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# The Training of Court Managers

Harvey E. Solomon\*

## I. INTRODUCTION

This Article will present an overview of the development of court administration training during the past decade and will advance some ideas about its direction in the future.<sup>1</sup> No attempt will be made, however, to analyze in depth the content of the training programs or to explore educational methodology.

The decade of the 1970's was marked by a number of significant developments in the field of court administration. The most striking change to many observers was the extent to which the field was professionalized.<sup>2</sup> In 1970 there were less than fifty individuals in court administrative positions who had any management training at all. By the end of the decade, there were over five hundred men and women occupying top and mid-level management positions in the state and federal court systems, many of whom had extensive education in court administration. Hundreds more had at least some short-term court management training on the national and local levels.<sup>3</sup>

This trend has been spurred by a growing recognition on the part of the judicial, legislative, and executive branches of government, the legal profession, and the public that effective and efficient court administration is of vital importance. The old approach of simply increasing the number of judges has proved to

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1. Some parts of this Article are based on Mahoney & Solomon, *Court Administration*, in *THE IMPROVEMENT OF THE ADMINISTRATION OF JUSTICE* (1981). In the context of this Article, the terms "training" and "education" are used interchangeably.

2. See, e.g., JOHNSON FOUNDATION, *REPORT ON WINGSPREAD CONFERENCE ON CONTEMPORARY AND FUTURE ISSUES IN THE FIELD OF COURT MANAGEMENT* (P. Nejelski & R. Wheeler eds. 1980).

3. A report published in 1978 indicated that there were 455 state and local court administrators. See 4 NATIONAL INST. OF LAW ENFORCEMENT AND CRIMINAL JUSTICE, *THE NATIONAL MANPOWER SURVEY OF THE CRIMINAL JUSTICE SYSTEM 70* (1978) [hereinafter cited *MANPOWER SURVEY*]. Based on past trends, a 10% increase since then would be minimal.

be an insufficient response to the problems of rising caseloads and lengthening delays in case dispositions. At the urging of Chief Justice Warren E. Burger, two new national organizations were established in the early 1970's to improve court administration. These organizations—the Institute for Court Management and the National Center for State Courts—have created a capacity for training, research, technical assistance, and an exchange of information and ideas that had previously not existed. In addition, early in the 1970's a number of universities, most prominently the University of Denver and the University of Southern California, instituted graduate programs in judicial administration.<sup>4</sup>

Court management training has not been limited solely to those holding the formal title of "court administrator" or to those enrolled in university programs. Clerks of court, chief and administrative judges, division heads, and other supervisors and managers in courts and adjunct justice system agencies (such as prosecution, defense, or probation) have become increasingly conscious of their need to develop administrative skills and have enrolled in court management training.

One of the most significant developments over the past decade has been the growing awareness that court administration involves more than dealing with the so-called "housekeeping duties" that a chief judge would like to delegate to someone else. The administration of a court or a court system, like the administration of any complex organization, inevitably involves policy choices, and those in nonjudicial management positions cannot help but be involved in the formulation as well as the implementation of policy. The implications of this development for training programs will be discussed later in this Article.

Before considering the growth of court administration training, the role and function of court management should be reviewed briefly, because the scope of these activities dictates to a significant extent the contours and content of any training program. In light of the great diversity of American courts and court systems, it should not be surprising to find that there are widely differing views regarding what court administration means and what court administrators and others in management

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4. It should be noted that the Federal Judicial Center was created in the late 1960's to serve as the research and training arm of the federal court system. The Center developed into full operation during the 1970's.

positions should do. Nevertheless, it is generally agreed that, regardless of who performs specific functions, there are some common elements critical to any viable system of court administration.

These core functions include caseflow management (perhaps the central function since the processing of cases is the primary business of the courts), juror selection and jury management, management of records and information systems, budgeting and fiscal administration, personnel management, management of equipment and courthouse facilities, and the provision of in-service training for court personnel.

In addition, a wide range of other services exists, often performed by executive branch agencies, with respect to which a court may have some administrative or coordinating responsibility. For example, these include courthouse security, pretrial release investigations, supervision of those released on bail or other conditions, determination of eligibility for public defense services, pre-sentence investigations, mental health diagnoses, and adult and juvenile probation services. The range of such services is very wide; and, although the court may not have direct responsibility for their performance, it has a stake in ensuring that they are performed effectively.

As the above indicates, the court manager operates in a complex and demanding environment. Like any manager, the court administrator must work with others to utilize all available resources in order to achieve organizational goals. This involves planning and organizing activities, providing staff support, giving direction, and monitoring performance. Technical, interpersonal, and conceptual skills are all necessary to perform these functions well.<sup>5</sup> In varying ways, the education and training of court managers, as it has evolved since 1970, has focused on the enhancement of these basic skills as they are used in the court setting.

## II. COURT MANAGEMENT TRAINING

### A. *The Early Years*

The Institute for Court Management was founded in 1970 in response to a speech by Chief Justice Warren E. Burger, in which he noted that the United States had more astronauts

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5. See Katz, *Skills of an Effective Administrator*, 52 HARV. BUS. REV. 90 (1974).

trained for space exploration than qualified court administrators. To secure the skilled managers needed, the Chief Justice called for the development of a program to train court administrators.<sup>6</sup> Under the leadership of the American Bar Association, a task force was quickly formed, the efforts of which resulted in the establishment of the Institute and its basic educational curriculum, the Court Executive Development Program.<sup>7</sup> The first class to complete this program graduated in ceremonies held at the United State Supreme Court in December 1970, with Chief Justice Burger presiding.

Initially, the Court Executive Development Program was a full-time, six-month course designed to aid individuals making a career change from some other profession or activity to court administration. Of the first class of thirty-one men and one woman, approximately one-half were new to court management. The other half were federal and state court employees. Those entering the field for the first time received fellowships from the Institute which covered the costs of schooling as well as the basic living expenses involved in attending the program.<sup>8</sup>

The curriculum was a mix of formal classroom instruction and guided study in the courts. During the first two weeks, participants were immersed in the court environment by being assigned to document the processing of different kinds of cases from filing to disposition and to interview all the key actors involved. The next nine weeks were spent in formal class work presided over by a mixture of academics and practitioners. A visiting committee of judges, chaired by Chief Justice Burger, provided general oversight with a number of these judges sitting in on class sessions.

After the formal instruction phase, the program required the participants to spend the next three months as interns in the courts conducting a court study and preparing a report in accordance with a study guide developed during the class sessions. The program concluded with a two-week seminar designed to draw together the internship experiences so that the interns

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6. See Burger, *Court Administrators—Where Would We Find Them?*, 53 JUDICATURE 108 (1969).

7. Joining with the American Bar Association in sponsoring the Institute were the American Judicature Society and the Institute of Judicial Administration.

8. Major funding for the first three years of the Court Executive Development Program was provided by the Ford Foundation.

could share each other's work.<sup>9</sup>

In designing this program, an underlying premise of the Institute for Court Management was that the court manager had to understand the total arena of the judicial system. The program emphasized the complex nature of the courts. Internally, complexity is caused by the many different types of professionals and task specialists who work within the court, such as judges, lawyers, administrators, and probation officers. Externally, the courts exist in a complex environment evidenced by the variety of governmental institutions and agencies, private organizations, and individuals that relate to the court's work.

In order to address adequately both the internal and external environments of the courts, the Institute developed a curriculum comprehending all subjects relevant to court management. Instruction and field experience were provided on such technical subjects as case and jury management, records management, and information processing. A number of class sessions were spent analyzing the role and function of courts, judicial independence, the adversary system, and other concepts relating to the courts as an institution of government. In addition, participants studied management and leadership styles to enhance their interpersonal skills and obtain a better understanding of the dynamics of organizational change. This was particularly important since, in those early years, a great deal of emphasis was placed on the role of the court administrator as an agent for change.<sup>10</sup>

This multiphased, multifaceted program served as the model for the university graduate programs in judicial administration that were developed in the early 1970's. For example, the Master of Science in Judicial Administration program of the University of Denver, College of Law, requires students to take courses covering case and jury management, fiscal administration, administrative behavior, and judicial administration. Students must also spend several hours each week observing trial court operations. During the summer quarter, each student is assigned to a court or court-related agency as an intern.<sup>11</sup>

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9. See Brownell, *A Development Program for Court Administration*, 54 JUDICATURE 99 (1970).

10. For an in-depth report on the first classes enrolled in the Court Executive Development Program, see G. Gallas, *Court Executive Training Program Design: Documentation of First Training Effort*, Institute for Court Management (1971) (unpublished).

11. Program Bulletin, Master of Science in Judicial Administration, University of Denver, College of Law (1980-81).

The staff of the Institute for Court Management worked with the School of Public Administration and the Law School of the University of Southern California in designing that university's masters program in judicial administration. As a result, the USC program also embodies many of the elements included in the initial design of the Court Executive Development Program.

### *B. The Growth in Training Opportunities*

Beginning in 1972, court administration training became more broadly available. That year, the Institute began offering workshops on the technology of court management to a broad range of practitioners. In addition, in the nine years since then, the design of the Court Executive Development Program has been modified so that today it is the principal in-service training program for court administrative personnel. To accommodate those with full-time positions, the program involves attending workshops and a four-week seminar rather than a single nine-week session. It now takes a minimum of two years to complete. While the content and approach have been refined substantially, the basic design remains the same, and the goal continues to be to address the technical, conceptual, and interpersonal skills that are needed to be an effective court administrator.<sup>12</sup>

For those desiring to enter the court administration field, either initially or at mid-career, there are a number of university programs available. Aside from the two universities previously mentioned, American University, in Washington, D.C., also has a graduate program in court administration. Many other universities and colleges offer courses dealing with the courts and the justice system, and some have established criminal justice programs or schools.<sup>13</sup>

Training opportunities continued to expand throughout the 1970's. As with the older professions of law and medicine, continuing education has become a part of the court manager's world. Today the experienced practitioner no longer has to enroll in a degree or certificate program to receive training. Almost all of the more than twenty seminars and workshops offered by

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12. For a description of the current program, see the 1981 Program Brochure of the Institute.

13. MANPOWER SURVEY, *supra* note 3, at 75, found that by 1976, 48 educational institutions offered courses or programs in judicial administration.

the Institute for Court Management in 1981 can be taken on an individual basis and need not be part of a formal program of study.

In addition to the Institute, a number of other organizations began offering training to court administrative personnel during the mid to late 1970's. Both the National Judicial College and the National Center for State Courts have presented a few specialized workshops for those concerned with court management. The last decade also saw a large expansion in the number of state judicial colleges and educational programs dedicated to providing in-state judicial training. As the decade drew to a close, some of these institutions began presenting short training sessions, usually concerned with court management technologies, for clerks of court, court administrators, and other court support personnel. Thus, by the beginning of the 1980's, programs in court administration were widely available both on an independent basis and as part of a defined course of study leading to a degree or certificate. Practically nonexistent ten years ago, training has become a significant feature of the court administration field.

This trend was aided, in no small measure, by an outpouring of articles, monographs, reports, and journals dealing with the administration of the courts.<sup>14</sup> These publications were essential to the building of a body of knowledge about court management and to the development of the materials needed for educational programs. They were the result of systematic study of the courts spurred by the awakening interest in the field, the creation of administrator positions at all levels of the federal and state court systems, and the influx of individuals to fill those positions.

### III. FUTURE DIRECTIONS

#### A. *In-State Training*

As noted previously, in-state educational opportunities for court administrative personnel began to expand as the 1970's

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14. An extensive bibliography is included in Mahoney & Solomon, *supra* note 1. In addition, at least three new periodicals concerned with court management began publication in the 1970's. They are *The Justice System Journal* produced by the Institute for Court Management, the *State Court Journal* of the National Center for State Courts, and the *Court Management Journal* sponsored by a number of the professional court administrator organizations.

drew to a close. Aside from programs that were locally planned and conducted, some jurisdictions invited national organizations to design and present special programs for their court administrative personnel. For example, the Institute for Court Management has presented specifically tailored workshops on the technology of court management for the clerks of the District and Superior Courts of Massachusetts and for administrative personnel of the Philadelphia Municipal and Common Pleas Courts. The National Center for State Courts has worked with the Michigan Judicial Institute in presenting similar programs for Michigan court personnel.

In all likelihood the trend toward more in-state programming will continue and possibly accelerate in the 1980's. One major reason for this will be economic conditions. At this writing, it appears that the block and discretionary grant program of the Law Enforcement Assistance Administration (U.S. Department of Justice) will go unfunded. These federal grants have been used by some states and local jurisdictions to support the attendance of court personnel at national training programs. In addition, most organizations conducting such programs were recipients of grants and were able, as a result, to offer many programs on a low- or even no-tuition basis. With less federal money available, states and localities may opt to use their limited training funds for in-state activities on the theory that such a step is more cost-effective.

Continued inflation, the increasing cost of air travel, and cutbacks in federal, state, and local budgets may also make it more difficult to maintain national court-administration training and education programs. This situation will be compounded by the fact that in the court world, the training of judges has priority over the training of others.

However, increased attention to in-state programming can be a welcome development, especially if it means that training has been recognized as a necessary ingredient of effective court administration. In-state training seems to be best suited for entry level personnel and those concerned primarily with the operational aspects of court management, such as case and jury management, personnel administration, and fiscal management. On the other hand, for senior managers and those in line for such positions, some national exposure may be necessary. One of the major movements of the 1970's has been the upgrading of court administrators from task specialists and executive assistants to

professional managers. This process involves a broadening of horizons and interaction with others similarly situated but in different environments. Based on the experience of the last decade, this can be accomplished best in national programs where broad concepts about courts and the role of administration are explored. If economic conditions force curtailment of national training programs for top-level managers, the drive for greater professionalism in court management may well be slowed or retarded.

### *B. Program Focus*

Ten years ago, the focus in the field was on the creation of court administrator positions. Although the judiciary played a prominent role in sponsoring the new profession of court management and in guiding the training of court administrators, no effort was made to teach court administration to judges and administrators together. However, it became apparent as the field matured that in reality court administration was a shared function, performed at the top level by judges, administrators, and, in some situations, elected or appointed clerks of court. Effective court management thus depended on having more than just a trained, professional court administrator. This realization required, in terms of training, a broadening of the perspective. In 1976 the Institute for Court Management inaugurated a series of workshops on planning and implementing change for teams of court administrators and their chief judges. The National Judicial College has adopted a similar approach and has opened some of its courses dealing with court management to court administrators.

This trend not only reflects an increased understanding of the court management function, but also demonstrates a growing awareness that court administration involves more than taking care of the housekeeping duties. Because those charged with administrative responsibilities will inevitably be involved in the policy-shaping and policy-implementation processes, this trend toward joint management education for judges and administrators should continue and grow in the 1980's.

In fact, it seems likely that as to some aspects of court administration, such as caseload management, training programs may include all the key actors in the process even if they are not part of the judicial branch. For example, in 1980 the Institute and the National Judicial College sponsored a series of work-

shops, funded by the Law Enforcement Assistance Administration, for metropolitan trial courts on reducing delay. Each jurisdiction was required to send a team composed of judges, administrative personnel, and lawyers to the workshop. Using this same approach, the Institute for Court Management and the National Center for State Courts are conducting a similar series of workshops in 1981 focusing on the state court system's role in reducing trial court delay.

The reactions of those attending these types of programs have been quite positive. Initial reports indicate that upon returning home, the workshop groups have continued to function as teams in implementing delay reduction programs. Because the involvement of the principal participants in planning a new endeavor is usually the key to its successful implementation, broad-based training programs may become more prominent as we move into the 1980's, especially as vehicles to launch new administrative procedures or programs.

### *C. The Public Component*

The broadening focus of court administration training may lead in the 1980's to a growing emphasis on the public component of court management. The dominant theme of court administration in the prior decade was capacity building. Administrative systems were developed, technologies were mastered, and research and technical assistance capabilities were expanded. Significant progress was made in providing effective management services for courts, most of which had never previously been managed in any meaningful way. The training programs developed in the 1970's contributed a great deal to these accomplishments.

While this capacity building effort will no doubt continue, it seems likely that, as this decade unfolds, there will be increased emphasis on the courts' relationships with the community. Because organizations draw power from their environments, it seems clear that, when administrative policies and practices are being formulated, court managers must take into account the perceptions and needs of those in the larger world who are concerned about and impacted by the courts. Education and training can play an important role in this regard. Programs can be designed to widen the perspectives of court managers—judges and non-judges alike—regarding the public's view of the courts and how they function. Because public attitudes toward the ju-

dicial system are so important, especially at a time when there is heightened competition for public resources, in the years ahead there will be a greater need than ever before for court managers to be sensitive to the larger world's views and concerns. The courts can no longer afford the appearance of being organized and run primarily to suit the convenience of judges and lawyers.

As the courts struggle to cope with the changing environment of the 1980's, education may prove to be a vital tool in the courts' search for understanding and support from the community at large. Therefore, this decade will probably see courts and court systems using education programs to communicate to the public about the courts' needs, role, and performance.

#### IV. CONCLUSION

Unlike the 1970's when court administration training concentrated on internal development and capacity building, training in the 1980's may well have a wider focus and include not only the principal actors in management processes but the community as well. Local, regional, and state educational programs may also become more prominent. However, because of economic conditions, the growth in training opportunities may level off and possibly even decline. How this impacts the field of court administration may answer the question whether court management has developed as a profession or is merely an idea whose time has passed.