responses held by the seasoned practitioners to determine exactly how they saw values relating to or diverging from one another. The values clustering together constitute the basis for distinct cultures. Specifically, we conducted a multidimensional scaling analysis and found the respondents' proximities to be represented in two dimensions (See Appendix 2-4 for an overview of the analysis technique and results).

The first dimension is the extent to which a court has clearly understood and shared goals, common tasks and agreed upon procedures for reaching the goals. At one end, a court pursues shared goals and tasks, has agreed upon procedures for reaching the goals, and values communication within the court. At the other end, a court stresses independence, autonomy, and individuality among the judges and court staff in how they carry out their work. This dimension appears similar in content to the Control and Flexibility dimension of Quinn and the Solidarity dimension of Goffee and Jones. Since we like the implications and nuances of Goffee and Jones' characterization, we will refer to this as the *Solidarity* dimension.

The second dimension captures the ways in which the individuals within the courthouse community relate to one another. At one end of the dimension, the court is closely connected in

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the research – just as it was for Quinn and Rohrbaugh – is that the evaluators are knowledgeable and thoughtful.
[30] The individuals included 26 judges, one prosecutor, one criminal defense attorney, 23 court administrators, and two court scholars.

a communal or clan-like way, while at the other end little need for social interaction occurs as rules and structure determine what is to be done. We interpret this spectrum as a *Sociability* dimension. Such a dimension might play an important role in determining the degree to which certain "best practices" or "innovations" are adopted, implemented or used on a widespread basis. Despite the effectiveness of some practices in achieving desired ends, courts might find the work relationships necessary to carry out the practices to be objectionable and, thereby, have little interest in adopting them. For example, a best practice requiring case screening might not take root in a court where the culture emphasizes judicial autonomy and limited agreement exists on what is a routine case and what is a complex case. An autonomous culture might inhibit even the effort by a chief judge to develop working definitions of these two terms, which are essential for screening to work.

Our substantive interpretations of the two dimensions fit with the following observation from Goffee and Jones (1998, 15, emphasis added):

> Culture—It is an organization's common values, symbols, beliefs, and behaviors. Culture comes down to a common way of thinking, which drives a common way of acting.... Usually these shared assumptions, beliefs, and values are unspoken – or implicit. And yet in their silence they can make a difference between a company that wins and loses, and for the individual, they can make the difference between commitment and disaffection.... Culture, then, is about sustainability. Culture is the underlying social architecture.

Therefore, using the Solidarity and Sociability dimensions in tandem, it is possible to provide a blueprint of the social architecture inherent in each of the court culture types.

The dimensions of sociability and solidarity describe two distinct continuums; individual courts occupy positions at different points along the spectrum of each continuum. Taken together, the two dimensions form the following four quadrants, each representing a distinct court culture:

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- Communal – low solidarity, high sociability

- Networked – high solidarity, high sociability

- Hierarchical – high solidarity, low sociability

- Autonomous – low solidarity, low sociability

Although we use the dimension names chosen by Goffee and Jones (Solidarity and Sociability), we have selected somewhat different names for our four culture types, due to the particular set of norms and values extant in courts.[31]

To elaborate our culture types more fully, we have developed a set of five content dimensions or areas of work along which to compare our four culture types: case management, judicial-staff relations, change management, relations, courthouse leadership and internal organization. The four culture types are expected to vary across each of these areas of work. To get an idea of the variation across culture types, we have put together a "values" matrix for the court culture framework.

It should be noted that the development of the values matrix for court culture led us to move beyond the sixteen values displayed in Appendix 2-2. Given four culture types and five content dimensions, it is necessary to have twenty values to "populate" the resulting values matrix. Like Quinn before us,[32] not only have we introduced some additional values, we have altered some definitions compared to those in the original analysis. These changes reflect our growing understanding of court culture as we have moved forward with this research.

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[31] In spite of the different names, our culture types have much in common with the previously discussed work. The Communal court culture is similar to the Clan culture of Quinn and the Networked culture of Goffee and Jones. The Networked court culture is similar to Quinn's Adhocracy and Goffee and Jones' Communal. The Hierarchical court culture is similar to Quinn's Hierarchical and Goffee and Jones' Mercenary. Finally, the Autonomous court culture is similar to Goffee and Jones' Fragmented culture.

[32] Quinn moved from the initial 17 values to 24 in his subsequent analyses. The development of the implicit values matrix required altering some of the original concepts to better fit the organizational typology.

Table 4 displays the values matrix and provides a succinct description of the four court culture types as well as an indication of how they differ across five areas of work. Each of the twenty values contained in the matrix describes a specific attribute, interpretation or approach associated with each work area and how it typically is manifested in a particular court culture. This classification scheme assumes all courts have the same work to do, but they do it differently depending on their culture. Stated positively, every court proceeds in a deliberative and purposive manner to resolve cases. However, the meanings of "deliberativeness" and "purposefulness" ultimately are defined by the culture of a particular court.

This typology with associated values is a theoretical construct we bring to bear on the world. For example, when it comes to dominant case management style, we believe different courts approach this issue with alternative approaches:

- *Communal* courts emphasize *flexibility*: General agreement on performance goals exists, but centralized judicial and administrative staff leadership is downplayed and creativity is encouraged. As a result, alternative acceptable ways exist for individual judges to apply court rules, policies, and procedures.

- *Networked* courts emphasize *judicial consensus*: Judicial expectations concerning the timing of key procedural events come from a working policy built on the involvement and planning of the entire bench. Follow through on established goals is championed and encouraged by a presiding (administrative) judge.

- *Autonomous* courts emphasize *self-management*: Limited discussion and agreement exist on the importance of court wide performance goals. Individual judges are relatively free to make their own determinations on when key procedural events are to occur.

- *Hierarchical* courts emphasize *clear rules*: Judges are committed to the use of case flow management (e.g., early case control, case coordination and firm trial dates) with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges.

Table 4
Court Culture Value Matrix

	Communal	Networked	Autonomous	Hierarchical
Dominant Case Management Style	**Flexibility**—General agreement on performance goals exists, but centralized judicial and administrative staff leadership is downplayed and creativity is encouraged. As a result, individual judges apply court rules, policies, and procedures in alternative, acceptable ways.	**Judicial Consensus**—Judicial expectations concerning the timing of key procedural events come from a working policy built on the deliberate involvement and planning of the entire bench. Follow through on established goals is championed and encouraged by a presiding (administrative) judge.	**Self-managing**— Limited discussion and agreement on the importance of court wide performance goals exist. Individual judges are relatively free to make their own determinations on when key procedural events are to be completed.	**Rule oriented**—Judges are committed to the use of case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges.
Judicial and Court Staff Relations	**Egalitarian**—An effort is made by judges to limit the psychological distance between them and administrative courtroom staff. Hierarchy and formal processes exist, but court staff members go outside normal channels when it seems appropriate to "do the right thing."	**People Development**—Judges value and promote a diverse workforce and diversity of ideas; act to enhance professional administrative and courtroom staff development; and seek to treat all staff with fairness and respect	**Personal Loyalty**—Individual judges uses their own criteria to monitor, evaluate, and motivate courtroom and other staff. Judges have wide discretion in how they recruit, manage and organize their courtroom support staff.	**Merit**—Administrative and courtroom staff members are closely monitored and evaluated through regular and structured performance appraisals. Work related feedback, merit recruitment, and promotion are emphasized.
Change Management	**Negotiation** – Changes in court policies and procedures occur incrementally through judicial negotiation and agreement. In practice, procedures are seldom rigid, with actual application open to interpretation by semi-autonomous work teams of individual judges and corresponding court staff.	**Innovation**—Judges and court managers seek input from a varied set of individuals (e.g., judges, court staff, attorneys, and public) and measure court user preferences concerning policy changes. Individual judges and administrative staff are encouraged to monitor court performance and to recommend necessary adjustments.	**Continuity**—Judges resist a rule- and process-bound organizational setting. Centralized change initiatives may be considered unfeasible because each judge exercises a wide scope of latitude in the choice of case processing practices and judges are perceived to resist court wide monitoring.	**Modern Administration**—Judges and administrative staff seek cutting edge technology and modern administrative methods to support administrative procedures that reduce errors and enhance the timeliness of case processing and the accuracy of record keeping.
Courthouse Leadership	**Trust**—Judicial and administrative staff leaders seek to build personal relationships and confidence among all judges and court staff members; emphasize mutually agreed upon goals with staff members; and attempt to help all obtain satisfaction from work.	**Visionary**—Judicial and administrative staff leaders seek to build an integrated justice system community. All judges and court staff are asked to meet organizational performance goals that focus on results that matter to those served by the courts rather than simply those who run them.	**Independence**—Centralized court leadership is inhibited because judges prefer to work with few external controls. Each judge and corresponding courtroom staff members are concerned primarily with their own daily responsibilities and exhibit little interest in efforts aimed at improving court or system wide performance.	**Standard Operating Procedures**— Judicial and administrative leaders rely on clearly established rules and directives—preferably in writing—to guide court operations. The system may appear impersonal given the emphasis on knowing and using the proper channels to get things done.
Internal Organization	**Collegiality**—Information on a wide variety of topics (e.g., caseflow, resources, personnel) is shared through informal channels reflecting personal relations among judges, administrative, and courtroom staff. Judges and court staff strive for consensus and to reconcile differences.	**Teamwork**—Judges and administrators seek a shared court-wide view of what needs to be accomplished. This knowledge facilitates judges and court staff, drawing from different departments and divisions if necessary, to work collaboratively to perform case processing and administrative tasks.	**Sovereignty**—Courtroom practices reflect the policies and practices employed by individual and autonomous judges. Therefore, accepted practices are slow to change, stability and predictability are emphasized, and confrontation minimized.	**Chain of Command**—Explicit lines of authority among judges, administrative staff, and courtroom staff create a clear division of labor, and formalize expectations that judges and court staff will do the jobs that they are assigned

A second way to read the matrix is examining a single column to see how a particular court culture type can be described on each of the dimensions. For example, consider the values we hypothesize are espoused in the Networked Culture:

- *Judicial Consensus*—Judicial expectations concerning the timing of key procedural events come from a working policy built on the involvement and planning of the entire bench. Followthrough on established goals is promoted by a presiding (administrative) judge.

- *People Development*—Judges value and promote a diverse workforce and diversity of ideas: They act to enhance professional administrative and courtroom staff development. Judges seek to treat all staff with fairness and respect.

- *Innovation*—Judges and court managers obtain input from a varied set of individuals (e.g., litigants, attorneys and community groups) and measure court user preferences in designing policy changes. Individual judges and administrative staff are encouraged to monitor court performance and to recommend necessary adjustments.

- *Visionary*—Judicial and administrative staff leaders aspire to build an integrated justice system community. All judges and court staff are asked to meet organizational performance goals focusing on results mattering to those served by the courts rather than simply those who run them.

- *Teamwork*—Judges and administrators pursue a shared, court-wide view of what needs to be accomplished. As a result, judges and court staff, draw from different departments and divisions if necessary, and work collaboratively to perform case processing and administrative tasks.

As can be seen, contained within the value matrix are the characteristics defining each culture type. A graphic summary is displayed in Table 5 where each culture is accompanied by a short list of some of the particular values it emphasizes as well as a short description. To complete this chapter, we offer an overview of the four court culture types:

Communal: Judges and administrators emphasize the importance of getting along and acting collectively. Rather than established rules and firm lines of authority, communal courts emphasize importance of group involvement and mutually agreed upon goals. Flexibility is a key to management. Procedures are open to interpretation and creativity is encouraged when it seems important to "do the right thing." The court environment is best managed through teamwork and developing a humane work environment. Court customers are often viewed as partners when designing court policies and procedures.

Networked: Judges and administrators emphasize creativity and innovation. Efforts to build consensus on court policies and practices extend to involving other justice system partners, groups in the community and ideas emerging in society. As innovators, these courts will be drawn to incorporate the latest thinking in specialty courts, problem-solving courts and therapeutic justice. Court leaders speak of courts being accountable for their performance, for the outcomes they achieve, not just the ways and means they use to achieve them. The networked court seeks a very challenging and complex organizational structure that endeavors to achieve both high solidarity and high sociability in the choice and implementation of management practices.

Autonomous: Judges and administrators emphasize the importance of allowing each judge to conduct business as he or she sees fit. Many judges in this type of court are most comfortable with the traditional adversarial model of dispute resolution. Under this traditional approach, the judge is a relatively passive party who essentially referees investigations carried out by attorneys. Centralized leadership is inhibited as individual judges exercise latitude on key procedures and policies. Limited discussion and agreement exist on court wide performance criteria and goals. It is not surprising that "judicial activism," or case management, has trouble catching hold in these courts.

Hierarchy: Judges and administrators emphasize the importance of established rules and procedures to meet clearly stated court-wide objectives. These courts seek to achieve the advantages of order and efficiency, which are deemed essential goals in a world of limited resources and calls for increased accountability. Effective leaders are good coordinators and organizers. The approach is to create a structured decision-making environment through the creation of rules, adoption of court technology, and a monitoring system to assess compliance. Recognized routines and timely information are viewed as mechanisms for reducing uncertainty, confusion, and conflict in how judges and court staff make decisions.

Table 5
Narrative Summary of Four Court Cultures

SOCIABILITY

Communal

Judges and administrators emphasize getting along and acting collectively. Flexibility is a key to management. Procedures are open to interpretation and creativity is encouraged when it seems appropriate to "do the right thing."

✓ Flexibility
✓ Negotiation
✓ Trust
✓ Collegiality
✓ Egalitarian

Networked

Judges and administrators emphasize a shared view of what needs to be accomplished. Policies and procedures come from a consensus of judges, administrators and others throughout the justice system. Results are focused on those served by the courts rather than on those who run them.

✓ Judicial Consensus
✓ Innovation
✓ Visionary
✓ Teamwork
✓ People Development

SOLIDARITY ⟶

✓ Self-managing
✓ Continuity
✓ Independence
✓ Sovereignty
✓ Personal Loyalty

✓ Rule Orientated
✓ Modern Administration
✓ Standard Operating Procedures
✓ Chain of Command
✓ Merit

Autonomous

Judges and administrators emphasize allowing each judge to conduct business as they see fit. Centralized leadership is inhibited as individual judges exercise latitude on key procedures and policies. Limited discussion and agreement exist on court wide performance goals.

Hierarchical

Judges and administrators emphasize structured relationships based on established rules and procedures governing who is to do what, when, and how in meeting clearly stated court-wide objectives.

SUMMARY

Our goal is a court culture framework to help make better sense of how courts conduct and manage their business. As practitioners and researchers know, courts are different from one another and culture is thought to contribute to those differences. Yet culture's constituent parts have not been pinpointed. One likely reason is most notions of culture refer to:

> ...the taken-for-granted values, underlying assumptions, expectations, collective memories, and definitions present in an organization.... Unfortunately, people are unaware of their culture until it is challenged, until they experience a new culture, or until it is made overt and explicit through, for example, a framework or a model (Cameron and Quinn 1999, 14).

Our framework represents a step on the path toward a stronger evidenced-based and conceptually clearer understanding of the "way things are done around here." We hope to contribute to the discussion of court culture types, but we do not claim to have the ultimate characterization.

Quinn and his colleagues have made a considerable effort trying to establish the overall validity of their scheme. In doing so, they provide the following justification:

> The framework upon which the process is built not only makes sense to people as they consider their own organization, but it is supported by an extensive empirical literature and underlying dimensions that have a verified scholarly foundation (Cameron and Quinn 1999, 17).

From their perspective, a framework must (1) make sense, (2) be supported by an empirical literature and (3) have a verified foundation. The present chapter has been directed at providing a foundation built on a substantial evidence-based literature and one resonating with knowledgeable individuals.

Using the organizational-effectiveness literature as a springboard, we undertook an analysis of a comprehensive set of work-related values held by seasoned judges, court administrators, attorneys and scholars. The purpose of the exercise was to determine what values tend to be held in common and what values tend to be contending. The values clustering

together constitute the basis for distinct cultures. Because we discern four separate sets of interrelated values, we propose a fourfold court culture typology, including Communal, Networked, Autonomous and Hierarchy cultures.

Our approach has some similarity to previous research. For example, the classification of cultures into four types resembles Nardulli, Eisenstein and Flemming's effort to distinguish three types of "work orientations." Additionally, our examination of court culture across five areas of work such as, case management and judicial-staff relations, resembles Ostrom and Hanson's effort to measure attorneys' views toward resources, performance, management, and practices and procedures.

Hence, the current research's four culture types and five work areas build on previous studies. What is new and different about the current initiative compared to previous court studies is the effort made to identify cultures on the basis of many values, which clarifies the substantive meaning of culture. Consequently, we are able to specify what values make up the "norms, beliefs and attitudes" associated with each type of culture. Additionally, the identification of five work areas clarifies how culture operates in a court. What behavior, actions and decisions of judges are affected by the presence of a particular cultural orientation? Our framework is designed to determine the type of cultural orientation shaping case management, judicial-staff relations, change management, courthouse leadership and internal organization. Developing a means to assess where a particular court falls within our framework of court culture is the subject of chapter three.

APPENDIX 2-1: METHODOLOGY

Spatial Model Of Court Culture

We begin our conceptual development by assuming court culture can be represented as a spatial
model. In this model, different aspects of court culture are represented as points within a
Euclidean space of low dimensionality. The coordinate axes of the space correspond to the
dimensions people use to make sense of their environment. It is assumed that all participants in
the courthouse community[33] utilize the same dimensions although the relative importance of the
dimensions will vary from person to person. The full set of views by members of the courthouse
community of the attributes of their culture will be represented by matrix X. The matrix X has j
rows reflecting the j (j= 1, 2, . . . , J) relevant aspects of the practices, policies, and procedures[34]
making up a court's culture along with r columns reflecting the r (r=1, 2, . . ., R) dimensions that
members of the community use to conceptualize the array the various aspects of culture.

$$X = \begin{Bmatrix} x_{11} & x_{12} & ...x_{1R} \\ x_{21} & x_{22} & ...x_{2R} \\ x_{J1} & x_{J2} & ...x_{JR} \end{Bmatrix} \qquad\qquad (1)$$

where x_{jr} represents the value of the j-th culturally-relevant factor on the r-th evaluative
dimension.

Underlying the group (or attribute) space are the representations of individual judges,
administrators, staff, prosecutors, and defense attorneys. Individual representations can vary
from person-to-person to the extent that some individuals place greater emphasis on one of the
evaluative dimensions than the other. As a particular evaluative criterion becomes more (or less)
central to and individual's assessment of the court's culture, the weight attached to the
appropriate dimension increases (or decreases) accordingly.[35]

For each member of the courthouse community k, the dimension weights are a set of r numerical
values collected into the r-dimensional diagonal matrix, W_k. The r-th diagonal element in the
matrix, w_{rk} , shows the weight that is applied to evaluative dimension r for individual k. The
fixed positions of the cultural attributes and the individual-specific weights are combined to form
the perceptual spatial model for each of the members of the courthouse community:

$$X_k = X \ W_k \qquad\qquad (2)$$

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[33] For the remainder of this section, we will use courthouse community to refer to the judges, administrators, staff,
prosecutors, and defense attorneys whose paths cross at the courthouse.
[34] We view culture of the courthouse as the amalgamation of the policies, practices, and procedures that govern the
processing of criminal cases.
[35] As Jacoby (1998) notes, the weights – from a geometric perspective – have the effect of stretching or shrinking a
coordinate axis. By changing the relative lengths of the axes, the weights can also change the relative positions of
the cultural attribute points within the individual judge's perceptual space.

Each entry in the matrix $x_{jr}w_{rk}$ gives individual k's perception of sanction j on evaluative dimension r, weighted according to the "importance" of that particular evaluative dimension for individual k. The net effect is that the relative positions of the cultural attribute points can change from person to person. A spatial model with a diagonal weight matrix, like that in Equation (2) is usually referred to as the "weighted Euclidean model." This representation allows the relative importance of the dimensions to change while the identity of the dimensions themselves remains stable across all of the individuals.

The spatial model developed provides a useful platform from which to examine the conceptualization of a court's culture. The spatial locations of the culturally relevant factors and the individual dimension weights are determined empirically, so that they should accurately represent the cognitive map that the members of the courthouse community bring to bear in their conceptualization of the court's culture. The spatial model incorporates any number of possible attributes that might be relevant. The model also places the members of the community into the same geometric configuration as the cultural factors. Finally, the model provides a parsimonious representation of the difference in cultural perceptions across individuals through the different values of the dimension weights.

Weighted Multidimensional Scaling

Having specified the spatial model, the next task is devising a strategy for estimating the parameters. In this case, we wish to identify the dimensions along which members of the courthouse community evaluate the various culturally relevant attributes, to place the alternative attributes into specific positions in the multidimensional space, and to allow individuals to adjust the importance of the evaluative dimensions to mirror their particular views. In this case the appropriate technique appears to be Weighted Multidimensional Scaling (WMDS).[36]

The WMDS procedure begins with a proximity matrix, Δ, representing subjective values of judged similarity or dissimilarity of the alternative sanctions. Each entry in Δ, $\delta_{ij,k}$ is the proximity between sanctions i and j according to the k-th individual (Arabie et al, 1987). For each data input value $\delta_{ij,k}$ there is a corresponding estimated distance $d_{ij,k}$ in the matrix $D = \{ d_{ij,k} \}$, indicating that the distance between objects i and j in a alternative sanction space that has been altered by applying dimension weights for individual k to stretch or shrink the axes differentially.

$$F_k (\delta_{ij,k}) = d_{ij,k}$$

Linear functions F_k are fitted between input proximity data values $\delta_{ij,k}$ and corresponding output distances $d_{ij,k}$ for each $k = 1, 2,..., K$ sources of proximity matrices. For each individual k, a

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[36] The weighted Euclidean model is often called the INDSCAL model. As Jacoby (1998) notes: both of these terms come from the first computer program that was developed for estimating the weighted Euclidean model (Carroll and Chang, 1970). Following Young (1984, 1987), Jacoby prefers to use the more generic terms "weighted Euclidean model" and weighted multidimensional scaling. This latter usage emphasizes the distinction between the spatial model and the general analytic strategy on one hand, and the specific software employed to calculate the parameter estimates on the other.

weighted Euclidean distance model represents the squared distance between any two of the
factors, say j and p, as follows:

$$\text{Distance}^2 = \{x_j, x_p\} = \sum_{r=1}^{R} w_{kr}^2 (x_{jr} - x_{pr})^2 \qquad (3)$$

Substantively, the distance obtained from the above equation should correspond to the proximity
members of the courthouse community believe to exist between cultural attributes j and p. The
weighted distance model provides a parsimonious representation of the views as well as relating
those of the individuals' to the overall culture space. If empirical data can be obtained on these
perceptual proximities for all pairs of cultural attributes, for all members of the courthouse
community, then the elements of X and the various W_k matrices can be estimated using weighted
multidimensional scaling or WMDS (Young and Hamer, 1987).

One important benefit of WMDS is that the resulting dimensional space has a unique orientation
since the coordinate axes are not arbitrary (Arabie et al, 1987). The basic reason why the axes
are determined uniquely with WMDS is the stretching and shrinking are permitted only along the
coordinate axes.[37] The coordinate axes play a special role. This does not mean that the
unrotated axes will have substantive meaning, for selecting the number of dimensions.
Dimensionality is often decided upon on the basis of substantive interpretability. Finally, the
attribute weights are normalized such that the sum of the weights along each dimension is 0.0
and the mean for each dimension of the attribute space is 0.0 (Arabie et al, 1987). The subject
weights are adjusted accordingly and consequently cannot be readily interpreted as percentages
relative the empirical fact is that they are interpretable in most instances. Substantively, the
dimensions from WMDS should correspond to "fundamental" cognitive or judgmental processes
whose importance, strength, or salience may differ from source to source. The interpretation of
the dimensions should be straightforward, but no universal criteria exist to some baseline.
Subject weights do, however, gauge the relative cognitive effect of a given dimension.

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[37] WMDS uses several matrices of proximities (one for each subject) to determine the configuration of points called
the attribute stimulus space and a subject space. The distances among the points in our attribute space are not used
by the program; instead, a new configuration is created for each subject k, and the distances in these configurations
are used. A configuration for individual k is made by altering the group configuration space according to the
weights in the weight vector wk. Specifically, one stretches (or shrink) the first axis of the group configuration by
$\sqrt{w_{kr}}$ and so on to obtain the kth configuration.

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APPENDIX 2-2: COURT CULTURE ATTRIBUTES

1. **Case Differentiation** – Judges and court staff use established guidelines and timely information to determine the most appropriate track for each case in terms of attention and resources.

2. **Chain of Command** – Explicit lines of authority between judges and court staff creates a clear division of labor, and formalizes expectations that judges and court staff will do the jobs that they are assigned.

3. **Collaborative Problem Solving** – Judges and court managers seek participation from a diverse set of individuals (e.g., judges, court staff members, and attorneys) and often measure court user preferences when designing and introducing policy changes.

4. **Collegiality** – Information is often shared through informal channels that reflect personal relations among judges and court staff. When collective or group decisions are made on administrative matters, judges and court staff strive for consensus and to reconcile differences.

5. **Constrained Change** – Court wide changes are inhibited because each judge exercises a wide scope of latitude and creativity in the choice of case processing practices, and judges are perceived to resist court wide monitoring.

6. **Continuity with the Past** – Court policies, procedures, and practices unfold gradually so they tend to be absorbed and internalized over long periods. Therefore, accepted practices are slow to change, stability and predictability are emphasized, and confrontation minimized.

7. **Decentralization** – The application of established court rules and procedures in practice are open to interpretation by semi-autonomous work teams of individual judges and corresponding court staff.

8. **Discretion** – There are few limitations on the ability of judges and court staff to interpret court policies governing individual case-related and administrative decisions.

9. **Efficiency** – The court seeks cutting edge technology and modern administrative methods to support administrative procedures that reduce errors and enhance the timeliness of case processing and the accuracy of record keeping.

10. **Flexibility** – There are many acceptable ways to administer court rules and procedures in line with meeting established court wide performance goals. Centralized leadership is downplayed.

11. **Innovation** – Judges and court staff monitor overall court performance and are encouraged to discuss explicit ways to better organize and use resources.

12. **Judicial Consensus** – Judicial expectations concerning key procedural events come from a working policy built on the deliberate involvement and planning of the entire bench. Follow through is championed and encouraged by a presiding (administrative) judge.

13. **Rule oriented** – Written court procedures and policies developed by the court's administrative leadership are applied uniformly. The court is committed to the use of case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of court staff.

14. Self-managing – Individual judges have considerable control over their own dockets and are relatively free to make their own determinations on when key procedural events are to be completed.

15. **Sovereignty** – Each judge and corresponding court staff members are concerned with their own daily responsibilities and have little interest in planning efforts aimed at improving court wide performance.

16. **Teamwork** – Appropriate staff members, drawing from different departments and divisions if necessary, work collaboratively to perform specific case processing and administrative tasks.

APPENDIX 2-3: PAIRED COMPARISON EXERCISE

Table 2-1 presents part of the overall questionnaire used to formulate the similarities and dissimilarities among our 53 respondents.

Table 2-1

Discretion -- *There are few limitations on the abillity of judges and court staff to interpret court policies*

Item	Attribute	Short Description	Dissimilar						Similar
1	Rule-Oriented	Written court procedures and policies are developed by judicial leaders and are applied uniformily	1	2	3	4	5	6	7
2	Innovation	Judges and court staff monitor overall court performance and are encouraged to discuss explicit ways to better organize and use resources	1	2	3	4	5	6	7
3	Flexibility	There are many acceptable ways to administer court rules and procedures; centralized judicial leadership is downplayed	1	2	3	4	5	6	7
4	Collaboration	Judges and court administrators collaborate to achieve results; all are committed to team-oriented behavior; barriers are broken down to assure team effectiveness	1	2	3	4	5	6	7
5	Continuity with Past	Accepted practices are slow to change, stability and predictability are emphasized	1	2	3	4	5	6	7
6	Case Differentiation	Judges and court administrators use established guidelines and timely information to determine the most appropriate track for each case in terms of attention and resources	1	2	3	4	5	6	7
7	Constrained Change	Court-wide changes are inhibited because each judge excercises wide latitude in the choice of case processing practices	1	2	3	4	5	6	7
8	Chain of Command	Explicit lines of authority among judges and court staff create clear divisions of labor and formalize the expectation that all will do the jobs that they are assigned	1	2	3	4	5	6	7
9	Teamwork	Appropriate court staff members, drawing from different departments and divisions, work collaboratively to perform specific case processing and administrative tasks	1	2	3	4	5	6	7
10	Self-Managing	Individual judges have considerable control over their own dockets and are relatively free to make their own determination concerning the timing of key procedural events	1	2	3	4	5	6	7
11	Sovereignty	Judges and court staff members are concerned with their own daily responsibilities and have little interest in planning efforts aimed at improving court-wide performance	1	2	3	4	5	6	7
12	Decentralization	The application of established court rules and practices is open to interpretation by semi-autonomous work teams of individual judges and courtroom staff	1	2	3	4	5	6	7
13	Efficiency	Court seeks cutting edge technology and modern administrative methods to support court administration	1	2	3	4	5	6	7
14	Collegiality	Information flows through informal channels reflecting personal relations among judges and court staff	1	2	3	4	5	6	7
15	Judicial Consensus	The timing of key procedural events comes from working consensus among the judges built upon the deliberate involvement and planning of the entire bench	1	2	3	4	5	6	7

We asked each respondent to tell us the extent to which sixteen possible values, concerning the organization of criminal courts, are related one to the other. The exercise asks how does each of the sixteen values either complement or compete with the other fifteen values. In this context, each respondent made the 120 pair-wise comparisons. As can be seen in Table 2-1, the survey instrument provides short definitions for each of the 16 values. For this exercise, we asked the respondents to accept our definitions.

We recognize that a criminal trial court might very well pursue many of these goals. In fact, we believe the 16 values are present in some way or form in most courts. However, we

need and want to know what court experts see as the conceptual linkages among the values. How are these values, which are the building blocks of our study of court culture, related in the minds of practitioners and observers of courts? We asked each respondent to view each value in general as a goal or value a court might pursue. Given the meaning of the values as defined in the questionnaire, we asked them to tell us the degree to which a value is or is not related to each of the others. In other words, we are most interested in knowing the linkages among the values at a theoretical level relating to courts, not for any one certain court.

With respect to the mechanics of the exercise, on each page the respondents were asked to circle the number corresponding to the degree of relatedness (i.e., 1 = unrelated/dissimilar, 7 = very related/very similar) between the values listed in **bold** at the top of the column and the values listed directly below. For example, on the first page of the paired comparisons, the survey, we asked each respondent to compare and contrast "Discretion" with fifteen other values listed directly below. From their perspective, how similar or dissimilar is "Discretion" with the value of "Rule-oriented", the value of "Innovation" and so forth? In making their comparisons and contrasts, we asked the respondents to conduct their own "thought experiment." We sought their assessment of the degree to which different values would likely occur together in the same setting, although courts in the real-world might vary in the degree to which they pursue each of two similar values. In addition, we asked each respondent to not limit their sense of how closely different values complement one another in terms of the values maintained by the court that they know best. Finally, we offered the following definitions of "Dissimilar" and "Similar" when comparing each pair of cultural values in the exercise: Are the two values *similar* in the sense that the (a) presence of one does not preclude the presence of the other and (b) the two values often co-occur in the same court? Are the two values *dissimilar* in the sense that (a) the presence of one decreases the likelihood or the other and (b) the two values rarely co-occur in the same court?

APPENDIX 2-4: THE MULTIDIMENSIONAL SCALING RESULTS

To analyze the paired comparison data highlighted in Appendix 2-3, we used the SPSS ALSCAL multidimensional scaling algorithm.[38] We computed two and three-dimensional solutions and found the two dimensional solution to be quite good: the squared correlation coefficient between the scaled distances and the input dissimilarities is .82 and the Kruskal Stress$_1$ measure is .19.[39] In addition, the weights of all participants with regard to each dimension were positive[40] and the individual correlations of the distances with the original similarities were quite high.[41] Not only is the fit for the two-dimensional solution quite good, less than 15% of the individual judge weights on the three-dimensional solution are greater than the corresponding weights for the first two dimensions.[42] When coupled with the ease of interpretation of the two dimensional solution, we are satisfied that the judicial proximities can be represented quite accurately in two dimensions.[43]

When WMDS yields useful insights, these generally come from an examination and interpretation of the resulting configuration. As Young (1987) notes, the WMDS approach is based on the premise "a picture is worth a thousand numbers." Table 2-2 presents configuration coefficients for the sixteen for each of the two dimensions.

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[38] We chose a square asymmetric matrix (since the upper half of the matrix is missing). We used the Individual Differences Euclidean Distance with an ordinal level of measure with instructions to untie tied observations, with matrix conditionality.

[39] In interpreting the square correlation measure, we offer the following from Jacoby (1998): "...the R^2 between the distances and the data values is actually a conservative measure of model fit. Since the input data are assumed to be ordinal-level, the appropriate comparison is between the rank-orders of the data values and the scaled-distances. An alternative measure, Kruskal's Stress$_1$, does measure the degree of monotonic fit.... However this coefficient is a badness of fit statistic (increasing values correspond to worse scaling solutions), so it is difficult to interpret."

[40] Our examination of the dimension weights, which provide an indication of which of the two dimensions is viewed as most important for each of the respondents, reveal a number of interesting features. First, the preponderance of the judges emphasizes the Solidarity dimension over the Sociability dimension. Second, the vast majority of the court administrators emphasize the Sociability dimension over the Solidarity dimension. This suggests that the emphasis of one dimension over another may be related to one's role in the trial court. Third, the two academics place equal emphasis on each of the dimensions. Finally, the defense attorney places heavy emphasis on the sociability dimension while the prosecutor emphasizes the solidarity dimension. The plausibility of the dimension weights provides another indication of the validity of our results.

[41] The results of our study compare quite favorably with the results of the original Quinn and Rohrbaugh study. In that study they report an overall correlation of .63 of the distances in their three-dimensional solution and the original similarity judgments. They also note that the weights of all the participants with regard to each dimension were positive, and the individual correlations of the distances with the original similarities was generally quite high (an average of .62).

[42] The fit measures for the three dimensional solution are .14 and .86. The first two dimensions of the three dimensional similar are almost identical to the two dimensions reported below. The interpretation of the third dimension is somewhat problematic – it is very similar to the first dimension. Interestingly, the third dimension appears to be similar to the third dimension in Quinn and Rohrbaugh's original work – means versus ends. After presenting it in the research article, subsequent treatments of the model utilize the two dimensional version.

[43] We also compared our WMDS solution to the straightforward MDS solution (i.e., not allowing individual judge weights). The WMDS solution is preferable on both statistical and substantive grounds.

Table 2-2: Configuration Coefficients

Cultural Attribute	Dimension #1	Dimension #2
Case Differentiation	1.09	-0.36
Chain of Command	0.60	-1.56
Collaboration	0.96	1.03
Collegiality	-0.37	1.06
Constrained Change	-1.34	-0.90
Continuity with Past	-0.15	-1.77
Decentralization	-1.32	0.19
Discretion	-0.87	0.89
Efficiency	0.95	0.61
Flexible	-0.86	1.12
Innovation	0.31	1.35
Judicial Consensus	1.33	0.14
Rule Oriented	1.04	-1.26
Self Managing	-1.30	-0.25
Sovereignty	-1.31	-1.25
Teamwork	1.04	0.80

As can be seen in Table 2-2, the first dimension is anchored at the positive end by Judicial Consensus, Efficiency, Rule-Oriented, Collaboration, Teamwork, and Case Differentiation at one end and Self-Managing, Sovereignty, Decentralization, Constrained Change, Discretion, and Flexibility at the other. This dimension appears to be tapping the extent to which a court has clearly understood and shared goals, common tasks, and agreed upon procedures for reaching the goals. At the one end, a court with these values would pursue shared goals/tasks, have agreed upon procedures for reaching the goals, and value communication within the court. At the other end, a court with these values would value independence, autonomy, and individuality. This dimension appears similar in content to the Control/Flexibility dimension of Quinn and the Solidarity dimension of Goffee and Jones. Although not identical, this dimension is also similar to dimension concerned with discretion in Nardulli, Eisenstein, and Flemming (1988). It is important to recognize this dimension bears some similarity to others who have looked at culture.

Turning to the second dimension, Table 2-2 shows that it is anchored by Innovation, Collegiality, Collaboration, Flexibility, Teamwork, and Discretion at one end and by Sovereignty, Constrained Change, Rule-Oriented, Chain of Command, and Continuity with Past at the other. This dimension appears to be tapping into the ways in which the individuals within the courthouse community relate to one another. As such, it is similar to the personnel matters dimension suggested by Nardulli, Eisenstein, and Flemming (1988). At one end of the

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dimension, the court is connected in a communal/clan way while at the other there is little need for social interaction as the rules and structure determine what is to be done.

To see how the two dimensions work together, Table 2-3 presents the two-dimensional configuration where each point is labeled to indicate the cultural attribute it represents. Using the two dimensions in tandem, it will be possible to provide a map of the social architecture inherent in each of the culture types we identify.

Table 2-3
Configuration Plot
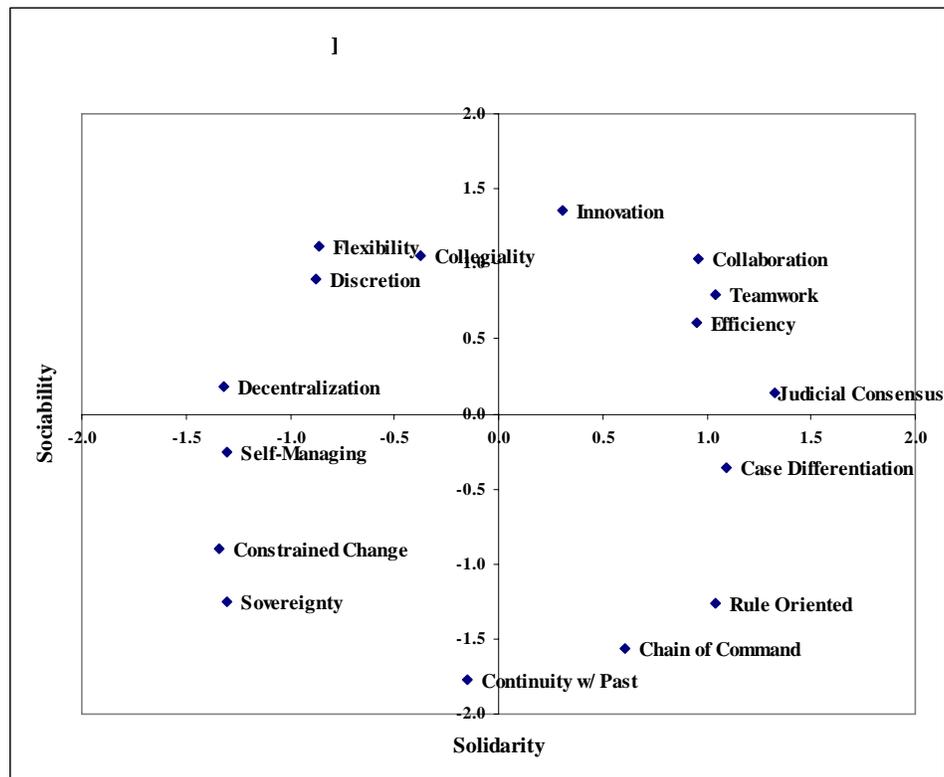
To determine which of the two dimensions is viewed as most important for each of the respondents, the individual dimension weights for each of the 53 respondents need to be examined. Table 2-4 shows the combination of dimensions weights for each of the respondents responding to the questionnaire – with J indicating judges, A the court administrators, AT the defense attorney, P the prosecutor, and AC the two academics. The preponderance of the responding judges emphasize the Solidarity dimension over the Sociability dimension. The vast majority of the responding court administrators emphasize the Sociability dimension over the Solidarity dimension. This suggests the emphasis of one dimension over another may be related to one's role in the trial court. Third, the two academics (AC) are located in the middle of the diagram. Finally, note that the defense attorney (AT) in the upper left hand quadrant is very far from the prosecutor (P) in the lower right hand quadrant.

Table 2-4
Individual Dimension Weight Plot

CHAPTER 3: MEASURING COURT CULTURE

INTRODUCTION

Moving from a theoretical understanding to the identification and measurement of a court's culture is the focus of this chapter. In Chapter 2, we argued that two dimensions – Solidarity and Sociability – are essential characteristics of court culture. Furthermore, the four possible combinations of high versus low solidarity/sociability are the basis for distinct court culture archetypes: Communal, Networked, Autonomous, and Hierarchy.

Each court culture type shapes how work gets done in a particular way in five key areas[44] including: case management, judicial-staff relations, change management, courthouse leadership and internal organization. This chapter describes a method for determining the extent to which courts in the real world embody one or more distinct cultural orientations in each area.

A methodology for identifying a court's culture requires a set of measures and tools to capture the multiple and complex configurations of views held by judges and administrators within and among several different courts and then map them in a orderly manner into the cultural types. Development of a set of quantitative yardsticks to measure court culture is likely to be controversial. However, Quinn and Spreitzer (1991: 116) offer the following observation on the need for a rigorous framework to examine organizational cultures comparatively:

> At present there is little agreement among scholars concerning the appropriate methods for studying and understanding organizational culture. This lack of consensus on methodology takes root in the debate concerning qualitative versus quantitative research. Studies of organizational culture have traditionally relied on qualitative methods such as in-depth, open-ended interviewing and ethnographic observation. The goal has been "thick description." However, the advantages of the qualitative approaches have been bought at a cost. In using qualitative approaches it is exceedingly difficult to make analytic comparisons across organizations. As a result, there are many important theoretical questions

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[44] We refer to these work areas of trial courts as content dimensions to signify that they are important dimensions along which culture can possibly vary. It is important to distinguish the content dimensions from the dimensions of the original culture space – Solidarity and Sociability.

that cannot be answered until culture can be measured with a reliable, easily administered instrument that permits the systematic observation of organizational culture.

We concur with these sentiments. Only through systematic measurement of culture will we be able to address the important questions discussed in Chapter 1. To measure culture we rely extensively on a cultural assessment instrument developed by Quinn and his colleagues called the Organization Culture Assessment Instrument (OCAI) and fully described in Cameron and Quinn (1999).[45]

COURT CULTURE ASSESSMENT INSTRUMENT

Building upon the structure of Cameron and Quinn's OCAI, we developed a Court Culture Assessment Instrument (CCAI), which consists of a five-part questionnaire.[46] Each part of the questionnaire is constructed from a particular row of the Court Culture Value Matrix (Table 4).

The underlying assumption behind the questionnaire is that there are five areas of court work shaped by a distinct cultural archetype. Each part of the questionnaire is designed to focus on a specific "content dimension" or work area (e.g., dominant case management style). Four alternative statements are taken from the Court Culture Values Matrix with each statement of describing how work gets done in a given content or work area consistent with a particular cultural orientation.

Respondents are asked to divide 100 points among the four statements depending on how closely they think each statement describes the work situation in their court. Additionally, in

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[45] The format of OCAI has been used numerous times and its validity and reliability have been established (Quinn and Spreicher 1991, Kalliath 1999).
[46] The CCAI instrument is presented in Appendix 3-1.

completing the survey, individuals are asked to formulate two sets of responses (a) How would you describe the court as of today? (b) How would you like the court to be in five years? We refer to the former as a court's <u>current</u> culture type and the latter as the <u>preferred</u> culture type.[47]

The Case Management Style portion of the instrument is shown in Table 6. If a respondent thinks alternative III is most similar to the CURRENT emphasis in their court, alternative I is somewhat similar, and alternatives II and IV are hardly similar at all, seventy points might be given to III, twenty points to I, and five each to II and IV.[48] No matter how the points are distributed, it is essential that the total is one hundred points.[49]

Turning to the PREFERRED emphasis, a respondent might feel that alternatives I and IV both should be emphasized highly in their court while alternatives II and III should receive much less emphasis. To reflect these preferences, a respondent might give 40 points each to I and IV and ten points each to II and III.

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[47] Whereas this chapter focuses only on current culture types, Chapter 5 involves an analysis of the preferred cultures for each of the 12 courts under study.

[48] To prevent respondents from being affected by the connotation of the names given to the four cultures, the cultural orientations are represented in a neutral fashion by Roman Numerals. However, it is the case that I stands for Communal, II for Networked, III for Autonomous, and IV for Hierarchy.

[49] One question that needs to be addressed concerns the validity of this type of scale. In a statistical appendix, Cameron and Quinn (1999) indicate that the type of scale we propose is an ipsative rating scale. The most frequently-used alternative is the Likert scale. In comparing these two scale types, the ipsative scale has two advantages and one disadvantage (Cameron and Quinn 1999). The ipsative scale provides an ideal way to differentiate between courts of different culture types. The primary disadvantage of the proposed scale is that it does not produce independent responses—the response to alternative A in question 1 are related to the response to alternative B and so on. Consequently, normal correlational analyses are not usually appropriate. There are several sources that provide alternative statistical techniques for use with this kind of data (Cameron and Freeman 1991; Zammuto and Krakower 1991). In the policy field, McIver and Ostrom (1976) use a similar type of ipsative scale in their analysis of police services. They provide a detailed appendix illustrating appropriate ways of using correlation between ipsative scale ratings and an independent variable. Our decision to use the ipsative ratings from the CCAI does not pose a problem for our research. First, we are interested in highlighting cultural differences between courts. Second, we recognize that courts due to resource limitations have to make trade-offs concerning which performance measures are most important. We feel the proposed CCAI will make this possible.

Table 6
Case Management Style

		Current	Preferred
I	*There is general agreement on performance goals, but centralized judicial and administrative staff leadership is downplayed and creativity is encouraged. As a result, there are alternative acceptable ways for individual judges to apply court rules, policies, and procedures.*	20	40
II	*Judicial expectations concerning the timing of key procedural events come from a working policy built on the deliberate involvement and planning of the entire bench. Follow through on established goals is championed and encouraged by a presiding (or administrative) judge.*	5	10
III	*There is limited discussion and agreement on the importance of court wide performance goals. Individual judges are relatively free to make their own determinations on when key procedural events are to be completed.*	70	10
IV	*Judges are committed to the use of case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges.*	5	40
	Total	100	100

The statements for the four remaining content dimensions—judicial and court staff relations, change management, courthouse leadership, and internal organization—are shown below in Tables 7 through 10.

Table 7
Judicial Staff Relations

		Current	Preferred
I	*An effort is made by judges to limit the psychological distance between them and administrative courtroom staff. Hierarchy and formal processes exist, but court staff members go outside normal channels when it seems appropriate to "do the right thing."*		
II	*Judges value and promote a diverse workforce and diversity of ideas; act to enhance professional administrative and courtroom staff development; seek to treat all staff with fairness and respect*		
III	*Individual judges use their own criteria to monitor, evaluate, and motivate courtroom and other staff. Judges have wide discretion in how they recruit, manage and organize their courtroom support staff.*		
IV	*Administrative and courtroom staff members are closely monitored and evaluated through regular and structured performance appraisals. Work related feedback, merit recruitment, and promotion are emphasized.*		
	Total	100	100

Table 8
Change Management

		Current	Preferred
I	*Changes in court policies and procedures occur incrementally through judicial negotiation and agreement. In practice, procedures are seldom rigid, with actual application open to interpretation by semi-autonomous work teams of individual judges and corresponding court staff.*		
II	*Judges and court managers seek input from a varied set of individuals (e.g., litigants, attorneys, and public) and measure court user preferences concerning policy changes. Individual judges and administrative staff are encouraged to monitor court performance and to recommend necessary adjustments.*		
III	*Judges resist a rule- and process-bound organizational setting. Centralized change initiatives may be considered unfeasible because each judge exercises a wide scope of latitude in the choice of case processing practices and judges are perceived to resist court wide monitoring.*		
IV	*Judges and administrative staff seek cutting edge technology and modern administrative methods to support administrative procedures that reduce errors and enhance the timeliness of case processing and the accuracy of record keeping.*		
	Total	100	100

Table 9
Courthouse Leadership

			Current	Preferred
I		*Judicial and administrative staff leaders seek to build personal relationships and confidence among all judges and court staff members. They emphasize mutually agreed upon goals with staff members and they attempt to help all obtain satisfaction from work.*		
II		*Judicial and administrative staff leaders seek to build an integrated justice system community. All judges and court staff are asked to meet organizational performance goals that focus on results that matter to those served by the courts rather than simply those who run them.*		
III		*Centralized court leadership is inhibited because judges prefer to work with few external controls. Each judge and corresponding courtroom staff members are concerned primarily with their own daily responsibilities and exhibit little interest in efforts aimed at improving court or system wide performance.*		
IV		*Judicial and administrative leaders rely on clearly established rules and directives—preferably in writing—to guide court operations. The system may appear impersonal given the emphasis on knowing and using the proper channels to get things done.*		
		Total	100	100

Table 10
Internal Organization

			Current	Preferred
I		*Information on a wide variety of topics (e.g., caseflow, resources, personnel) is shared through informal channels that reflect personal relations among judges, administrative, and courtroom staff. Judges and court staff strive for consensus and to reconcile differences*		
II		*Judges and administrators seek a shared court-wide view of what needs to be accomplished. This knowledge facilitates judges and court staff, drawing from different departments and divisions if necessary, to work collaboratively to perform case processing and administrative tasks.*		
III		*Courtroom practices reflect the policies and practices employed by individual and autonomous judges. Therefore, accepted practices are slow to change, stability and predictability are emphasized, and confrontation minimized.*		
IV		*Explicit lines of authority among judges, administrative staff, and courtroom staff create a clear division of labor, and formalize expectations that judges and court staff will do the jobs that they are assigned*		
		Total	100	100

We asked all judges with a criminal docket as well as the senior court administrators in each of the 12 courts to complete the questionnaire.[50] The results of the CCAI for the twelve sites in our study, combining the responses of both judges and senior administrators, are presented in Table 11 below. The numbers in the table are the mean number of points each culture received on a particular content dimension across all respondents. To assess the variation in responses in each court, Appendix 3-2 displays the standard deviation, median, and coefficient of variation for each of the means in Table 11. We are satisfied that these mean values represent an important central tendency for each court on each culture type.

Table 11
Relative Emphasis of Current Court Culture on Work Areas

Content Dimension	Culture Type	California			Florida		Minnesota						
		Contra Costa	Napa	Ventura	Duval	Pinellas	Dakota	Hennepin	Kandiyohi	Olmsted	Ramsey	Duluth	Virginia
Dominant Case Management Style	Communal	14	14	17	28	29	28	20	29	30	20	32	31
	Networked	21	31	26	23	15	15	25	24	20	26	11	14
	Automous	32	19	25	34	37	35	27	21	20	20	36	23
	Hierarchy	33	36	31	16	19	22	28	25	31	35	22	33
Judicial and Court Staff Relations	Communal	25	22	11	27	18	30	19	14	24	21	18	21
	Networked	26	33	40	31	35	27	20	36	34	32	35	26
	Automous	23	11	18	26	33	23	47	19	16	31	23	19
	Hierarchy	26	35	31	16	14	20	15	31	27	17	25	34
Change Management	Communal	25	25	18	27	33	37	25	26	35	28	31	32
	Networked	22	25	26	16	18	15	24	32	37	29	23	24
	Automous	32	11	10	30	23	28	31	16	10	17	34	15
	Hierarchy	22	39	46	27	28	20	20	25	18	27	13	29
Courthouse Leadership	Communal	24	39	40	33	18	32	21	38	37	29	31	39
	Networked	17	19	29	20	18	18	22	26	36	28	17	19
	Automous	35	16	17	26	49	32	36	24	11	29	43	17
	Hierarchy	24	26	14	21	15	18	21	11	17	14	10	24
Internal Organization	Communal	19	26	24	24	24	25	22	31	26	25	20	26
	Networked	22	31	36	22	19	19	23	34	32	25	30	26
	Automous	26	19	20	29	33	31	34	16	24	25	38	24
	Hierarchy	33	24	20	24	24	25	20	20	18	26	13	24
N = Judges		11	5	24	24	6	7	42	6	7	10	6	5
N = Senior Administrators		11	7	4	4	2	6	26	1	3	--	4	3
N = Total		22	12	28	28	8	13	68	7	10	10	10	8

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[50] The response rate varied across the sites. Due to the small number of responses by administrators in some of the counties we elected to combine the responses for judges and senior administrators.

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Comparing the relative cultural emphases across the 12 courts, considerable variation exists both within and between the courts. None of the courts exhibit a constant cultural type across the five dimensions. For example, in Contra Costa the average combined scores for judges and senior administrators on the content dimension of case management reveal the current cultural emphasis is low on the sociability dimension.

Out of a total of 100 points, Contra Costa has average scores of 32 for Autonomous and 33 for Hierarchy (culture types low on sociability), while only 14 for Communal and 21 for Networked (culture types high on sociability). On the other hand, there is a near equal division of the four cultures in Contra Costa in the area of judicial-staff relations (Communal = 25, Networked = 26, Autonomous = 23, Hierarchy = 26). An examination of Table 11 shows that similar patterns can be found in many of the other courts.

The complexity of the multiple combinations of points given to alternative cultural orientations, make it difficult, if not impossible, to discern all of the patterns and make relevant comparisons between courts. For this reason, we are drawn to Edward Tufte's (1983, 1) suggestion "often the most effective way to describe, explore, and summarize a set of numbers – even a very large set – is to look at pictures of those numbers."

COURT CULTURE KITES

Cameron and Quinn (1999, 55), drawing upon the work of John Tukey, note that "insight and understanding is best created, not by submitting data to statistical tests, but by creating pictures of the data … It is possible to see more relationships, do more comparisons, and identify more interesting patterns by analyzing images and representations than by simply looking at the results of numerical analyses." Following their lead we use a set of "culture

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kites."[51] As an example, the culture kite for case management in Contra Costa is displayed in

Table 12.

Table 12
Case Management Style in Contra Costa
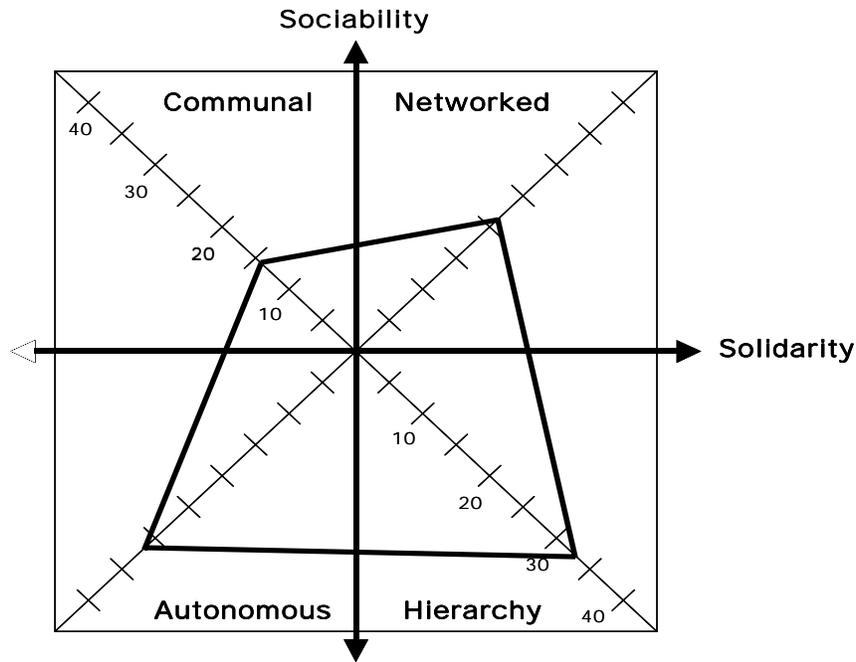
Culture kites are constructed by plotting the average score for each culture orientation for

each content dimension. For example, the Case Management culture kite in Contra Costa takes

its shape from the average scores of fourteen in Communal, twenty-one in Networked, thirty-two

in Autonomous and thirty-three in Hierarchy. The resultant figure provides a visual

representation of a court's cultural profile.

The primary cultural emphasis in Contra Costa falls in the Autonomous and Hierarchy

culture types because the two tails of the kite that extend the furthest reflect the higher scores on

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[51] It is important to realize the gains in insight and understanding from creating the pictures comes at the cost of
having any mechanical way (e.g., statistical significance) of interpreting them.

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the Autonomous and Hierarchy cultures as shown in Table 12. These culture types are both low on the Sociability dimension.

We do not anticipate that courts will fall exclusively into one quadrant. Instead, experience shows that every organization finds some resonance for each culture type. What is important to notice, however, is the relative emphasis toward one or more of the quadrants.

Examining the basic shape of the 'kite' allows us to begin to make sense of a court's culture. Contra Costa's kite takes on the shape of a parallelogram because the judges and court administrators report that Autonomous and Hierarchy approximately are equal in emphasis and Communal and Networked ways of conducting case management are much less prominent, although the latter two cultures share relatively the same degree of emphasis. The "center of gravity" is clearly toward low Sociability and slightly toward Solidarity. In this way, the court culture kite diagrams provide a nuanced view of the court culture that goes beyond attaching a single label to a court's culture.

For illustrative purposes, culture kites for four courts, Olmsted, Ventura, Pinellas, and Contra Costa across the five content dimensions--case management style, judicial-staff relations, change management, courthouse leadership, and internal organization -- are presented below in Tables 13 to 17. The entire set of culture kites for the twelve courts and five content dimensions are displayed in Appendix 3-3.

Table 13
Case Management Style

Olmsted

Ventura

Pinellas

Contra Costa
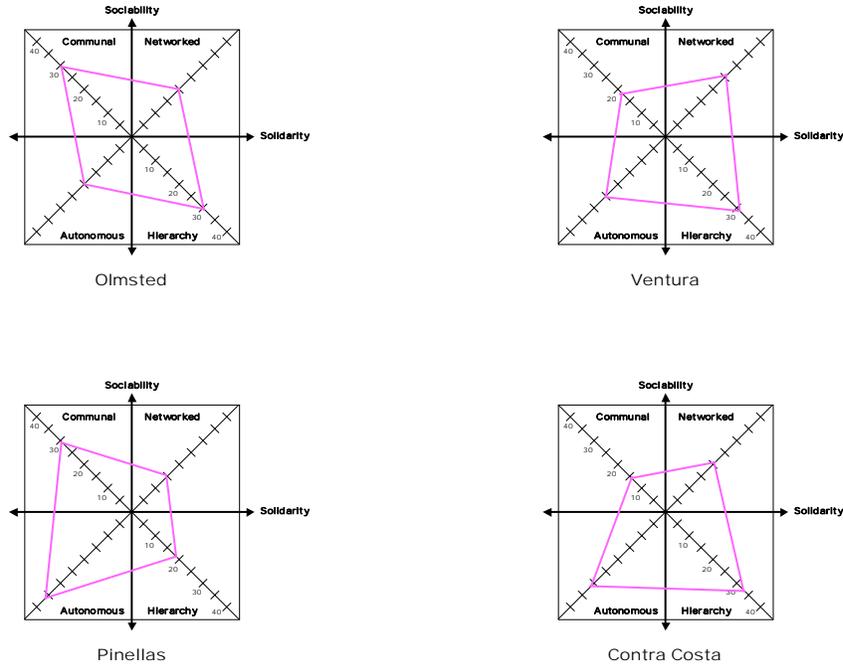
Table 14
Change Management

Olmsted

Ventura

Pinellas

Contra Costa

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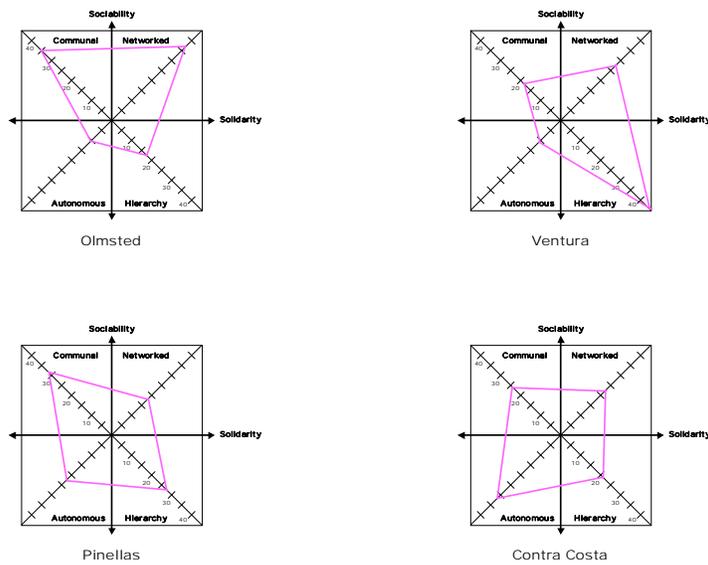
Table 15
Courthouse Leadership

Olmsted

Ventura

Pinellas

Contra Costa
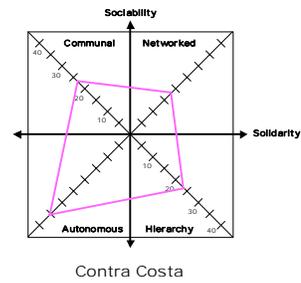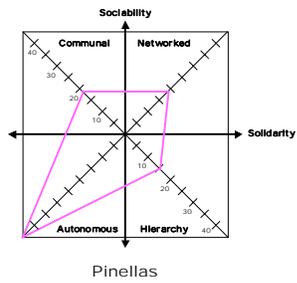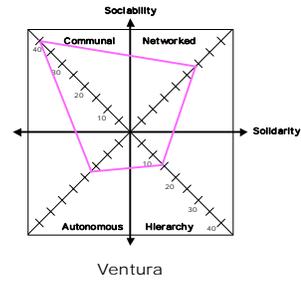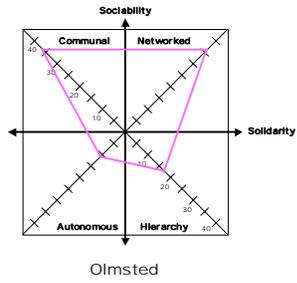
Table 16
Internal Organization

Olmsted

Ventura

Pinellas

Contra Costa

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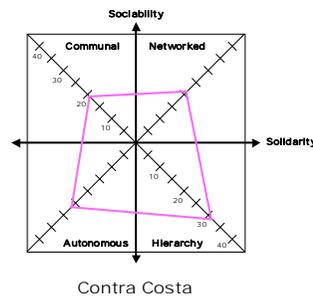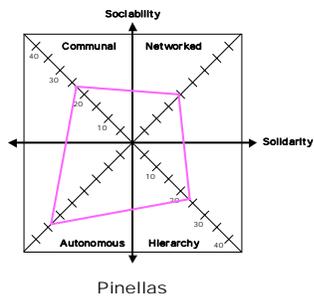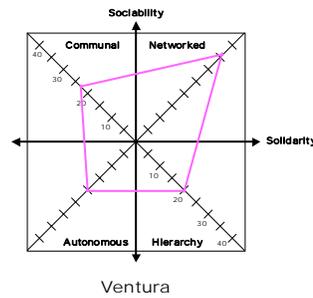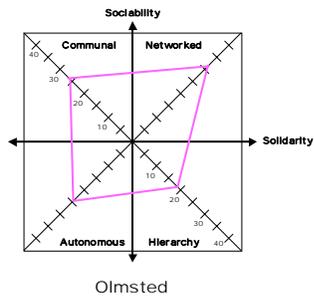
Table 17
Judicial and Court Staff Relations

Olmsted

Ventura

Pinellas

Contra Costa
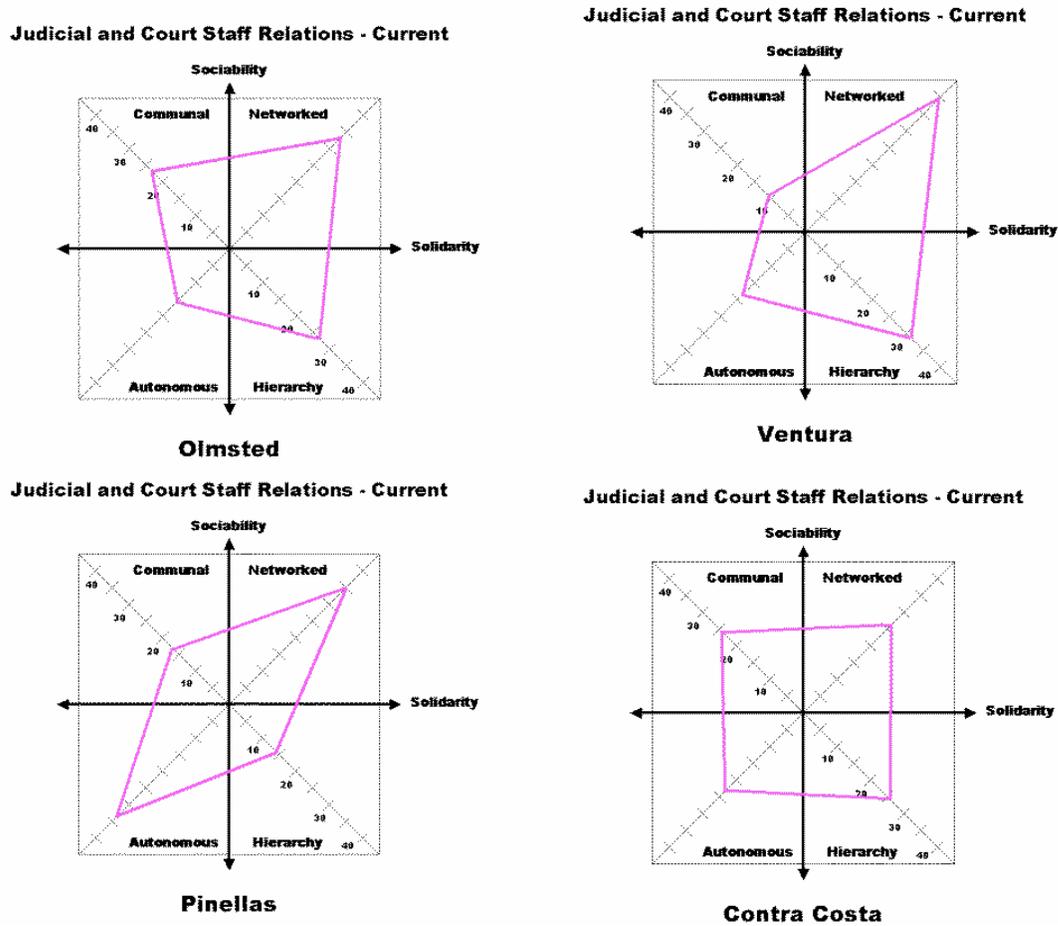
Interpreting Cultural Profiles

It is possible to use the results in Table 11 along with the court culture kites to interpret each court's cultural patterns. Using these tools, we discuss how to interpret the kite diagrams in terms of (a) primary culture type, (b) strength of the culture type, and (c) congruence of the culture type across the content dimensions.

Primary culture type. The primary culture type refers to the culture type embraced to the greatest extent on a given content dimension or work area. It has the highest average number of points. The culture types having the highest average scores on each work area are identified in Table 18.

Table 18
Primary Court Culture Types

Court	Dominant Case Management Style	Judicial Staff Relations	Change Management	Courthouse Leadership	Internal Organization
Contra Costa	Hierarchy	Networked/ Hierarchy	Autonomous	Autonomous	Hierarchy
Napa	Hierarchy	Hierarchy	Hierarchy	Communal	Networked
Ventura	Hierarchy	Networked	Hierarchy	Communal	Networked
Duval	Autonomous	Networked	Autonomous	Communal	Autonomous
Pinellas	Autonomous	Networked	Communal	Autonomous	Autonomous
Dakota	Autonomous	Communal	Communal	Communal/ Autonomous	Autonomous
Hennepin	Hierarchy	Autonomous	Autonomous	Autonomous	Autonomous
Kandiyohi	Communal	Networked	Networked	Communal	Networked
Olmsted	Hierarchy	Networked	Networked	Communal	Networked
Ramsey	Hierarchy	Networked	Networked	Communal/ Autonomous	
Duluth	Autonomous	Networked	Autonomous	Autonomous	Autonomous
Virginia	Hierarchy	Hierarchy	Communal	Communal	Communal/ Networked

The primary cultures include many examples of all of the four culture types. Sixty culture identifications exist for the twelve courts across the five dimensions: 19 are Autonomous, 13 are Hierarchical, 10 are Communal, 14 are Networked, and there are four ties. Case Management Style is predominantly Hierarchical and Autonomous (both Low Sociability), Judicial Staff Relations is primarily Networked and Hierarchical (both High Solidarity), Courthouse Leadership is evenly divided between Autonomous and Communal (both Low Solidarity), and Internal Organization is primarily Autonomous and Networked. All in all, variation in court culture types is the norm.

It is possible to use the court culture kites to gain another perspective on the primary culture type by looking at the culture quadrant where the kite's longest tail is located. To see how the kites might be used for this purpose, we turn our attention back to Table 13. In Pinellas, the culture kite's longest tail associated with case management clearly extends to the outer boundary of the autonomous quadrant. This feature implies judges and senior administrators place great importance on the value of "self-managing." Individual judges are relatively free to make their own determinations on when key procedural events are to be completed.[52]

In Contra Costa, Ventura, and Olmsted the primary case management culture type is Hierarchical but the kites show different looking patterns when comparing the primary culture type to the other three possible cultures. Contra Costa places a heavy emphasis on the Low Sociability end of the spectrum with a slight emphasis given to Hierarchical. Ventura places primary emphasis on the Solidarity end of the spectrum with a slight emphasis given to Hierarchical. Finally, Olmsted appears to be giving emphasis to the competing values of Communal and Hierarchical with a slight advantage to the latter.

Turning to change management in Table 14, we are able to see a great deal of cultural variation. Pinellas appears to have a Janus like approach favoring the competing values of a Communal and Hierarchical culture with a slight edge to the former. Contra Costa has, with respect to change management, a primary culture type of Autonomous with equal and small emphasis given to the other three types. Ventura is clearly focused on Solidarity when it comes to the change management culture with a heavy emphasis given to the Hierarchical culture**.**

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[52] In Pinellas, judges are independent elected officials, as are the public defender, the state attorney, and clerk of court. As such, judges tend to handle their caseloads in the way they desire. Some judges grant multiple continuances, while others meet with attorneys to encourage early resolution. Despite the fact that every month a grid is provided to each chambers of the pending caseload and the average time to disposition, judges are relatively free to manage their caseload as they choose. One member of the bench noted, "Each judge here is an independent authority. The chief judge cannot tell us what to do."

Olmsted's primary culture type for change management is shared between Communal and Networked. Both of these culture types are high on the dimension of sociability, the acknowledgement that the friendliness among the people working in the court is an important aspect of their culture. As such, Olmsted stresses the values of both innovation and negotiation. Emphasizing the value of innovation suggests that judges and court managers seek input from a varied set of individuals (e.g., judges, court staff, attorneys, and public) and measure court user preferences concerning policy changes. An emphasis on negotiation suggests that court policies and procedures in Olmsted occur incrementally through judicial negotiation and agreement.

Hence, the culture kites provide a complementary view to the numerical results reported in Table 11. We are not only able to see the primary culture type, but we are also visually able to ascertain its strength and focus relative to other culture types.

Strength of culture type. The strength of the culture type is determined by the extent to which one culture dominates. For purposes of discussion, if one culture type on a given content dimension has thirty points or more, a relatively strong culture is present. The strength of the dominant culture type for each combination of court and content dimension is presented in Table 15.

Table 19
Strength of Primary Culture Type

Court	Dominant Case Management Style	Judicial Staff Relations	Change Management	Courthouse Leadership	Internal Organization	Average
Contra Costa	33	26	32	35	33	31.8
Napa	36	35	39	39	31	36
Ventura	31	40	46	40	36	38.6
Duval	34	31	30	33	29	31.4
Pinellas	37	35	33	49	33	37.4
Dakota	35	30	37	32	31	33
Hennepin	28	47	31	36	34	35.2
Kandiyohi	29	36	32	38	34	33.8
Olmsted	31	34	37	37	32	34.2
Ramsey	35	32	29	29	26	30.2
Duluth	36	35	34	43	38	37.2
Virginia	33	34	32	39	26	32.8
Average	33.2	34.6	34.3	37.5	31.9	

Almost all of the courts show at least thirty percent of the total cultural emphasis is in the dominant culture category. This finding appears to be consistent with Cameron and Quinn's findings with respect to the for-profit organizations.[53] This suggests that courts are an amalgam of cultural emphases even when considering an individual court on a specific content dimension.

In terms of kite diagrams, the closer the tail of the kite approaches the corner of a quadrant, the stronger the culture. As Cameron and Quinn (1999, 63) note: "strong cultures are associated with homogeneity of effort, clear focus, and higher performance in environments where unity and common vision are required." The opposite of a strong culture profile is one that is balanced or eclectic.

Examples of a strong or dominant culture type are found in Ventura for the areas of courthouse leadership and internal organization. In the content area of courthouse leadership, Ventura's culture kite is strongly Communal, as shown in Table 15. Emphasizing a Communal culture in the area of courthouse leadership is associated with the value of trust. Both judicial and administrative staff leaders seek to build personal relationships and confidence among all judges and court staff members. Leadership emphasizes mutually agreed upon goals with staff

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[53] Our basis for this conclusion comes from a visual examination of Figure 4.2 in Cameron and Quinn (1999, 60-61).

members and attempt to help all court members achieve satisfaction from their work.

An inspection of Ventura's culture kite for internal organization shows that the kite is dramatically oriented towards the culture type of Networked, as shown in Table 16. An emphasis on Networked suggests that for internal organization Ventura values teamwork. Judges and administrators seek a shared court-wide view of what needs to be accomplished, drawing from different departments and divisions if necessary, to work collaboratively to perform case processing and administrative tasks. For both courthouse leadership and internal organization Ventura emphasizes culture types that are high on the dimension of Sociability.

Congruence. Congruence is the extent to which the same culture type is emphasized in all parts of the organization. There are at least two ways to make this assessment. First, we can examine Table 18 to see how consistent the dominant culture type is across the various content dimensions. Second, we can examine the kite diagrams across the content dimensions to see if their shapes are similar.

An examination of Table 18 shows that none of the 12 courts has the same dominant culture type across the five content dimensions. Contra Costa, Hennepin, and Duluth are the only courts that even have the same dominant culture type in four of the five content dimensions. Both Contra Costa and Hennepin are the only two courts to be consistently on the low end of the Sociability dimension. Ramsey has traces of all four culture types in its five dimensions. The remaining courts have a mixture of at least two different culture types. Taking Kandiyohi, for example, we see judges and administrators emphasizing the two culture types high on Sociability – Communal and Networked. Dakota, on the other hand, is consistently on the low solidarity end of the spectrum with its emphasis of the Autonomous and Communal culture types. Hence, limited consistent cultural congruence exists in the courts under study. Some courts, in fact,

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emphasize "competing values" indicating that their cultures may be working at cross purposes with themselves.

The degree of congruence is revealed by the extent kites representing different content dimensions look similar. Visual inspections reveal that the culture kites in Pinellas in Tables 13 to 17 are very congruent, while those in Ventura tend toward an incongruent picture. In Pinellas, the culture type of Autonomy is clearly in evidence across the five content dimensions. In fact the culture kites for case management and internal organization are almost identical. In the area of courthouse leadership the strength of emphasis placed on the Autonomous culture is stronger than the other dimensions. It is only in the area of change management that we see a different kite shape. Again the dominance of autonomy in Florida might partially be the product of the institutional independence of all of the major professional participants in the criminal trial court process.

In Ventura, incongruence suggests this court has different goals and strategies that vary across the content dimensions. Judges and administrators tend to stress Hierarchy for case management and change management, Communal for court leadership, and Networked for internal organization. For some dimensions they prefer values high on Solidarity and for others values high on Sociability.

Based on an examination of the illustrative culture kites, courts exhibit a variety of cultural orientations. We find examples of all four basic culture types. Not only do different courts have different cultures but each court has its own cultural variations across the five content dimensions. We also find a distinct lack of congruence across all five content dimensions for each of the twelve courts under study.

In private sector research on organizational culture, congruence is vital. Cameron and Quinn (1999, 64) suggest that:

> Congruent cultures, although not a prerequisite for success, are more typical of high performing organizations than incongruent cultures. Having all aspects of the organization clear about and focused on the same values and sharing the same assumptions simply eliminates many of the complications, disconnects, and obstacles that can get in the way of effective performance.

The observed incongruence in courts' cultures may be interpreted as the lack of an overall organizational objective. Absent an overarching goal, distinctions in work responsibilities may become sufficiently magnified or accentuated that distinctive cultures emerge within most courts. This situation may, in fact, be common to other types of public institutions, which also lack a singular focus or "bottom line." Yet, the linkage between incongruency and ineffectiveness might still be relevant to courts even though Cameron and Quinn concentrate their inquiry on private profit making organizations.

The incongruency in current court cultures has two striking characteristics. One is the lack of uniformity in court cultures. Incongruent cultures can still be similar if incongruent patterns are shared among courts. However, it is not the case that almost all courts have the same combination of orientations (e.g., hierarchy) in case management, and share the same contrasting cultures (e.g., communal) in courthouse leadership. Another aspect is the absence of overwhelming dominance of any particular culture on any work area. For any work area, one culture may be dominant but the appreciable presence of other orientations indicates court cultures are an amalgam. The combination of variability and amalgamation in the congruent nature of court cultures likely reflects the infrequency with which judges and court administrators step back and reflect on their culture. They may know culture is important, but it is an unlikely topic for reflection or examination, especially across the spectrum of activities in

which is engaged. Multiple goals frustrate that process. As a result, judges and administrators understand and appreciate how culture affects what they do, but they seldom view what sort of culture or cultures are extant across the entire court system.

The result of this situation is a lack of definition and resolution in the cultures making up the overall incongruent pattern. Consequently, the amalgamation of culture in one or more of its work areas is a likely source of ambiguity and will hinder a court's ability to structure, monitor, and follow-up on the work being done in different areas. Courts find it difficult to be clear in communicating timeliness criteria just as they encounter problems in setting criteria for how staff are to be assessed. Hence, Cameron and Quinn's observation is pertinent to courts. Incongruence, per se, might not inhibit court effectiveness but "fuzziness" or a lack of definition in the culture for each given work area quite plausibly inhibits a court's organizational effectiveness.

These results underscore the challenge of court management and are consistent with Wilson's (1989, 91) more general hypothesis that public organizations do not necessarily have a single culture:

> Many government agencies have multiple, competing cultures. Some manage the competition well, some do not. A major responsibility of an executive is not only . . . to infuse the organizations with value, it is also to discover a way by which different values (and the different cultures that espouse those values) can productively coexist (Wilson 1989, 101).

If multiple cultures are a hallmark of government agencies, it is important to realize the nature of the differences within a single organization. We believe that the methodology employed in our current study provides a way to describe Wilson's hypothesis of a cultural mosaic in public organizations.

OVERALL CULTURE TYPE

A key issue is whether overall similarities in complex court cultures can be identified. Having examined the individual cultures of our twelve trial courts and found variation across the five content dimensions, we need to develop an overall categorization so that we can compare and contrast the courts in terms of their performance on various measures. As students of public organizations know, to relate culture to outcomes is no easy task. DiIulio (1989, 131) makes the following observation

> Any serious effort to analyze the conditions under which public management matters to the actual quality of citizens' lives will be fraught with methodological, practical, and moral shortcomings. But unless the future of public management studies involves a deep and abiding concern with what ends particular public organizations ought to achieve and how to manage these organizations accordingly, the field will crumble into academic irrelevance.

In the remainder of this section, we turn our attention to the formulation of a single characterization of each of our sample courts. In the absence of such an overall designation, it is difficult to compare and contrast the courts. While this overall culture type is a composite, it will serve as a proxy for the "public management variable" suggested by DiIulio.

There are several strategies for gaining a sense of a court's overall culture type. The first is to compute the average Sociability and Solidarity across the five content dimensions. The average Sociability score is the average of the Communal and Networked culture types across the five content dimensions while the average Solidarity score is the average of the Networked and Hierarchical culture types across the five content dimensions. The results of this calculation are presented below in Table 20.

Table 20
Average Sociability and Solidarity Scores

Court	Average		Deviation from 50	
	Sociabilitiy	Solidarity	Sociabilitiy	Solidarity
Contra Costa	45	51	-5	1
Napa	53	60	3	10
Ventura	53	59	3	9
Duval	50	43	0	-7
Pinellas	45	41	-5	-9
Dakota	49	40	-1	-10
Hennepin	44	44	-6	-6
Kandiyohi	59	53	9	3
Olmsted	62	54	12	4
Ramsey	53	52	3	2
Duluth	49	40	-1	-10
Virginia	53	53	3	3

The average Sociability scores indicate that sociability is emphasized especially in Olmsted and Kandiyohi and deemphasized in Hennepin, Contra Costa, and Pinellas. The average Solidarity scores indicate that solidarity is emphasized in Napa and Ventura and deemphasized in Dakota and Duluth. While it would be possible to plot the deviations from fifty to summarize the cultural orientation of the twelve courts, it will be possible to gain even more insight into this as we progress with this review.

A second way to develop an overall culture label is take the results in Table 11 and correlate the twenty values for each trial court with those from the other trial courts. Such a matrix provides evidence of similarity in the pattern across the five content dimensions. The results of this calculation are presented in Table 21. An examination of the correlations enables one to see which courts are most similar to one another. For example, Napa and Ventura are correlated at .79 suggesting that their responses across the five content dimensions are quite similar.[54] Both of these courts are negatively correlated with Duval, Pinellas, Dakota, Hennepin, and Duluth suggesting some dramatic differences in their perceptions of court culture. While

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[54] Correlations can range in numerical value from +1.0 to –1.0. The closer responses are to one another, the higher the positive correlation. Negative correlations indicate responses from one court are opposite that of another court. For example, the negative correlation between Contra Costa and Kandiyohi (-.31) reflect Kandiyohi's greater emphasis on Communal and Networked Cultures and Contra Costa's greater emphasis on Autonomous and Hierarchical Cultures.

Table 21 provides a way to assess similarity between pairs of courts, it does not lend itself to comparing all courts to one another simultaneously.

<div align="center">

Table 21
Correlation Coefficients Between the Average Cultural Scores

</div>

	California			Florida		Minnesota						
	Contra Costa	Napa	Ventura	Duval	Pinellas	Dakota	Hennepin	Kandiyohi	Olmsted	Ramsey	Duluth	Virginia
Contra Costa	1.00	-0.05	-0.18	0.13	0.35	0.38	0.29	-0.31	-0.47	0.07	0.32	-0.13
Napa	-0.05	1.00	0.79	-0.24	-0.43	-0.29	-0.58	0.52	0.43	0.26	-0.31	0.61
Ventura	-0.18	0.79	1.00	-0.04	-0.13	-0.28	-0.35	0.71	0.47	0.45	-0.07	0.49
Duval	0.13	-0.24	-0.04	1.00	0.55	0.74	0.18	-0.07	-0.21	-0.08	0.49	-0.04
Pinellas	0.35	-0.43	-0.13	0.55	1.00	0.64	0.53	-0.06	-0.31	0.27	0.67	-0.18
Dakota	0.38	-0.29	-0.28	0.74	0.64	1.00	0.19	-0.09	-0.07	-0.01	0.68	0.19
Hennepin	0.29	-0.58	-0.35	0.18	0.53	0.19	1.00	-0.36	-0.44	0.32	0.35	-0.46
Kandiyohi	-0.31	0.52	0.71	-0.07	-0.06	-0.09	-0.36	1.00	0.70	0.43	0.24	0.54
Olmsted	-0.47	0.43	0.47	-0.21	-0.31	-0.07	-0.44	0.70	1.00	0.38	0.05	0.60
Ramsey	0.07	0.26	0.45	-0.08	0.27	-0.01	0.32	0.43	0.38	1.00	0.09	0.12
Duluth	0.32	-0.31	-0.07	0.49	0.67	0.68	0.35	0.24	0.05	0.09	1.00	0.09
Virginia	-0.13	0.61	0.49	-0.04	-0.18	0.19	-0.46	0.54	0.60	0.12	0.09	1.00

A third approach is to locate each court in an overall "culture space." To accomplish this task, we once again employ multidimensional scaling to analyze the correlation matrix in Table 21.[55] We first transform the similarity scores represented by the product moment correlations into a measure of dissimilarity using a transformation suggested by Trosset (2002).[56] The resulting plot is presented in Table 22.

Given the orientation of the 12 courts and given what we know from Table 3-11, we identify the dimensions in terms of Solidarity and Sociability. The third approach has the advantage of using all of the data from the cultural assessment instrument by placing each court into a common and complete culture space. Each court is observable as to where it is relative to other courts in terms of its similarities and differences across all of the content dimensions of

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[55] See Appendix 2-1 for an overview of multidimensional scaling.

[56] In an effort to compare the individual courts, we employ multidimensional scaling on the correlation matrix. To turn the similarity scores represented by the product moment correlations into a measure of dissimilarity, we have employed the following transformation suggested by Trosset (2000):

$$\sqrt{2*(1 - r_{kr})}$$

To analyze the paired comparison data, we used the SPSS ALSCAL multidimensional scaling algorithm. We computed two-dimensional solution and found it to be quite good: the squared correlation coefficient between the scaled distances and the input dissimilarities is .91 and the Kruskal Stress$_1$ measure is .13.

trial court culture.

Table 22
Culture Types for the Twelve Courts
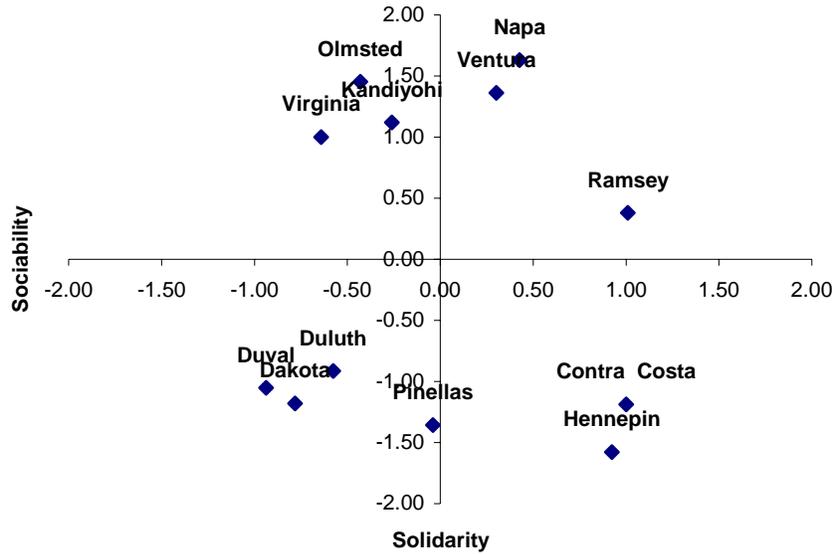
There are two or more courts in each of the four quadrants, as shown in Table 22. To

maintain consistency, these quadrants are identified by the names previously given to the four

cultural orientations. Three courts, Kandiyohi, Olmsted, and Virginia, are in the upper left hand

corner and labeled as having a Communal culture. Three courts, Napa, Ventura, and Ramsey,

are high on both dimensions and we label these courts as Networked. Four courts, Dakota,

Duluth, Duval, and Pinellas, are labeled as Autonomous because they are low on both

dimensions. Finally, there are two Hierarchical courts, Contra Costa and Hennepin, high on

Solidarity and low on Sociability.

Before moving on, a short discussion of the classification of overall culture types is

warranted. When we compare the relative position of the courts in "culture space," "location" is

consistent for the most part with the average solidarity and sociability scores in Table 20. The

four courts labeled Autonomous are indeed Autonomous. This is largely true for the Communal and Networked courts. This leaves us with the Hierarchical quadrant. Contra Costa tends to be Hierarchical. On the other hand, Hennepin is not a clear case of a Hierarchical culture. When taking all aspects of its culture profile into account, it is more accurate to say Hennepin is relatively more Hierarchical than the other courts, with the exception of Contra Costa. Regardless of the label we attach, it is clear that we have four groupings of courts based upon the similarity/dissimilarity of their cultural profiles across the five content dimensions.

These results are both interesting and important because they demonstrate American trial courts are not all of one type. The received tradition is that courts are autonomous. Courts are often characterized as decentralized, fragmented and populated by judges who chafe under administrative control. While there is a considerable degree of autonomy in some areas of every court, the conventional wisdom fails to be supported by systematic data.[57]

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[57] The lack of a preponderance of Autonomous court cultures counters both conventional wisdom and scholarly literature by Lipsky and others that courts are essentially autonomous institutions because of the need for discretion to allow judges to make decisions on an individual case basis. Lipsky and others consider courts to be an example of what he calls a "street-level bureaucracy" along with jails, schools, public hospitals and so forth. See Lipsky (1976); Weatherly and Lipsky (1977); Prottas (1978); and Emerson (1983).

SUMMARY

Culture is a complex, multifaceted concept, which has achieved a position of prominence as a leading explanation for how courts perform. Yet, despite the importance attached to culture, previous research has not developed a method for describing the similarities and differences in cultural orientations among several courts in detail. As a result, discussions about the complexities and multiple facets of court culture are more free-form than structured. Practitioners and researchers alike might assert a court's culture is manifested in particular ways and account for its performance in specific ways, but those assertions rest more on acute observations than on systematic measurement.

To bring greater precision and evidence to the discussion of court culture, instruments have been adapted from private sector organizational studies. The result is called the Court Culture Assessment Instrument, which captures the views of judges and administrators on how they see their court operating in five key areas: (1) case management, (2) judicial – staff relations, (3) change management, (4) courthouse leadership and (5) internal organization.

Results from an administration of these questionnaires to practitioners in courts are represented graphically in the form of culture kites. These diagrammatic representations indicate the 12 courts can be classified as having one of four types of culture, although each court has more than one cultural orientation across the five work areas.

The profound significance of these findings is twofold. First, the conventional wisdom and scholarly literature asserting American trial courts possess primarily autonomous cultures are not supported by the data from the twelve courts. All 12 courts have an autonomous culture in some respect, but none of the courts can be given that label completely and correctly. Consequently, the information gathered through cultural assessments is likely to be a more valid

and reliable basis for court improvement than traditional notions of courts as strictly autonomous bodies.

Second, the fact that in most courts different cultures are strong on different areas of work is striking, unexpected and divergent with the theory and reality of private sector cultures where congruency is found to be essential for organizational effectiveness. In the well-managed business, one culture tends to dominate all areas of work, although the predominant culture might vary from organization to organization. Hence, the incongruence in current court cultures indicates the challenging nature of leadership facing chief judges and court administrators and why reforms are difficult to put into place.

Having documented the multifaceted nature of the cultural mosaic in public organizations using trial courts as an example, we turned to the development of a single public management variable in the spirit of DiIulio. While the composite variable ignores some of the complexities and nuances found in the cultural mosaic, it will provide a firm foundation to test the hypothesis that culture matters in Chapter 5.

APPENDIX 3-1:COURT CULTURE ASSESMENT INSTRUMENT

Court Culture and Performance Project
National Center for State Courts

Court Culture Assessment Instrument

Thank you very much for participating in our project. We would like all judges and court administration staff to

complete this survey

The Court Culture Assessment Instrument (CCAI) is designed to assess five key dimensions of court culture— Dominant Case Management Style, Judicial and Court Staff Relations, Change Management, Courthouse Leadership, and Internal Organization. In completing the questionnaire, you will be providing a picture both of how your court currently operates in terms of key culture-related values and how you would prefer the court to operate. There are no right or wrong answers for these questions.

Following are five tables each consisting of four sets of statements. The statements in each table are expressions of values that might be more or less emphasized in the local legal culture of your court. For each set of four statements, please identify the relative degree of emphasis that you think is placed on the value by your court. Divide 100 points among these four alternatives depending on the degree to which you believe each alternative is emphasized by your court. Give a higher number of points to the alternative that is most often emphasized.

For example, in Dominant Case Management Style, if you think alternative III is most descriptive of the CURRENT emphasis in your court, alternative I is somewhat descriptive, and alternatives II and IV are seldom descriptive, you might give 70 points to III, 20 points to I, and 5 each to II and IV. Please remember that the points allocated to responses I, II, III, and IV should total 100.

Turning to your PREFERRED emphasis, you might feel that alternatives I and IV should be emphasized in your court while alternatives II and III should receive much less emphasis. To reflect these preferences, you might give 40 points to I and IV and 10 points each to II and III.

Dominant Case Management Style		Current	Preferred
I	There is general agreement on performance goals, but centralized judicial and administrative staff leadership is downplayed and creativity is encouraged. As a result, there are alternative acceptable ways for individual judges to apply court rules, policies, and procedures.	20	40
II	Judicial expectations concerning the timing of key procedural events come from a working policy built on the deliberate involvement and planning of the entire bench. Follow through on established goals is championed and encouraged by a presiding (administrative) judge.	5	10
III	There is limited discussion and agreement on the importance of court wide performance goals. Individual judges are relatively free to make their own determinations on when key procedural events are to be completed.	70	10
IV	Judges are committed to the use of case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges.	5	40
	Total	100	100

The five sets of four statements about CURRENT and PREFERRED emphasis are listed on the next three pages.

Dominant Case Management Style		Current	Preferred
I	There is general agreement on performance goals, but centralized judicial and administrative staff leadership is downplayed and creativity is encouraged. As a result, there are alternative acceptable ways for individual judges to apply court rules, policies, and procedures.		
II	Judicial expectations concerning the timing of key procedural events come from a working policy built on the deliberate involvement and planning of the entire bench. Follow through on established goals is championed and encouraged by a presiding (administrative) judge.		
III	There is limited discussion and agreement on the importance of court wide performance goals. Individual judges are relatively free to make their own determinations on when key procedural events are to be completed.		
IV	Judges are committed to the use of case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of administrative and courtroom staff. Written court rules and procedures are applied uniformly by judges.		
	Total	100	100

Judicial and Court Staff Relations		Current	Preferred
I	An effort is made by judges to limit the psychological distance between them and administrative courtroom staff. Hierarchy and formal processes exist, but court staff members go outside normal channels when it seems appropriate to "do the right thing."		
II	Judges value and promote a diverse workforce and diversity of ideas; act to enhance professional administrative and courtroom staff development; seek to treat all staff with fairness and respect.		
III	Individual judges use their own criteria to monitor, evaluate, and motivate courtroom and other staff. Judges have wide discretion in how they recruit, manage and organize their courtroom support staff.		
IV	Administrative and courtroom staff members are closely monitored and evaluated through regular and structured performance appraisals. Work related feedback, merit recruitment, and promotion are emphasized.		
	Total	100	100

Change Management		Current	Preferred
I	Changes in court policies and procedures occur incrementally through judicial negotiation and agreement. In practice, procedures are seldom rigid, with actual application open to interpretation by semi-autonomous work teams of individual judges and corresponding court staff.		
II	Judges and court managers seek input from a varied set of individuals (e.g., judges, court staff, attorneys, and public) and measure court user preferences concerning policy changes. Individual judges and administrative staff are encouraged to monitor court performance and to recommend necessary adjustments.		
III	Judges resist a rule- and process-bound organizational setting. Centralized change initiatives may be considered unfeasible because each judge exercises a wide scope of latitude in the choice of case processing practices and judges are perceived to resist court wide monitoring.		
IV	Judges and administrative staff seek cutting edge technology and modern administrative methods to support administrative procedures that reduce errors and enhance the timeliness of case processing and the accuracy of record keeping.		
	Total	100	100

Courthouse Leadership		Current	Preferred
I	Judicial and administrative staff leaders seek to build personal relationships and confidence among all judges and court staff members; emphasize mutually agreed upon goals with staff members; attempt to help all obtain satisfaction from work.		
II	Judicial and administrative staff leaders seek to build an integrated justice system community. All judges and court staff are asked to meet organizational performance goals that focus on results that matter to those served by the courts rather than simply those who run them.		
III	Centralized court leadership is inhibited because judges prefer to work with few external controls. Each judge and corresponding courtroom staff members are concerned primarily with their own daily responsibilities and exhibit little interest in efforts aimed at improving court or system wide performance.		
IV	Judicial and administrative leaders rely on clearly established rules and directives—preferably in writing—to guide court operations. The system may appear impersonal given the emphasis on knowing and using the proper channels to get things done.		
	Total	100	100

Internal Organization		Current	Preferred
I	Information on a wide variety of topics (e.g., caseflow, resources, personnel) is shared through informal channels that reflect personal relations among judges, administrative, and courtroom staff. Judges and court staff strive for consensus and to reconcile differences.		
II	Judges and administrators seek a shared court-wide view of what needs to be accomplished. This knowledge facilitates judges and court staff, drawing from different departments and divisions if necessary, to work collaboratively to perform case processing and administrative tasks.		
III	Courtroom practices reflect the policies and practices employed by individual and autonomous judges. Therefore, accepted practices are slow to change, stability and predictability are emphasized, and confrontation minimized.		
IV	Explicit lines of authority among judges, administrative staff, and courtroom staff create a clear division of labor, and formalize expectations that judges and court staff will do the jobs that they are assigned.		
	Total	100	100

County: _____

Position:

☐ Judge

Years of experience working as judge (circle):
<1   1-5   6-10   11-15   15+

☐ Court Administration

Years of experience working in profession of court administration (circle):
<1   1-5   6-10   11-15   15+

In the Last Year, the Percentage of Time Handling Felony Cases:
☐ Almost never
☐ Occasionally
☐ 50% of the time
☐ Most of the time

Please return completed form to Court Administrator/Court Executive or in the envelope provided.

**INDIVIDUAL RESPONSES TO THIS SURVEY
WILL BE HELD IN THE STRICTEST CONFIDENCE.**

Thank you for your help

The Mosaic of Institutional Culture and Performance
Page 100

APPENDIX 3-2: ASSESSING VARIATION IN CCAI RESPONSES

Content Dimension	Culture Type	California -- Current Culture											
		Contra Costa				Napa				Ventura			
		Mean	sd	Median	CV	Mean	sd	Median	CV	Mean	sd	Median	CV
Dominant Case Management Style	Communal	14.05	9.60	10	68%	13.64	8.09	10	59%	17.21	15.17	10	88%
	Networked	21.00	17.92	20	85%	31.36	10.98	35	35%	26.21	23.34	15	89%
	Autonomous	31.71	29.19	15	92%	18.64	17.48	10	94%	25.18	24.93	12.5	99%
	Hierarchy	33.24	21.64	30	65%	36.36	17.62	35	48%	31.39	21.72	30	69%
Judicial and Court Staff Relations	Communal	24.76	17.78	15	72%	21.82	10.55	25	48%	10.96	7.39	10	67%
	Networked	26.19	17.53	20	67%	32.73	9.84	35	30%	39.68	22.82	35	58%
	Autonomous	23.33	19.13	15	82%	10.91	7.01	10	64%	18.04	14.55	12.5	81%
	Hierarchy	25.71	17.41	20	68%	34.55	14.05	30	41%	31.32	21.44	26	68%
Change Management	Communal	24.52	17.67	25	72%	24.55	16.04	20	65%	17.86	13.01	17.5	73%
	Networked	22.14	15.38	20	69%	25.45	10.11	20	40%	26.43	14.39	25	54%
	Autonomous	31.67	21.06	30	66%	11.36	10.74	10	95%	10.18	11.42	5	112%
	Hierarchy	21.67	14.86	20	69%	38.64	16.45	40	43%	45.54	23.43	40	51%
Courthouse Leadership	Communal	23.50	17.15	25	73%	38.75	19.79	37.5	51%	40.00	20.41	40	51%
	Networked	17.05	14.11	12.5	83%	19.17	7.93	20	41%	29.29	19.89	30	68%
	Autonomous	35.45	29.15	27.5	82%	15.83	10.84	15	68%	16.79	16.40	10	98%
	Hierarchy	24.00	19.98	20	83%	26.25	10.47	25	40%	13.93	9.06	10	65%
Internal Organization	Communal	19.29	13.54	20	70%	26.25	14.94	22.5	57%	23.93	14.49	20	61%
	Networked	21.90	15.20	20	69%	31.25	13.16	27.5	42%	35.71	25.27	32.5	71%
	Autonomous	26.19	23.18	20	89%	18.75	12.08	20	64%	20.18	19.36	10	96%
	Hierarchy	32.62	23.43	30	72%	23.75	11.10	25	47%	20.18	15.30	12.5	76%

Content Dimension	Culture Type	Florida -- Current Culture							
		Duval				Pinellas			
		Mean	sd	Median	CV	Mean	sd	Median	CV
Dominant Case Management Style	Communal	27.86	14.04	27.5	50%	29.38	12.08	32.5	41%
	Networked	22.50	17.35	20	77%	15.00	11.95	15	80%
	Autonomous	34.00	18.84	32.5	55%	36.88	24.92	35	68%
	Hierarchy	15.64	10.15	10	65%	18.75	12.46	20	66%
Judicial and Court Staff Relations	Communal	27.25	17.32	20	64%	17.50	8.86	15	51%
	Networked	30.68	11.56	30	38%	35.00	24.93	25	71%
	Autonomous	26.25	20.12	25	77%	33.13	30.35	22.5	92%
	Hierarchy	15.82	14.31	10	90%	14.38	13.48	10	94%
Change Management	Communal	27.32	19.22	22.5	70%	32.50	16.48	30	51%
	Networked	15.71	9.50	15	60%	17.50	10.00	17.5	57%
	Autonomous	30.18	18.03	27.5	60%	22.50	10.35	30	46%
	Hierarchy	26.79	17.28	25	65%	27.50	11.65	25	42%
Courthouse Leadership	Communal	33.39	18.76	30	56%	18.13	6.51	20	36%
	Networked	19.64	14.46	17.5	74%	18.13	10.67	20	59%
	Autonomous	26.43	16.88	25	64%	48.75	19.59	40	40%
	Hierarchy	20.54	13.83	20	67%	15.00	7.56	20	50%
Internal Organization	Communal	24.20	11.53	25	48%	23.75	7.44	25	31%
	Networked	21.88	11.15	20	51%	19.38	8.63	20	45%
	Autonomous	29.46	19.78	25	67%	33.13	11.63	32.5	35%
	Hierarchy	24.46	12.79	25	52%	23.75	9.16	30	39%

Content Dimension	Culture Type	Minnesota -- Current Culture																			
		Dakota					Hennepin					Kandiyohi					Olmsted				
		Mean	N	sd	Md	CV	Mean	N	sd	Md	CV	Mean	N	sd	Md	CV	Mean	N	sd	Md	CV
Dominant Case Management Style	Communal	28.46	13.00	20.75	30	73%	20.09	65.00	14.11	20	70%	29.29	7.00	15.92	30	54%	29.50	10.00	18.92	25	64%
	Networked	15.00	13.00	15.41	10	103%	24.62	65.00	18.34	20	75%	24.29	7.00	15.66	15	64%	20.00	10.00	9.43	20	47%
	Autonomous	35.00	13.00	24.07	30	69%	26.91	65.00	19.29	25	72%	21.43	7.00	13.76	20	64%	20.00	10.00	16.67	15	83%
	Hierarchy	21.54	13.00	20.55	15	95%	28.38	65.00	19.23	20	68%	25.00	7.00	14.14	25	57%	30.50	10.00	18.63	25	61%
Judicial and Court Staff Relations	Communal	30.00	13.00	20.51	25	68%	18.66	67.00	11.57	20	62%	14.29	7.00	14.84	10	104%	23.90	10.00	18.79	24.5	79%
	Networked	27.31	13.00	16.78	25	61%	20.07	67.00	11.03	20	55%	36.43	7.00	26.73	25	73%	33.50	10.00	15.99	30	48%
	Autonomous	22.69	13.00	19.54	20	86%	46.72	67.00	19.45	45	42%	18.57	7.00	24.62	10	133%	15.60	10.00	9.08	17.5	58%
	Hierarchy	20.00	13.00	18.03	20	90%	14.55	67.00	8.99	10	62%	30.71	7.00	22.25	40	72%	27.00	10.00	23.94	25	89%
Change Management	Communal	36.92	13.00	18.09	40	49%	25.15	66.00	15.64	25	62%	26.43	7.00	17.01	30	64%	35.00	10.00	11.55	37.5	33%
	Networked	15.00	13.00	7.64	10	51%	23.94	66.00	15.13	20	63%	32.14	7.00	28.26	25	88%	37.40	10.00	11.35	39.5	30%
	Autonomous	28.08	13.00	18.09	20	64%	31.21	66.00	18.00	30	58%	16.43	7.00	10.29	20	63%	10.10	10.00	9.01	10	89%
	Hierarchy	20.00	13.00	14.86	15	74%	19.70	66.00	14.38	17.5	73%	25.00	7.00	12.58	20	50%	17.50	10.00	8.90	20	51%
Courthouse Leadership	Communal	31.54	13.00	21.83	30	69%	20.61	66.00	12.48	20	61%	37.86	7.00	21.96	35	58%	36.50	10.00	15.99	40	44%
	Networked	18.46	13.00	10.68	20	58%	22.12	66.00	12.86	20	58%	26.43	7.00	9.45	30	36%	36.00	10.00	15.95	37.5	44%
	Autonomous	31.54	13.00	18.19	30	58%	36.36	66.00	20.39	32.5	56%	24.29	7.00	20.90	20	86%	11.00	10.00	11.01	10	100%
	Hierarchy	18.46	13.00	8.51	20	46%	20.91	66.00	15.21	20	73%	11.43	7.00	7.48	10	65%	16.50	10.00	13.95	10	85%
Internal Organization	Communal	24.62	13.00	14.21	20	58%	22.27	66.00	11.97	20	54%	30.71	7.00	17.42	20	57%	25.90	10.00	14.07	29.5	54%
	Networked	19.23	13.00	13.05	20	68%	23.48	66.00	14.83	20	63%	33.57	7.00	11.07	35	33%	32.00	10.00	13.37	30	42%
	Autonomous	31.15	13.00	18.05	30	58%	34.09	66.00	19.94	30	58%	15.71	7.00	15.39	10	98%	24.10	10.00	16.48	20	68%
	Hierarchy	25.00	13.00	15.00	20	60%	20.15	66.00	10.67	20	53%	20.00	7.00	15.55	20	78%	18.00	10.00	11.35	17.5	63%

Content Dimension	Culture Type	Minnesota -- Current Culture														
		Ramsey					St Louis					Virginia				
		Mean	N	sd	Md	CV	Mean	N	sd	Md	CV	Mean	N	sd	Md	CV
Dominant Case Management Style	Communal	20.00	10.00	22.85	15	114%	32.00	10.00	22.14	32.5	69%	30.63	8.00	21.12	30	69%
	Networked	26.00	10.00	24.01	20	92%	10.50	10.00	9.85	7.5	94%	14.38	8.00	8.21	10	57%
	Autonomous	19.50	10.00	20.88	10	107%	36.00	10.00	20.11	30	56%	22.50	8.00	16.69	20	74%
	Hierarchy	34.50	10.00	18.77	32.5	54%	21.50	10.00	30.37	10	141%	32.50	8.00	29.15	25	90%
Judicial and Court Staff Relations	Communal	21.00	10.00	15.24	17.5	73%	18.00	10.00	20.03	12.5	111%	21.25	8.00	20.13	15	95%
	Networked	31.50	10.00	24.04	22.5	76%	34.50	10.00	22.04	30	64%	25.63	8.00	16.78	20	65%
	Autonomous	30.50	10.00	20.74	25	68%	22.50	10.00	29.65	10	132%	18.75	8.00	28.00	10	149%
	Hierarchy	17.00	10.00	11.60	12.5	68%	25.00	10.00	17.32	22.5	69%	34.38	8.00	31.56	25	92%
Change Management	Communal	28.00	10.00	11.60	27.5	41%	30.50	10.00	16.74	35	55%	32.14	7.00	24.47	25	76%
	Networked	29.00	10.00	20.92	22.5	72%	23.00	10.00	28.40	12.5	123%	23.57	7.00	13.76	20	58%
	Autonomous	16.50	10.00	17.49	10	106%	33.50	10.00	18.11	30	54%	15.00	7.00	18.26	5	122%
	Hierarchy	26.50	10.00	20.42	22.5	77%	13.00	10.00	8.56	12.5	66%	29.29	7.00	19.02	25	65%
Courthouse Leadership	Communal	29.00	10.00	16.96	22.5	58%	30.50	10.00	25.44	20	83%	39.29	7.00	26.05	30	66%
	Networked	28.00	10.00	15.49	27.5	55%	16.50	10.00	10.29	15	62%	19.29	7.00	12.72	15	66%
	Autonomous	29.00	10.00	25.80	20	89%	43.00	10.00	21.11	45	49%	17.14	7.00	17.53	10	102%
	Hierarchy	14.00	10.00	11.25	10	80%	10.00	10.00	7.07	10	71%	24.29	7.00	22.81	20	94%
Internal Organization	Communal	24.50	10.00	13.83	20	56%	20.00	10.00	13.33	20	67%	25.63	8.00	18.79	20	73%
	Networked	25.00	10.00	22.73	20	91%	29.50	10.00	27.13	22.5	92%	26.25	8.00	11.57	27.5	44%
	Autonomous	25.00	10.00	19.15	20	77%	37.50	10.00	22.76	40	61%	24.38	8.00	22.59	15	93%
	Hierarchy	25.50	10.00	17.07	27.5	67%	13.00	10.00	9.49	10	73%	23.75	8.00	20.66	20	87%

The Mosaic of Institutional Culture and Performance

# APPENDIX 3-3: CURRENT CULTURE KITES FOR ALL COURTS

California

**Dominant Case Management Style - Current**
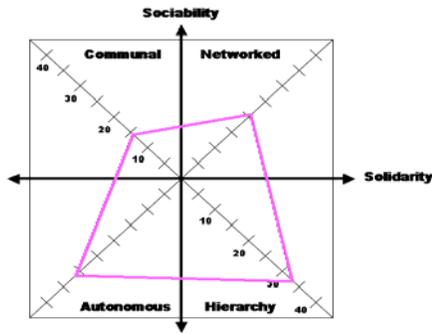
Contra Costa

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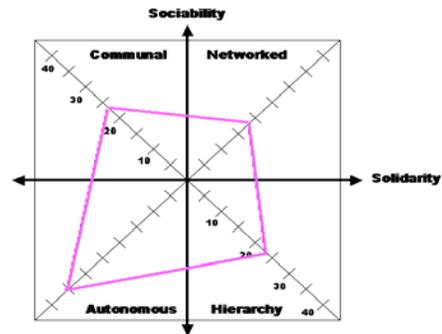
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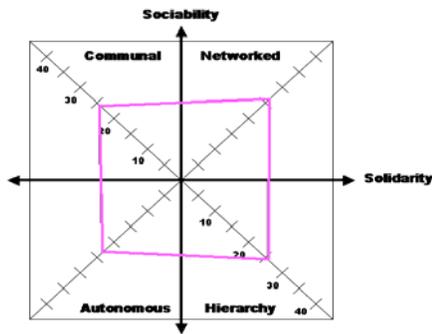
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Internal Organization - Current
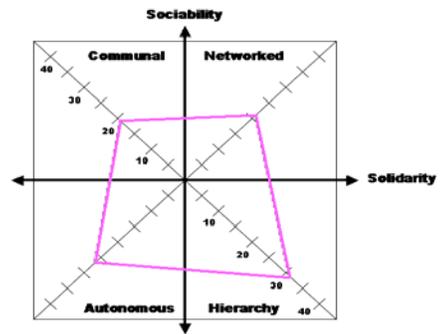
Contra Costa

Change Management - Current

Contra Costa

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Page 103
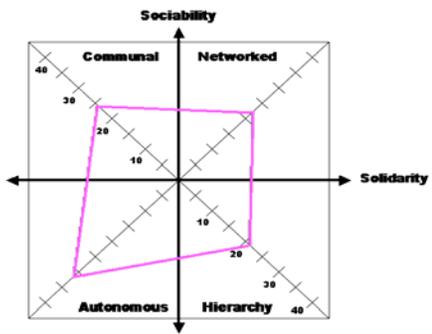
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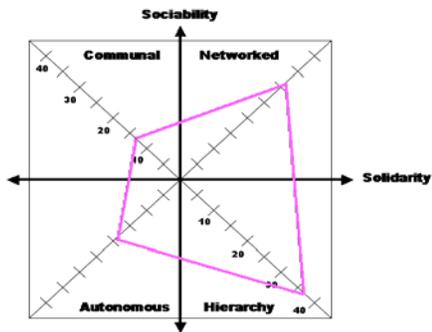
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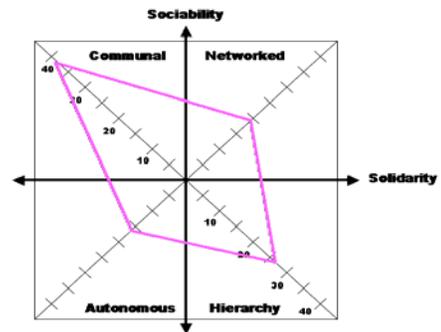
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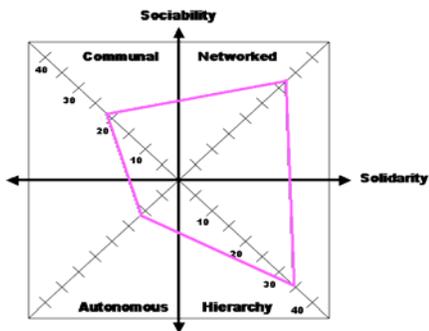
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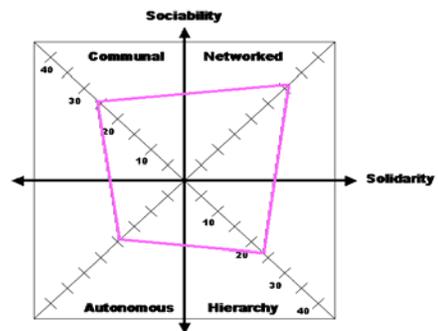
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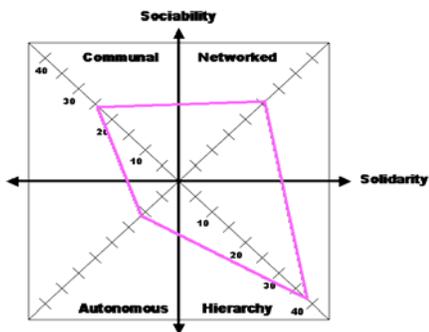
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California

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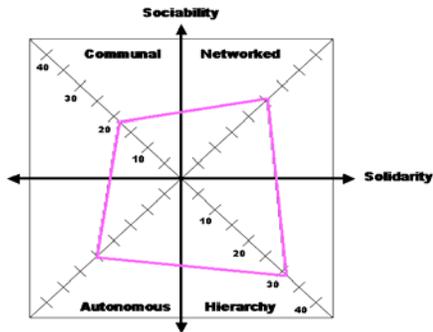
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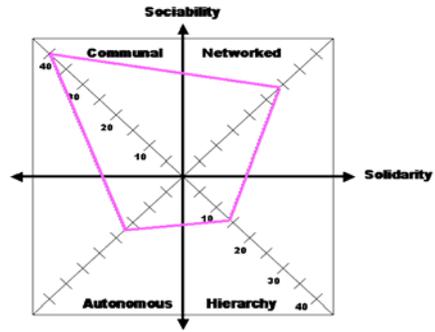
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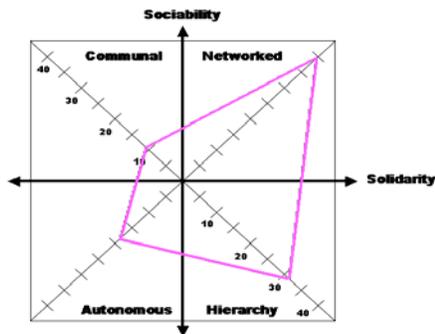
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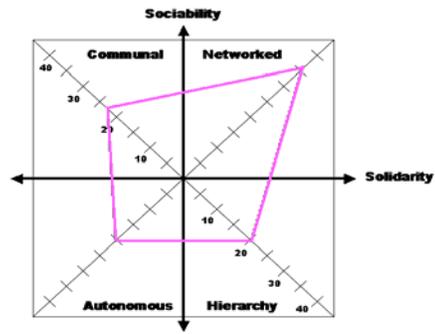
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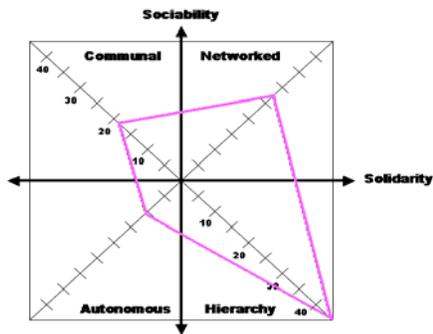
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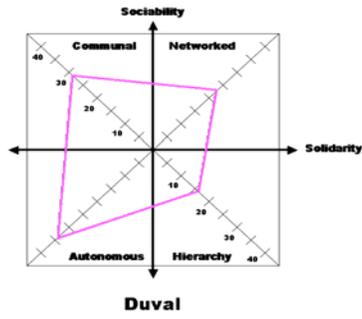
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Florida

Dominant Case Management Style - Current

Duval

Courthouse Leadership - Current


Duval

Judicial and Court Staff Relations - Current

Duval

Internal Organization - Current

Duval

Change Management - Current



Duval
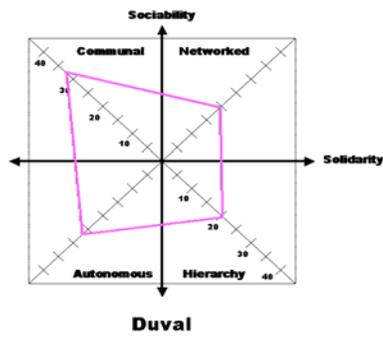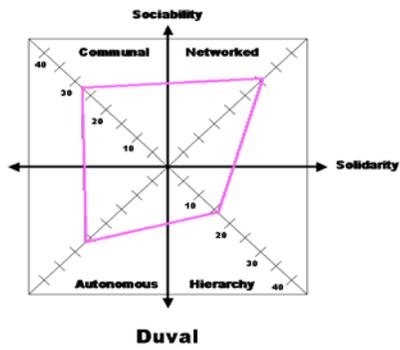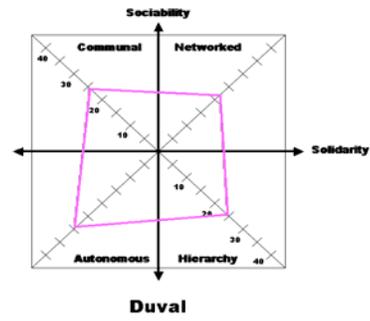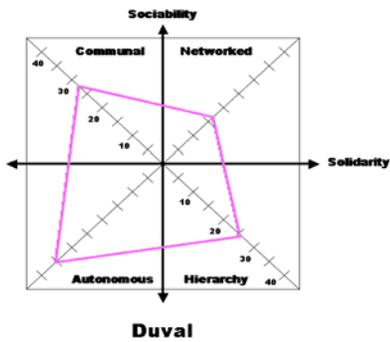
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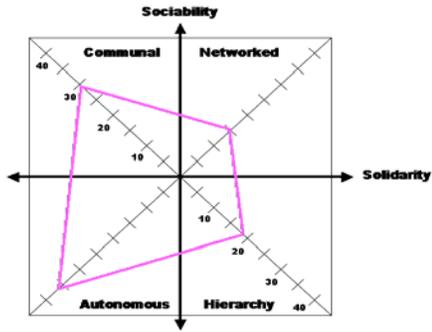
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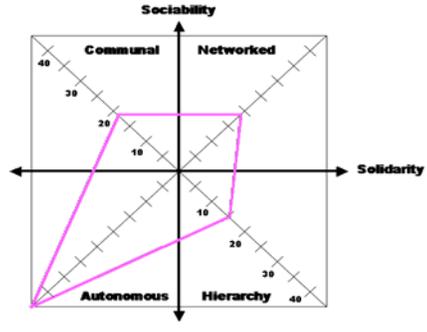
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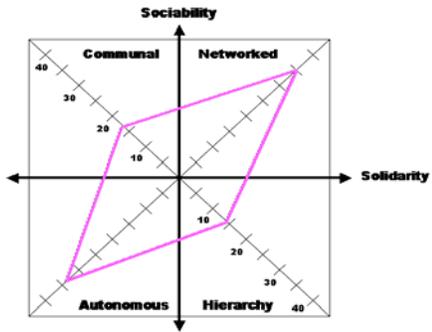
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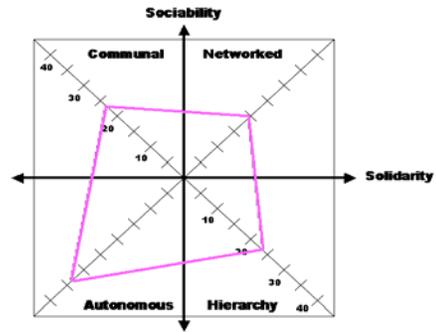
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Change Management - Current

Pinellas

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Page 107
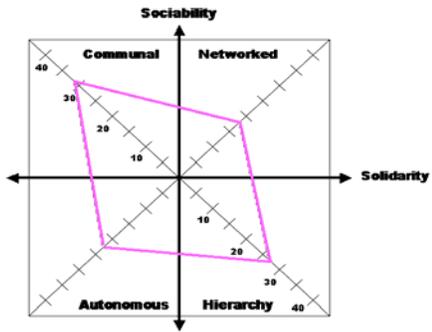
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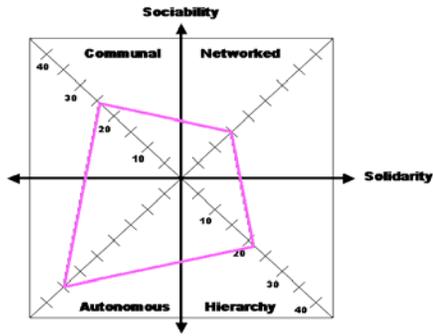
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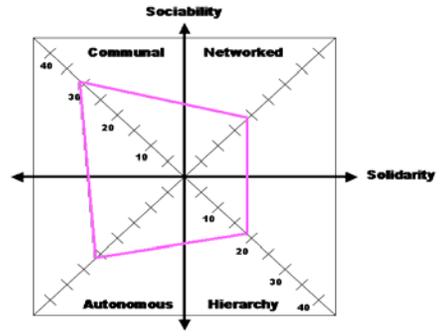
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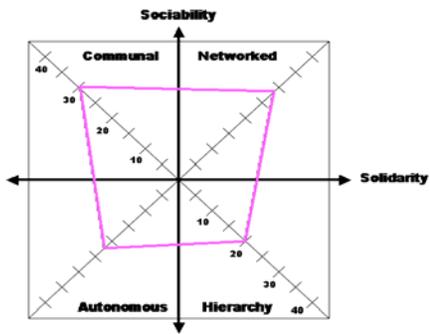
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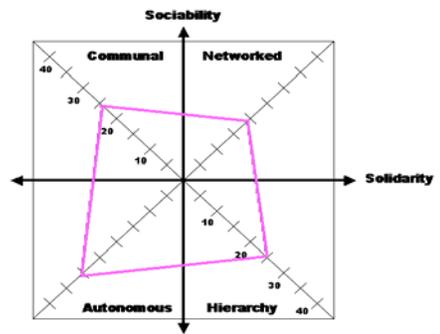
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Change Management - Current

Dakota

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Page 108
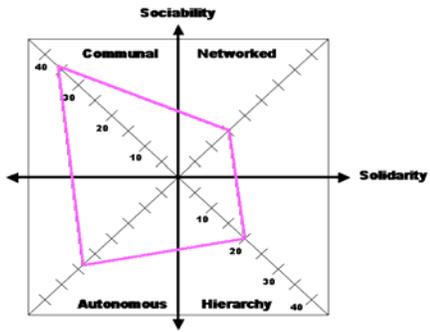
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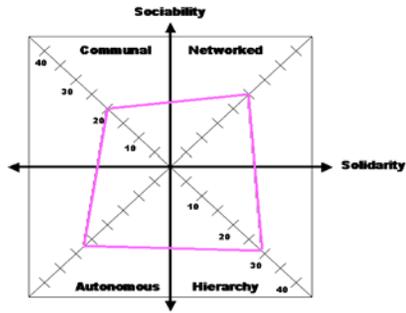
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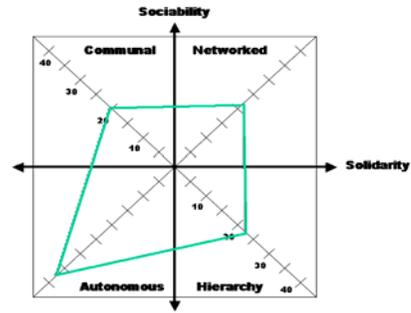
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Judicial and Court Staff Relations - Current
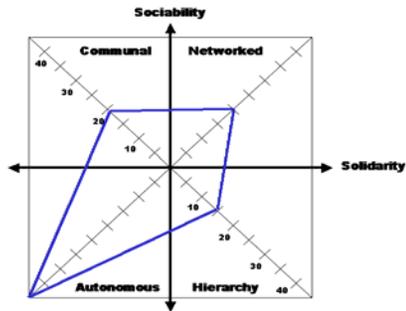
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Internal Organization - Current
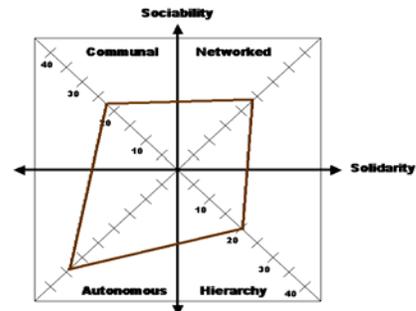
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Change Management - Current

Hennepin

The Mosaic of Institutional Culture and Performance
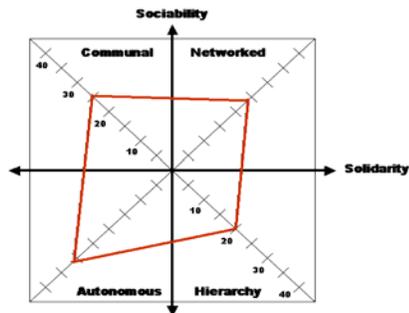
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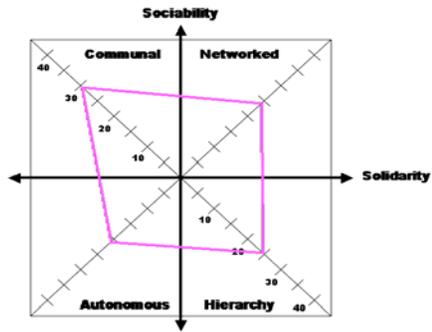
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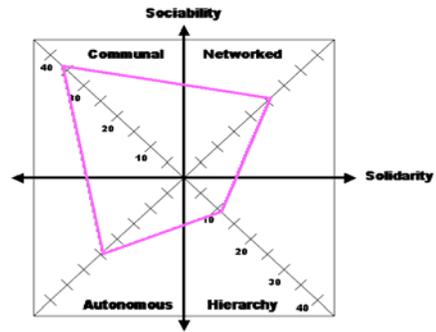
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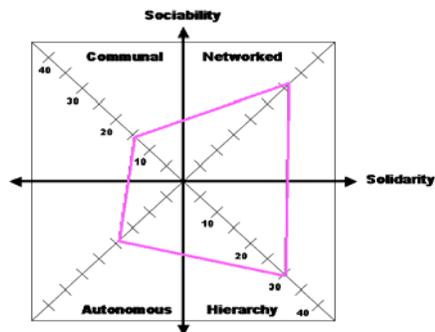
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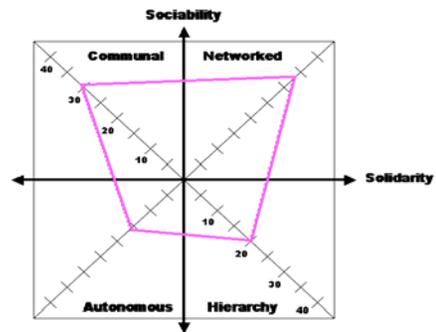
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Change Management - Current

Kandiyohi

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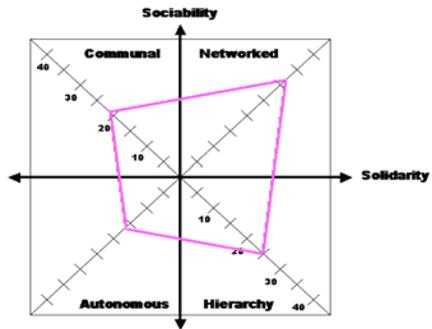
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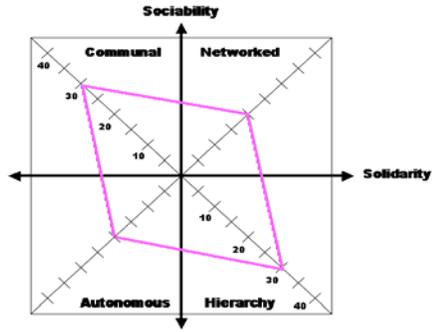
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Courthouse Leadership - Current
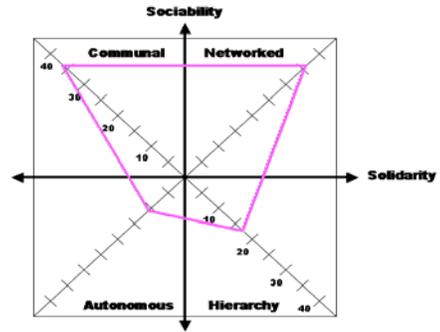
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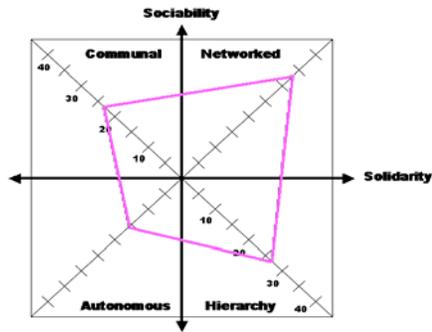
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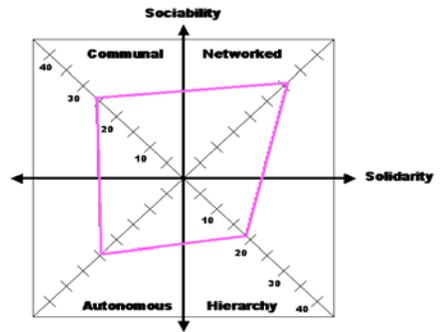
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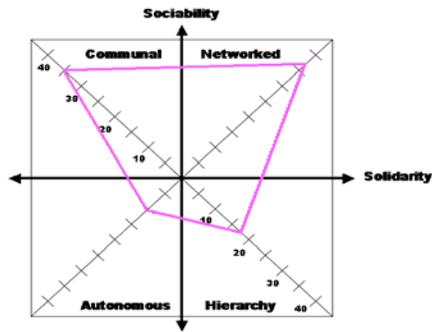
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Minnesota

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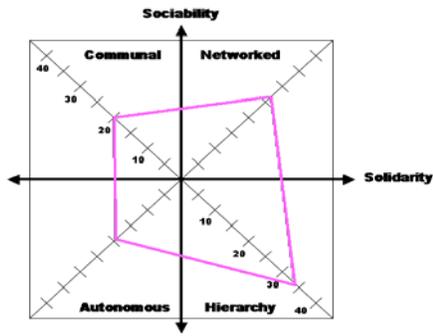
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Courthouse Leadership - Current
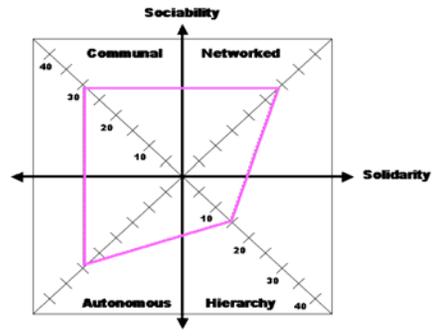
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Judicial and Court Staff Relations - Current
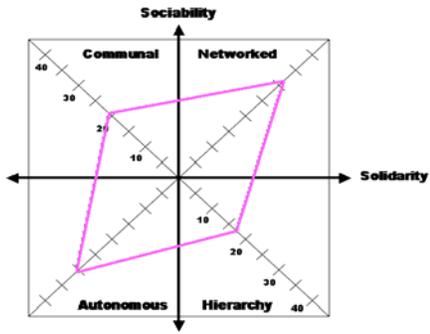
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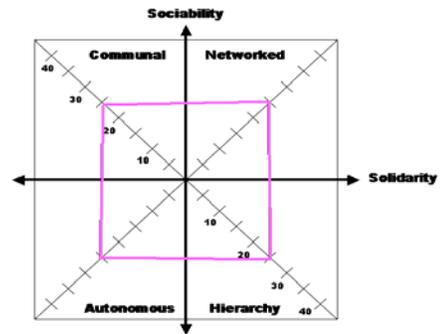
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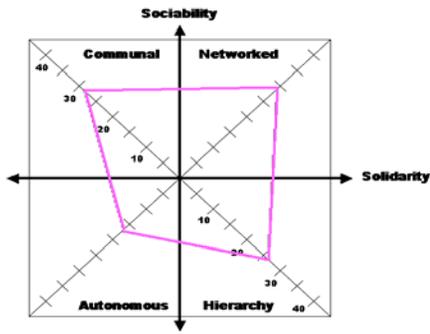
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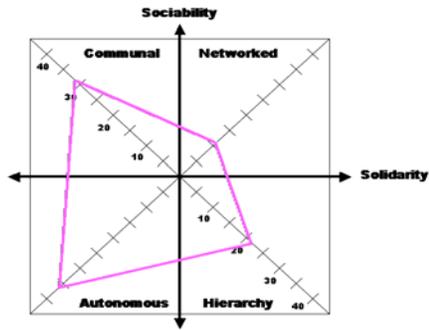
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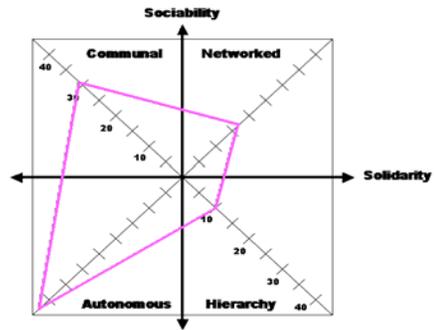
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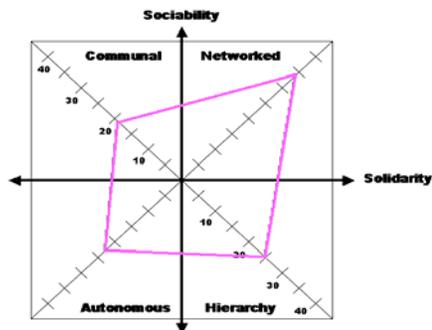
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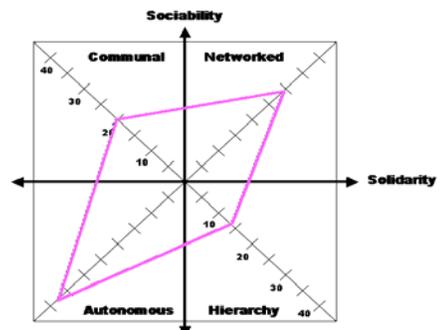
Duluth

Change Management - Current

Duluth

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Page 113
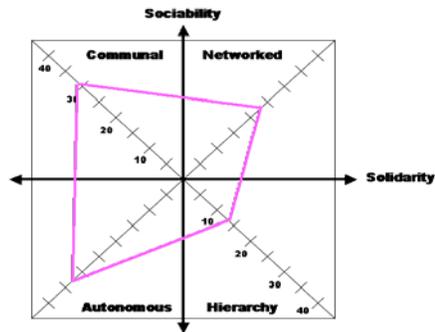
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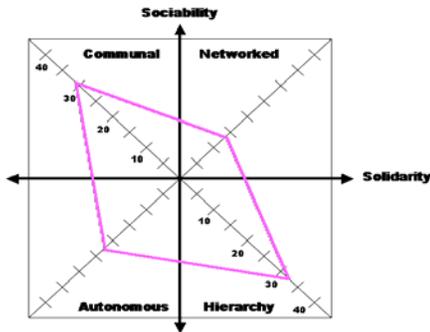
Virginia

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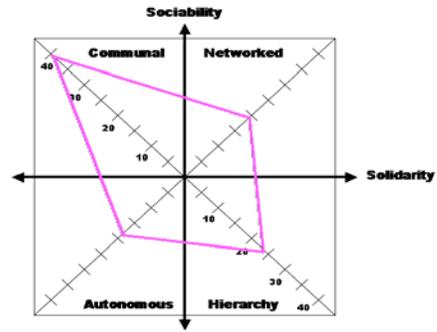
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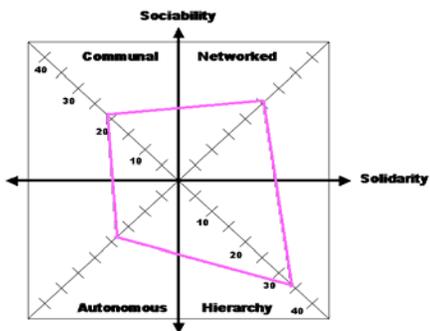
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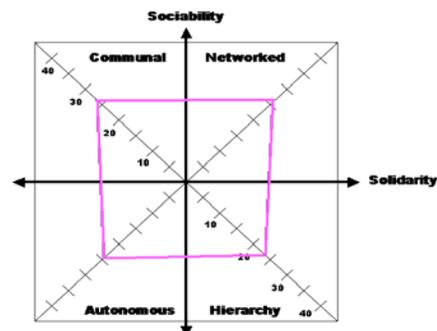

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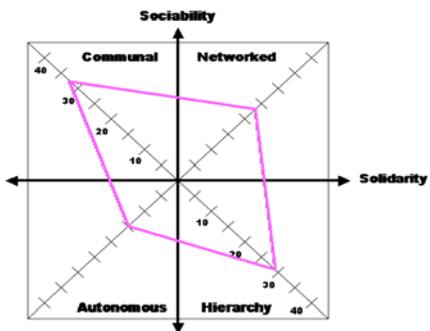
Virginia

CHAPTER 4: ILLUSTRATING THE FOUR CULTURES

INTRODUCTION

An important characteristic of a good manager is the ability to realize a goal is achievable in more than one way. Successful managers skillfully discern alternative ways of gathering resources, allocating staff and distributing workload responsibilities to avoid becoming immobilized when the first option is found to be unavailable or inaccessible.

The idea the same job can be done in multiple ways is consistent with the concept of multiple cultures. Judges and administrators have wide latitude in making management decisions, but culture helps define the limits. The choice of how work is to be done depends largely on the perceived roles of the presiding judge and court administrator as well as the coalitional nature of the bench. Once work is conceived as an activity that can be carried out in different ways, the existence and classification of distinct court cultures become quite plausible. In fact, the four culture types underscore different conceptions of management in courts. What should judges be engaged in to promote the resolution of cases? Should the judiciary keep to its traditional role as impartial decision makers on questions of fact and law? To what degree should court administrators bear the responsibilities of managing court caseloads? The four cultures reflect different answers to these essential questions about the adjudicative tasks of judges and administrative management of the work setting.

In this chapter, the aim is to make the typology vivid, convincing and familiar. To achieve these ends, the essential nature of communal, networked, autonomous, and hierarchical courts is described conceptually. Our approach is to emphasize the attributes most closely associated with each culture type if a court was to operate exclusively and coherently in one of the four categories. Such characterizations allow us to describe the advantages and

disadvantages each culture type is likely to experience in four work areas: (1) case management, (2) judicial-staff relations, (3) change management, and (4) court house leadership.[58]

It is not our intent to suggest that every judge and administrator working in a particular court hold the same views and values. The four cultures are not blood types with every court typed by one and only one label. Organizational cultures rarely become manifest as a "pure" type in the real world, with judges and administrators wholly wrapped up in the ideas and values of just one culture. Rather, our conception of culture taps into generally recognized ways of doing business. The goal of this chapter is to illustrate how the culture framework provides a short hand for discussing and comparing relative emphases among different types of courts.

This focus underscores the important principle that effective and high quality institutional performance is possible in all cultures, but different cultures stress different values. And court leaders will differ in their perceptions of which organizational strategy best aligns with the effective achievement of stated goals. Each type of culture is defined in terms of the ways courts go about handling basic responsibilities and workloads. For example, in some cultures the approach to case management might be a set of informal norms that guide case resolution. In other cultures, case management is manifested in strict adherence to written procedures. And in still other cultures, there might be few discernible aspects of court-wide case management because judges operate with very wide discretion and any form of centralization is viewed unfavorably.

These conceptual characterizations are supplemented with two relevant sources of information. One way to indicate the plausibility and utility of the court culture typology is to see if the conceptual descriptions bear resemblance with how courts in the real world are

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[58] The work area of internal organizations is omitted because it is perhaps the least distinctive. As a result, the illustrations are provided without sacrificing essential material.

described in previous research. Therefore, this chapter examines and integrates earlier literature on the roles of judges and court administrators.

The second source is structured conversations with judges, administrators, and attorneys during on-site visits to the twelve courts under study. Sites were visited by at least two members of the research team and used to gain an understanding of the felony adjudication process in each location. A battery of questions was used in interviews of over 100 judicial and administrative leaders as well as key officials in the prosecution and public defender offices. The questions were constructed to solicit information on the basic steps in the criminal trial court process from arrest to case resolution. As the felony process was clarified in each court, each interviewee was encouraged to discuss their views on why business was conducted in a particular fashion and their thoughts on the strengths and weaknesses of current practice. Their answers provided valuable insight and context on how "things are done" in each court. This information helps assess the plausibility of the conceptual framework because it amplifies central aspects of particular court cultures. Hence, selected observations made by participants in the research sites are woven into the discussion to illustrate how the cultures work and provide promising grounds for systematic application and testing, which are the topics of succeeding chapters.

COMMUNAL COURTS

The first type of court is the communal court where collegial decision-making is highly valued. Egalitarian principles lead this type of court to seek the resolution of complex problems (e.g., rehabilitation of youthful offenders) through communication, cooperation, and compromise. Judges expect their colleagues to work together to achieve reforms, although the ultimate result might only be a proximate solution (Caldeira 1977, 168-70). What is striking is the emphasis on teamwork, not just the goal of resolving legal policy problems.

The court administrator in a communal court is seen as part of the management team, in that judges want to use the advantages of the administrator's tools (e.g., expertise, technology and resources) where appropriate. Yet, limited interest among the judges in the tools of case management or establishment of clear staff routines may frustrate a court administrator interested in that type of reform. As a result, the administrator is closely tied to the judges in terms of working relationships, but expectations for the administrator position do not revolve around the successful implementation of structure and rules.

Advantages

This court's culture is a reaction to particular realities, including the professionalism of judges, the assignment of individual caseloads to judges, and the selection of judges by elections or by different executives. Response to these circumstances is a commitment to common goals and the extension of that commitment to the idea of teamwork. Each judge has his or her own position, but they are members of an organization, whose goals they hold jointly and believe they can achieve only by acting in concert.

Consequently, in the case management arena, a common desire by the judiciary is to meet a somewhat looser version of national time standards. For example, all judges might seek to resolve at least seventy-five percent of their criminal cases within 180 days after arrest (rather than the ABA standard of 98 percent in 180 days). However, what is interesting about a communal court culture is how the agreed upon goal is to be achieved. It is not attained by the strict application of standard case management procedures. Instead, agreed upon "norms" are the basis for case management in communal court. As one judge put it, " the mechanical idea of efficiency doesn't work here. We want cases resolved, but also give them the time they need."

One powerful and fundamental norm surfaced during interviews in communal courts is that the primary job of a judge is to ensure attorneys are prepared. Judges interviewed agreed attorneys are to be ready and able to negotiate at successive pretrial conferences and to go to trial when negotiations have reached the point of diminishing returns. Yet, judges in these courts tend to remain relatively hands-off in the settlement process. Judges trust the attorneys to cooperate appropriately and get it right. In fact, one attorney from a communal court remarked that "if there are issues during pretrial conference, the judge sends the lawyers into the hall to resolve them." An additional comment heard in all three communal courts examined was that their relatively small size helped the judges use more informal methods to communicate and promote attorney preparation.

The communal court commitment to timeliness is counterbalanced by the recognition each judge is in the position to design and execute the way timeliness is achieved. However, judges are not completely autonomous. Each judge knows others are trying to reach the same goals of expeditiousness. In fact, a sense of trust exists among the judges that their colleagues are pursuing timeliness. This theme was concisely expressed by one judge who said, "Everyone knows they have a job to do," and "The only way to get it done is through teamwork."

The team approach in the case management sector has its parallel in the arena of judicial-staff relations. Judges and staff are allies in a partnership designed to make the court run smoothly. Staff is regarded as essential aids in all phases of court operations, although a court administrator's charge is judicially determined. Court managers in a communal court enjoy an environment where they are treated as equals with judges, at least when they are on assignment to help complete a task in line with judicial goals and guidelines (e.g., determining the costs and

benefits of closed circuit television to conduct arraignments). In those situations, staff are not concerned about being second-guessed.

Adaptation to emerging ideas and trends is a deliberative process. A communal court is not in continuous search of new modes of case resolution or looking to expand traditional court services. Before changes are made, consensus on the bench is required. Mobilization of agreement takes time, but once new ideas are accepted, they become well integrated into the ongoing system with an increased likelihood of success. As an illustration, in one communal court both judges and court administrators remarked on the length of time from when the idea of creating a drug court first arose until its adoption seven to eight years later. Neither group viewed this time frame in any negative sense. Rather, they seemed to accept it as the natural consequence of all of the participants having to agree on exactly what set of drug offense cases are suitable for specialized handling (defendants needing treatment) and which ones warrant traditional felony prosecution (sellers of drugs).

Concerning courthouse leadership, the formal positions of the chief judge and court administrator have limited authority. However, judges are likely to be friends and graduates of the same law school in many instances. Because of the personal nature of the bonds, considerable trust exists among the members of the court. When individuals join the court, active mentoring is the policy. Hence, whereas communal courts might aspire to the highest performance goals, elaborate criteria are not used. Rather effectiveness is symbolized by targets each judge is supposed to hit. As one judge remarked concerning his court's light touch on continuance policies, " Judges are active but not overbearing."

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Disadvantages

Communal court cultures often lack monitoring mechanisms and may overlook problems
for an unnecessarily long period of time. This type of court culture depends on each judge
fulfilling his or her commitment to court-wide goals. The approach to improvement emphasizes
informal persuasion and personal relationships by persons committed to the reform goals and
willing to be active. Because limited centralized leadership exists, performance assessments are
episodic. And the failure to regularly assess performance will lead some to view this type of
court as too self-satisfied for contemporary times.

In the area of case management, communal courts tend not to make the measurement of
case processing time a high priority and so judges may overestimate their actual level of
performance. If judges tell each other they are working to achieve timeliness, these claims have
credibility. Every judge is assumed to be a diligent, well prepared team player. As a result,
verbal assertions that cases are being resolved expeditiously might mask serious deficiencies.
This concern was summarized succinctly by one public defender who noted that in his communal
court, "no one takes the schedule seriously," "continuances are inevitable," and trial date
certainty is "historically unlikely."

Concerning judicial-staff relations, a potential disadvantage is the minimal independence
of the court administrator. Many court management experts stress the effective manager is one
who demands to be held accountable and responsible on terms he or she defines (Saari, 1982;
Gallas, 1987). The occupant of this position in the communal court serves the judiciary in a
constrained fashion and might not be expected to provide input and advice. Consequently, a
considerable lag might exist before problems are brought to the attention of the bench (e.g., an
increasing backlog).

With respect to change management, only a modest research and development capacity exists to refine policies or to look to the outside for new ideas on how to render court services better. A communal court might become overly content with its methods because judges and staff are presumed to be getting the job done and done well. Therefore, a communal court may ignore problems and resist self-improvement on a continuing basis. For example, differentiating calendars according to the seriousness of the offenses might be superior to placing all cases on the same track even without a crisis of rising caseloads and shrinking resources. Yet, a potential pitfall for a communal court is a slow realization of the intrinsic benefits of special calendars as well as other opportunities for enhancement.

Concerning courthouse leadership, the limited amount of formal authority and the limited extent of standardized criteria constrain the chief judge and court administrator. They are not trouble-shooters and certainly not overseers exercising supervisory control. Because administrative management tends to be an unwanted chore, it is handled as little as possible. As a result, when judges or court staff encounter difficulties, they must take initiative to surface the problem themselves. Until they do, the difficulties and problems might remain relatively unnoticed.

NETWORKED COURTS

In the second type of court, the networked court, there is great emphasis on creativity and innovation. This type of court places premium value on its external relations with other organizations in the justice system, groups in the community and ideas emerging in society. As innovators, these courts will be drawn to incorporate the latest thinking in specialty courts, problem-solving courts and therapeutic justice. Coupled with an interest in other reform efforts such as case management and alternative dispute resolution, networked courts perceive a benefit

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in creating a menu of procedural alternatives that allow the parties and the court to customize dispute resolution to fit each case. The networked court seeks a very challenging and complex organizational structure that endeavors to achieve both high solidarity and high sociability in the choice and implementation of management practices.

This type of court is often engaged in the simultaneous pursuit of multiple short- and long-range objectives to meet its goal of greater effectiveness. One court, for example, was seeking to build external support for a drug court, developing better management reports in an effort to reduce continuances, actively participating on a statewide committee to improve the court budget process, and implementing a more comprehensive employee evaluation program, among other initiative. In a networked court, the administrator is often viewed as a "middleman" between the judges and the court's environment, with a wide breadth of outreach responsibilities (Stott,1982, 158; Butler 1977, 190). With this strategy, the court administrator is actively engaged in finding the right level of planning, control and feedback to "optimize" relations both within the court and between the court and the larger the justice system community. Because relations with the outside world often require skills, training and knowledge unrelated to the duties of adjudicating cases, an administrator might bring national prominence to the court without posing a challenge to the judiciary's sense of pride, professionalism or power.

Judicial leaders in a networked court monitor the outside environment, identify important trends, and are not reluctant to try new ways of doing business. Therefore, these courts are among the first to experiment with specialized dockets, such as a drug court, family court or domestic violence court where sanction options include treatment as well as incarceration. Here a judge is looking beyond the legal issues in a case and focusing on the social conditions out of which controversies arise. This socially involved role can take judges well beyond their

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customary responsibilities. Tobin (1999, 224) notes that while judges are traditionally seen as neutral arbiters, "many people now appearing before a judge are seeking a protector, healer or advocate not a detached referee." The therapeutic justice movement leads judges to play a much different role than played by the traditional adjudicator. The use of judges to resolve disputes through nonadversarial means is an important and fundamental innovation.

Advantages

At their best, networked courts combine the advantages of democratic decision making with focused leadership on implementation of agreed on policies. Underlying values are everyone deserves respect and an inclusive approach to decision making builds a stronger and a more just court system.

Concerning case management, the networked court deliberates over the course of action it should follow and relies on give and take discussions involving all judges to make policy (e.g., setting of time deadlines for guilty pleas to be accepted prior to trial). In addition, the views of justice system partners are sought. As one judge in a networked court said, "Because our caseflow management plan was reached by consensus with our DA and PD, we overcame many predictable obstacles before they surfaced. We explained the logic of case management and convinced the DA and PD that efficiency would reduce caseload; they came to realize their caseloads corresponded to the life of their cases." Once a policy is promulgated, the responsibility for implementation shifts to the chief judge and court administrator. This distribution of responsibilities elevates the chief judge and simultaneously places substantial burdens on this position.

Judges interviewed in the networked courts under study are aware of and understand the importance of timeliness. In collaboration with the court administrator, all spoke of efforts to

improve the efficiency of case processing. Many acknowledged the need to revamp current practice in their own courts, with many judges conversant in the latest thinking on caseflow management. A central theme in these courts was control of continuances. One court uses a mandatory readiness conference scheduled one week before the trial date to facilitate and encourage pleas. This conference is viewed by the prosecution and defense as the "last, best chance to resolve the case without trial," with the judge tough on continuances after the conference concludes. The management team in this court has worked hard to build cooperation between the civil and criminal divisions so that sufficient judges are available to conduct all criminal trials scheduled. As the court administrator puts it, "There is always an open port for every ship—trials will go as scheduled."

The manner in which a networked culture effects case management has its parallel in the change management arena. Ongoing concern for good working relationships with other justice agencies, receptivity to ideas and groups in the local community, and attention to initiatives coming from the state's administrative office are prominent values. Judges see their responsibilities as serving "customers." For example, the chief judge and court administrator may direct outreach efforts toward groups believed to warrant special and dedicated attention, such as abused children and drunk-driving victims and their families. Such courts will be more likely to have elder abuse and criminal mediation centers than courts with other cultures. As another example, two networked courts studied are located in California, a state that has just recently unified its court structure and adopted state funding of the trial courts. Both courts moved early to embrace consolidation and have actively participated in state policy committees working through the details of state funding. One rationale for active involvement in state trial

court initiatives was neatly summed up by one court administrator who noted, "The second rule of revolution is to exploit the inevitable."

Concerning courthouse leadership, the networked court is active in building effective internal relations among the judges as a means to better connect with the major institutional offices, the bar and the public. In the networked courts examined, judge meetings are held at least monthly, if not weekly. Once identified, the court can take the lead on resolving issues of broad interest. For example, the presiding judge in one court discussed the benefits of sustained coordination between the court, prosecution, public defense, sheriff and probation on criminal case scheduling practices. "The pay-off for the court is that the judges are far less frustrated; schedules are now coordinated, dockets run more smoothly making court hours more productive with a lot less waiting around."

Disadvantages

It is easy for this type of court to become overextended and lose its sense of focus. A court trying to excel in so many ways with so many groups might fail to achieve excellence in any single area. During the planning phase of any specific initiative, if the communication process is that everyone gets into the act, there are extensive time commitments and resultant costs and conflict.

Concerning case management, the networked court assumes if every judge is allowed to participate in planning a case management system, all will follow through and embrace the final product. However, this assumption is questionable because judges whose views are not similar to those of the majority might continue past practices (e.g., automatically granting all stipulated requests for extensions of time). Without a clear conception of how the caseflow management plan will, or can, be communicated and enforced, failure is likely. Another test for case

management in this type of court comes from the acknowledged interest in decreasing the role and importance of formal decision making (adversarial model) and increasing the use of more discretionary, problem-solving approaches decisions. The therapeutic model puts greater emphasis on individualized outcomes, making attention to established timeframes secondary. As a result, case management plans might not live up to their potential.

In regard to judicial-staff relations, the networked court may produce a strong and highly personal alignment between the chief judge and the court administrator. Hence, with a change in chief judge, even an experienced court administrator might find it difficult to adapt to the style and expectations of the new court leader. Consequently, changes in judicial leadership sometime create transitional challenges for administrators in networked situations. In addition, a networked court often ascribes to ambitious goals in the workplace involving teamwork, clear paths of professional development, and commitment to treating all staff with courtesy and respect. Making these aspirations a reality requires a very effective leadership team and good relations between management and staff. High staff expectations place steep demands on management for consistent follow-through and a demonstrated attention to problem solving.

With respect to change management, the networked court might be too willing to try new ideas. The court may be overly optimistic with the ease innovations can be introduced and maintained. Success in this endeavor requires a change in court policy actually being accompanied by a direct, consistent change in the policies and practices of the other justice agencies. As a result, the networked court might have a spotty history of reform with several instances of planned changes not taking hold because of a lack of prepared and adequate responsiveness to problems that should have been anticipated.

Concerning courthouse leadership, a possible pitfall for a networked court is the broad spectrum of interests being served might steer the chief judge and court administrator to focus excessively on particular segments of the caseload and fail to monitor overall court performance. They might lose interest, energy or both in devoting the considerable effort necessary to support a coherent set of overall criteria if consumed by the intricacies of special problem areas. Another leadership issue relates to the ability of judges to effectively implement a full menu of procedural alternatives to best meet the individual needs of defendants coming before the court. Mastery in appropriately tailoring sanctions using a problem solving approach puts a premium on the scope and character of the judge's judicial repertoire. Critics question whether courts have "the manpower, the talent, the tools or the authority" to be not just "dispute resolvers" but "problem solvers—the handymen of our society." (Debois, p. 4, 1979).

AUTONOMOUS COURTS

The third type of court, called the autonomous court, is characterized by the judicial preference for limited administrative controls. Many judges in this type of court are most comfortable with the traditional adversarial model of dispute resolution. Under this traditional approach, the judge is a relatively passive party who essentially referees investigations carried out by attorneys. The principles of the adversarial model are respected in the autonomous court by giving the prosecutor and defense attorney broad leeway in setting the pace of proceedings, with ample pretrial time to investigate and prepare arguments. It is not surprising that "judicial activism," or case management, has trouble catching hold in these courts.

Responsibilities of the court administrator in this type of court are likely to be circumscribed to more operational areas such as finance, space, equipment, and technology (Butler 1977, 189). Assisting judges with case management is likely a minimal part of the

administrator's portfolio. Resnick (1982) argues strongly against the advent of "managerial judges" and the accompanying loss of judicial restraint. Opponents of case management fear active participation by the judge in a proceeding increases the likelihood of partiality. Further, judicial management is said to produce decisions less visible and more difficult to review. Finally, they believe that such an approach "may teach judges to value statistics, such as quantity of pretrial dispositions more than quality." (Bohlman and Bohlman, 1994, p. 238).

Law is a tradition-bound profession and evidence compiled by scholars indicates the autonomous role is substantial. Reviews of judicial attitudes find that many judges see their primary responsibilities as making decisions in adherence with precedent, exercising considerable restraint in interpreting the law, balancing contending legal principles, and pursuing truth and seeking justice in individual cases. In pursuit of these fundamental goals, some judges will see administrative controls as usurping their prerogatives and threatening the independence of substantive judicial decision-making. This is not to say these judges are against all aspects of cases management, just those where the apparent goal is to dispose cases quickly. There are many steps such as pretrial case management, differentiated case management, firm trial dates set early, and trial readiness conferences that when used appropriately can overcome problems presented by the traditional dispute resolution process. A primary issue in the autonomous court is reaching consensus on the meaning of "used appropriately."

Hence, a defining characteristic of the autonomous court is little agreement among judges on the relative merit of many procedural alternatives. Judges find, in their conversations with other judges, that pretrial procedures they consider proven are thought by others to be impossible or undesirable. In this type of court, judges interested in exerting firmer control over the process will likely confront colleagues who view many pretrial decisions as having "large doses of the

uncontrolled discretion that marks 'management" (Yeazell, 1994, p. 673). Reformers face a daunting task to the extent change is seen as part of a movement to trade justice for speed and efficiency.

Advantages

These bodies aspire to be models of individual justice. In autonomous courts, judges are in the position of bringing their skills, knowledge, and experience to bear in deciding substantive issues free of outside pressures, including administrative controls.

Case management does exist; however, each judge is free to choose the best application of procedural rules governing the litigation process (e.g., when discovery should be completed, how many continuances should be granted). Choice is shaped by each judge's individual perspective on the correct steps to take in each case rather than established court-wide rules. Because each judge controls his or her own courtroom, it is possible for an autonomous court to be expeditious if each judge learns how to handle cases efficiently. Talented judges can devise their own best practices. Hence, an autonomous court can achieve the ends of justice without necessarily experiencing backlogs and delay.

Contextual factors are influential in how well this type of court performs. In the Autonomous courts examined, individual judicial calendars are the norm and both prosecutors and public defenders use vertical representation. Attorneys, moreover, handle their cases generally before the same judge where the same attorney opposes them. Because a public defender's office handles criminal defense work in all the courts, the number of criminal defense attorneys is smaller in number and more experienced, on average, than if a criminal defense work was handled on an assigned basis. The presence of the same opposing attorneys in their respective courtrooms is what prompted one judge to say, "We have a cohesive bar. Everyone

knows everyone." Judges and attorneys are not all friends, but the repeat appearance of the same professional participants produces a mutual understanding and trust. For example, a prosecutor in one court commented, "You see the same attorneys over and over again so everyone knows the rules of the game." A public defender in the same court echoed these sentiments by noting of the prosecutors "their word is their bond." Continuing relationships are a key source of credibility in an Autonomous culture

In an Autonomous court, a close relationship exists between a judge and the staff who work directly for him or her. Court staff know what is expected on them and how to enhance the work of the judge to whom they are assigned. For the court administrator, the scope of authority is limited to operational areas such as budgets, space and equipment. As long as the court manager does not seek to impose administrative policies, relations with the judges should be quite positive.

Change management in an autonomous court also is constrained in scope. Judges appreciate the traditional process of dispute resolution and do not see it as cumbersome or unnecessarily time and resource consuming on attorneys, litigants and the public. No resistance arises automatically to proposals for making improvements in how the court prepares a budget, updates technology or increases space availability. However, new programs or procedures are difficult to introduce, but not impossible. Innovations are likely to be voluntary, limited in number and not encouraged to grow.

Courthouse leadership is most prevalent in each individual courtroom, where the judge exercises control and determines how business is done. Court-wide decisions tend to be more haphazard. Because management decision making is viewed negatively as an unwanted chore by judges who would rather be judging in courtrooms, the unpleasant task of administration is

addressed as little as possible. Certainly there can be mutual respect among judges and a willingness to listen to ideas from other judges who are acknowledged to be skillful and effective decision makers. However, court-wide policy exists if and only if all judges agree. Use of the rule of unanimity in making administrative decisions restricts the scope and depth of policies, and makes achievement conditional on each judge being willing and able to pursue the same end.

Disadvantages

This type of court culture can be wracked with multiple problems. Trial calendars frequently are overbooked, with no coordinated effort among judges to provide meaningful trial dates. Attorneys are frequently unprepared and continuously seek continuances. Judges are unable or uninterested in developing their own best practices. The impetus for the original development of case management is regularly on display in many autonomous courts. One founder of the managerial movement argues that the criteria essential for effective court operations "are change, communication, decision making, and leadership." (Saari, 1982, p. 42) Such characteristics are all scarce in this type of court.

Concerning case management, an autonomous court might be a conglomerate of decision-making styles ranging from orderly and expeditious to disorganized and slow. Because the judges have no tradition of regular meetings or other systematic communication on matters of court policy, there is no machinery, occasion or opportunity for the court to agree on and enforce policies that might improve matters. One judge in an autonomous court remarked the "we never see each other" and the "each judge operates like a separate court," "Statistics are the last thing on my mind—I'm treading water" was another comment. As a result, timeliness in the pace of litigation across different autonomous courts varies, although the distribution of processing times is likely skewed toward the slower end.

With respect to judicial-staff relations, competition and conflict abound. Each courtroom has collegial judge-staff relations, but intercourtroom relations might exhibit virtually no cooperation. One of the few areas of court wide agreement will be unified resistance to overtures from the chief judge or court administrator to introduce a court-wide policy.

Change management is subject to blocking coalitions of judges opposed to new ideas. A presiding judge or court administrator interested in transforming an autonomous court must answer a simple question: Why should a judge change behavior in response to reform? Current practice is neither random nor arbitrary. Rather it reflects long-standing accommodations of various interests likely viewed as desirable by the practitioners. Because at least some judges will have a stake in the status quo, claims of undue "judicial activism" can undermine change initiatives. A new management plan is not sufficient, reforms must supply adequate incentives or impact will be negligible.

Concerning courthouse leadership, the most obvious evidence of the autonomous court's shortcoming is the range of performance among different judges. Disparity in performance will likely be the greatest in an autonomous culture due to the chief judge and court administrator's limited authority in formulating and setting policy. Hence, despite the fact some disparities might be quite undesirable, their elimination or minimization are not the common subjects of administrative conferences.

HIERARCHICAL COURTS

The fourth type of court, the hierarchical court, places high priority on the handling of cases efficiently and harmoniously within the administrative framework. Many argue that the development of court management demonstrates the essential health, strength, and character of the American legal system, a system that is dynamic, albeit in an incremental way, growing and

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adapting through new procedural rules and practices. This structure not only contributes to delay reduction, but also minimizes friction between judges by encouraging the orderly handling of cases. Timely resolution of the entire caseload is of central importance. If some nontraditional adjudicatory procedure (e.g., a special calendar) can enhance expeditiousness, it will be considered for adoption. As Boyum demonstrated (1979), judges who see their role as contributing to sound administration resolve their assigned caseloads more quickly than other judges.

The hierarchical court is hospitable to a court administrator seeking to use the principles of case management. In this context, Gallas (1987, 44) argues the most basic function of the administrator is to establish and maintain clear case processing routines. "Routines build predictability and stability, along with power to those who manage the system….The quality of these routines is clearly evident in case disposition time and the consistency of case disposition times." Court managers in this type of court are particularly attuned to the use of automation to enhance information available to judges and improve the administration of the courts. Interestingly, Butler (1977, 189) reports chief judges rank case management as a critical "managerial function," yet his findings also show many chief judges reluctant to give authority over case management to their court administrator. Butler's evidence, therefore, cautions against expecting hierarchical courts to be the most frequently occurring type of court.

Advantages

These bodies seek to achieve the advantages of order and efficiency, which are deemed essential goals in a world of limited resources along with calls for increased accountability. The distinctive feature of a hierarchical court is how these goals are to be reached. Basically, the approach is to create a structured decision-making environment through the creation of rules,

adoption of court technology, and a monitoring system to assess compliance. Rules and timely information are viewed as mechanisms for reducing uncertainty, confusion, and conflict in how judges and court staff make decisions.

Consequently, there is clarity in the purpose of case management and explicit recognition of the benefits. The goal of responsible managers is an efficient use of public resources to provide a high level of service to litigants, attorneys and taxpayers. And this task begins in the courtroom with the effective management of the scarcest resource in every court: judge time. To optimize available decision-making time in an era of rising caseloads, judges are expected to follow prescribed methods deemed useful in the resolution of disputes before trial. "The whole thrust of caseflow management is to minimize the number of trials and devise ways to force cases to exit the system quickly through settlement, entry of plea, or some other disposition." (Tobin, 1999, p. 212) The key assumption is that judicial orders requiring attorneys to prepare and meet early in the life of the case will lead to case resolutions both timely and fair. Many cases do not require trial; rather, a negotiated plea can benefit both parties. Meaningful plea negotiations are more likely when attorneys have pretrial deadlines and firm trial dates. The hierarchical court is also very cognizant of the costs of not engaging in case management: "courts manage the cases filed with them, or they become engulfed and devoured by the case-flow process." (Saari, 1982, p. 70)

The structured approach to case management extends to judicial-staff relations. Just as judges are expected to follow rules, court staff has clear case processing duties and routines. To make the best use of staff resources, court managers often employ sophisticated staffing models. Attention to staffing patterns and workload helps management assess return on investment in new technologies, reengineering of business practices, staff training, or the adoption of "best

practices." It also helps determine where court operations may be slack, including inefficient procedures or underutilized staff.

Change management is an active area in a hierarchical court. Because automation is seen as essential to efficient case processing, court administration pays close attention to how the expanded use of technologies can aid in providing services to the public. A primary focus is on how to enhance the business processes in courts. This concern extends to the judges, especially chief judges, as they seek ways to improve court performance. However, the area of emphasis is on case management, with a central theme of bench meetings being what can be done to improve the handling of cases. Court leaders seek the involvement of the entire bench in their ongoing efforts to create an efficient case resolution system. As one court manager said, "Gaining broad judicial agreement for change is paramount. You don't sink ships you help build."

Concerning courthouse leadership, great emphasis is placed on the formal positions of the chief judge and court administrator to gain necessary resources, establish calendars and set performance goals. Court members are expected to follow the policies prescribed by the administrative leadership to achieve ends the court has chosen for itself.

Disadvantages

Success with the hierarchical approach to court management requires firm and consistent application of the rules as well as clear lines of authority. Problems arise when insufficient attention is given to ensuring both judges and staff have proper incentives to carry out court policies. Once established, policies might be assumed erroneously to be self-executing.

Concerning case management, it is incumbent on court leadership to provide the bench with a persuasive rationale for the benefits of the hierarchical approach. The utility of judicial case management is not universally recognized or accepted. As one judge in a hierarchical court

said, "Initially some judges found it difficult to understand why case management was 'our problem'. There was some feeling that the cases belonged to the attorneys, and management was their responsibility." Another issue is that too much emphasis might be placed on the benefits to the court and too little emphasis placed on the benefits to other participants in the legal process. Prosecutors and criminal defense attorneys might not be shown how case management policies encourage early preparation by both sides, fewer continuances, and more control over their own resources. Success clearly depends on system-wide commitment to the substance of caseflow management: policies probably cannot be enforced without cooperation from everyone involved. Without commitment and cooperation, case management might be statements of lofty goals, but fail to effectuate case processing.

Courts moving to adopt more hierarchical case management principles (e.g., early and continuous judicial control) must avoid the phenomenon analogous to the "white tornado." This situation occurs when judges, suddenly realizing they are plagued by delay and backlogs, suspend normal case processing and frantically engage in a crash program. Periodic panic followed by crisis oriented delay reduction is not a sustainable and effective strategy.

With respect to judicial-staff relations, because hierarchical courts are lower on sociability, they may suffer from a lack of loyalty and trust. The chain of command does not necessarily induce a respectful willingness to cooperate. In fact, a hierarchical court might have few opportunities where everyone can voice ideas. Consequently, only a restrained feeling might exist among judges and staff to pull together.

Concerning change management, hierarchical courts might become rigid and unreceptive to fresh ideas. Excessive formalization of structure and process can stymie professional creativity of judges and staff. "Nothing has more destructive potential for professional drive and

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creativity than a heavy-handed bureaucrat in the role of presiding judges." (Saari, 1982, p. 55)

Thus, a hierarchical court can become petrified with limited opportunities for court-wide

discussion of emerging problems and appropriate solutions.

Courts moving to adopt more hierarchical strategies typically begin with the application

of technology to case management. Reformers may assume that systematic change will occur

because computerized data and scheduling provide more information and allow more time for

contemplation. However, not only must data be accurate and available, people must change their

behavior in response to the increased, readily available information. Success of automated

applications depends on whether people are willing to modify their behavior.

Concerning courthouse leadership, hierarchical courts are beset by two problems. First,

court rules and polices might not be viewed by some judges as helpful in handling the specific

circumstances surrounding individual cases. As a result, not all rule-oriented cultures are equally

effective in achieving either the desired uniform behavior of judges or the widespread acceptance

of rules among judges and attorneys. Second, a rule-oriented court encounters difficulties in

squaring general guidelines with the expectations of both litigants and attorneys who want to

speak, to be heard and the court to understand the issues and circumstances in their cases. As a

result, hierarchical courts might appear to be uninterested in administering justice in individual

cases and devoted only in handling cases in the aggregate, leading to the criticism the courts and

its leaders neglect quality.

SUMMARY

This chapter provides a whirlwind tour of how we divide the variety of court culture into four categories. The four culture types provide a framework to discuss general characteristics that define and differentiate how courts see and organize themselves. For example, those favoring a hierarchy approach, see more planning, more control, and more standard practices as most conducive to producing effectiveness and goal attainment. Alternatively, a communal approach views the spirit of accommodation, concern about motivation, and attention to the psychological nature of workers as the means for greater effectiveness. Many of the ideas and alternatives present in a contemporary discussion of court culture have been familiar to court practitioners and observers for many years. In this review, we have focused on broad patterns and characteristics in each culture. Nevertheless, we believe these four groupings provide a useful way for discussing the diversity of courts.

The four culture types operate on many different levels. They reflect deep-seated views on the appropriate role of the judiciary in the adversary system, how judges, court administrators and staff organize their work, and the extent to which the court cooperates and collaborates with the wider criminal justice system.

The illustrations offered in this chapter suggest ways courts in each of the four cultures operate in areas of work ranging from case management to courthouse leadership. They do not confirm that courts in real-world situations correspond to the culture types. To establish the nature of that relationship, a measurement scheme is necessary. Linking concepts with reality through measurement is precisely the subject of the next chapter.

CHAPTER 5: CONSEQUENCES OF COURT CULTURE

INTRODUCTION

Courts organize themselves to conduct business in ways that reflect their underlying (and often conflicting) cultural orientations. Some courts choose to emphasize more of a Communal outlook in managing cases, whereas other judicial bodies emphasize a Networked, Autonomous or a Hierarchical perspective. Moreover, courts are not culturally congruent. Exhibiting a Communal orientation in one work area, such as case management or judicial-staff relations, might coincide with a court's Networked orientation in change management and an Autonomous orientation in courthouse leadership and internal organization. Because of the varieties of cultures within a court across the five work areas, an overall cultural type was developed, which permits classification and comparison of courts in a manageable manner. We will use the overall type as a "public management variable" in the tradition of DiIulio to test a set of hypotheses about the performance consequences of different cultural orientations.

Evaluating trial courts requires an examination of the links between trial court culture and trial court performance. As DiIulio (1989, 127) notes:

> Although a disputatious lot, public management scholars tend to agree strongly (if implicitly) on one thing: public management matters. They share a belief ("faith" might be a better word) that how public organizations are managed has a significant bearing on how, and how well, these organizations perform.

Given that distinctions can be made among overall culture types, the question arises; do they make a difference? If so, can these effects be observed? Are there discernable patterns?

PERFORMANCE MEASURES FOR TRIAL COURTS

There is widespread agreement that public organizations do not have a clear bottom line. In fact, it is often the case public organizations have multiple, ambiguous, and inherently

nonoperational goals (e.g., DiIulio, 1993). While the task is difficult, it is not impossible. As

Wilson (1989, 373) notes, if someone set out to measure:

> The output of a private school, hospital, or security service, he or she would have at least as
> much trouble as would someone trying to measure the output of a public school, hospital, or
> police department. Governments are not the only institutions with ambiguous products.

In fact, as DiIulio (1993) notes: in recent years a number of major public policy reforms were

launched as efforts to define appropriate measures for the goals of government agencies. In the

area of American trial courts, the Trial Court Performance Standards are a clear example.

In 1987, the trial court community took a major stride toward expanding its ability to

measure and assess its performance through the initiation of the *Trial Court Performance*

Standards (TCPS). "The program's objective was to increase the capacity of the nation's trial

courts to provide fair and efficient adjudication and disposition of cases . . . [based on] the theme

of the court as an organization accountable for its performance."[59] The TCPS provide a

framework to assess court performance in five general areas:

- Access to Justice
- Expedition and Timeliness
- Equality, Fairness, and Integrity
- Independence and Accountability
- Public Trust and Confidence

These groupings represent ways of viewing fundamental responsibilities and purposes of courts.

Our operational definition of trial court performance focuses on a court system's ability to reduce

delay, provide access to justice, and ensure fairness as well as other success factors relevant to all

public institutions, such as client-customer satisfaction and efficiency of internal processes. This

conception of court performance draws on the work of the TCPS and other court management

experts to construct an observable and measurable set of performance indicators that we believe

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[59] Trial Court Performance Standards and Measurement System, BJA, Program Brief, July 1997, p. 1.

will help clarify the extent to which culture matters. We do not claim that we have assembled an exhaustive set of factors that definitively define "effective court performance." Rather, our goal is to suggest measurable elements, determine what findings flow from an analysis of those elements, and begin to obtain a systematic assessment of the court as a service organization. Two primary consequences of the linkage between cultural orientations and performance seem especially important to explore and document.

One activity likely shaped by culture concerns the way a court actually carries out its business. The basic intuitive notion that a connection exists between how practitioners say they are organized to get work done and how cases are, in fact, resolved, needs to be verified. Validity of this relationship cannot be assumed automatically because judges might very well assert they are mobilized to act in some particular fashion and then fail to execute intended work plans because not everyone truly embraces the rhetoric of court leaders.

To examine the correspondence between court organizational culture and how work is in fact accomplished, timeliness of case resolution is offered as a measure of how courts carry out their business. Do courts with different overall culture types resolve cases with similar or different degrees of expeditiousness?

Timeliness is a valid and fair indicator of how business is carried out for several reasons. This measure is consistent with the focus of previous research on the consequences of "local legal culture."[60] Additionally, national organizations, such as the American Bar Association

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[60] Timeliness has been a centerpiece of the court management and performance literature. Judges are seen as having primary responsibility for determining how long cases take to be resolved, but attorneys are seen as important collaborators. A leading management expert, along with several colleagues, notes the ". . . centrality of the local culture to the pace of trial court litigation" (Mahoney et al. 1988, 200). The implication is court culture will have a significant impact on delay reduction. See, for example, Zeisel, Kalven and Bucholz (1959); Church et al. (1978); Freisen, Jordan and Salmonetti (1978); Neubauer, (1981); Flemming, Nardulli and Eisenstein (1987); Luskin and Luskin (1986, 1987); Hewitt, Gallas and Mahoney (1990), Goerdt, Lomvardias and Gallas (1991); and Ostrom and Hanson (1999).

(1987), Conference of State Court Administrators (1983) and the Trial Court Performance

Standards Commission (1990), have raised timeliness as a national standard all courts should be

expected to meet. The ABA offers no other measure of court performance than timeliness,

suggesting it is among the most fundamental indicators. Finally, the importance of timeliness is

enshrined in the U.S. Constitution's Sixth Amendment guaranteeing the "right to a fair and

speedy trial." The extent to which this provision is meaningful depends on the ability of courts

to resolve cases expeditiously.

A second area of culture's potential impact concerns case resolution from the perspective

of other participants in the criminal trial process. Here prosecutors and public defense attorneys

are important subjects of study because they have daily contact with the judiciary and are in a

position to observe the interactions between criminal court judges and defendants, witnesses,

jurors and courtroom staff members. They are situated to assess how a court carries out its

business above and beyond clearing calendars, holding trials as scheduled, and adhering to tight

continuance policies all in the name of expedition and timeliness.

Specifically, attorneys' views constitute a valid and reliable basis for assessing how the

actions of judges and administrators affect access to justice, fairness and the managerial

effectiveness of the court. The first two values are pillars of performance, according to the Trial

Court Performance Standards (1990).[61] Access and fairness are two of the five performance

areas around which the Standards are organized. Moreover, numerous commissions and reform

efforts in the past twenty years have used these values as their central organizing focus.

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[61] Timeliness remains a central concern even as the trial court community has taken a major stride toward expanding
its performance through the initiation of the Trial Court Performance Standards, which were intended "to increase
the capacity of the nation's trial courts to provide fair and efficient adjudication and disposition of cases . . . [based
on] the theme of the court as an organization accountable for its performance." (Bureau of Justice Assistance
1997,1) The TCPS provide a framework to assess court performance in five general areas: Access to Justice;
Expedition and Timeliness; Equality, Fairness, and Integrity; Independence and Accountability; and Public Trust
and Confidence

Fairness, as measured by subjective assessments by participants in the process, also has become an established area of evaluation research, although the studies have contributed more to establish systematic measures than criteria of fairness (Tyler 1998).

The managerial effectiveness of the court focuses on the concerns and cooperation courts show toward other organizations (e.g., institutional offices of prosecutors and public defenders) and individuals (e.g., victims) participating in the criminal trial process. As such, the court's managerial effectiveness concerns a court's sense and sensibility as a member of the more broadly construed criminal justice system.

TIME TO DISPOSITION

Hypotheses

Before looking at the data, it is important to state what we expect to find. Our basic organizing hypothesis on how culture affects the timeliness with which courts carry out their business revolves around the joint effect of the two basic dimensions of culture. Courts that are higher on the Solidarity Dimension will be more expeditious than those that are lower on this dimension and the courts that are higher on the Sociability Dimension will be less expeditious than those that are lower on this dimension. Hence, the combined effect of the two dimensions will result in the following ordering of cultures from the most to the least expeditious.

1. Hierarchical (Hennepin, Contra Costa)
2. Networked (Ventura, Napa, Ramsey)
3. Autonomous (Dakota, Duval, Duluth, Pinellas)
4. Communal (Olmsted, Kandiyohi, Virginia)

The Hierarchical courts are low on sociability and high on solidarity, which means they pursue case flow management (e.g., early case control, case coordination, and firm trial dates) with the support of administrative and courtroom staff. These courts use the best practices and

procedures available to reduce overall court delay. Moreover, discretion in the timing of key procedural events is constrained by rules.

In the Networked courts, judicial expectations concerning case management come from a working policy developed through the involvement and planning of the entire bench, and not necessarily the adoption of national standards. Being high on sociability, timeliness is to be achieved by judges and staff following guidelines rather than uniform rules. Timeliness is an aspirational goal, but within a local community standard rather than an external one.

In the Autonomous courts, the importance of court-wide performance goals is limited. Individual judges are relatively free to make their own determinations on when key procedural events are to be completed. Considerable variation in the time to resolution in these courts is likely. Some judges will focus on delay reduction while others will emphasize other aspects of court performance. As a result, the Autonomous courts should be somewhat slower than the two culture types emphasizing solidarity and should exhibit substantial variation.

Finally, in the Communal courts, the limited degree of solidarity downplays centralized judicial and administrative leadership. Moreover, being high on sociability, the Communal courts might achieve a consensus that timeliness is not vitally important and, instead, the court might choose to focus primarily on goals other than the pace of litigation. As a result, Communal courts are expected to be the least expeditious in resolving court business.

To investigate the hypothesized linkages between culture and time to resolution, we use the American Bar Association Standards as criteria. According to the ABA, specific percentages of cases should be resolved with certain time frames. Ninety percent should be resolved within 120 days or fewer, 98% percent within 180 days or fewer, and 100% within 356 days or fewer

after arrest. A key question is: can differences in court culture account for variation in the

percentage of cases resolved within 120, 180 and 365 days, respectively.

Results

The percentage of cases resolved within 120, 180 and 365 elapsed days after arrest

coincides with the degree courts emphasize solidarity and deemphasize sociability, as shown in

Table 23. The time frames for resolving felony criminal cases expand in the following order of

cultures: Hierarchical, Networked, Autonomous, and Communal.

Table 23
Percentage of Felony Criminal Cases Resolved Within ABA Time Frames[62]

Court	120	180	365	Felonies
Hennepin	74%	87%	95%	5,307
Contra Costa	58%	70%	87%	4,973
Ventura	49%	64%	91%	2,586
Ramsey	72%	91%	96%	2,370
Napa	51%	67%	88%	1,081
Dakota	67%	82%	94%	1,265
Duluth	54%	72%	93%	520
Pinellas	41%	55%	79%	11,002
Duval	68%	76%	82%	6,496
Olmsted	33%	52%	84%	472
Kandiyohi	55%	70%	89%	193
Virgnia	62%	87%	98%	189
ABA Standards	**90%**	**98%**	**100%**	

Turning to the Hierarchical court culture type, Hennepin County has relatively more

cases resolved within 120 days than any other court. It has the second largest percentage at the

180-day marker and the third largest percentage of resolved cases at the 365-day benchmark.[63]

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[62] Resolution includes dismissals, acquittals, convictions, diversions and deferred prosecutions. Timeliness estimates are based on examination of all cases resolved in 2001 according to our analysis of automated data files containing data analysis on key procedural events and dates of each individual resolved case provided to us by each court.

[63] According to the ABA, 90 percent of all felony cases should be resolved within 120 days or fewer after arrest. Whereas no court under study achieves this goal, Hennepin manages to resolve a higher percentage (74%) than any other court.

In the Networked Courts, Ramsey County is among the fastest courts under study. In fact, Ramsey approximates the ABA criterion for resolving all cases within 365 days or fewer more closely than any other court.[64] Ventura is more expeditious, as expected, than all of the Communal courts and two of the Autonomous courts.

Turning to the Autonomous Courts, we find a great deal of variation, as expected. For example, at the 120-day benchmark, Duval and Dakota have resolved of 68% and 67% percent of their filings, respectfully, while Duluth and Pinellas are substantially less successful. At 180 days, Dakota, Duluth, and Duval all have resolved at least 72 % of their cases whereas Pinellas has resolved only 55 %. At 365 days, the two Minnesota courts have resolved at least 90 % of their cases while the Florida courts have resolved no more than 82 %.

The Communal Courts – Olmsted, Kandiyohi, and Virginia – resolve substantially smaller percentages at the 120 and 180 day markers than any of the Hierarchical or Networked Courts. In fact, Olmsted County is the least expeditious of all the courts under study at the first two ABA points of demarcation.

Hence, substantial support exists for the hypothesis that culture matters in how expeditiously courts conduct their business of resolving cases. Cultures emphasizing solidarity are more likely to resolve cases with greater expedition than those courts that do not have a solidarity emphasis. However, there is not a one to one correspondence between a court's cultural orientation and how quickly it executes the task of resolving cases. Virginia, for example, resolves a higher percentage of its cases within 365 days or fewer than any court, including the Hierarchical courts of Hennepin and Contra Costa. Yet, Virginia is a Communal court, which was hypothesized to be the least expeditious.

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[64] According to the ABA, 100 percent of all felony cases should be resolved within 365 days or fewer after arrest. Ramsey manages to resolve 96 percent of its cases within this time frame.

This single counter example does not disconfirm the basic hypothesis. Every culture can be timely. However, some cultures put courts in a more prime position to be expeditious and others to find it more difficult, but not impossible, to carry out business expeditiously. Timeliness will tend to be achieved according to particular ordering of cultures. The courts under study confirm this relationship. Additional corroboration for the hypothesized connection is gained from a separate examination of more refined categories of criminal cases in Minnesota, which includes the largest number of courts in the study. This additional study is included as Appendix 5-1.

<div align="center">**ACCESS, FAIRNESS, AND MANAGERIAL EFFECTIVENESS**</div>

Attorney Perceptions

Viewing the impact of culture solely on the criterion of timeliness is a limited perspective. Previous evaluation research has inquired into the reactions of practicing attorneys on how court actions affect the justice system. Attorneys are in a position to form coherent and informed opinions on how well court plans are carried out.[65]

The current research builds on this research tradition and extends it by considering how culture is related to attorneys' views concerning three fundamental values; (1) access, (2) fairness and (3) managerial effectiveness of the court.

An important question to address is, do attorneys view courts with particular cultures handling cases more closely approximating the ideals of access, fairness and effective management than other cultures? An examination of attorneys' views will advance the understanding of culture's consequences beyond the degree to which a court meets objective of institutional timeliness.

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[65] See, for example,Hanson, Olson, Shuart and Thornton (1984); Chapper, Shuart, Olson, Planet, Connolly and Smith (1984); Chapper and Hanson (1983); Boersema, Hanson and Keilitz (1991); Ostrom and Hanson (1999).

Hypotheses

We anticipate the nature of court culture to play a role in shaping attorneys' assessments of how closely courts, in which they practice, achieve access, fairness, and managerial effectiveness. Because these three values involve the rights and concerns of participants in the trial process other than judges and administrators, courts accenting sociability and downplaying solidarity should likely garner relatively greater positive assessments. Concern for others and willingness to cooperate promote these values and limited solidarity avoid the perception a court is interested only in championing its own needs and interest (e.g., meeting time standards).

Attorneys' views on how closely courts approximate the ideals of access, fairness and managerial effectiveness reflect the nature of the adversary system. These lawyers are not disinterested observers of how a court affects litigants and victims. They have their own stake in how court business is conducted. A well-established proposition about criminal trial courts is that they are organized in terms of individual "court room work groups" (Eisenstein and Jacob, 1977).

A group of prosecutors, public defenders, judges and courtroom staff assigned to the same particular courtroom develop relationships over time on how cases are to be resolved (e.g., what cases should go to trial, what is a reasonable punishment for particular offenses, what are reasonable mitigating circumstances, and so forth). This setting fosters predictability in court decisions, which is a benefit to everyone, including both prosecutors and attorneys. As a result, there are special advantages to Autonomous cultures from the perspectives of both sets of attorneys. In courts with highly Autonomous cultures, the attorneys need not consult or adhere to court wide administrative controls, they can operate by relying on the agreed upon practices formed in the immediate setting where they work everyday. In fact, they likely have internalized

the agreed upon procedures and may be quite resistant to "outside intervention." Hence, we expect they will see courts with Autonomous cultures as approximating the values of access, fairness and managerial effectiveness more closely than those with Hierarchical cultures.

The presence of a Hierarchical culture does not automatically doom a court to negative assessments on values other than timeliness. However, if timeliness is extolled by judges and administrators as the ultimate mark of a "good" court and advantages to attorneys and litigants are not stressed and communicated, a court very well might be seen as interested only in its own agenda and status. Furthermore, if courts with Hierarchical cultures never measure or even show an interest in measuring access, fairness or managerial effectiveness, attorneys are likely to perceive what the court is interested in counting (e.g., the elapsed number of days from arrest to case resolution) is only what courts consider important. Attorneys might view courts with Hierarchical culture positively in achieving timeliness, but they might find those same courts to be ineffective in achieving other values.

Despite the existence of courtroom work groups, and their effect in attenuating the clashes among judges and attorneys in an adversary legal system, prosecutors and public defenders will not agree completely on what sorts of court cultures are most conducive to access, fairness, and managerial effectiveness. They each have their own missions and agendas. Protection of society and protection of constitutional rights are contending perspectives between these two adversaries. As a result, a Networked culture is more conducive to the former and a Communal culture to the latter. The greater spotlight on rules in Networked cultures is more hospitable to prosecutors who seek convictions on the basis of what they consider appropriate charges under existing law. On the other hand, public defenders who seek through negotiation to minimize the loss of liberty for their clients see the virtues of sociability in Communal cultures

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as conducive to working out what is in their client's best interest. Hence, whereas prosecutors and public defenders might agree an Autonomous culture promotes access, fairness and managerial effectiveness better than a Hierarchical culture, they will have different cultural preferences concerning Networked and Communal cultures.

In fact, prosecutors are likely to rate courts in Communal cultures as the least effective in achieving access, fairness and managerial effectiveness while as public defenders will rate them mostly favorably. Public defenders are likely to view courts operating in Networked cultures to be the least effective because they are more prone than other court cultures to take into account the rights and interests of individuals (e.g. victims) and organizations (e.g. MADD) which might possibly conflict with those of criminal defendants.[66] For prosecutors, Networked courts will be second only to Autonomous bodies because they have no quarrel with a court's efforts to be responsive to victims and victim rights organizations. Thus, we posit court cultures will be ranked in the following order of culture from the most to the least effective in achieving access, fairness and managerial effectiveness.

Table 24: Anticipated Rank Order by Culture Type

Prosecutors	Public Defenders
1. Autonomous	1. Communal
2. Networked	2. Autonomous
3. Hierarchy	3. Hierarchy
4. Communal	4. Networked

Results

To test these hypothesized relationships, surveys were conducted of prosecutors and public defenders with at least two years of practice in each of the 12 courts under study. The

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[66] Despite the essential validity of attorneys' perspectives on how well courts achieve access, fairness and managerial effectiveness, questions on how well courts do generally rather than in particular, specific cases might prompt somewhat overly critical views because isolated negative incidents might be remembered more clearly than the general pattern. However, this possible limitation does not negatively impact the current research because such selective remembrances should not vary by culture.

foundation of our survey instrument is drawn from the work conducted by Ostrom and Hanson (1999) and consisted of 46 questions. In all, 590 prosecuting and defense attorneys completed the survey. The questions and average responses for both prosecuting attorneys and defense attorneys for all items in the survey instrument are presented in Appendix 5-2. Additional descriptive statistics on the survey results are shown in Appendix 5-3.

With nearly 600 responses to 46 items, it is difficult to discern patterns across the courts. Therefore, to determine more precisely and rigorously the nature of attorneys' views on the degree to which culture influences the promotion of access, fairness and effective management, the responses of the public defenders and prosecuting attorneys are synthesized into coherent categories by creating three scales – Access, Fairness, and Managerial Effectiveness. Table 25 presents the items in each of the three subscales and Table 26 provides the reliability assessments for the individual scales.[67]

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[67] The Cronbach alpha statistics for scale reliability of the three scales exceed the traditional cut-off of .50 and all have an alpha greater than or equal to .64.

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Table 25

Items Constituting Access, Fairness, and Managerial Effectiveness Scales

Item #	COURT ACCESS SCALE (ACCESS)
	The court takes adequate steps to ensure accuracy and availability of court records.
32	Public areas of the courthouse are safe and accessible.
33	Information can be obtained on a case quickly and easily.
35	Court proceedings are easy to understand and follow.
36	The court is sensitive to the concerns of the average citizen.
37	Court personnel are helpful and courteous.
	PROCEDURAL FAIRNESS SCALE (FAIRNESS)
18	The amount of time judges give to cases is proportional to the amount of time the cases merit.
19	Most juries are representative of the community.
20	The court protects criminal defendants' constitutional rights.
21	There is effective legal representation at all critical stages of the legal process for criminal indigent defendants.
22	Judges give adequate time and attention to the circumstances of individual criminal defendants.
29	Criminal defendants understand the court's rulings.
30	The court is able to process cases efficiently without sacrificing equity and justice.
31	The court takes appropriate responsibility for enforcement of its orders.
	MANAGEMENT SCALE (MANAGE)
11	There is good communication among the court, prosecutor, and public defender when case management problems arise.
12	Effective judicial leadership is one of the strengths of the criminal justice system in this jurisdiction.
13	Effective leadership by the prosecutor is one of the strengths of the criminal justice system in this jurisdiction.
14	Effective leadership among indigent criminal defense attorneys is a strength of the criminal justice system in this jurisdiction.
24	Victims of crime are kept informed of all court settings and offender bond status.
26	The court works well with other components of the criminal justice system (e.g., DA, PD, Police, Probation).
34	The court spends its funds wisely.

Table 26

Reliability Measures of Attorney Scales

Scales	Prosecutor Responses			Public Defender Responses		
	# of Items	Cronbach alpha	Tukey's power to achieve additivity	# of Items	Cronbach alpha	Tukey's power to achieve additivity
Court Access	6	0.73	1.02	6	0.70	1.35
Procedural Fairness	8	0.67	2.34	8	0.75	1.86
Management	6	0.66	1.55	6	0.64	2.07

The access scale is designed to measure multiple facets of the courts' availability and accessibility to the public and to attorneys' access to the courts. Items range from a sense of whether a courthouse is safe; to whether court personnel are courteous; court proceedings are easy to follow; records are accurate; case information is available; and sensitivity is shown to the concerns of average citizens.

The fairness scale contains eight items focusing attention on the amount of time given to cases, representativeness of juries, protection of constitutional rights, provision of effective representation, equity, attention given to circumstances of individual cases, a concern for rendering comprehensible rulings, and the enforcement of orders. The managerial effectiveness scale includes the court's effectiveness on communication, leadership, victim awareness, and expenditure of public resources.

Attorneys' views on three scales are standardized statistically.[68] The more positive the evaluation, the higher the standardized score. The more critical the evaluation, the lower the negative score. A graphic display of the results is found in Table 27. The views of prosecutors are read vertically (from minus 2 to plus 2) and the views of criminal defense attorneys are read horizontally (from minus 2 to plus 2). For both sets of attorneys, a neutral point of view is shown as "0". Thus, when both prosecutors and defense counsel rate a court positively, that court's name appears in the upper right hand quadrant. If both have negative views, the court appears in the bottom left quadrant.

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[68] To have a mean of zero and a standard deviation of 1.00.

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Table 27
Prosecutor and Public Defenders' Assessments of How Court Performance

Access

Fairness

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Managerial Effectiveness
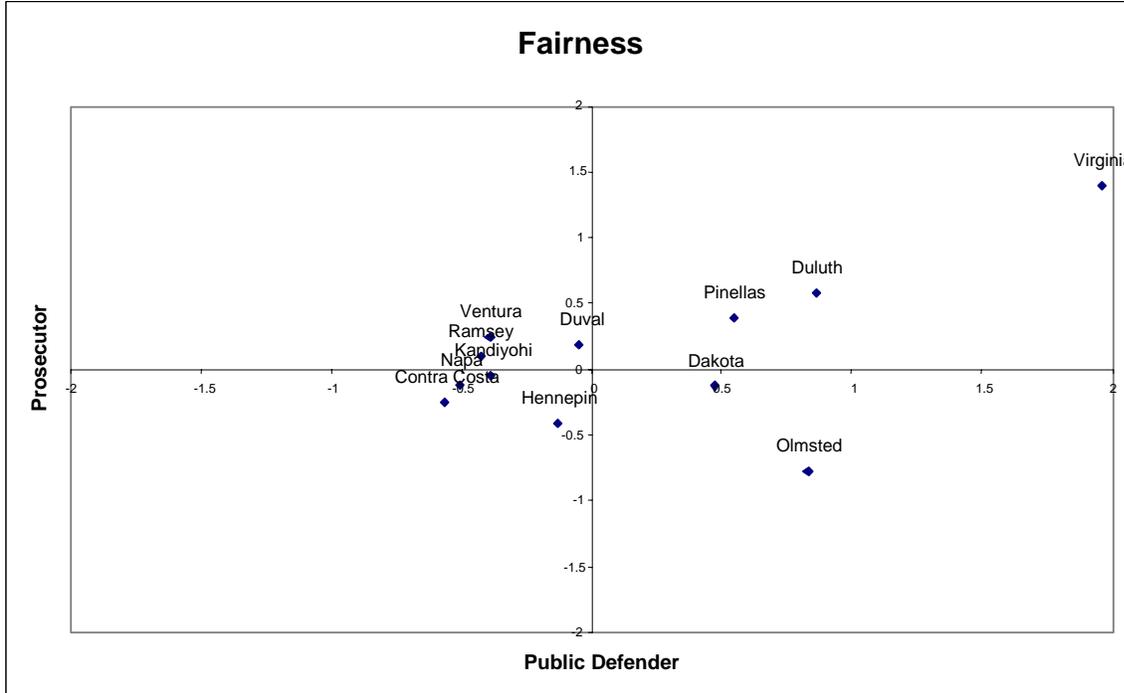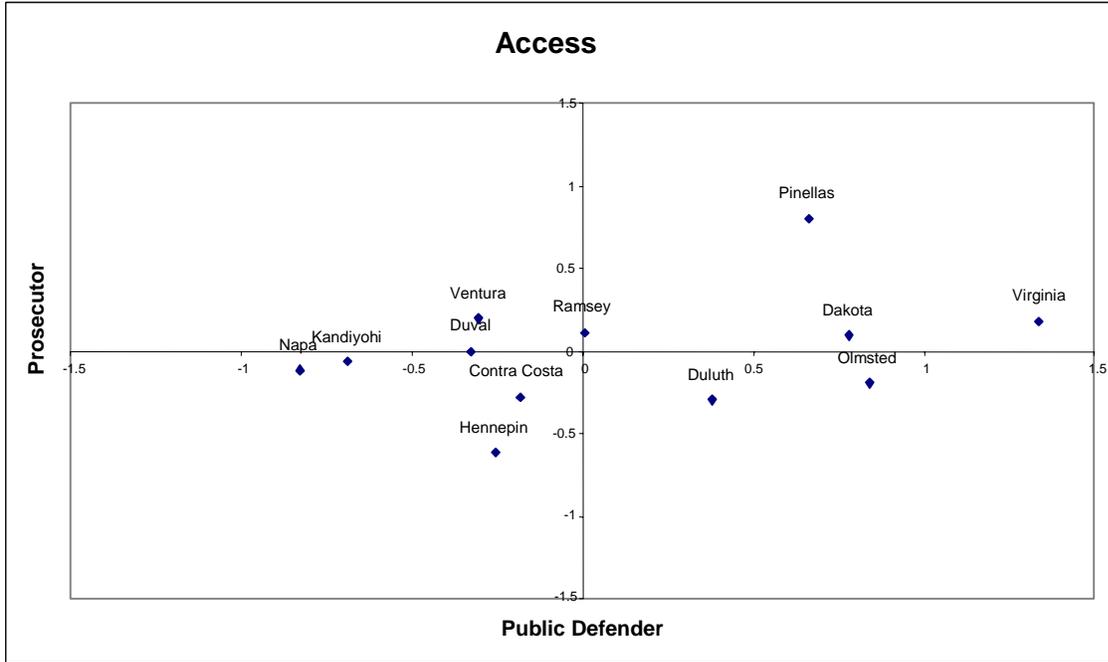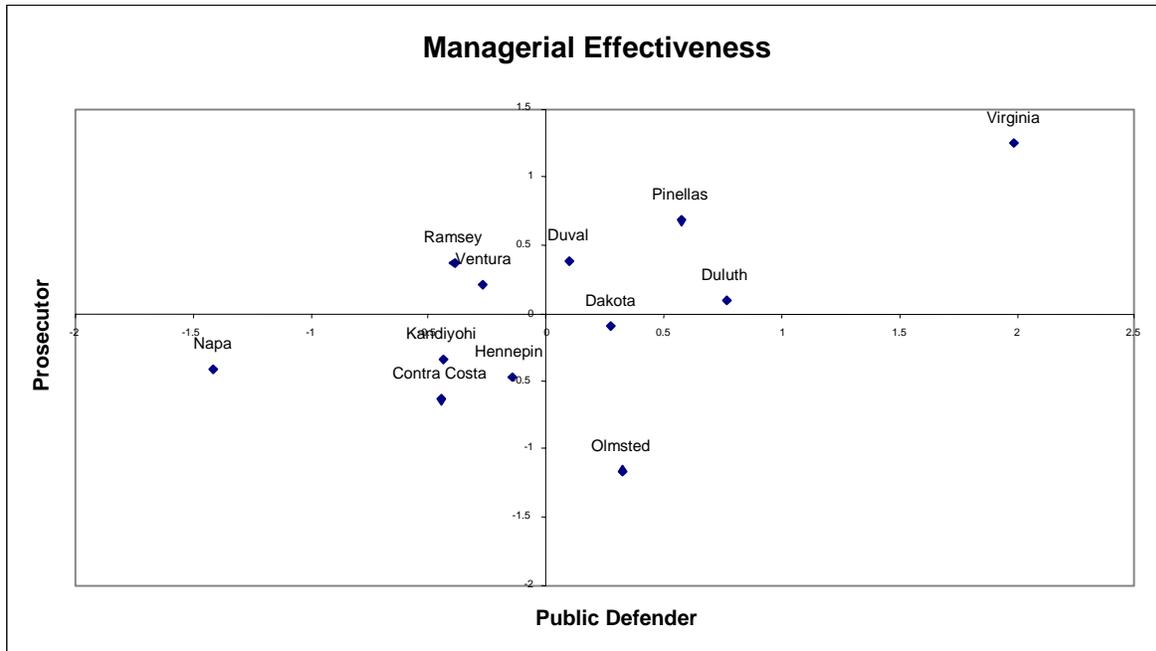
An examination of the three plots in Table 27 reveals courts distributed across all four quadrants for each of the three court performance areas. In addition, there are some clear patterns in attorney attitudes. Both public defenders and prosecuting attorneys typically view courts low on both solidarity and sociability as promoting fairness more than courts with other cultures. With the exception of Virginia (Communal), Pinellas (Autonomous) and Duluth (Autonomous) generally receive positive evaluations from both types of attorneys across all three values. Contra Costa (Hierarchy), Hennepin (Hierarchy), Napa (Networked), and Kandiyohi (Communal) tend to receive negative evaluations from both types of attorneys across all three values. In Duval (Autonomous), Ramsey (Networked), and Ventura (Networked) the public defenders are negative while the prosecutors are positive. In Olmsted (Communal) and Dakota (Autonomous), the public defenders are positive while the prosecutors are negative. Hence, an initial examination of the survey scales generally confirms our expectations: courts with similar

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cultures tend to foster similar attorney attitudes. To better clarify this last observation, we take our analysis one additional step.

A refined perspective on the linkage between culture and key values is gained by combining attorneys from each of the four cultural types and determining if prosecutors (or public defenders) have consistent views on the courts' efforts to achieve access, fairness or managerial effectiveness. That is, it allows for a comparison of the views of attorneys working in Hierarchical courts with attorneys working in Communal courts and so on. This analysis will indicate more decidedly whether culture has uniform consequences as opposed to court-specific consequences. Our hypothesis is: The culture of the courthouse will have a discernible impact on the views of attorneys with respect to these three important areas of court performance.

Substantial correspondence between the expected and the observed is evident by attorneys from Autonomous courts rating the efforts of their courts in promoting access, fairness, and managerial effectiveness positively, as shown in Table 28. At the same time, attorneys in Hierarchical cultures rate their courts' efforts negatively. Networked courts receive relatively high marks from the prosecuting attorneys and below average evaluations from the public defenders. The Communal courts receive relatively high marks from the public defenders and relative low evaluations from the prosecuting attorneys as expected.

Table 28
Prosecutors and Public Defenders Views on Court Performance
Grouped by Culture

Managerial Effectiveness
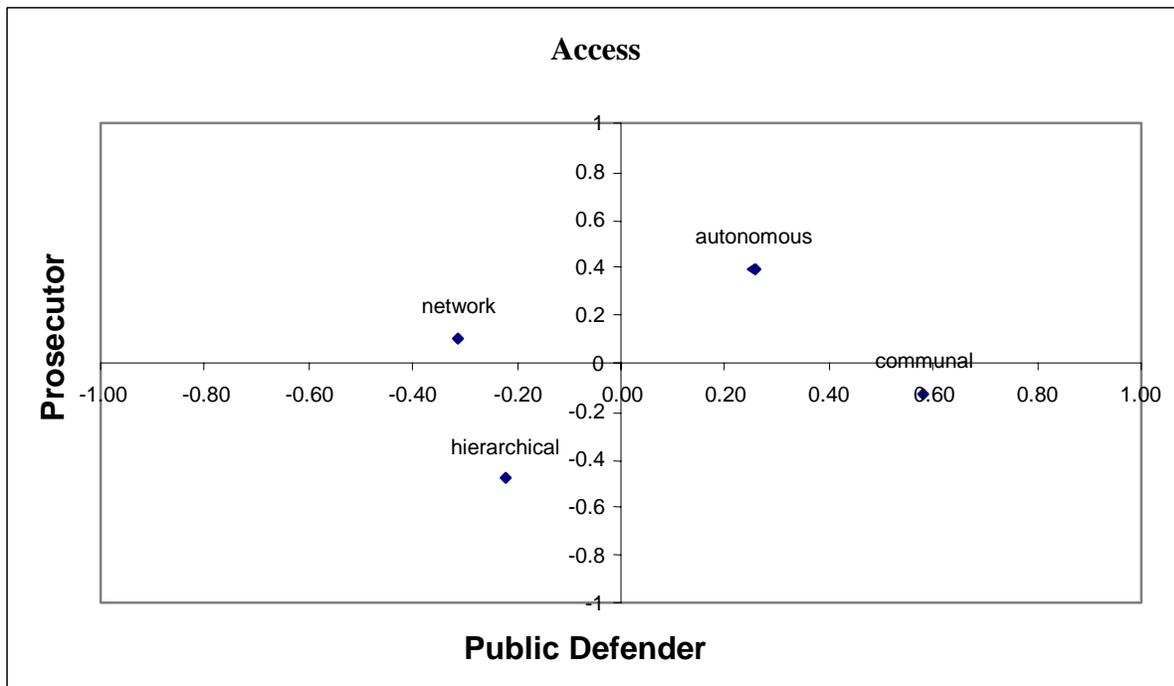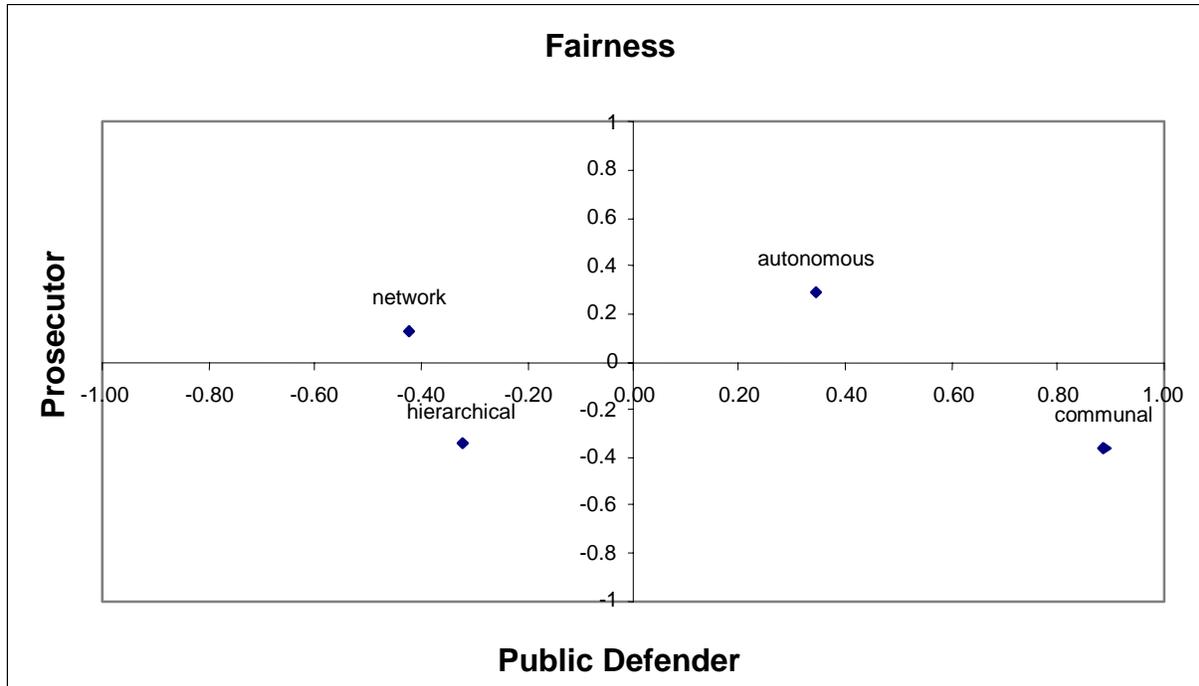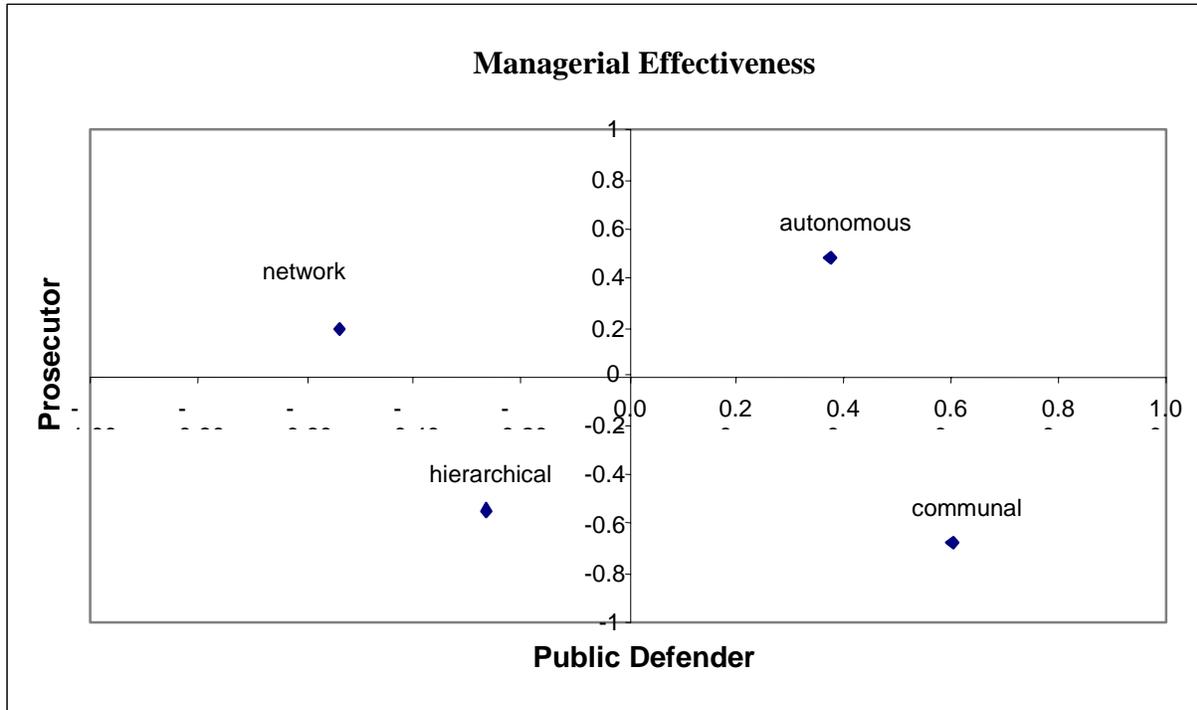
Attorneys view Hierarchical cultures promoting access, fairness, and managerial effectiveness less adequately than they promote timeliness are consistent with academic critiques of courts. A school of thought contends courts are only interested in aggregate level concepts and have forgotten the meaning of justice as rendering attention to individual cases.[69] Such criticism should alert courts to avoid extolling and heralding timeliness and neglecting other values, such as access and fairness. Recommendations are offered in Chapter 7 on how courts can achieve timeliness and other values simultaneously thereby countering the assertion they have abandoned traditional notions of justice.

While likely surprising to those favoring strong caseflow management, Autonomous cultures are viewed more favorably than Hierarchy culture in promoting access, fairness and

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[69] This criticism goes beyond the critiques of caseflow management. The academic critics assert that judicial administration has shifted from traditional concerns about the individual to managing aggregates. This criticism was initially aimed at corrections, hence, the name of "the new penology" and used to describe the shift from punishing individuals to managing aggregates of dangerous groups of prisoners. However, as the scholars developed their ideas, courts became targets of criticism for their alleged focus on managing aggregate caseloads and backlogs rather than doing justice in individual cases. See, for example, Feeley and Simon (1992), (1995) and (2002).

managerial effectiveness. These findings demonstrate the combined effect of culture and the individual focus of the courtroom work group. Hierarchy with its emphasis on solidarity and low emphasis on sociability puts a court in a position as being seen as concerned with its own needs and circumstances. Timeliness is perceived to be strictly for the court's benefit and the court has little interest in the rights and circumstances of litigants, victims or attorneys. Hence, it is understandable attorneys rate such courts as struggling in the areas of access, fairness and managerial effectiveness.

The attorneys' interests in maintaining the advantages of courtroom workgroup lead them to see Autonomous cultures more favorably than Hierarchy when it comes to values such as access, fairness, and managerial effectiveness. The pull of maintaining the of courtroom work group relationships will slant the attorneys' views on these three values. Attorneys will see themselves and litigants having greater access, being treated more fairly and courts acting more effectively in cultures most conducive to the maintenance of the courtroom workgroup.

However, understandable differences between prosecutors and public defenders in their assessments of cultural orientations also arise. The prosecutorial mission of protecting society, bringing only provable charges and gaining convictions is more consistent with a solidarity-based culture than a sociability-based one. Emphasis on procedures, and compliance to them emanating from solidarity, is much more appealing to prosecutors than court practices in Communal cultures. As a result, prosecutors see Autonomous cultures most favorably and Communal the least favorably. Their next preferred culture is be Networked followed by Hierarchical with Communal rated last.

The mission of protecting individual constitutional rights, minimizing the loss of liberty and negotiating the favorable outcome for individual defendants draws public defenders to

Communal courts. Communal courts offer less confrontation, more relaxed rules and a desire for mutually beneficial outcomes, all of which are more in line with a public defender's posture. Hence, it should be expected that courts in Communal cultures are rated by public defenders most positively in achieving access, fairness and managerial effectiveness, followed by courts in Autonomous cultures. Moreover, public defenders view courts in Hierarchical cultures more favorably than those in Networked cultures because the latter is a situation where the court's treatments of victims and groups outside the court (e.g., MADD) are seen as possibly being advanced above those of criminal defendants.

Returning to the hypotheses concerning the ordering of culture by attorneys, they compare well with actual orderings. A summary of how court cultures compare according to attorneys' assessments is shown below in Table 29.

Table 29
Prosecutor and Public Defender Cultural Rank Orderings

Procedural Fairness		Access to Courts		Management	
Prosecutor	Defense	Prosecutor	Defense	Prosecutor	Defense
Autonomous	Communal	Autonomous	Communal	Autonomous	Communal
Networked	Autonomous	Networked	Autonomous	Networked	Autonomous
Hierarchical	Hierarchical	Communal	Hierarchical	Hierarchical	Hierarchical
Communal	Networked	Hierarchical	Networked	Communal	Networked

However, these findings add further complexity to the cultural landscape. As noted earlier in Chapter 3, the judges and senior administrators describe the <u>current</u> culture of their courts as a combination of different cultures. We now see that the prosecutors and public defenders have different views on court performance from those of the judiciary and from each other.

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CONCLUSIONS

Cultural orientations in the courthouse make a difference in the degree courts achieve important goals, such as timeliness, access, fairness, and managerial leadership. Courts with Hierarchical predispositions resolve cases more timely than other cultures, but they tend to be assessed less favorably in promoting access, fairness and managerial leadership, by prosecutors and public defenders practicing in the courts.

Both sets of attorneys see courts in Autonomous cultures providing greater degrees of access, fairness and managerial effectiveness than courts in Hierarchical cultures. The attorneys' positive views of Autonomous cultures are understandable given they reap the advantages of "court room work group relations" most clearly in those cultures. They benefit from the predictability of working daily with the same judge, opposing counsel and court staff and coming to arrive at mutually agreed upon ways of resolving cases free from the intervention of rules, norms or values outside "their" courtroom. The benefits and familiarity of courtroom work group relations lead attorneys to see litigants and themselves treated better in terms of access, fairness and managerial effectiveness than in cultures not as conducive to maintaining the work group.

However, prosecutors and public defenders have differences in their views about the relative merits of other cultures. Prosecutors prefer the solidarity of Networked and Hierarchical cultures more than the sociability of Communal cultures. On the other hand, public defenders see courts in Communal cultures achieving access, fairness and managerial effectiveness most closely because this culture likely enhances their role in gaining the best resolution for their client. Communal cultures will be seen even more favorably by public defenders than Autonomous cultures. Networked cultures are likely to be seen by public defenders as the least

conducive to access, fairness and managerial effectiveness because courts in these cultures might be more responsive to the interests of victims and victims' rights organizations whose rights and interests possibly collide with those of criminal defendants.

The bottom line is that culture matters to trial court performance. The way a public organization organizes itself – in other words, its' social architecture – clearly shapes the way the organization performs. In the next chapter, we explore whether judges and senior administrators make this connection in formulating their desire for their preferred cultural orientation.

APPENDIX 5-1: IN-DEPTH FOCUS ON MINNESOTA

Table 5-1 breaks down all criminal cases into finer categories to see how timeliness standards hold across all types of criminal cases in the seven Minnesota sites.

Table 5-1
Median Number of Elapsed Days From the Date of Arrest to Resolution

Current Casetype	Dakota Median	N	Hennepin Median	N	Kandiyohi Median	N	Olmstead Median	N	Ramsey Median	N	Duluth Median	N	Virginia Median	N
Misdemeanor	52	509	21	986	87	102	96	102	42	684	84	78	66	50
Petty Misdemeanor	77	30	1	65	101	3	175	2	25	24	95	1	57	2
Misdemeanor - Domestic Assault	101	46	24	20	68	3	68	6	85	44	69	14	59	3
Misdemeanor - DWI	43	217	28	140	22	5	156	6	33	59	41	44	26	14
Misdemeanor - Fifth Degree	97	22	52	11			158	5	95	18	56	7	88	5
Misdemeanor Average	**52**	**824**	**21**	**1,222**	**87**	**113**	**102**	**121**	**44**	**829**	**65**	**144**	**64**	**74**
Gross Misd - Domestic Assault	101	73	31	176	57	1	96	8	66	39	77	27	74	8
Gross Misdemeanor DWI	51	830	25	2,538	53	103	53	291	36	1,023	76	356	44	152
Gross Misdemeanor - Fifth Degree	122	15	31	35			355	2	84	45	71	6	109	3
Gross Misdemeanor	54	609	29	3,032	89	161	52	288	42	1,240	69	193	49	105
Gross Misdemeanor Average	**53**	**1,527**	**28**	**5,781**	**77**	**265**	**54**	**589**	**41**	**2,347**	**73**	**582**	**47**	**268**
Serious Felony	181	46	126	289	190	8	228	42	132	95	178	32	142	13
Felony	78	1,191	60	4,984	111	184	173	424	88	2,270	98	462	98	172
Felony Fifth Degree			54	16										
Felony - Domestic Assault	71	28	110	10			170	6	97	4	165	14	114	1
Felony - EJJ			0	8	0	1			0	1				
Felony Average	**81**	**1,265**	**64**	**5,307**	**113**	**193**	**174**	**472**	**80**	**2,370**	**105**	**508**	**99**	**186**

Hennepin, the single Hierarchical court is substantially faster than the other six courts, as shown in Table 5-1. The median number of days from the date of arrest to resolution is shorter in misdemeanors (twenty-one), gross misdemeanors (twenty-eight) and felonies (sixty-four) than any other court.[70] Ramsey is the second fastest in each of the categories with a median of forty-four days in misdemeanors, forty-one days in gross misdemeanors, and eighty days in felonies. As expected, Ramsey which is a Networked culture is not as expeditious as Hennepin, but it is more expeditious than all other counties.

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[70] A median is a half way point in a set of cases. Timeliness as measured by the use of a median figure means that 50% of the cases are resolved in fewer than the median number and 50% take more than the median number. In Hennepin, for example, half of the felony cases are resolved in fewer than 64 days and 50% take more than 64 days to resolve. In contrast, in Olmsted, 50% of the cases are resolved in fewer than 96 days and 50% take more than 96 days to resolve.

The two Autonomous Courts, Dakota and Duluth, are substantially slower than Hennepin and Ramsey in both the misdemeanor and gross misdemeanor categories. With the exception of Virginia, the Communal Courts are the least expeditious courts. Kandiyohi has a median of 87 days in misdemeanors, 77 days in gross misdemeanors, and 113 days in felonies while Olmsted has a median of 102 days in misdemeanors, 54 days in gross misdemeanors and 174 days in felonies. The differences between these two courts and the two courts emphasizing solidarity in their culture are dramatic.

One important question arising from these results is whether courts underscoring solidarity spend less time on their cases than do the other courts. Table 5-2 presents pertinent information on "case weights" based on a separate workload study on the Minnesota courts.[71]

Table 5-2
Average Amount of Time spent by Judges and Court Staff

District Case Weights for Major and Minor Criminal from 2002 Time Study							
	Dakota	Hennepin	Kandiyohi	Olmsted	Ramsey	Duluth	Virginia
	1st District	4th District	8th District	3rd District	2nd District	6th District	
Case Type							
5th Degree Assault (27)	26	13	30	74	31	30	
Non-traffic MSD/ petty (6)	5	4	8	7	11	7	
MSD DWI (14)	10	6	37	23	12	20	
Minor Criminal (8.4)	**7.0**	**5.1**	**11.6**	**12.9**	**12.5**	**9.4**	
Serious Felony (852)	1,199	1,211	262	912	714	137	
Other Felony (106)	101	124	116	113	113	97	
Gross MSD DWI (47)	37	48	69	65	33	54	
Other Gross MSD (38)	43	33	67	43	24	49	
Major Criminal (87)	**86**	**102**	**96**	**103**	**78**	**75**	

Source: National Center for State Courts, Minnesota Workload Assessment (2002)

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[71] Case weights are estimates of how much work time, in hours, judges and court staff spend, on average, in resolving different types of criminal cases. The larger the case weight, the greater the average amount of work time.

In the minor criminal domain, Hennepin spends less work time than any of the other courts. However, in the handling of major criminal cases, the 102 minutes on average that judges in Hennepin County spend is at the top. This finding suggests Hennepin has put procedures and policies in place enabling judges to spend time more directly proportional to the seriousness of the cases than the other courts. Consequently, Hennepin's timely case resolution is not accomplished simply by giving less attention to cases, but instead, by emphasizing solidarity, available work time is distributed more closely with case seriousness than in the other five courts.[72]

Taken together, the evidence in Tables 5-1 and 5-2 provides support for the hypothesis court culture plays role in the timeliness aspect of court performance. Courts accentuating solidarity have a faster time to resolution than do those bodies not having a solidarity emphasis. It is also important to remember that more expeditiousness does not automatically suggest that less judge time is being spent on cases. Rather time is being apportioned according to seriousness.

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[72]The principle of proportionality states every case should receive individual attention, but the amount of attention should be proportional to the attention the case warrants. More complicated, difficult and serious cases should receive more attention than routine, relatively uncomplicated and less serious cases. This principle is intended to maintain equality and due process in the treatment of cases, but it is also intended to achieve those values in light of limited resources (Woolf (1996); Ostrom and Hanson (1999)). We believe the information on case weights indicates Hennepin does not achieve timeliness by a disregard for the seriousness of the offenses. Judicial attention in Hennepin is in proportion to case seriousness. However, Hennepin's Hierarchical culture contributes to resolving cases within a tighter time frame than the other courts in the state.

APPENDIX 5-2: ATTORNEY SURVEY
PUBLIC DEFENDERS QUESTIONS 1-21

Court Culture and Performance Project
National Center for State Courts

Trial Court Process Survey

Thank you very much for participating in our project. We would like all prosecuting attorneys and public defenders to complete this survey

From my point of view:	How Strongly Agree or Disagree					
	Strongly Disagree	Disagree	Neither Agree or Disagree	Agree	Strongly Agree	Not Applicable
1 Delay in felony case adjudication is a problem in this jurisdiction.	1	2	3	4	5	NA
2 There are clear goals in this jurisdiction for how long it should take to dispose of felony cases.	1	2	3	4	5	NA
3 Our system should be able to dispose 100% of all felony cases within 1 year after first arrest.	1	2	3	4	5	NA
4 Our court has enough judges to dispose of 100% of felony cases within 1 year after first arrest.	1	2	3	4	5	NA
5 The prosecutor's office has enough attorneys to dispose of 100% of felony cases within 1 year after first arrest.	1	2	3	4	5	NA
6 The system of indigent criminal defense has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	1	2	3	4	5	NA
7 Effective prosecutorial screening and charging procedures minimize the number of felony cases eventually dismissed.	1	2	3	4	5	NA
8 Prosecutor discovery practices do not cause delay in felony adjudication in this jurisdiction.	1	2	3	4	5	NA
9 Public defender discovery practices do not cause delay in felony adjudication in this jurisdiction.	1	2	3	4	5	NA
10 The court adequately monitors the progress of felony cases in this jurisdiction.	1	2	3	4	5	NA
11 There is good communication among the court, prosecutor, and public defender when case management problems arise.	1	2	3	4	5	NA
12 Effective judicial leadership is one of the strengths of the criminal justice system in this jurisdiction.	1	2	3	4	5	NA
13 Effective leadership by the prosecutor is one of the strengths of the criminal justice system in this jurisdiction.	1	2	3	4	5	NA
14 Effective leadership among indigent criminal defense attorneys is a strength of the criminal justice system in this jurisdiction.	1	2	3	4	5	NA
15 The prosecutor's plea bargaining policies contribute to unnecessary delay in felony cases.	1	2	3	4	5	NA
16 Indigent criminal defense attorneys' plea bargaining policies contribute to unnecessary delay in felony cases.	1	2	3	4	5	NA
17 Multiple trial date continuances are routinely granted by judges in felony cases.	1	2	3	4	5	NA
18 The amount of time judges give to cases is proportional to the amount of time the cases merit.	1	2	3	4	5	NA
19 Most juries are representative of the community.	1	2	3	4	5	NA
20 The court protects criminal defendants' constitutional rights.	1	2	3	4	5	NA
21 There is effective legal representation at all critical stages of the legal process for criminal indigent defendants.	1	2	3	4	5	NA

APPENDIX 5-2: ATTORNEY SURVEY
PUBLIC DEFENDERS QUESTIONS 22-46

From my point of view:	How Strongly Agree or Disagree					
	Strongly Disagree	Disagree	Neither Agree or Disagree	Agree	Strongly Agree	Not Applicable
22 Judges give adequate time and attention to the circumstances of individual criminal defendants.	1	2	3	4	5	NA
23 In the past five years, our office budget has kept pace with the increase in our caseload.	1	2	3	4	5	NA
24 Victims of crime are kept informed of all court settings and offender bond status.	1	2	3	4	5	NA
25 The court takes adequate steps to ensure accuracy and availability of court records.	1	2	3	4	5	NA
26 The court works well with other components of the criminal justice system (e.g., DA, PD, Police, Probation).	1	2	3	4	5	NA
27 I receive fair compensation for my work as an attorney.	1	2	3	4	5	NA
28 The court has adequate facilities for effective and convenient handling of felony cases.	1	2	3	4	5	NA
29 Criminal defendants understand the court's rulings.	1	2	3	4	5	NA
30 The court is able to process cases efficiently without sacrificing equity and justice.	1	2	3	4	5	NA
31 The court takes appropriate responsibility for enforcement of its orders.	1	2	3	4	5	NA
32 Public areas of the courthouse are safe and accessible.	1	2	3	4	5	NA
33 Information can be obtained on a case quickly and easily.	1	2	3	4	5	NA
34 The court spends its funds wisely.	1	2	3	4	5	NA
35 Court proceedings are easy to understand and follow.	1	2	3	4	5	NA
36 The court is sensitive to the concerns of the average citizen.	1	2	3	4	5	NA
37 Court personnel are helpful and courteous.	1	2	3	4	5	NA

How would you rate the following:	How would you rate the following					
	Poor		Adequate		Excellent	Don't Know
38 Prosecutors' office experience with felony cases	1	2	3	4	5	NA
39 Prosecutors' preparation for felony hearings and trials	1	2	3	4	5	NA
40 Prosecutors' office felony trial skills	1	2	3	4	5	NA
41 Public Defenders' in your office, experience with felony cases	1	2	3	4	5	NA
42 Public Defenders' in your office, preparation for felony hearings and trials	1	2	3	4	5	NA
43 Public Defenders' in your office, felony trial skills	1	2	3	4	5	NA
44 Privately retained criminal defense attorneys' experience with felony cases	1	2	3	4	5	NA
45 Privately retained criminal defense attorneys' preparation for felony hearings and trials	1	2	3	4	5	NA
46 Privately retained criminal defense attorneys' felony trial skills	1	2	3	4	5	NA

APPENDIX 5-2: ATTORNEY SURVEY
PROSECUTORS QUESTIONS 1-21

Court Culture and Performance Project
National Center for State Courts

Trial Court Process Survey

Thank you very much for participating in our project. We would like all prosecuting attorneys and public defenders to complete this survey

	From my point of view:	Strongly Disagree	Disagree	Neither Agree or Disagree	Agree	Strongly Agree	Not Applicable
				How Strongly Agree or Disagree			
1	Delay in felony case adjudication is a problem in this jurisdiction.	1	2	3	4	5	NA
2	There are clear goals in this jurisdiction for how long it should take to dispose of felony cases.	1	2	3	4	5	NA
3	Our system should be able to dispose 100% of all felony cases within 1 year after first arrest.	1	2	3	4	5	NA
4	Our court has enough judges to dispose of 100% of felony cases within 1 year after first arrest.	1	2	3	4	5	NA
5	The prosecutor's office has enough attorneys to dispose of 100% of felony cases within 1 year after first arrest.	1	2	3	4	5	NA
6	The system of indigent criminal defense has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	1	2	3	4	5	NA
7	Effective prosecutorial screening and charging procedures minimize the number of felony cases eventually dismissed.	1	2	3	4	5	NA
8	Prosecutor discovery practices do not cause delay in felony adjudication in this jurisdiction.	1	2	3	4	5	NA
9	Public defender discovery practices do not cause delay in felony adjudication in this jurisdiction.	1	2	3	4	5	NA
10	The court adequately monitors the progress of felony cases in this jurisdiction.	1	2	3	4	5	NA
11	There is good communication among the court, prosecutor, and public defender when case management problems arise.	1	2	3	4	5	NA
12	Effective judicial leadership is one of the strengths of the criminal justice system in this jurisdiction.	1	2	3	4	5	NA
13	Effective leadership by the prosecutor is one of the strengths of the criminal justice system in this jurisdiction.	1	2	3	4	5	NA
14	Effective leadership among indigent criminal defense attorneys is a strength of the criminal justice system in this jurisdiction.	1	2	3	4	5	NA
15	The prosecutor's plea bargaining policies contribute to unnecessary delay in felony cases.	1	2	3	4	5	NA
16	Indigent criminal defense attorneys' plea bargaining policies contribute to unnecessary delay in felony cases.	1	2	3	4	5	NA
17	Multiple trial date continuances are routinely granted by judges in felony cases.	1	2	3	4	5	NA
18	The amount of time judges give to cases is proportional to the amount of time the cases merit.	1	2	3	4	5	NA
19	Most juries are representative of the community.	1	2	3	4	5	NA
20	The court protects criminal defendants' constitutional rights.	1	2	3	4	5	NA
21	There is effective legal representation at all critical stages of the legal process for criminal indigent defendants.	1	2	3	4	5	NA

APPENDIX 5-2: ATTORNEY SURVEY
PROSECUTORS QUESTIONS 22-46

From my point of view:	How Strongly Agree or Disagree					
	Strongly Disagree	Disagree	Neither Agree or Disagree	Agree	Strongly Agree	Not Applicable
22 Judges give adequate time and attention to the circumstances of individual criminal defendants.	1	2	3	4	5	NA
23 In the past five years, our office budget has kept pace with the increase in our caseload.	1	2	3	4	5	NA
24 Victims of crime are kept informed of all court settings and offender bond status.	1	2	3	4	5	NA
25 The court takes adequate steps to ensure accuracy and availability of court records.	1	2	3	4	5	NA
26 The court works well with other components of the criminal justice system (e.g., DA, PD, Police, Probation).	1	2	3	4	5	NA
27 I receive fair compensation for my work as an attorney.	1	2	3	4	5	NA
28 The court has adequate facilities for effective and convenient handling of felony cases.	1	2	3	4	5	NA
29 Criminal defendants understand the court's rulings.	1	2	3	4	5	NA
30 The court is able to process cases efficiently without sacrificing equity and justice.	1	2	3	4	5	NA
31 The court takes appropriate responsibility for enforcement of its orders.	1	2	3	4	5	NA
32 Public areas of the courthouse are safe and accessible.	1	2	3	4	5	NA
33 Information can be obtained on a case quickly and easily.	1	2	3	4	5	NA
34 The court spends its funds wisely.	1	2	3	4	5	NA
35 Court proceedings are easy to understand and follow.	1	2	3	4	5	NA
36 The court is sensitive to the concerns of the average citizen.	1	2	3	4	5	NA
37 Court personnel are helpful and courteous.	1	2	3	4	5	NA

How would you rate the following:	How would you rate the following					
	Poor		Adequate		Excellent	Don't Know
38 Prosecutors' office experience with felony cases	1	2	3	4	5	NA
39 Prosecutors' preparation for felony hearings and trials	1	2	3	4	5	NA
40 Prosecutors' office felony trial skills	1	2	3	4	5	NA
41 Public Defenders' in your office, experience with felony cases	1	2	3	4	5	NA
42 Public Defenders' in your office, preparation for felony hearings and trials	1	2	3	4	5	NA
43 Public Defenders' in your office, felony trial skills	1	2	3	4	5	NA
44 Privately retained criminal defense attorneys' experience with felony cases	1	2	3	4	5	NA
45 Privately retained criminal defense attorneys' preparation for felony hearings and trials	1	2	3	4	5	NA
46 Privately retained criminal defense attorneys' felony trial skills	1	2	3	4	5	NA

Appendix 5-3: Attorney Survey Results

#	Item	Contra Costa Public Defender Mean	N	sd	Contra Costa Prosecutor Mean	N	sd	Napa Public Defender Mean	N	sd	Napa Prosecutor Mean	N	sd	Ventura Public Defender Mean	N	sd	Ventura Prosecutor Mean	N	sd	Duval Public Defender Mean	N	sd	Duval Prosecutor Mean	N	sd
	JURISDICTIONAL PRACTICE SCALE																								
1	Delay in felony case adjudication is NOT a problem in this jurisdiction.	4.06	35	0.76	2.60	43	1.00	4.09	11	0.70	2.85	13	1.21	3.34	29	1.01	3.17	36	1.13	3.55	38	0.86	3.03	35	1.04
7	Effective prosecutorial screening and charging procedures minimize the number of felony cases eventually dismissed.	2.47	36	1.21	4.20	44	0.79	2.09	11	1.38	4.14	14	0.66	2.45	29	1.21	4.32	37	0.71	2.87	39	1.20	4.47	36	0.65
8	Prosecutor discovery practices do not cause delay in felony adjudication in this jurisdiction.	1.83	36	0.88	3.77	44	1.01	2.00	11	1.34	4.14	14	0.95	1.93	28	1.02	3.97	37	0.73	2.05	39	0.79	4.03	36	0.94
10	The court adequately monitors the progress of felony cases in this jurisdiction.	3.57	35	0.88	2.73	44	0.85	2.64	11	0.92	2.64	14	1.08	3.28	29	1.03	3.25	36	1.05	3.62	39	0.78	3.33	36	0.89
15	The prosecutor's plea bargaining policies DO NOT contribute to unnecessary delay in felony cases.	2.28	36	0.91	4.14	44	0.77	1.73	11	1.27	3.43	14	1.40	1.97	29	1.35	3.97	34	1.14	1.77	39	0.81	4.28	36	0.66
9	Public defender discovery practices do not cause delay in felony adjudication in this jurisdiction.	3.67	36	1.01	2.48	44	1.02	3.64	11	1.03	2.43	14	1.28	3.75	28	1.04	2.81	37	1.10	3.36	39	0.84	2.06	36	1.19
16	Indigent criminal defense attorneys' plea bargaining policies DO NOT contribute to unnecessary delay in felony cases.	3.77	35	0.91	2.36	44	0.87	4.00	11	0.77	3.14	14	1.29	4.15	26	0.83	3.35	34	1.15	3.69	39	0.92	2.44	36	1.13
	PROCEDURAL FAIRNESS SCALE																								
18	The amount of time judges give to cases is proportional to the amount of time the cases merit.	2.44	36	0.91	2.68	44	0.83	2.00	10	0.82	3.13	15	0.92	2.76	29	0.87	3.42	38	1.08	2.87	39	1.00	3.50	36	0.94
19	Most juries are representative of the community.	1.28	36	0.51	3.80	44	0.85	2.00	11	1.10	3.40	15	0.99	2.07	29	1.22	3.61	38	0.97	2.49	39	1.14	2.61	36	1.10
20	The court protects criminal defendants' constitutional rights.	1.83	36	0.65	4.49	45	0.51	2.09	11	0.83	4.33	15	0.62	2.07	29	0.84	4.42	38	0.55	2.62	39	0.99	4.44	36	0.56
21	There is effective legal representation at all critical stages of the legal process for criminal indigent defendants.	3.78	36	1.17	4.16	44	0.89	3.55	11	1.21	4.20	15	0.56	3.48	29	1.15	4.24	38	0.85	3.34	38	1.02	4.22	36	0.68
22	Judges give adequate time and attention to the circumstances of individual criminal defendants.	1.83	36	0.65	3.55	44	0.93	2.00	11	0.89	3.80	15	0.77	2.07	29	0.75	3.82	38	0.80	2.36	39	0.90	3.97	35	0.71
29	Criminal defendants understand the court's rulings.																								
30	The court is able to process cases efficiently without sacrificing equity and justice.	1.94	36	0.83	2.96	45	1.02	2.00	11	1.10	3.33	15	0.98	2.14	29	0.95	3.68	38	0.84	2.13	39	0.77	3.53	36	0.81
31	The court takes appropriate responsibility for enforcement of its orders.	3.03	34	0.94	2.57	44	0.87	3.18	11	0.60	2.64	14	1.08	2.97	29	0.82	3.13	38	1.02	3.33	39	0.96	3.61	36	0.87
	RESOURCE SCALE																								
3	Our system should be able to dispose 100% of all felony cases within 1 year after 1st arrest.	1.63	35	0.73	2.95	44	1.28	2.27	11	1.27	3.93	14	1.14	2.17	29	1.17	3.38	37	1.30	2.87	39	1.22	2.97	36	1.23
4	Our court has enough judges to dispose 100% of felony cases within 1 year after 1st arrest.	2.79	34	1.23	2.53	45	1.25	3.27	11	1.42	3.92	13	1.26	3.10	29	1.11	3.56	36	1.08	3.23	39	1.16	3.06	36	1.31
5	The prosecutor's office has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	3.54	35	1.12	2.77	44	1.36	4.00	11	1.00	3.86	14	0.95	3.83	29	0.93	2.78	37	1.32	3.31	39	1.28	2.44	36	1.21
6	The system of indigent criminal defense has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	1.69	36	0.98	3.00	43	1.20	2.64	11	1.12	4.29	14	0.73	2.28	29	1.13	3.54	37	1.17	2.21	39	1.20	3.33	36	1.26
23	In the past five years, our office budget has kept pace with the increase in our caseload.	2.44	36	1.03	2.05	43	0.97	2.91	11	0.94	3.23	13	1.01	2.07	29	0.70	1.89	38	0.95	1.62	39	0.71	1.77	35	0.88
27	I receive fair compensation for my work as an attorney.	2.94	36	1.24	2.31	45	1.20	2.64	11	1.12	3.00	15	1.13	2.72	29	1.31	3.08	39	1.18	2.03	39	1.09	2.39	36	1.15
28	The court has adequate facilities for effective and convenient handling of felony cases.	2.69	36	0.95	2.64	44	1.04	2.45	11	1.29	3.64	14	1.15	2.34	29	1.04	3.73	37	0.93	2.46	39	1.12	2.56	36	1.23
	MANAGEMENT SCALE																								
2	There are clear goals in this jurisdiction for how long it should take to dispose of felony cases.	3.00	34	0.98	2.82	44	0.95	3.30	10	1.06	2.38	13	1.19	2.90	29	0.86	2.73	37	1.10	3.11	38	0.92	3.03	36	1.03
11	There is good communication among the court, prosecutor, and public defender when case management problems arise.	2.89	35	1.02	2.84	44	0.94	1.55	11	0.69	2.87	15	1.13	2.97	29	0.87	3.38	37	1.01	3.26	39	1.02	3.46	35	0.89
12	Effective judicial leadership is one of the strengths of the criminal justice system in this jurisdiction.	2.00	36	0.89	2.20	44	0.73	1.55	11	0.69	3.00	15	1.07	2.34	29	0.90	3.21	38	1.14	2.82	38	1.09	3.09	35	0.85
13	Effective leadership by the prosecutor is one of the strengths of the criminal justice system in this jurisdiction.	1.83	36	0.91	3.80	44	0.85	1.27	11	0.47	3.40	15	0.83	1.69	29	0.76	3.97	38	0.94	1.74	39	0.72	4.17	36	0.77
14	Effective leadership among indigent criminal defense attorneys is a strength of the criminal justice system in this jurisdiction.	3.35	34	1.07	2.36	44	0.84	3.64	11	0.50	2.73	15	1.16	3.17	29	1.23	2.70	37	1.08	3.82	39	0.94	2.86	36	0.76
17	Multiple trial date continuances are NOT routinely granted by judges in felony cases.	3.50	36	0.81	1.89	44	0.62	3.45	11	0.93	2.14	14	0.95	2.38	29	0.94	1.92	37	0.68	3.31	39	0.92	2.11	36	0.95
24	Victims of crime are kept informed of all court settings and offender bond status.	3.30	27	0.47	2.52	44	1.00	3.22	9	0.44	2.86	14	0.77	3.32	22	0.65	3.61	38	0.82	3.23	35	0.73	3.64	36	0.87
26	The court works well with other components of the criminal justice system (e.g., DA, PD, Police, Probation).	2.91	34	0.83	3.14	44	0.80	2.45	11	0.93	3.00	15	1.25	3.10	29	0.77	3.50	38	1.03	3.10	39	0.85	3.72	36	0.61
34	The court spends its funds wisely.	2.84	32	0.51	2.85	40	0.48	1.70	10	0.95	2.62	13	0.77	2.54	26	0.71	2.92	36	0.81	3.08	38	0.75	3.17	35	0.89
	PRACTITIONER COMPETENCE SCALE																								
38	Prosecutors' experience with felony cases.	3.29	35	0.67	3.93	44	0.66	2.00	9	1.12	3.86	14	0.86	2.62	29	0.90	3.65	37	1.03	2.54	37	0.65	3.78	36	0.87
39	Prosecutors' preparation for felony hearings and trials.	3.17	35	0.38	3.70	44	0.76	2.22	9	0.97	3.93	14	0.83	2.61	28	0.92	3.57	37	0.90	2.81	37	0.70	3.89	36	0.95
40	Prosecutors' felony trial skills.	3.20	35	0.58	4.00	44	0.75	2.25	8	0.89	3.77	13	0.83	2.72	29	0.84	3.65	37	0.82	2.73	37	0.77	4.06	36	0.67
41	Public Defenders' experience with felony cases.	4.31	36	0.62	3.76	42	0.69	3.90	10	0.88	3.50	14	0.65	4.00	29	0.71	3.42	36	0.65	3.54	39	0.64	3.53	34	0.79
42	Public Defenders' preparation for felony hearings and trials.	4.06	36	0.79	3.56	41	0.71	4.00	10	0.82	3.29	14	0.73	4.03	29	0.73	3.00	36	0.89	3.79	39	0.77	3.11	36	0.95
43	Public Defenders' felony trial skills.	4.33	36	0.59	3.48	42	0.71	4.22	9	0.83	3.29	14	0.47	4.00	29	0.80	3.19	36	0.86	3.90	39	0.79	3.47	36	0.70
44	Privately retained criminal defense attorneys' experience with felony cases.	2.89	35	0.72	3.07	44	0.76	3.11	9	0.60	3.14	14	0.66	2.73	26	0.78	3.33	36	0.83	3.08	37	0.76	3.71	34	0.72
45	Privately retained criminal defense attorneys' preparation for felony hearings and trials.	2.86	35	0.73	3.12	42	0.74	2.86	7	0.69	3.21	14	0.70	2.85	26	0.97	3.06	36	0.98	3.14	35	0.69	3.36	36	0.80
46	Privately retained criminal defense attorneys' felony trial skills.	2.80	35	0.68	3.05	44	0.75	3.00	9	0.50	3.07	14	0.62	2.81	26	0.90	2.97	36	1.06	3.06	34	0.81	3.60	35	0.74
	COURT ACCESS SCALE																								
25	The court takes adequate steps to ensure accuracy and availability of court records.	3.17	36	0.77	3.07	43	0.83	2.27	11	1.01	3.13	15	1.19	3.17	29	0.85	3.50	38	0.89	3.18	39	0.82	3.69	35	0.68
32	Public areas of the courthouse are safe and accessible.	3.89	35	0.63	3.56	43	0.88	3.64	11	0.67	3.47	15	1.13	3.46	28	1.10	3.87	39	0.80	3.33	39	1.01	2.97	36	1.16
33	Information can be obtained on a case quickly and easily.	3.09	35	0.78	3.30	44	0.85	2.36	11	1.03	3.29	14	0.91	3.48	29	0.83	3.34	38	0.99	2.92	38	1.08	3.22	36	0.96
35	Court proceedings are easy to understand and follow.	2.97	36	0.84	3.18	44	0.79	2.18	11	0.75	3.43	14	0.94	2.59	29	0.91	3.61	38	0.82	3.18	39	0.72	3.58	36	0.73
36	The court is sensitive to the concerns of the average citizen.	2.77	35	0.84	3.18	44	0.81	3.18	11	1.17	3.33	15	1.05	2.66	29	0.94	3.55	38	0.80	2.92	38	0.97	3.61	36	0.80
37	Court personnel are helpful and courteous.	3.64	36	0.76	3.62	45	0.68	3.55	11	0.82	4.00	15	0.76	3.69	29	0.89	3.69	39	0.77	3.44	39	0.99	3.83	36	0.77

Appendix 5-3: Attorney Survey Results (*continued*)

#	Item	Pinellas Public Defender Mean	N	sd	Pinellas Prosecutor Mean	N	sd	Dakota Public Defender Mean	N	sd	Dakota Prosecutor Mean	N	sd	Hennepin Public Defender Mean	N	sd	Hennepin Prosecutor Mean	N	sd	Kandiyohi Public Defender Mean	N	sd	Kandiyohi Prosecutor Mean	N	sd
	JURISDICTIONAL PRACTICE SCALE																							
1	Delay in felony case adjudication is NOT a problem in this jurisdiction.	3.64	39	1.01	3.09	58	1.03	3.78	9	0.67	3.22	9	0.83	3.89	47	1.05	2.60	62	1.17	4.00	4	0.82	3.67	6	1.21
7	Effective prosecutorial screening and charging procedures minimize the number of felony cases eventually dismissed.	2.70	40	1.26	4.53	58	0.65	2.67	9	1.12	4.11	9	0.93	2.57	47	1.33	4.02	62	0.95	1.75	4	0.50	4.50	6	0.55
8	Prosecutor discovery practices do not cause delay in felony adjudication in this jurisdiction.	2.39	41	1.05	4.07	58	0.88	2.56	9	1.01	4.33	9	0.50	2.45	47	1.00	4.29	63	0.71	2.75	4	0.96	4.67	6	0.52
10	The court adequately monitors the progress of felony cases in this jurisdiction.	3.85	41	0.69	3.70	57	0.98	3.33	9	1.00	3.33	9	0.87	3.74	47	0.77	2.92	63	0.94	3.75	4	0.96	3.00	6	0.89
15	The prosecutor's plea bargaining policies DO NOT contribute to unnecessary delay in felony cases.	1.73	41	0.90	3.97	58	0.94	1.67	9	0.87	3.67	9	1.00	2.15	47	1.22	4.06	63	0.90	3.25	4	1.71	4.17	6	1.17
9	Public defender discovery practices do not cause delay in felony adjudication in this jurisdiction.	3.54	41	0.81	2.86	56	1.12	3.78	9	0.44	2.56	9	1.01	3.85	46	0.82	2.78	63	1.16	4.50	4	0.58	2.83	6	0.98
16	Indigent criminal defense attorneys' plea bargaining policies DO NOT contribute to unnecessary delay in felony cases.	3.98	41	0.91	3.28	57	0.92	4.11	9	0.78	2.67	9	1.12	4.05	42	0.91	2.60	62	1.14	4.25	4	0.50	2.83	6	0.98
	PROCEDURAL FAIRNESS SCALE																							
18	The amount of time judges give to cases is proportional to the amount of time the cases merit.	3.22	41	0.88	3.47	58	0.88	2.56	9	0.88	2.44	9	1.01	2.43	46	0.89	2.62	63	1.04	1.75	4	0.96	3.50	6	0.84
19	Most juries are representative of the community.	2.73	41	1.18	3.14	58	1.25	2.33	9	0.87	3.67	9	0.71	1.64	47	0.92	3.21	63	1.00	2.25	4	0.96	3.83	6	1.17
20	The court protects criminal defendants' constitutional rights.	2.83	41	1.00	4.45	58	0.50	3.00	9	0.87	4.33	9	0.50	2.59	46	0.98	4.37	62	0.52	1.75	4	0.50	4.33	6	0.52
21	There is effective legal representation at all critical stages of the legal process for criminal indigent defendants.	3.68	41	0.96	4.16	57	0.77	3.56	9	0.73	4.11	9	0.78	3.74	47	1.07	4.24	63	0.82	4.25	4	0.50	4.00	6	1.10
22	Judges give adequate time and attention to the circumstances of individual criminal defendants.	2.71	41	0.93	4.02	58	0.63	3.11	9	0.78	3.78	9	1.09	2.41	46	0.93	3.51	63	0.93	1.50	4	0.58	3.83	6	0.41
29	Criminal defendants understand the court's rulings.																							
30	The court is able to process cases efficiently without sacrificing equity and justice.	2.83	41	0.95	3.78	58	0.73	2.67	9	0.87	3.56	9	0.73	2.28	46	1.00	2.92	61	1.02	1.75	4	0.50	3.50	6	0.84
31	The court takes appropriate responsibility for enforcement of its orders.	3.61	41	0.63	3.48	58	0.94	3.67	9	0.71	2.44	9	1.33	2.91	45	0.85	2.32	63	1.00	3.50	4	1.00	2.17	6	0.98
	RESOURCE SCALE																							
3	Our system should be able to dispose 100% of all felony cases within 1 year after 1st arrest.	2.54	41	1.31	2.39	57	1.06	3.56	9	1.24	3.78	9	0.83	2.72	46	1.29	3.73	62	1.24	4.75	4	0.50	4.17	6	0.75
4	Our court has enough judges to dispose 100% of felony cases within 1 year after 1st arrest.	2.79	39	1.28	2.42	57	1.15	3.63	8	1.06	4.11	9	0.60	3.66	47	1.32	3.59	63	1.39	4.75	4	0.50	4.33	6	0.52
5	The prosecutor's office has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	3.03	40	1.21	2.07	58	1.04	3.75	8	1.16	3.56	9	0.73	4.00	46	0.89	2.98	63	1.33	4.75	4	0.50	3.67	6	0.82
6	The system of indigent criminal defense has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	2.50	40	1.30	2.81	58	1.12	3.00	9	1.22	3.44	9	0.88	2.36	47	1.26	3.14	63	1.27	3.25	4	1.50	3.83	6	0.41
23	In the past five years, our office budget has kept pace with the increase in our caseload.	1.88	41	0.90	2.18	55	1.00	1.67	9	0.71	2.13	8	0.83	1.98	46	0.95	2.03	62	0.90	2.50	4	0.58	2.00	6	0.89
27	I receive fair compensation for my work as an attorney.	2.64	39	1.09	2.41	58	1.31	2.78	9	0.83	3.33	9	1.12	3.04	46	1.21	3.06	63	1.11	2.75	4	0.96	2.50	6	1.22
28	The court has adequate facilities for effective and convenient handling of felony cases.	3.68	41	0.79	3.82	57	0.89	2.56	9	1.13	3.56	9	0.88	3.11	47	1.01	3.21	63	1.03	3.75	4	1.26	2.83	6	0.98
	MANAGEMENT SCALE																							
2	There are clear goals in this jurisdiction for how long it should take to dispose of felony cases.	3.20	41	0.90	3.16	58	1.07	3.67	9	0.50	2.44	9	0.73	3.70	46	0.99	3.29	62	1.18	3.25	4	0.50	2.50	6	0.55
11	There is good communication among the court, prosecutor, and public defender when case management problems arise.	3.32	41	0.96	3.64	58	0.91	3.33	9	1.00	3.33	9	0.87	3.17	47	1.03	2.70	63	0.99	2.75	4	0.96	2.33	6	0.82
12	Effective judicial leadership is one of the strengths of the criminal justice system in this jurisdiction.	3.05	41	0.97	3.14	58	1.08	3.33	9	0.87	2.33	9	0.71	2.85	47	1.00	2.03	63	0.92	1.25	4	0.50	2.00	6	0.89
13	Effective leadership by the prosecutor is one of the strengths of the criminal justice system in this jurisdiction.	2.12	41	0.98	4.16	58	0.74	1.89	9	0.60	3.33	9	0.71	1.96	47	0.93	3.48	62	0.95	1.75	4	0.96	4.17	6	0.75
14	Effective leadership among indigent criminal defense attorneys is a strength of the criminal justice system in this jurisdiction.	3.80	41	0.98	3.14	57	0.93	3.44	9	0.73	2.67	9	0.87	3.43	47	0.93	2.97	62	0.94	4.00	4	0.82	2.50	6	0.84
17	Multiple trial date continuances are NOT routinely granted by judges in felony cases.	3.29	41	0.98	2.56	57	1.00	3.33	9	1.00	2.22	9	1.39	4.11	47	0.67	3.22	63	1.01	3.00	4	1.41	3.33	6	1.51
24	Victims of crime are kept informed of all court settings and offender bond status.	3.84	38	0.72	4.07	58	0.81	3.17	6	0.41	3.67	9	0.71	3.15	39	0.71	3.76	62	0.82	3.50	4	0.58	4.00	6	0.63
26	The court works well with other components of the criminal justice system (e.g., DA, PD, Police, Probation).	3.61	41	0.77	3.74	58	0.74	3.25	8	0.89	3.67	9	0.87	3.07	45	0.65	2.72	61	0.97	2.75	4	0.96	2.83	6	1.17
34	The court spends its funds wisely.	3.10	41	0.58	3.15	53	0.84	2.86	7	0.69	3.00	8	0.53	2.70	43	0.56	2.69	59	0.65	3.00	4	0.00	3.00	6	0.63
	PRACTITIONER COMPETENCE SCALE																							
38	Prosecutors' experience with felony cases.	3.25	40	0.71	4.10	58	0.89	3.44	9	0.53	4.22	9	0.67	3.27	45	0.81	4.13	61	0.64	2.25	4	0.96	3.83	6	1.17
39	Prosecutors' preparation for felony hearings and trials.	3.05	40	0.88	4.09	58	0.84	3.11	9	0.33	3.89	9	0.60	2.86	44	0.80	3.85	60	0.68	2.50	4	0.58	3.67	6	1.37
40	Prosecutors' felony trial skills.	3.34	41	0.57	4.10	58	0.79	3.22	9	0.44	3.89	9	0.33	3.13	47	0.88	3.92	61	0.67	2.75	4	0.50	3.83	6	0.98
41	Public Defenders' experience with felony cases.	4.00	40	0.75	3.61	57	1.00	3.33	9	0.87	3.56	9	1.01	4.00	46	0.76	3.95	61	0.69	3.67	3	0.58	4.00	6	0.63
42	Public Defenders' preparation for felony hearings and trials.	4.07	41	0.61	3.58	57	0.89	3.33	9	1.00	2.89	9	0.93	3.72	46	0.83	3.32	59	0.84	3.67	3	0.58	3.00	6	0.89
43	Public Defenders' felony trial skills.	4.20	41	0.60	3.62	58	0.89	3.44	9	0.88	3.33	9	0.87	4.02	47	0.71	3.73	59	0.72	3.67	3	0.58	4.17	6	0.75
44	Privately retained criminal defense attorneys' experience with felony cases.	3.37	41	0.66	3.81	57	0.74	2.88	8	0.83	3.56	9	0.73	2.94	31	0.89	3.29	59	0.81	3.00	3	0.00	3.00	6	0.89
45	Privately retained criminal defense attorneys' preparation for felony hearings and trials.	3.32	38	0.81	3.74	57	0.90	2.71	7	0.76	3.78	9	0.67	3.03	31	0.95	3.31	58	0.80	3.00	3	0.00	2.67	6	1.37
46	Privately retained criminal defense attorneys' felony trial skills.	3.22	41	0.69	3.88	57	0.80	2.71	7	0.76	3.33	9	0.50	2.94	32	1.01	3.21	57	0.73	3.33	3	0.58	3.00	6	0.89
	COURT ACCESS SCALE																							
25	The court takes adequate steps to ensure accuracy and availability of court records.	3.51	41	0.68	3.91	55	0.67	3.56	9	0.73	3.22	9	0.83	3.02	44	0.88	3.05	62	0.97	2.75	4	0.96	3.33	6	0.52
32	Public areas of the courthouse are safe and accessible.	4.20	41	0.56	3.98	58	0.87	4.00	9	0.50	3.33	9	0.87	3.60	47	0.92	2.67	63	1.12	4.00	4	0.82	3.33	6	1.03
33	Information can be obtained on a case quickly and easily.	3.93	41	0.75	4.07	58	0.65	3.67	9	1.12	3.78	9	0.44	3.11	46	0.95	3.30	63	0.85	3.25	4	0.96	3.83	6	0.41
35	Court proceedings are easy to understand and follow.	3.46	41	0.84	3.86	58	0.61	3.56	9	0.73	3.89	9	0.33	3.11	46	0.80	3.27	62	0.79	2.50	4	0.58	3.33	6	0.82
36	The court is sensitive to the concerns of the average citizen.	3.28	40	0.82	3.72	58	0.79	3.67	9	0.50	3.22	9	0.97	2.93	45	0.89	3.02	62	1.06	1.75	4	0.50	3.00	6	0.63
37	Court personnel are helpful and courteous.	3.85	41	0.65	4.07	57	0.53	4.11	9	1.27	3.78	9	0.67	3.57	47	0.88	3.57	63	0.95	3.50	4	0.58	3.83	6	0.98

The Mosaic of Institutional Culture and Performance

Appendix 5-3: Attorney Survey Results (*continued*)

#	Statement	Olmsted PD Mean	N	sd	Olmsted Pros Mean	N	sd	Ramsey PD Mean	N	sd	Ramsey Pros Mean	N	sd	Duluth PD Mean	N	sd	Duluth Pros Mean	N	sd	Virginia PD Mean	N	sd	Virginia Pros Mean	N	sd
	JURISDICTIONAL PRACTICE SCALE																								
1	Delay in felony case adjudication is NOT a problem in this jurisdiction.	2.00	5	1.22	2.38	13	0.96	3.29	17	1.16	3.28	40	1.18	3.40	15	0.74	2.13	8	1.55	4.60	5	0.55	4.00	2	0.00
7	Effective prosecutorial screening and charging procedures minimize the number of felony cases eventually dismissed.	2.20	5	1.64	4.23	13	0.60	2.53	17	1.37	4.10	40	0.93	2.47	15	1.13	4.50	8	0.53	3.80	5	1.10	4.50	2	0.71
8	Prosecutor discovery practices do not cause delay in felony adjudication in this jurisdiction.	2.60	5	1.14	4.00	13	1.00	1.89	18	1.08	4.18	40	0.78	2.87	15	1.06	4.13	8	0.99	4.20	5	0.84	4.50	2	0.71
10	The court adequately monitors the progress of felony cases in this jurisdiction.	3.40	5	0.55	2.85	13	0.90	3.28	18	1.07	3.33	40	1.02	3.60	15	0.63	2.63	8	1.51	4.20	5	0.45	4.50	2	0.71
15	The prosecutor's plea bargaining policies DO NOT contribute to unnecessary delay in felony cases.	1.80	5	1.79	4.15	13	0.80	2.56	18	1.15	3.88	40	1.07	2.73	15	1.28	3.75	8	1.16	3.00	5	1.58	4.50	2	0.71
9	Public defender discovery practices do not cause delay in felony adjudication in this jurisdiction.	4.00	5	0.71	2.92	13	1.04	3.44	18	0.92	3.18	40	1.11	3.67	15	0.72	2.50	8	1.07	4.40	5	0.89	4.00	2	0.00
16	Indigent criminal defense attorneys' plea bargaining policies DO NOT contribute to unnecessary delay in felony cases.	3.60	5	1.34	2.08	13	1.19	3.67	18	1.03	3.10	40	1.08	3.43	14	1.09	3.00	8	1.07	4.00	5	1.00	4.50	2	0.71
	PROCEDURAL FAIRNESS SCALE																								
18	The amount of time judges give to cases is proportional to the amount of time the cases merit.	2.40	5	0.89	2.69	13	0.85	2.44	18	1.15	3.15	40	0.98	3.07	15	0.96	3.25	8	1.04	3.20	5	0.84	4.50	2	0.71
19	Most juries are representative of the community.	3.80	5	1.10	3.00	13	1.08	1.56	18	0.70	3.69	39	0.89	2.67	15	1.35	3.88	8	0.83	4.00	5	0.71	4.00	2	0.00
20	The court protects criminal defendants' constitutional rights.	3.60	5	1.14	4.54	13	0.52	2.17	18	1.04	4.60	40	0.50	3.13	15	1.13	4.63	8	0.52	4.40	5	0.55	5.00	2	0.00
21	There is effective legal representation at all critical stages of the legal process for criminal indigent defendants.	3.80	5	0.84	2.77	13	1.17	2.72	18	1.23	4.30	40	0.94	4.07	15	0.70	4.50	8	0.53	4.00	5	1.22	4.50	2	0.71
22	Judges give adequate time and attention to the circumstances of individual criminal defendants.	3.00	5	1.00	3.85	13	0.80	2.29	17	0.99	3.70	40	1.04	3.33	15	0.90	4.00	8	0.93	3.40	5	1.34	4.50	2	0.71
29	Criminal defendants understand the court's rulings.																								
30	The court is able to process cases efficiently without sacrificing equity and justice.	2.40	5	0.55	2.77	13	0.83	2.28	18	1.02	3.28	40	0.99	2.93	15	0.88	3.50	8	0.93	4.00	5	0.00	4.00	2	0.00
31	The court takes appropriate responsibility for enforcement of its orders.	4.00	5	0.00	1.85	13	0.90	3.39	18	0.85	2.93	40	1.07	3.60	15	0.83	3.25	8	0.71	3.60	5	0.55	4.00	2	0.00
	RESOURCE SCALE																								
3	Our system should be able to dispose 100% of all felony cases within 1 year after 1st arrest.	3.20	5	1.64	3.92	12	1.00	4.11	18	1.02	4.28	39	1.02	2.73	15	1.44	4.25	8	1.16	4.00	5	1.22	2.00	2	0.00
4	Our court has enough judges to dispose 100% of felony cases within 1 year after 1st arrest.	1.80	5	0.84	3.23	13	1.01	2.78	18	1.22	3.10	40	1.34	3.13	15	1.19	3.50	8	1.60	4.60	5	0.55	3.50	2	2.12
5	The prosecutor's office has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	4.00	5	0.71	2.67	12	1.30	3.67	18	1.19	2.60	40	1.37	3.00	15	1.31	2.88	8	1.36	4.00	5	1.22	2.50	2	0.71
6	The system of indigent criminal defense has enough attorneys to dispose 100% of felony cases within 1 year after 1st arrest.	1.20	5	0.45	1.92	12	0.79	1.61	18	0.85	2.79	39	1.26	2.07	15	1.16	3.63	8	1.41	3.40	5	0.89	3.00	2	1.41
23	In the past five years, our office budget has kept pace with the increase in our caseload.	1.00	5	0.00	2.09	11	0.94	1.06	18	0.24	1.45	40	0.68	1.69	13	0.95	2.00	8	0.93	2.20	5	0.45	2.50	2	0.71
27	I receive fair compensation for my work as an attorney.	2.60	5	1.34	3.08	12	1.08	2.44	18	1.20	2.58	40	1.20	2.00	14	1.04	3.63	8	0.74	2.60	5	1.34	4.00	2	0.00
28	The court has adequate facilities for effective and convenient handling of felony cases.	2.40	5	1.14	2.92	13	0.95	2.56	18	1.15	3.13	40	0.99	2.47	15	1.06	3.50	8	1.07	3.00	5	1.22	4.00	2	0.00
	MANAGEMENT SCALE																								
2	There are clear goals in this jurisdiction for how long it should take to dispose of felony cases.	3.20	5	1.30	2.83	12	0.83	3.50	18	1.04	3.72	39	1.12	3.20	15	0.68	2.75	8	1.39	3.60	5	0.89	4.00	2	0.00
11	There is good communication among the court, prosecutor, and public defender when case management problems arise.	4.20	5	0.45	1.92	13	1.04	2.94	18	1.30	3.70	40	0.85	3.87	15	0.74	2.88	8	1.36	4.40	5	0.55	4.50	2	0.71
12	Effective judicial leadership is one of the strengths of the criminal justice system in this jurisdiction.	3.60	5	0.55	1.69	13	0.85	2.35	17	1.11	3.20	40	1.04	3.40	15	1.06	2.75	8	1.39	4.40	5	0.55	4.00	2	1.41
13	Effective leadership by the prosecutor is one of the strengths of the criminal justice system in this jurisdiction.	1.40	5	0.55	3.42	12	0.90	2.18	17	0.95	3.70	40	0.99	2.80	15	1.15	3.63	8	1.06	3.80	5	0.84	4.50	2	0.71
14	Effective leadership among indigent criminal defense attorneys is a strength of the criminal justice system in this jurisdiction.	3.00	5	0.71	2.08	13	0.86	2.88	16	1.20	3.18	40	0.96	3.53	15	0.83	3.50	8	1.51	3.80	5	0.84	3.00	2	0.00
17	Multiple trial date continuances are NOT routinely granted by judges in felony cases.	2.20	5	1.10	2.85	13	0.90	3.33	18	1.08	2.95	40	1.26	3.00	15	1.00	2.50	8	1.41	3.80	5	0.45	4.00	2	0.00
24	Victims of crime are kept informed of all court settings and offender bond status.	3.60	5	0.55	3.15	13	0.90	3.53	15	0.64	3.41	39	1.07	3.18	11	0.60	3.13	8	1.13	4.00	5	1.00	4.00	2	0.00
26	The court works well with other components of the criminal justice system (e.g., DA, PD, Police, Probation).	3.20	5	0.84	2.00	13	1.08	3.11	18	0.96	3.48	40	0.88	3.79	14	0.58	3.88	8	0.99	4.40	5	0.55	4.50	2	0.71
34	The court spends its funds wisely.	3.00	5	0.71	2.92	12	0.51	2.81	16	0.66	3.23	40	0.62	3.00	14	0.39	2.88	8	0.35	3.25	4	0.96	3.00	2	0.00
	PRACTITIONER COMPETENCE SCALE																								
38	Prosecutors' experience with felony cases.	4.00	5	0.71	4.23	13	0.60	3.78	18	0.65	4.28	39	0.76	3.80	15	0.86	5.00	8	0.00	4.40	5	0.55	4.50	2	0.71
39	Prosecutors' preparation for felony hearings and trials.	3.20	5	0.84	4.08	13	0.64	3.29	17	0.85	4.05	39	0.92	3.53	15	0.74	4.50	8	0.53	4.20	5	0.84	4.50	2	0.71
40	Prosecutors' felony trial skills.	3.80	5	0.84	4.00	13	0.58	3.47	17	0.72	4.10	39	0.72	3.80	15	0.77	4.50	8	0.53	4.00	5	0.71	4.50	2	0.71
41	Public Defenders' experience with felony cases.	4.40	5	0.55	2.92	13	0.76	4.11	18	0.58	4.05	39	0.76	3.93	15	0.59	4.50	8	0.53	4.60	5	0.55	4.00	2	0.00
42	Public Defenders' preparation for felony hearings and trials.	4.00	5	0.71	2.15	13	0.99	3.22	18	1.11	3.46	39	0.94	3.53	15	0.74	3.63	8	0.74	4.00	5	0.00	4.00	2	0.00
43	Public Defenders' felony trial skills.	4.60	5	0.55	2.77	13	0.73	4.00	18	0.49	3.85	39	0.78	3.87	15	0.64	3.63	8	0.74	4.40	5	0.55	4.00	2	0.00
44	Privately retained criminal defense attorneys' experience with felony cases.	3.20	5	0.45	2.85	13	0.69	2.86	14	0.66	2.97	39	0.93	3.77	13	0.60	3.75	8	0.46	3.20	5	0.84	4.50	2	0.71
45	Privately retained criminal defense attorneys' preparation for felony hearings and trials.	3.60	5	0.89	2.85	13	0.80	2.64	14	0.63	3.05	39	0.94	3.54	13	0.52	3.88	8	0.64	3.80	5	0.84	4.00	2	0.00
46	Privately retained criminal defense attorneys' felony trial skills.	3.80	5	0.84	3.00	13	0.71	2.69	13	0.48	3.10	39	0.91	3.77	13	0.60	3.75	8	0.46	3.40	5	1.14	3.50	2	0.71
	COURT ACCESS SCALE																								
25	The court takes adequate steps to ensure accuracy and availability of court records.	4.20	5	0.45	3.15	13	0.90	3.39	18	1.04	3.48	40	0.72	3.47	15	0.74	3.13	8	1.46	4.00	5	0.71	3.50	2	0.71
32	Public areas of the courthouse are safe and accessible.	3.40	5	0.89	3.92	13	0.28	3.78	18	0.81	3.58	40	0.90	3.47	15	1.19	2.50	8	0.76	4.00	5	0.00	3.00	2	1.41
33	Information can be obtained on a case quickly and easily.	3.80	5	0.45	3.15	13	0.69	3.28	18	0.89	3.33	40	1.00	3.13	15	1.06	3.13	8	0.99	4.00	5	0.00	3.50	2	0.71
35	Court proceedings are easy to understand and follow.	3.60	5	0.55	3.54	13	0.52	2.78	18	1.00	3.45	40	0.90	3.43	14	1.09	3.50	8	0.93	3.80	5	0.45	4.00	2	1.41
36	The court is sensitive to the concerns of the average citizen.	3.20	5	0.84	2.62	13	1.12	2.76	17	1.03	3.38	40	1.17	3.53	15	0.92	3.25	8	1.28	4.40	5	0.55	3.50	2	0.71
37	Court personnel are helpful and courteous.	4.60	5	0.55	3.85	13	0.99	4.00	18	0.77	4.05	40	0.71	4.40	15	0.51	4.38	8	0.52	4.20	5	0.84	4.00	2	0.00

CHAPTER 6: PREFERENCES FOR COURT CULTURE

INTRODUCTION

We saw evidence in Chapter 3 that courts have incongruent cultures across the five content dimensions or areas of work. In private sector organizations, where a single objective (or bottom line) directs different divisions or subunits, incongruency inhibits progress and positive performance. (Cameron and Quinn 1999, 64-5.) Incongruency may be more understandable in public bodies, including courts, due to their lack of single, unifying goal. However, we also observed the incongruency in courts was neither uniform nor well defined. Courts do not share the same incongruent pattern. Nor are the cultures dominant in a given work area all that dominant. As a result, we suspect the incongruency that exists in current court cultures may create the sorts of problems—a lack of clarity and direction—observed in private companies with incongruent cultures.

As a result, we believe courts will want to realign their cultural orientations. Obviously, not all courts will want the same degree of change in exactly the same direction. Yet, if asked, we contend judges and court administrators will want to reconfigure how they go about getting their jobs done. Their basic motivation will be to sharpen the focus of how work is to be done to achieve greater consistency in decision making and greater harmony in social relationships.

In this chapter, we test this general expectation using the PREFERRED responses to the CCAI (as outlined in Chapter 3). This information permits us to address important issues related to organizational growth and change: Are practitioners so accustomed to past practices, they cannot envision alternative ways of organizing themselves and their work? Or is a court's cultural orientation sufficiently flexible to permit judges and administrators to formulate more preferred configurations in the future? If so, what is the nature of preferred cultures?

The paths practitioners aspire to follow are essential to establish. Knowing where a court currently stands and where it seeks to move to will be helpful in clarifying what areas of business will have to undergo change, and the content of the changes. On a broader scale, establishing the course courts want to chart for themselves will illuminate trends the nation's state judiciary, policy makers and attorneys should be interested in ascertaining. State courts are the forums for the resolution of almost all criminal cases in the United States. Because culture is as much a part of institutional character as structure, resources and technology, we all should be alert to cultural changes possibly propelling greater timeliness, access, fairness, managerial effectiveness and related values.

In the preceding chapter, culture has been shown to influence how well courts achieve key values of timeliness, access, fairness and managerial effectiveness. The degree to which a court's culture emphasizes solidarity and/or sociability affects the extent to which attorneys see these four leading values being approximated.

However, investigating these four performance yardsticks says very little about whether courts want to conduct their business differently. Information from objective indicators and assessments by attorneys do not reveal whether courts want to change/improve their current position, although both sets of data suggest changes in culture are essential ingredients to successful self-improvement. Consequently, a question naturally arises: do courts want to change their cultural orientations and, if so, in what directions?

PREFERRED COURT CULTURE

Answers to the previous question are neither obvious nor easy because courts are regarded as conservative bodies wedded to precedent both in substantive and procedural law. With very limited research and development capacities, courts lack the basis on which to keep up

with innovations and emerging trends, in contrast to other organizations continually monitoring the outside world to remain vibrant and vital. If the conventional wisdom is true, then courts might be stuck in the cultural tradition in which they find themselves, with little thought given to how practices might be improved. However, as some judges and court administrators have demonstrated, courts are not as bound to the status quo as the classic model of courts moving with glacial speed suggests. For the past thirty years, planned changes in courts have occurred. Conscious decisions have been the basis for the adoption of new forums, including a wide variety of specialized courts, new dispute resolution techniques, including mediation and therapeutic justice, and new goals, including both those embodied by performance standards and by commissions to eliminate racial, gender and other forms of discrimination. As a result, it is more of an open question on whether courts might want to alter their current cultural configurations.

CCAI PREFERRED Results

To address the question of cultural change, we asked respondents in the 12 courts to indicate how they would like to see their organization develop in the near future. For example, would they like to be more like a Hierarchical court than they are now in managing cases? Or would they like to be more Communal in how courthouse leadership is exercised? Answers were gathered in the same manner with the same instrument as measures of each court's current culture.

The results of the CCAI PREFERRED part of the questionnaire are presented in Table 29 (Appendix 6-1 displays the standard deviation, median, and coefficient of variation for each of the means in Table 29). As a starting point, it is wise to compare Table 29 to Table 11 to get an

idea of whether change is desired. In subsequent sections of this chapter we will provide a number of ways to explore this issue. As with Table 11, it is clear that there are a lot of numbers that need to be arranged in a way that enables one to see patterns..

Table 29
Relative Emphasis of PREFERRED Court Culture on Work Areas

Content Dimension	Culture Type	California			Florida		Minnesota						
		Contra Costa	Napa	Ventura	Duval	Pinellas	Dakota	Hennepin	Kandiyohi	Olmsted	Ramsey	Duluth	Virginia
Dominant Case Management Style	Communal	15	13	22	26	27	20	17	15	15	20	20	20
	Network	33	38	29	29	15	22	33	36	31	29	23	26
	Automous	10	4	11	22	22	16	12	16	8	12	10	16
	Hierarchical	43	46	38	23	36	42	38	34	47	40	48	39
Judicial and Court Staff Relations	Communal	21	10	9	24	18	27	19	18	21	13	21	19
	Network	41	43	39	32	33	40	37	45	39	39	40	32
	Automous	11	3	14	24	33	13	20	8	16	28	21	9
	Hierarchical	27	43	38	20	16	20	24	29	25	21	19	41
Change Management	Communal	19	14	12	18	26	20	19	21	25	17	13	28
	Network	34	36	30	24	24	30	35	39	37	40	54	30
	Automous	11	3	5	27	13	12	12	7	6	8	6	11
	Hierarchical	36	47	52	31	38	37	34	33	32	36	28	31
Courthouse Leadership	Communal	41	42	47	34	33	50	36	56	39	32	42	44
	Network	34	29	32	25	30	25	39	30	43	42	37	28
	Automous	7	4	8	19	24	8	11	6	4	9	4	11
	Hierarchical	18	26	13	21	14	16	15	8	15	18	18	18
Internal Organization	Communal	28	18	24	26	33	31	24	30	27	24	26	26
	Network	44	54	49	26	33	35	48	40	44	36	51	34
	Automous	11	5	9	26	17	18	12	11	12	12	6	11
	Hierarchical	17	23	18	22	18	16	16	19	18	29	18	29

Hypotheses

Our basic expectations concerning practitioners' preferences for the culture they would like to see evolve in the next five years are threefold. First, all of the courts are anticipated to desire a culture different from what they believe they are in currently. Despite the benefits of familiarity, judges and court administrators will embrace change for its potential in improving performance and work relations. Maintaining the existing way of doing business will not be seen as the path to doing better.

Second, the direction in which the courts will want to move will vary among the five content dimensions or areas of work. Differences in the substantive nature of the dimensions will lead judges and court administrators to seek a combination of distinct cultures. Multiple

cultures means, of course, that the preferred configurations will not be congruent. Hierarchy will be preferred in one area and a Networked culture in another, and so on.

Third, we anticipate a similarity in the type of cultural mosaic trial courts aspire to develop. Judges and court administrators will agree some cultural orientations foster the sorts of values they wish to promote and achieve more than other cultures. This agreement is not necessarily because practitioners have a common model (or ideal) of a good court. Rather, it is likely the result of over 200 years of common law experience. Judges have come to know and agree upon what sorts of approaches and guidelines should orient the work of courts. They simply have limited occasions to express their views on such matters and to try to put them into place.

We expect courts to want to move toward greater Hierarchy in both case management and change management. These two dimensions involve social relations minimally and are the least individualistic of the five dimensions. Being more case based, and involving aggregate concepts, such as caseload sizes, backlogs and clearance rates, these two dimensions focus on procedural events and dates amenable to the use of technology to support court administrative procedures. As a result, they prompt judges and court administrators to want business to be done on the basis of clear and orderly rules, expertise and modern techniques.[73] Hierarchical cultures highlight these business-like values in the areas of case management and change management to a greater extent than the other cultures, which tend to involve norms, decision making by consensus and a tolerance for "second-best" solutions to accommodate everyone's view point.

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[73] The courts' preferred Hierarchical culture in case management does not doom courts to receiving low grades in achieving access, fairness, or managerial effectiveness. To avert that possibility, however, courts need to improve their communication and actions concerning timeliness, access, fairness and managerial effectiveness. Needed improvements are described in Chapter 7.

Hierarchy exudes professionalism, which judges and court administrators are likely to think warrants priority in handling cases and creating a modern court.

In contrast, judges and court administrators are likely to yearn for Networked culture in the work areas or content dimensions of judicial-staff relations and internal organization, which are considerably more social than case oriented. These two areas prompt judges and court administrators to want business to be done on the basis of inclusiveness. Because judges and court administrators have ongoing relationships and must consult each other to discuss ways on how policies are to be implemented, resources allocated and court staff configured, they naturally want judicial-staff relations and internal organization to combine individualism and diversity. Networked cultures promote the democratic values that each individual court worker counts and every worker should be consulted. Hence, Networked cultures will seem especially desirable because of their promise that personnel conflicts will be minimal.

Finally, judges and court administrators will prefer a Communal culture in the work area of courthouse leadership. This area sets the tone for how the business of the court is to be done. It is neither exclusively or primarily case nor people oriented. It is a hybrid governing how the mechanics of the court are to operate and the manner in which court personnel are to treat one another. Courthouse leadership is a dimension permeating and guiding the other four work areas. Judges and court administrators want court business done on a collegial basis where trust and mutual respect reign axiomatically. If these two values are present, then the groundwork is laid for the role of Hierarchy in case management and change management. Trust ensures policies will be carried out as intended, overcoming the problem that policies are not self-executing. Moreover, mutual respect is the foundation for inclusiveness in the areas of judicial-staff relations and internal organization. This value ensures everyone's views are taken into

account in improving the quality of decisions, policies and programs. Hence, Communal courthouse leadership enhances the achievement of goals in case management, change management, judicial-staff relations and internal organizations, even though those other areas themselves are oriented by other cultures.

Concerning Autonomous cultures, we expect to see very little movement toward that orientation because the other cultures are deemed superior on particular work areas. The movement away from Autonomous cultures should be striking. Conventional wisdom suggests such cultures are dominant and likely to continue to exist because of the substantial resistance to administrative controls.

Thus, we expect judges and court administrators to prefer a cultural mosaic. No one cultural orientation is likely to dominate the direction in which courts seek to move. Judges and administrators are apt to believe that success along different cultural content dimensions will call for different cultural orientations.

Observed Relationships

We have developed the "kite" diagrams for the courts in for each of the five content dimensions. These kites reproduce both the current culture orientations from Chapter 3 along with the preferred culture. For illustrative purposes we will focus our attention on one example from each of our four culture types: (1) Communal – Olmsted County in Minnesota, (2) Networked – Ventura County in California, (3) Autonomous – Pinellas County in Florida, and (4) Hierarchical – Hennepin County in Minnesota. Comparisons between current and preferred cultures for all 12 courts are found in Appendix 6-2.

Each of the four courts would like to change the culture surrounding their case management, as shown in Table 30. The general trend is to move toward more solidarity and

perhaps a bit less sociability. All four courts desire to move in a distinctly Hierarchical direction, as expected. This tendency is not surprising because courts that have the highest solidarity scores tend to be the fastest courts. For case management, courts from all four cultures seek the culture type most consistent with timeliness. One anomaly is Pinellas, which prefers to be both Hierarchical and Communal. Such an orientation with competing values will require reasoned and consistent leadership to achieve.

Table 30
Comparing Current and Preferred Case Management Cultures
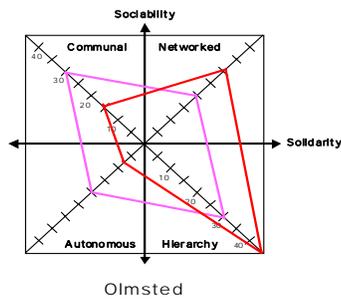
Olmsted

Ventura

Pinellas
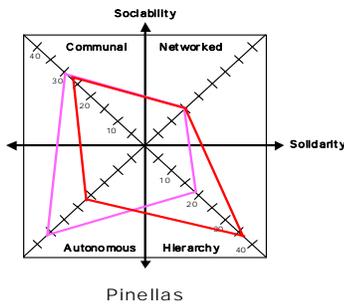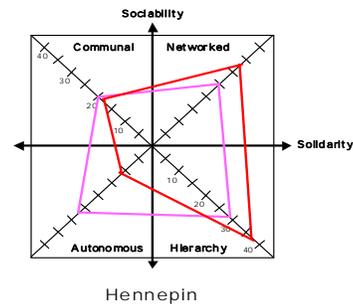
Hennepin

Concerning change management, these four courts desire change and change in the direction of more solidarity as anticipated. However, with the exception of Hennepin, the courts do not want to alter the culture underlying change management very much as shown in Table 31. Finally, we find that Pinellas once again desires a culture that strives for competing cultures (i.e., Communal and Hierarchical.).

Table 31
Comparing Current and Preferred Change Management Cultures

Olmsted

Ventura

Pinellas

Hennepin

In regard to internal organization content dimension, all of the courts want to increase both sociability and solidarity by moving toward a Networked culture, as expected. Judges and the administrative staff collectively want cutting edge technology and modern administrative methods to support the work of the court, as shown in Table 32. In the case of internal organization, all four of our courts have the same goal, formation of a Networked culture. The consistency across the four culture types is quite marked.

Table 32
Comparing Current and Preferred Internal Organization Cultures
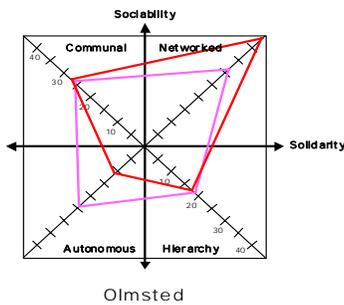
Olmsted

Ventura

Pinellas

Hennepin
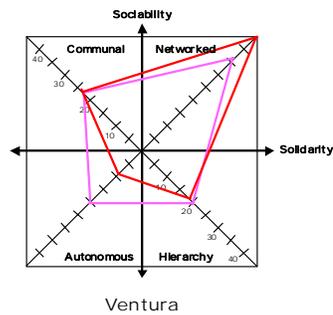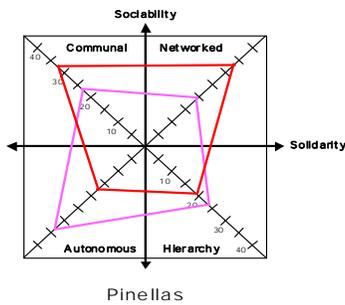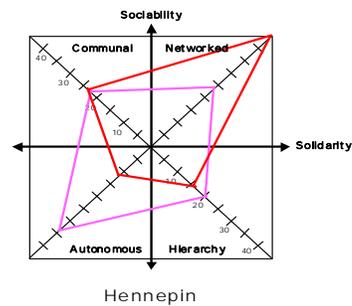
All four of the courts would like to be networked with respect to judicial-court staff relations but there is not complete convergence. Olmsted, Ventura, and Pinellas appear satisfied with their current orientation and would seek little change, as shown in Table 33. Olmsted and Ventura prefer primarily the Networked culture for judicial and court staff relations, but Pinellas seeks a culture that is both Autonomous and Networked. Pinellas appears to be pursuing competing values in their preferred culture – they would like individual judges to monitor and evaluate while at the same time pursuing a court wide strategy to staff development and evaluation. Finally, Hennepin, which is currently Autonomous, desires to move into the Networked quadrant.

Table 33
Comparing Current and Preferred in Selected Courts
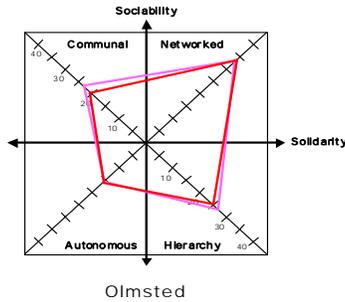
Olmsted

Ventura

Pinellas

Hennepin
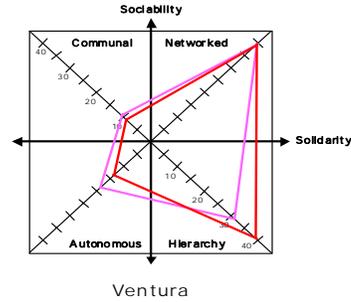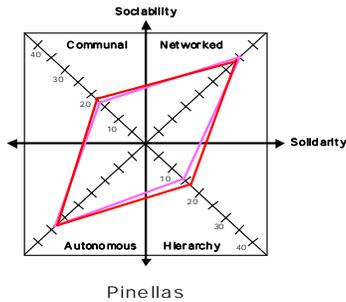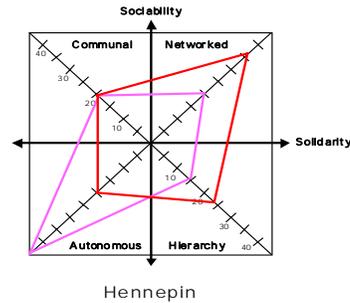
The preferred cultures are split between a Communal and a Networked culture for courthouse leadership as shown in Table 34. We find that each of the courts would like to be high on the Sociability dimension, as expected. Because Olmsted and Ventura already are reasonably high in sociability, they desire little in the way of change while Pinellas and Hennepin want to move dramatically on the Sociability dimension.

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Table 34
Comparing Current and Preferred Courthouse Leadership Cultures
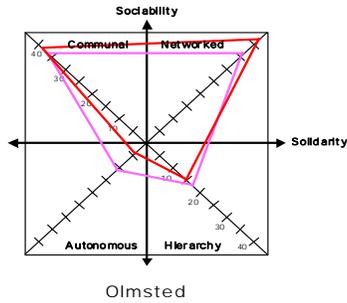
Olmsted

Ventura

Pinellas

Hennepin
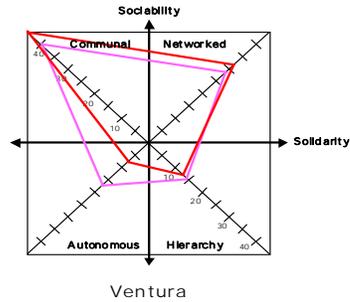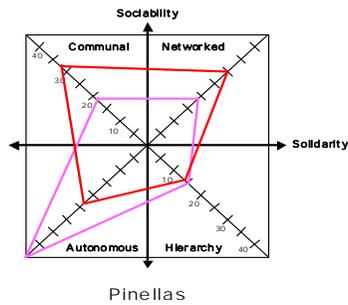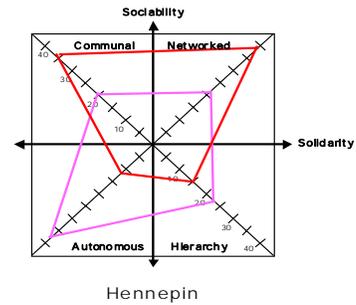
To gain a sense of where all twelve courts under study want to move on each dimension, the differences between the average scores for the current and preferred cultures are calculated.[74] The results are displayed in Table 35. A negative number means a court prefers to reduce the extent of an existing cultural orientation on a given dimension. And, a positive number means a court wishes to increase the extent of an existing culture.

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[74] We obtain this information by subtracting the score in Table 29 from its counterpart in Table 11.

Table 35
Differences Between the Average Scores on Current and Preferred Cultures

Content Dimension	Culture Type	California			Florida		Minnesota						
		Contra Costa	Napa	Ventura	Duval	Pinellas	Dakota	Hennepin	Kandiyohi	Olmsted	Ramsey	Duluth	Virginia
Dominant Case Management Style	Communal	0	-1	5	-2	-3	-8	-3	-15	-14	0	-13	-11
	Network	12	7	3	7	0	7	8	12	11	3	13	11
	Automous	-22	-15	-14	-12	-15	-19	-15	-6	-12	-8	-27	-7
	Hierarchical	10	9	6	7	18	20	10	9	16	5	27	6
Judicial and Court Staff Relations	Communal	-4	-11	-2	-3	0	-3	1	4	-3	-9	3	-3
	Network	15	10	-1	2	-2	12	17	9	5	8	5	6
	Automous	-12	-8	-4	-2	0	-9	-26	-11	0	-3	-2	-10
	Hierarchical	2	9	7	4	2	0	9	-1	-2	4	-7	6
Change Management	Communal	-5	-11	-5	-10	-6	-17	-6	-5	-10	-11	-18	-4
	Network	12	10	4	9	6	15	11	6	0	11	31	6
	Automous	-21	-8	-5	-3	-10	-16	-19	-9	-4	-9	-28	-4
	Hierarchical	15	9	7	4	10	17	14	8	15	9	15	1
Courthouse Leadership	Communal	18	3	7	1	14	18	16	18	2	3	11	4
	Network	17	9	3	6	12	7	16	4	7	14	21	9
	Automous	-29	-12	-9	-7	-25	-23	-26	-18	-7	-21	-39	-6
	Hierarchical	-6	-1	-1	1	-1	-2	-6	-4	-2	4	8	-6
Internal Organization	Communal	9	-9	0	1	9	7	2	-1	1	-1	6	1
	Network	22	22	13	4	13	16	25	6	12	11	22	8
	Automous	-15	-13	-11	-3	-16	-13	-22	-5	-13	-13	-32	-14
	Hierarchical	-15	-1	-2	-3	-6	-9	-4	-1	-1	4	5	5

Looking first at Dominant Case Management Style in, every court wants to reduce the Autonomous component of their culture. There are negative numbers in the Autonomous row under case management beginning with Contra Costa (-22) and ending with Virginia (-7). Nine of the 12 courts desire to reduce the Communal component as well. All of the courts in our sample desire a marked increase in both the Hierarchical and Networked aspects of their culture. The overwhelming – and widespread – desire is to increase solidarity.

Change management bears many similarities to case management. All of the courts want to decrease the Autonomous component. Some of the desired changes are quite substantial and in the direction of Hierarchy. Finally, all but Olmsted desires an increase in the Networked component of their culture. Therefore, as with case management, the courts want to increase solidarity in change management.

Turning to judicial-staff relations, all of the courts, except for Pinellas (no change) and Olmsted (no change), desire to decrease the Autonomous aspects of their culture in this area and eight of the ten desire an increase in the Networked aspect of culture. As expected, six of the

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courts desire an increase in the Hierarchical component in this area, although the magnitudes are small. Hence, whereas the move toward Network cultures is expected, there also is a minor unanticipated move toward Hierarchy.

Looking at the results for internal organization, we find all twelve courts want to decrease the Autonomous and nine decrease the Hierarchical cultures, as expected. All of the courts seek a substantial increase in the Networked component and eight of the 12 desire modest increases in the Communal component. Consequently, whereas the move toward Networked cultures is as expected, there is also a slight unanticipated move toward Communal culture.

Finally, turning to courthouse leadership, we see a strong desire – across all twelve courts – to decrease the Autonomous aspects of their culture; six of the desired changes are in excess of twenty points. Furthermore, all twelve of the courts desire an increase in both the Communal and Networked aspects of their culture – clearly, they desire an increase in sociability.

Patterns in the direction of desired change, largely confirm our expectations. All of the courts wish to develop a culture with greater more solidarity when it comes to managing cases and managing change. In these domains, the dominant desire is on developing and using modern management techniques.

In contrast, all of the courts wish to develop a culture that has more sociability and solidarity when it comes to judicial-staff relations and internal organization. In these areas, the courts appear to want a culture emphasizing the core values of a Networked culture. Finally, when it comes to judicial leadership, there is a common desire among all twelve of the courts for a culture that is more Communal in nature. Taken together, the 12 courts in our study do not aspire to a single cultural type. Instead, they would like to align particular cultural values with particular content domains.

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Our third hypothesis, presented at the beginning of this chapter, indicated that we anticipate that there will be high degree of similarity in the type of cultural mosaic that courts aspire to. To test this hypothesis, we construct Table 36 (using the data from Table 29) to create a table similar to Table 21 that indicates the primary type of *preferred* court culture type.

Table 36
Primary Preferred Court Culture Types

State	Content Dimension	Dominant Case Management Style	Judicial and Court Staff Relations	Change Management	Courthouse Leadership	Internal Organization
California	Contra Costa	Hierarchical	Networked	Hierarchical	Communal	Networked
	Napa	Hierarchical	Networked/ Hierarchical	Hierarchical	Communal	Networked
	Ventura	Hierarchical	Networked	Hierarchical	Communal	Networked
Florida	Duval	Networked	Networked	Hierarchical	Communal	
	Pinellas	Hierarchical	Networked	Hierarchical	Communal	Networked/ Communal
Minnesota	Dakota	Hierarchical	Networked	Hierarchical	Communal	Networked
	Hennepin	Hierarchical	Networked	Networked	Networked	Networked
	Kandiyohi	Hierarchical	Networked	Networked	Communal	Networked
	Olmsted	Hierarchical	Networked	Networked	Networked	Networked
	Ramsey	Hierarchical	Networked	Networked	Networked	Networked
	Duluth	Hierarchical	Networked	Networked	Communal	Networked
	Virginia	Hierarchical	Networked	Communal	Communal	Networked
Consensus		**Hierarchical**	**Networked**	**Hierarchical**	**Communal**	**Networked**

As can be seen in Table 36, courts prefer different culture types for different work areas. What is surprising is the degree of uniformity across our courts in terms of their preferences. In the area of Dominant Case Management Style, 11 of the 12 prefer a Hierarchical culture for this aspect of court work. In the area of Judicial and Court Staff Relations, all courts prefer a Networked type of culture. In the Change Management work area, six courts prefer a Hierarchical culture, five prefer a Networked culture, and one prefers a Communal culture. The courts overwhelmingly prefer to have a large dose of Solidarity in this important work area. In the Courthouse Leadership work area, we see nine courts prefer a Communal culture while three prefer a Networked culture. In this work area, a great deal of emphasis is being directed at the importance of Sociability. Finally, in the area of Internal Organization, 11 of our courts prefer a Networked culture. Thus, not only do courts desire a cultural mosaic, they prefer moving toward

a mosaic that bears striking similarity across courts. This raises the possibility that there may be a mental picture of an ideal mixture of the various culture types.

A final question occurs to us. Given that courts desire a mosaic of culture types, does the preferred incongruence suggest that courts will find effective management extremely difficult, if not virtually impossible? When we look at the type of cultural incongruence desired, it is important to see that – with the exception of Courthouse Leadership – respondents desire cultures with a high degree of Solidarity. Multiple cultures arise because judges and court administrators believe different degrees of Sociability also are required in individual content areas. As a result, the cultures making up the mosaic are different, but adjacent to one another. This situation may be more manageable than if the cultures were diagonally opposed to one another.

But perhaps of greater relevance to court management is whether a reform agenda set by internal court leadership can overcome traditional concerns about resistance to change by judicial institutions. Some experts contend almost all efforts to reform courts through administrative means fail, and fail because of the courts' fragmentary nature. A leading exponent of this view argues courts are not "bureaucratic structures", which can be induced to accept and implement change through "greater coordination and management." (Feeley 1983, p. 205).

Without questioning the merits of Feeley's thesis, his assertion is less in direct conflict with the preferred mosaic than what might appear at first glance. Feeley takes great pains to identify and document outsiders, such as legislators, the public, the press, and scholars as the sources of the attempted reforms he examines. He focuses on planned changes, such as sentence reform and speedy trial rules both of which were inspirations emanating from outside the courthouse.

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In contrast, the source for preferred change in court culture emanate from inside the courthouse. Judges and administrators were asked to state how they would like to see their court operate in the future. Their views were the basis for the emergent cultural mosaic. Moreover, the work areas subject to culture's effect are themselves quite internal to court operations.

Therefore, Feeley's sound commentary, on the problematic nature of externally based changes in how courts function, does not clash with current research results or reasoning. In fact, Feeley's acute insight implies the internally generated desire by judges and administrators for a cultural mosaic stands a fair chance of taking hold and directing a major portion of future court agendas.

CONCLUSIONS

Despite differences among courts in the nature of current culture, all courts prefer a strikingly similar future culture. Courts envision a *cultural mosaic* assigning a particular culture to a particular content dimension: Communal courthouse leadership, Hierarchy in case and change management, Networked judicial-staff relations and internal organization and virtually no Autonomous culture. This preferred combination of cultural orientations places considerable responsibilities on the chief judge, to lead the court by fostering agreement among members and staff of the court in a collegial manner. And the chief judge has to encourage other judges and staff to embrace one set of cultural orientations in case and change management and another set in judicial-staff relations and internal organization. Clearly, this role calls for the chief judge to be deft in building agreement and not asserting authority unilaterally or collaborating with a particular coalition on the court. Such skills are needed to move the culturally diverse court steadily forward.

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As pointed out in the second chapter, experts on private sector organizations would say the pursuit of multiple cultures is a sign of incongruence and possibly inhibits positive performance (Cameron and Quinn 1999,64). We believe, however, this issue strikes at the heart of the difference between private and public sector organizations. Whereas the pursuit of profit, revenue and minimization of cost binds private organizations into tightly cohesive cultures in all work dimensions, public organizations have multiple cultures because they have multiple goals and multiple "clients", including litigants, attorneys, taxpayers and policy makers in addition to their own needs. Thus, whereas incongruent court cultures will require extensive skill sets to manage, that it is likely be the nature of the public sector organizational "beast."

One final observation is that given the desired cultural incongruence, trial courts are complex systems. This means that supervising judges and court administrators must employ multiple policies that work with the multiple cultures and the system dynamics created by the cultural incongruities. This, in turn, makes it imperative for a court to diagnose both its current and preferred cultural makeup. This additional complexity will become an important factor in managing the direction and performance of the court.[75]

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[75] Cameron and Quinn (1999, 65), when discussing the absence of congruence, suggest that discrepancies (across content dimensions) "may indicate a lack of focus, it may indicate that the culture is unclear to the respondents, or it may indicate that the complexity of the environment requires multiple emphases in different elements of the organization."

APPENDIX 6-1: ASSESSING VARIATION IN CCAI RESPONSES

Content Dimension	Culture Type	California -- Future Culture											
		Contra Costa				Napa				Ventura			
		Mean	sd	Median	CV	Mean	sd	Median	CV	Mean	sd	Median	CV
Dominant Case Management Style	Communal	14.52	13.12	10	90%	12.55	12.18	10	97%	21.86	20.12	17.5	92%
	Networked	32.67	19.44	30	60%	38.00	10.86	35	29%	29.46	20.23	28.5	69%
	Autonomous	9.71	11.23	5	116%	3.64	3.93	5	108%	11.07	11.50	10	104%
	Hierarchy	43.10	20.70	40	48%	45.82	13.28	45	29%	37.61	20.97	40	56%
Judicial and Court Staff Relations	Communal	20.68	15.83	17.5	77%	10.45	12.93	5	124%	8.70	7.92	5	91%
	Networked	40.91	16.52	40	40%	43.18	11.02	50	26%	39.07	20.62	35	53%
	Autonomous	11.14	7.86	10	71%	3.18	3.37	5	106%	13.89	13.89	10	100%
	Hierarchy	27.27	16.88	25	62%	43.18	17.50	45	41%	38.33	21.53	30	56%
Change Management	Communal	19.29	12.78	20	66%	13.91	12.09	15	87%	12.41	14.96	10	121%
	Networked	33.81	12.84	30	38%	35.73	12.03	35	34%	30.19	17.95	30	59%
	Autonomous	10.71	8.56	10	80%	3.18	3.37	5	106%	5.37	7.59	0	141%
	Hierarchy	36.19	12.14	40	34%	47.18	9.45	50	20%	52.04	23.13	40	44%
Courthouse Leadership	Communal	41.14	14.39	37.5	35%	41.50	9.52	40	23%	47.41	21.85	40	46%
	Networked	34.32	15.91	30	46%	28.58	12.56	31.5	44%	31.85	20.15	30	63%
	Autonomous	6.59	6.62	5	100%	4.17	5.15	2.5	124%	7.96	12.35	5	155%
	Hierarchy	17.95	14.77	17.5	82%	25.75	8.92	22.5	35%	12.78	10.59	10	83%
Internal Organization	Communal	27.86	12.31	30	44%	17.75	12.28	17.5	69%	23.52	15.80	20	67%
	Networked	43.81	14.91	45	34%	53.58	17.54	50	33%	48.89	21.54	40	44%
	Autonomous	11.19	14.99	5	134%	5.42	4.98	5	92%	9.26	9.78	10	106%
	Hierarchy	17.14	10.91	15	64%	23.25	14.60	20	63%	18.33	14.21	20	78%

Content Dimension	Culture Type	Florida -- Future Culture							
		Duval				Pinellas			
		Mean	sd	Median	CV	Mean	sd	Median	CV
Dominant Case Management Style	Communal	26.00	15.14	25	58%	26.88	12.80	27.5	48%
	Networked	29.40	19.22	25	65%	15.00	14.14	10	94%
	Autonomous	22.00	14.79	20	67%	21.88	26.18	15	120%
	Hierarchy	22.60	15.82	20	70%	36.25	21.34	35	59%
Judicial and Court Staff Relations	Communal	23.92	15.49	25	65%	17.50	8.86	15	51%
	Networked	32.36	17.72	30	55%	33.13	17.92	27.5	54%
	Autonomous	24.20	15.39	25	64%	33.13	21.54	22.5	65%
	Hierarchy	19.52	13.37	20	68%	16.25	13.02	20	80%
Change Management	Communal	17.60	15.89	10	90%	26.25	20.66	15	79%
	Networked	24.40	18.10	20	74%	23.75	11.88	20	50%
	Autonomous	27.40	19.16	25	70%	12.50	8.86	10	71%
	Hierarchy	30.60	17.46	25	57%	37.50	15.81	40	42%
Courthouse Leadership	Communal	34.12	19.35	30	57%	32.50	15.81	30	49%
	Networked	25.32	13.79	20	54%	30.00	9.26	30	31%
	Autonomous	19.40	19.49	20	100%	23.75	21.34	20	90%
	Hierarchy	21.16	13.90	20	66%	13.75	11.88	10	86%
Internal Organization	Communal	25.52	11.51	25	45%	32.50	15.81	35	49%
	Networked	26.32	9.56	25	36%	32.50	18.32	30	56%
	Autonomous	26.20	19.54	25	75%	16.88	12.23	10	72%
	Hierarchy	21.96	10.46	25	48%	18.13	13.08	10	72%

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Content Dimension	Culture Type	Minnesota -- Future Culture																			
		Dakota					Hennepin					Kandiyohi					Olmsted				
		Mean	N	sd	Md	CV	Mean	N	sd	Md	CV	Mean	N	sd	Md	CV	Mean	N	sd	Md	CV
Dominant Case Management Style	Communal	20.00	13.00	19.90	10	99%	17.28	65.00	12.84	15	74%	14.71	7.00	8.79	15	60%	15.25	10.00	13.67	12.5	90%
	Networked	22.31	13.00	12.18	20	55%	32.72	65.00	20.83	30	64%	36.14	7.00	22.34	35	62%	30.50	10.00	14.62	32.5	48%
	Autonomous	15.77	13.00	18.47	10	117%	11.57	65.00	10.50	10	91%	15.57	7.00	18.46	10	119%	7.75	10.00	11.93	5	154%
	Hierarchy	41.92	13.00	23.85	40	57%	38.43	65.00	21.87	40	57%	33.57	7.00	15.74	30	47%	46.50	10.00	17.80	47.5	38%
Judicial and Court Staff Relations	Communal	26.92	13.00	17.50	20	65%	19.18	67.00	12.66	20	66%	17.86	7.00	17.29	20	97%	20.50	10.00	15.17	25	74%
	Networked	39.62	13.00	17.50	40	44%	36.72	67.00	15.80	30	43%	45.00	7.00	29.86	30	66%	38.50	10.00	11.56	35	30%
	Autonomous	13.46	13.00	11.07	10	82%	20.30	67.00	16.90	10	83%	7.86	7.00	6.99	10	89%	16.00	10.00	14.10	15	88%
	Hierarchy	20.00	13.00	15.55	20	78%	23.81	67.00	15.96	20	67%	29.29	7.00	20.09	40	69%	25.00	10.00	23.92	20	96%
Change Management	Communal	20.38	13.00	13.46	20	66%	18.74	65.00	12.66	20	68%	21.43	7.00	16.51	25	77%	25.00	10.00	12.47	25	50%
	Networked	30.38	13.00	15.61	30	51%	35.35	65.00	15.04	35	43%	38.57	7.00	28.68	30	74%	37.00	10.00	9.78	40	26%
	Autonomous	11.92	13.00	13.47	10	113%	12.38	65.00	11.49	10	93%	7.14	7.00	9.06	5	127%	6.00	10.00	8.10	5	135%
	Hierarchy	37.31	13.00	20.48	30	55%	33.52	65.00	15.48	30	46%	32.86	7.00	15.24	30	46%	32.00	10.00	13.78	32.5	43%
Courthouse Leadership	Communal	50.00	13.00	18.93	45	38%	36.19	67.00	15.18	40	42%	55.71	7.00	19.67	50	35%	38.50	10.00	12.70	37.5	33%
	Networked	25.23	13.00	13.60	30	54%	38.58	67.00	18.00	40	47%	30.00	7.00	11.90	30	40%	42.50	10.00	12.96	40	31%
	Autonomous	8.46	13.00	10.28	5	122%	10.60	67.00	10.57	10	100%	6.43	7.00	11.07	0	172%	4.00	10.00	4.59	2.5	115%
	Hierarchy	16.31	13.00	14.68	10	90%	14.63	67.00	10.71	10	73%	7.86	7.00	7.56	5	96%	15.00	10.00	13.33	10	89%
Internal Organization	Communal	31.15	13.00	16.35	40	52%	23.86	66.00	13.24	20	55%	30.00	7.00	18.93	20	63%	27.00	10.00	16.36	30	61%
	Networked	35.00	13.00	14.86	35	42%	48.11	66.00	18.81	42.5	39%	40.00	7.00	7.64	40	19%	44.00	10.00	16.96	42.5	39%
	Autonomous	18.08	13.00	20.57	10	114%	12.27	66.00	11.54	10	94%	10.71	7.00	13.36	5	125%	11.50	10.00	12.26	10	107%
	Hierarchy	15.77	13.00	9.76	15	62%	15.76	66.00	10.05	15	64%	19.29	7.00	17.42	15	90%	17.50	10.00	14.19	10	81%

Content Dimension	Culture Type	Minnesota -- Current Culture														
		Ramsey					St Louis					Virginia				
		Mean	N	sd	Md	CV	Mean	N	sd	Md	CV	Mean	N	sd	Md	CV
Dominant Case Management Style	Communal	20.00	10.00	22.85	15	114%	32.00	10.00	22.14	32.5	69%	30.63	8.00	21.12	30	69%
	Networked	26.00	10.00	24.01	20	92%	10.50	10.00	9.85	7.5	94%	14.38	8.00	8.21	10	57%
	Autonomous	19.50	10.00	20.88	10	107%	36.00	10.00	20.11	30	56%	22.50	8.00	16.69	20	74%
	Hierarchy	34.50	10.00	18.77	32.5	54%	21.50	10.00	30.37	10	141%	32.50	8.00	29.15	25	90%
Judicial and Court Staff Relations	Communal	21.00	10.00	15.24	17.5	73%	18.00	10.00	20.03	12.5	111%	21.25	8.00	20.13	15	95%
	Networked	31.50	10.00	24.04	22.5	76%	34.50	10.00	22.04	30	64%	25.63	8.00	16.78	20	65%
	Autonomous	30.50	10.00	20.74	25	68%	22.50	10.00	29.65	10	132%	18.75	8.00	28.00	10	149%
	Hierarchy	17.00	10.00	11.60	12.5	68%	25.00	10.00	17.32	22.5	69%	34.38	8.00	31.56	25	92%
Change Management	Communal	28.00	10.00	11.60	27.5	41%	30.50	10.00	16.74	35	55%	32.14	7.00	24.47	25	76%
	Networked	29.00	10.00	20.92	22.5	72%	23.00	10.00	28.40	12.5	123%	23.57	7.00	13.76	20	58%
	Autonomous	16.50	10.00	17.49	10	106%	33.50	10.00	18.11	30	54%	15.00	7.00	18.26	5	122%
	Hierarchy	26.50	10.00	20.42	22.5	77%	13.00	10.00	8.56	12.5	66%	29.29	7.00	19.02	25	65%
Courthouse Leadership	Communal	29.00	10.00	16.96	22.5	58%	30.50	10.00	25.44	20	83%	39.29	7.00	26.05	30	66%
	Networked	28.00	10.00	15.49	27.5	55%	16.50	10.00	10.29	15	62%	19.29	7.00	12.72	15	66%
	Autonomous	29.00	10.00	25.80	20	89%	43.00	10.00	21.11	45	49%	17.14	7.00	17.53	10	102%
	Hierarchy	14.00	10.00	11.25	10	80%	10.00	10.00	7.07	10	71%	24.29	7.00	22.81	20	94%
Internal Organization	Communal	24.50	10.00	13.83	20	56%	20.00	10.00	13.33	20	67%	25.63	8.00	18.79	20	73%
	Networked	25.00	10.00	22.73	20	91%	29.50	10.00	27.13	22.5	92%	26.25	8.00	11.57	27.5	44%
	Autonomous	25.00	10.00	19.15	20	77%	37.50	10.00	22.76	40	61%	24.38	8.00	22.59	15	93%
	Hierarchy	25.50	10.00	17.07	27.5	67%	13.00	10.00	9.49	10	73%	23.75	8.00	20.66	20	87%

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Content Dimension	Culture Type	Minnesota -- Future Culture														
		Ramsey					St Louis					Virginia				
		Mean	N	sd	Md	CV	Mean	N	sd	Md	CV	Mean	N	sd	Md	CV
Dominant Case Management Style	Communal	20.00	10.00	21.08	12.5	105%	19.50	10.00	20.74	17.5	106%	20.00	8.00	18.52	15	93%
	Networked	29.00	10.00	22.09	25	76%	23.00	10.00	18.29	25	80%	25.63	8.00	16.78	25	65%
	Autonomous	11.50	10.00	12.48	10	109%	9.50	10.00	9.85	7.5	104%	15.63	8.00	13.48	10	86%
	Hierarchy	39.50	10.00	18.48	35	47%	48.00	10.00	32.68	37.5	68%	38.75	8.00	30.91	35	80%
Judicial and Court Staff Relations	Communal	12.50	10.00	12.30	7.5	98%	21.00	10.00	21.71	15	103%	18.75	8.00	20.13	15	107%
	Networked	39.00	10.00	25.69	32.5	66%	39.50	10.00	28.52	35	72%	31.88	8.00	30.23	27.5	95%
	Autonomous	27.50	10.00	22.64	17.5	82%	21.00	10.00	31.25	7.5	149%	8.75	8.00	11.26	5	129%
	Hierarchy	21.00	10.00	16.96	20	81%	18.50	10.00	12.70	20	69%	40.63	8.00	29.81	40	73%
Change Management	Communal	17.00	10.00	14.57	15	86%	13.00	10.00	10.59	15	81%	27.86	7.00	21.96	20	79%
	Networked	40.00	10.00	20.68	37.5	52%	53.50	10.00	21.35	50	40%	30.00	7.00	14.43	30	48%
	Autonomous	7.50	10.00	9.20	5	123%	6.00	10.00	7.75	5	129%	11.43	7.00	13.14	5	115%
	Hierarchy	35.50	10.00	25.22	27.5	71%	27.50	10.00	16.20	27.5	59%	30.71	7.00	18.58	25	60%
Courthouse Leadership	Communal	31.50	10.00	13.13	30	42%	41.50	10.00	24.73	37.5	60%	43.57	7.00	23.93	30	55%
	Networked	42.00	10.00	16.19	40	39%	37.00	10.00	21.24	42.5	57%	27.86	7.00	12.20	25	44%
	Autonomous	8.50	10.00	9.73	5	115%	4.00	10.00	9.37	0	234%	10.71	7.00	13.67	5	128%
	Hierarchy	18.00	10.00	19.03	10	106%	17.50	10.00	25.08	7.5	143%	17.86	7.00	17.29	20	97%
Internal Organization	Communal	23.50	10.00	13.34	25	57%	25.50	10.00	14.62	30	57%	26.25	8.00	17.88	22.5	68%
	Networked	35.50	10.00	22.79	25	64%	51.00	10.00	19.83	47.5	39%	34.38	8.00	12.37	40	36%
	Autonomous	12.00	10.00	9.49	10	79%	5.50	10.00	6.43	5	117%	10.63	8.00	9.80	7.5	92%
	Hierarchy	29.00	10.00	19.69	27.5	68%	18.00	10.00	14.18	20	79%	28.75	8.00	20.13	27.5	70%

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APPENDIX 6-2: COMPARISONS BETWEEN CURRENT AND PREFERRED CULTURES FOR ALL COURTS
California

Dominant Case Management Style – Current vs. Preferred

Contra Costa

Judicial and Court Staff Relations– Current vs. Preferred

Contra Costa

Change Management– Current vs. Preferred


Contra Costa

Courthouse Leadership– Current vs. Preferred

Contra Costa

Internal Organization– Current vs. Preferred

Contra Costa

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California

Dominant Case Management Style – Current vs. Preferred

Napa

Judicial and Court Staff Relations– Current vs. Preferred

Napa

Change Management– Current vs. Preferred

Napa

Courthouse Leadership– Current vs. Preferred

Napa

Internal Organization– Current vs. Preferred

Napa

California

Dominant Case Management Style – Current vs. Preferred

Ventura

Judicial and Court Staff Relations– Current vs. Preferred

Ventura

Change Management– Current vs. Preferred

Ventura

Courthouse Leadership– Current vs. Preferred

Ventura

Internal Organization– Current vs. Preferred

Ventura

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Florida

Dominant Case Management Style – Current vs. Preferred

Duval

Judicial and Court Staff Relations– Current vs. Preferred

Duval

Change Management– Current vs. Preferred

Duval

Courthouse Leadership– Current vs. Preferred

Duval

Internal Organization– Current vs. Preferred

Duval

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Florida

Dominant Case Management Style – Current vs. Preferred

Pinellas

Judicial and Court Staff Relations– Current vs. Preferred

Pinellas

Change Management– Current vs. Preferred

Pinellas

Courthouse Leadership– Current vs. Preferred

Pinellas

Internal Organization– Current vs. Preferred

Pinellas

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Minnesota

### Dominant Case Management Style – Current vs. Preferred

Judicial and Court Staff Relations– Current vs. Preferred
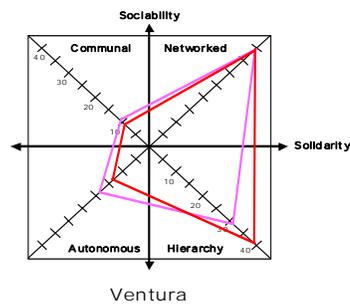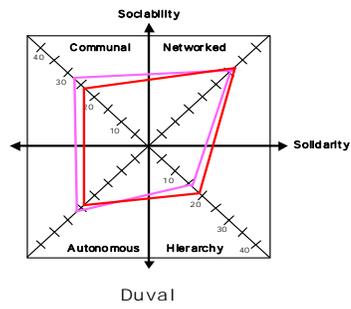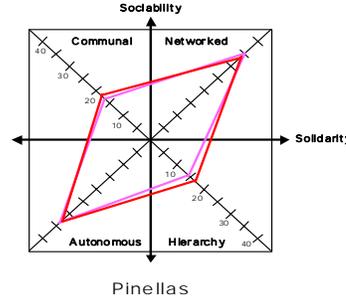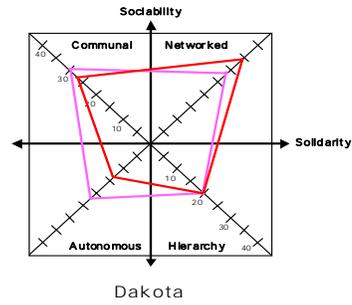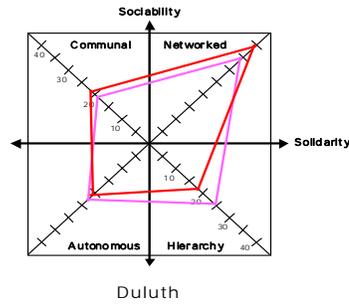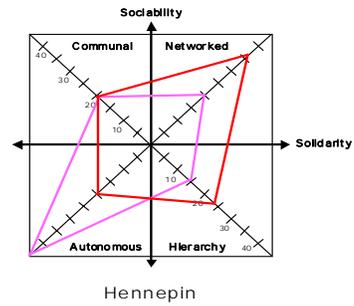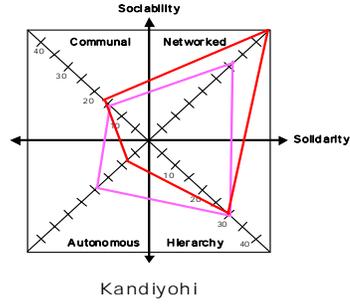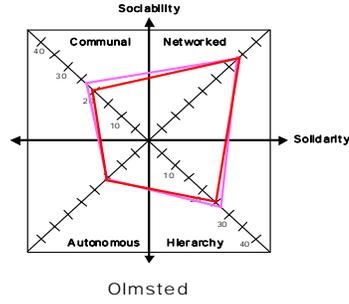

Change Management– Current vs. Preferred
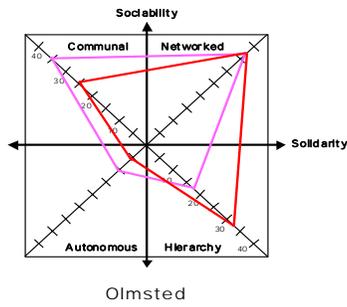
### Courthouse Leadership– Current vs. Preferred
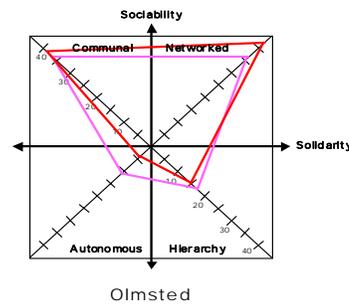

Internal Organization– Current vs. Preferred

Minnesota

Dominant Case Management Style – Current vs. Preferred

Duluth

Judicial and Court Staff Relations– Current vs. Preferred

Duluth

Change Management– Current vs. Preferred

Duluth

Courthouse Leadership– Current vs. Preferred

Duluth

Internal Organization– Current vs. Preferred

Duluth

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Minnesota

Dominant Case Management Style – Current vs. Preferred

Hennepin

Judicial and Court Staff Relations – Current vs. Preferred

Hennepin

Change Management – Current vs. Preferred

Hennepin

Courthouse Leadership – Current vs. Preferred

Hennepin

Internal Organization – Current vs. Preferred

Hennepin

Minnesota

Dominant Case Management Style – Current vs. Preferred

Kandiyohi

Judicial and Court Staff Relations– Current vs. Preferred

Kandiyohi

Change Management– Current vs. Preferred

Kandiyohi

Courthouse Leadership– Current vs. Preferred

Kandiyohi

Internal Organization– Current vs. Preferred

Kandiyohi

Minnesota

Dominant Case Management Style – Current vs. Preferred

Olmsted

Judicial and Court Staff Relations– Current vs. Preferred

Olmsted

Change Management– Current vs. Preferred

Olmsted

Courthouse Leadership– Current vs. Preferred

Olmsted

Internal Organization– Current vs. Preferred

Olmsted

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Minnesota

Dominant Case Management Style – Current vs. Preferred

Ramsey

Judicial and Court Staff Relations– Current vs. Preferred

Ramsey

Change Management– Current vs. Preferred

Ramsey

Courthouse Leadership– Current vs. Preferred

Ramsey

Internal Organization– Current vs. Preferred

Ramsey

Overall Ramsey County– Current vs. Preferred
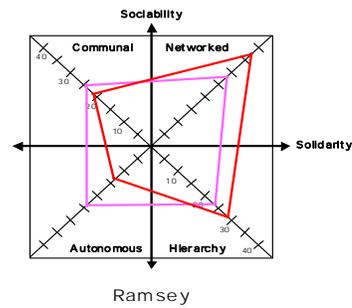
Ramsey

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Minnesota

Dominant Case Management Style – Current vs. Preferred

Virginia

Judicial and Court Staff Relations– Current vs. Preferred

Virginia

Change Management– Current vs. Preferred

Virginia

Courthouse Leadership– Current vs. Preferred

Virginia

Internal Organization– Current vs. Preferred

Virginia

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CHAPTER 7: CONCLUSIONS AND IMPLICATIONS

Happy courts are all alike; every unhappy court is unhappy in its own way.

SUMMARY

We summarize our principal finding – with apologies to Leo Tolstoy and a slight reworking of the famous first line from *Anna Karenina*: "Happy families are all alike; every unhappy family is unhappy in its own way" as an epigraph to this chapter. Jared Diamond reminds us that what Tolstoy meant was "in order to be happy, a marriage must succeed in many different respects: sexual attraction, agreement about money, child discipline, religion, in-laws, and other vital issues. Failure in any one of these essential respects can doom a marriage even if it has all the other ingredients needed for happiness. (1997, 157).

Diamond names this notable insight the *Anna Karenina* Principle and states: "This principle can be extended to understanding much else about life besides marriage. We tend to seek easy, single-factor explanations of success. For most important things, though, success actually requires avoiding many separate possible causes of failure." (1997, 157).

Courts are also subject to the Anna Karenina Principle. Organizational effectiveness in the court environment requires that court leaders pay attention *simultaneously* to multiple work areas (e.g., case management, judicial-staff relations, change management). Leaders in effective, well-managed (i.e., happy) courts have developed ways to balance the full spectrum of management responsibilities, to recognize and blend alternative perspectives, and see that conflicting values are natural and can co-exist. They know lack of attention to any single work area can stymie efforts to improve performance, just as it dooms efforts at building a happy marriage. Our findings suggest that efforts to, say, implement a new caseflow management plan

without involving staff, working with key constituents on the change process and building consensus on the bench will lead to problems and failure.

We began this book with a vignette involving a conversation between two court administrators. The two administrators found that despite strong similarities in court size, structure, technology and processes, there were equally strong differences in organizational relations and performance. Culture was singled out as the distinguishing feature. Court leaders and managers know, at least intuitively, that particular types of cultures form as a result of certain values, assumptions, and priorities becoming dominant in the organization. Courts, like other organizations, periodically face the need to change /modify cultures in connection with new challenges, opportunities and constraints. Without a change in culture, most change initiatives such as TQM, reengineering and teamwork will fail to produce expected results. The previous six chapters have explained a process and methodology (complete with instruments) for effectively diagnosing a court's current culture, assessing a preferred culture, and charting a course for changing a court's culture. This final chapter summarizes the culture assessment process, the consequences of culture and offers recommendations to guide the change process.

Conceptualizing Court Culture

We have identified four distinct cultural orientations on how felony criminal cases are handled in contemporary American trial courts: (1) communal, (2) networked, (3) autonomous, and (4) hierarchy. These four cultures represent particular combinations (high, low) of two foundational dimensions: (1) solidarity and (2) sociability.

Solidarity represents the extent to which a group of individuals in an organization are bound together ranging from a loosely knit conglomerate to a cohesive entity unified around explicit roles. Sociability captures the nature of the attachment individuals in organization have

toward one another ranging from close personal ties to little social interaction as the rules and structure determine what is to be done. Taken together, the two dimensions form the following four quadrants, each of which represents a distinct court culture type:

- *Communal cultures* are low on solidarity and high on sociability. Judges and administrators are team players, but coordinate their actions by following norms the "team" has agreed are reasonably mutually beneficial. Very few sharp edges exist in this court.

- *Networked cultures* are high on solidarity and high on sociability. Judges and administrators are drawn to design and apply general rules of behavior, but structured orientations are more like guidelines than rules. Judges and administrators try to accommodate the maximum number of colleagues resulting in the formation of principles permitting departures when an individual deems it appropriate and necessary.

- *Autonomous cultures* are low on solidarity and sociability resulting in limited court-wide polices except the idea that the discretion of individual judges and corresponding staff is to be respected. Each chamber takes on the character of a solo legal practitioner, although some chambers might occasionally find they have enough in common to form a small law firm like coalition.

- *Hierarchical cultures* are high on solidarity and low on sociability. They are organized and mobilized to get the job done and done in a common manner by following quite detailed rules. Written court policies and procedures are to be applied in a uniform manner by all judges.

These characterizations of cultural types are not just theoretical possibilities, they capture the distilled essence of trial courts. Each culture type emphasizes a distinct blend of values that represent different ways of seeing the world of judicial administration. Or as Quinn observes in his study of private sector organizations, the different cultural configurations "represent the values that precede the assumptions that people make about what is good and what is bad, the unseen values for whose sake people, programs, policies, and organizations live and die" (1988, 42). These archetypes capture the ways work gets done in felony trial courts.

We measure how cultural values are exhibited by examining practitioners' views toward multiple areas of work including case management, judicial-staff relations, change management,

courthouse leadership and internal organization. Each culture has a particular manner of conducting business in those spheres. The Court Culture Values Matrix introduced in Chapter 2 provides a summary of the way work is done in each content area according to each culture. However, the conceptual classification of multiple cultures and multiple work areas does not mean courts in the real world will be "pure" types, embodying a single dominant culture. This view is neatly summarized by Quinn when he writes: "[r]eal organizations do not fall neatly into one or the other of these four models. In fact, the models do not contain organizations, organizations contain the models, all of them. In every organization all four models exist." (1988:45). To a greater or lesser extent, all of the values in the Court Culture Value Matrix are "in play" in every trial court each day. What gives a court its distinctive culture is the relative emphasis given to the combinations of cultural values expressed in different work areas.

Since cultures reflect underlying values, they emerge from choices made by judges and court administrators on how they believe cases should be resolved. Within 12 courts selected for study from three states; California, Florida and Minnesota, there are examples of all four cultural types. There are examples of all four cultures within the seven courts located in the single State of Minnesota. Hence, in the general court community beyond the courts under study, a fair number of all four basic cultural orientations likely exist. Culture is the product of conscious choices as evidenced by the ability of judges and administrators to envision changing their current situation to more preferred configurations in the future. The challenge for court leaders is to move beyond the notion culture is unknowable and kaleidoscopic and develop means to make sense of the work environment.

As we pointed out in Chapter 1, one of the durable and important findings about American courts is that they get their work done differently although they have similar caseloads

(e.g., Ostrom and Hanson). The variety of court culture, which we have documented, helps to explain this phenomenon. A contribution of the current research is the use of a conceptual framework and measurement tools that permit the variation in court cultures to be captured and described in a coherent and comprehensible manner. The variety of cultures is reducible to the combination of four cultures operating in five work areas, such as case management, judicial-staff relations, and courthouse leadership. As a result, the realities of court cultures are not bewildering and, in fact, can be linked to observable variation in performance.

Embracing a culture has consequences. For example, courts with Hierarchical cultures achieve objective standards of timeliness promoted by the American Bar Association and other groups, more closely than courts with other dominant cultures. Interestingly, all of the courts under study exhibit awareness of this connection. Every court, according to the preferences of judges and administrators, seeks to increase its Hierarchical culture in the area of case management. This common desire likely arises because none of the courts currently meet the ABA prescribed timeframes. Courts are cognizant of this situation and seek to do better by moving toward a culture more conducive to expedition and timeliness than where they currently are.

Mosaic of Preferred Cultures

Judges and court managers recognize no single culture is necessarily the most appropriate or efficacious in all situations. Courts demonstrate sensitivity to the complex nature of culture by preferring a combination of culture across different work areas in the future. Specifically, all of the courts under study desire to move to a culture orientation with a Hierarchy emphasis in case management and change management; a Network emphasis in judicial-staff relations and internal organization; and a Communal emphasis in courthouse leadership.

Understandably, judges and administrators want to stress solidarity in work areas (case management, change management) whose substantive nature focuses on cases and aggregate concepts such as backlog, size of caseloads and productivity and stress sociability in work areas (judicial-staff relations and internal organization) whose substantive nature focuses on social relations and individual level concepts such as inclusiveness, personal growth and diversity. Moreover, the preference for a communal courthouse leadership culture suggests judges and administrators recognize this area is a hybrid of caseflow and social relations and that the "correct" culture is one that will set the right tone for the court overall and one that can effectively maintain intra-court cultural differences across other, more specific work areas.

The weaving of multiple cultures into a mosaic form undoubtedly will prove to be an internal challenge for any court. Scholars of private sector organizations contend cultural incongruency, the presence of multiple cultures, each one dominating a particular work dimension, poses daunting challenges to organizational effectiveness. Private sector organizations work best when a single culture orients all facets and subunits. Congruency's effect would seem to follow from the common goals of private organization to maximize profit, stay in business or corner a segment of the market. Incongruency in a private organization would suggest a lack of clarity on the bottom line and would certainly inhibit organizational effectiveness in private organizations.

In public sector organizations (including courts), no single overarching goal exists. As a result, incongruency might not only exist, but as the current research demonstrates, be the most preferred court culture. The desired incongruency is understandable after taking into account that the work dimensions in courts involve altogether different subject matters. Case and change management are quite different than judge-staff relations and internal organization. However,

even if it is understandable that courts want to form incongruent cultures, the desire for a cultural

mosaic places heightened responsibilities on the administrative leadership of courts, the chief

judge and court administrator in particular. Whereas previous research calls on chief judges to

be leaders in reform and self-improvement, the implications of a preferred mosaic reveal that the

contours of leadership are more challenging than simply exerting the force of personality,

leading by example, and occasionally insisting on compliance to agreed on policies.

In a court with avowedly different cultures, a chief judge will have to master critical

talents and skills. For example, members of the bench will have to learn from the chief judge

what quality means to ensure products of judicial decision-making are seen as clear, consistent

and comprehensible, and not simply timely. This teaching role will have to be complemented by

a chief judge's ability to communicate the indispensability of every member of the bench and

court staff and the value of their contributions. Finally, a chief judge needs to teach and lead in a

particular manner. Because the bench in a Communal culture is a judiciary and not a mere

collective of judges, a chief judge needs to work with all members. His or her effectiveness in

raising issues or responding to other members of the court depends on how well he or she has

cultivated trust and respect. Both the Anna Karenina Principle and modern organization experts

would say it is quite understandable American trial courts struggle to achieve organizational

effectiveness. Success in trial court management requires purposeful and deliberative leadership

rather than forceful tactics or combative reactions. For this reason, we offer an initial set of

recommendations.

(1)   *Courts should diagnose, discuss and interpret their current and preferred culture using
        the Court Culture Assessment Instrument.* The trial court community, including judicial
        organizations and training centers, should begin to rethink the role of the chief judge in
        light of the preferences of judges and court administrators for a cultural mosaic in which
        a Communal culture is the desired way for courthouse leadership to be exercised and
        Hierarchical and Networked cultures are preferred orientations in other areas of work.

Skills are required to achieve and maintain an effective cultural mosaic. The nature and the acquisition of the skills should be on the agenda of future judicial educational training.

(2)   *Both chief judges and other members of the bench need to consider the implications of a Communal Courthouse Leadership culture.* One implication is a shift from a focus on "judges" to one focusing on the "judiciary." For us, the concept of judiciary describes a court where the judges are a closely bound body with a preference for open communication and shared decision-making. As a result, a judiciary is active in the consideration and discussion of all aspects of organizational effectiveness and what it means to be a well-run court. A critical role of the chief judge is to create this communal environment. As a result, a chief judge has to see the court in broad perspective and relate the broad vision of a courts mission to more ordinary but vitally important areas, such as case management, change management, judicial-staff relations and internal organization.

These recommendations are admittedly formative and await further development, but the limitations arise from the fact that the preferred cultural pattern is raising issues that have heretofore not been discussed and examined. The mosaic uncovers new issues, new circumstances and new responsibilities. As a result of these three "discoveries" the challenge is for the court community to begin developing effective responses. The search for methods of balancing different cultures will be difficult, but exhilarating because we know now where courts want to move. The task is to construct the paths to achieve the desired end.

Culture's Performance Consequences in an Adversary System

The preferred culture by judges and administrators is confronted with an external challenge. For the future, courts seek to minimize autonomous culture in all five work areas. While that consensus might be understandable from the perspective of the judiciary, this desired move clashes with the views of attorneys. Prosecutors and public defenders in all 12 courts rate courts with Autonomous cultures as achieving the values of access, fairness and managerial effectiveness more closely than courts with Hierarchical cultures. We believe Autonomous cultures have a real pull on attorneys because such cultures are consistent with the advantages

enjoyed by attorneys from "courtroom work group" relationships, which arise from the assignment of attorneys, judges and staff to particular courtrooms and by the vertical representation of attorneys. Attorneys gain predictability and agreement on the handling of cases in the courtroom work group setting.

While both sets of attorneys view Autonomous cultures more conducive to access, fairness and managerial effectiveness than Hierarchical cultures, prosecutors and public defenders disagree over the relative merits and limitations of other cultures. For example, whereas public defenders see Communal cultures as those in which access, fairness and management effectiveness are most closely approximated, prosecutors see this culture as least conducive to achieving those same values. Whereas prosecutors view courts Networked culture second only to Autonomous cultures in achieving access, fairness, and managerial effectiveness, public defenders view courts in Networked cultures as least effective in achieving these values. As a result, courts are confronted with managing an adversary process in which the adversaries have quite different senses of the kind of court cultures most and least conducive to achieving important values. Obviously, the adversary system is not going to be eliminated in the near future. Hence, what can courts do to pursue their own sense of what kind of culture is appropriate and at the same time enhance their standing among attorneys on the goals of access, fairness and managerial effectiveness? Here we have three additional recommendations.

(3)   *Courts should report timeliness in a way that demonstrates the elapsed time taken to resolve cases is proportional to the seriousness, complexity and difficulty of cases*. Courts should avoid reporting timeliness strictly in terms of what percentiles of cases they resolve in particular numbers of days (or the number of days taken to resolve particular percentiles of cases). Instead, courts should demonstrate how the elapsed time taken to resolve cases is proportional to the seriousness, complexity and difficulty of cases.[76] At the very least, courts should communicate that it is understandable and desirable that it typically takes more time to resolve homicide cases than other crimes

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[76] The concept of proportionality is discussed in more detail in Ostrom and Hanson, *Efficiency, Timeliness and Quality* (1999).

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against the person than crimes against property than drug sale and possession offenses,
than other felonies (e.g., driving under the influence violations). Courts need to
demonstrate they are giving each case individual attention in proportion to what is
warranted given the real work constraints of limited resources.

(4)   *Courts should develop the capacity and skills to report the handling of cases in
        gradations from the most routine to the most complex.* To begin, what makes a case
        routine or complex? Courts should not fail to discuss the handling of more complex
        cases (that typically take the longest time to resolve). The current practice in most courts
        is to report how many cases are resolved within 365 days because the ABA prescribes all
        cases should be resolved within that time frame. As a result, courts report what
        percentage is resolved within 365 days or fewer. This percentage is always less than 100
        percent because no court meets the ABA Standard. Unfortunately, courts do not point to
        the composition of cases exceeding the 365 days limit. Here we suggest they should.
        How many of the cases that take the longest time to resolve are complex? Double
        homicide cases? Drug trafficking case? Robbery and burglary crimes committed by
        complex "rings" of offenders? Without demonstrating the understandable length of the
        longest cases, attorneys and the public are left to think the source of "delay" was due to
        inadvertence ("falling between the cracks"), a notoriously inept judge, or lack of
        managerial contrast. Courts need to demonstrate and communicate that they are
        managing well to preserve proportionality, which is the essence of justice.

(5)   *Courts should strive to describe and explain the benefits of timeliness accruing to
        litigants, attorneys, policy makers and the public.* Everyone has an interest in the
        resolution of disputes promptly because delay only increases financial costs. Some
        observers contend criminal defendants benefit by delay but this observation surely does
        not apply to defendants that are not convicted. To prolong the criminal process even for
        defendants exonerated by dismissals or acquittals can hardly be regarded as beneficial to
        them. Time in jail or under suspicion hardly seems a rewarding experience defendants
        want to maximize. Hence, courts do not face an impossible task in explaining why it is in
        the self-interest of litigants, attorneys and others that the principle behind the Seventh
        Amendment's guarantee of a "fair and speedy trial" be achieved.

        These three recommendations are intended to encourage courts to take actions that will

demonstrate that hierarchy and timeliness does not come at the expense of concern for individual

cases. To buttress these efforts, we offer a sixth recommendation.

(6)   *Courts should demonstrate a concern for access, fairness and managerial effectiveness
        by measuring these values.* If courts do not make an effort to assess these values, the lack
        of effort in interpreted as a lack of interest. Courts need not mount extensive research
        programs to ask litigants and attorneys a few choice questions pertaining to these values.
        A few good questions and follow-up on the results should permit courts to pursue
        preferred cultures in the future with greater confidence in knowing they are not acting

exclusively to achieve timeliness. They are trying to reach a delicate balance by emphasizing timeliness and other competing values.

Together, these recommendations offer a direction for managing and guiding court culture. To start, a court may want to focus on the essential "levers" of time frames, gradations and service delivery necessary for achieving strong performance. Time frames include timeliness as a measurable goal, case management techniques and any necessary backlog reduction plan. Gradations are the principles and practices of case differentiation, screening, tracking and specialized calendars. Service delivery is providing each case with sufficient individual attention to satisfy litigants and attorneys they have been able to present their side of the case.[77]

All these factors need to be orchestrated for case management to achieve its intended benefits under a Hierarchy culture, while being responsive to alternative cultural orientations in, say, courthouse leadership or judicial-staff relations. If only time frames are introduced, whether they are national, state or local in origin, no accompanying evidence will be available to confirm or disconfirm the proposition that particular types of felonies are being resolved too quickly (homicide) while other types take too long (burglary). Hence, case management operating solely with an eye on timelines will not necessarily achieve the complementary goal of fairness. Instead, the court opens itself to the criticism of mindlessly pursuing quantitative objectives rather than appropriate attention to individual cases.

To remedy this problem, gradations are a necessary addition. Court leaders need to encourage agreements among judges and court staff on what routine and complex cases are and how theses two categories are appropriately handled under different procedures and resolved in different time frames. Paying attention to this factor is essential for an appreciation of timely

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[77] Specific strategies and methods for measuring these recommended areas of court performance are contained in Ostrom et al; CourTools: A Performance Management Framework.

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case flow and an opportunity for the court to make its case for case management with litigants, attorneys and the public. The court should articulate on the benefits of caseflow management options like gradations to respond to potential criticism the court is now "batch processing cases." Criticisms might be levied that cases are being treated summarily without sufficient individual attention. Hence, a service delivery emphasis is also required. Court leaders need to monitor and measure individual litigant and attorney satisfaction in the performance areas of access, fairness and managerial effectiveness.

Articulating a clear management plan is essential because some initiatives might take longer to achieve results. Or some factors might be introduced sequentially at different points in time compounding the lag between intervention and results. For example, court leaders might begin to improve timeliness by introducing time frames, then gradations and finally service delivery. As a result, the court might develop the reputation of being driven by delay reduction because of its initial emphasis on time frames. As a result, the court should consider active communication of, if not actual implementation of some form of gradations and service delivery, to accompany the introduction of time frames.

Appealing to the future, we believe courts should consider looking at their cultures more systematically and with definite purpose and deliberation. Courts should assess what kind of culture they have using the instrument developed with the current research. Additionally, they should take stock using some limited measures of performance, to gain a sense if their culture is having desired effects. With this information, courts need to outline their preferred cultures. Once courts know the direction they want to move in, the tools of strategic planning can be used to specify what cultural changes are necessary in work areas, monitor progress making those changes and periodically evaluating how cultural changes are impacting values, such as

timeliness, access, fairness and managerial effectiveness. In this way, American trial courts are consciously constructing their own cultural mosaic.

CONNECTIONS TO LARGER QUESTIONS

Enlarging the study of culture, work and institutional performance in public sector organizations, including courts, is a dominant theme in contemporary literature, as noted in the preface to this book. In a systematic manner, we have succeeded in addressing a number of important issues in the public management area.

Prior to discussing three specific contributions, it is important to mention one last time the fact that America's trial courts have been largely overlooked as an important public institution parallel to legislative and executive bodies. It is hard to overstate the significance of courts in our society. Not only are courts charged with providing due process and equal protection to individual litigants, judges have been given the responsibility of ensuring all components of society operate according to the law. Thurman Arnold (1962, 128) has argued that the criminal trial "overshadows all other ceremonies as a dramatization of the values of our spiritual government, representing the dignity of the State as an enforcer of law, and at the same time the dignity of the individual when he is an avowed opponent of the State, a dissenter, a radical, or even a criminal." Given the critical role of America's trial courts, attention to issues of court organizational effectiveness seem long overdue. In addition to drawing attention to the study of courts as a preeminent public sector organization, we see our inquiry responsive to three fundamental issues.

First is the call for public organizations to be examined in terms of the individual values shaping how work is carried out. This agenda comports with the stress placed on how clusters of values form and affect the extent goals are achieved, according to the literature on organizational

culture. Taking up the mantle of Wilson's suggestion that an organization's culture is akin to an individual's personality, we isolate a set of salient values and follow the Quinn and Rohrbaugh methodology. The result is a characterization of four cultural archetypes pertaining to trial courts. Once a researcher isolates the important values for a given public organization, it should be a straightforward matter to identify similar cultural archetypes.

Second, adherents of the importance of culture in the public sector add that public organizations are likely to have multiple cultures. By introducing the idea of work areas or content dimensions, we have been able to isolate different cultures for different types of work in a public organization. As such, we have provided empirical evidence for James Q. Wilson's claim that public organizations are likely to have multiple cultures.

Third, there is DiIulio's call for a measurable public management variable in order to determine whether culture and management "matter" in public organizations. Given strong evidence of a cultural mosaic within America's trial courts, we developed a composite descriptor of an overall cultural type to test the important hypothesis that culture affects performance in public organizations. Using our proxy for the public management variable, we demonstrate strong relationships between culture and performance.

Having addressed these issues, our investigation has implications for future inquiry. First, researchers should consider investigating public sector culture in other settings with similar tools of analysis. The measures employed in the current research borrow from the work of Quinn and his colleagues in their studies of private sector effectiveness. Because the methodology of Quinn et al. proves adaptable in the study of court culture, other public institutions should be amenable to parallel applications. The content of the values, dimensions

and work areas undoubtedly will vary from institution to institution, but the methodology seemingly is flexible enough to permit necessary substantive modifications.

Second, not only is the basic expectation of the public sector organizational literature confirmed by the results from our study of courts but the confirmation raises new questions. Do leaders need to encourage greater dominance in current cultures? How are leaders supposed to lead when the organization prefers quite different cultures for different areas of work? The complexities seen among the 12 courts call for more advanced thinking by organizational theorists on how such realities are to be accommodated.

Third, the ability to measure culture by borrowing the tools available in the organizational culture literature highlights the relevance of the methodologies to the fields of public administration, public policy, and public management. Without claiming that the use of those tools answers all questions, court scholars and other public sector experts would benefit by adapting ideas from outside the perimeter of their own fields. Recognition and acceptance of broader perspectives are central to advancing research frontiers.

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