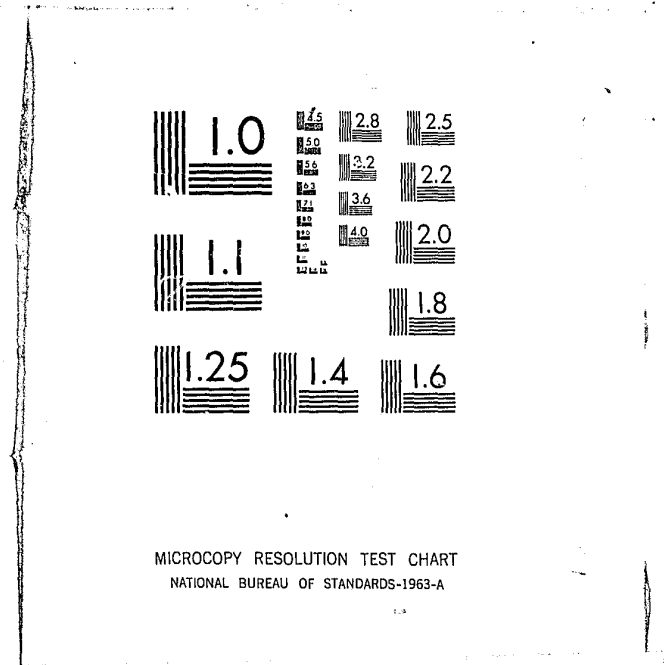


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ORGANIZATIONAL DESIGN

FOR COURTS

by

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.....
He only says, 'Goodfences make good neighbours.'
Spring is the mischief in me, and I wonder
If I could put a notion in his head:
'Why do they make good neighbours? Isn't it
Where there are cows? But here there are no cows.
Before I built a wall I'd ask to know
What I was walling in or walling out,
And to whom I was like to give offense.
.....'

(Mending Wall by Robert Frost)

This essay examines the judiciary from the perspective of organization theory in order to understand and assess efforts to improve court performance through changes in management structure. Characterizing the courts in formal organization terms leads to an identification of those things which must be taken into account when designing a court structure. To illustrate the concepts, the discussion focuses upon what has become the dominant approach to reform in the states -- unification. The reforms promoted under this rubric represent an explicit attempt to design a formal organization through the manipulation of such structural components as trial court jurisdictions, financing, budgeting control, administrative responsibility, and rule-making authority. (Berkson and Carbon, 1978)

Management of the courts has become an increasingly important issue at federal, state and local levels of government. In addition to unification, courts have experimented with such things as case flow management techniques, automated recordkeeping systems, various administrative positions within the court, and alternative calendaring systems. (Sipes, et al., 1980; Skumpsy, et al., 1980; Flanders, et al., 1977; and Institute for Law and Social Research, 1976) All of these reform efforts rest on a common set of assumptions about the court, namely, that the courts are formal organizations and, as such, can be affected

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through structural manipulation. Rarely is this assumption examined systematically to test its implication for court organization.¹ It is presumed that because such activities as recordkeeping, budgeting, financing and personnel issues are common administrative problems, the procedures and practices found in non-judicial settings are appropriate for the court. However, given the unique characteristics of the judiciary, the effectiveness of these reforms may depend as much upon the validity of the assumptions underlying the changes as upon the care with which they are implemented. An inappropriate concept of the court as a formal organization is likely to lead to inappropriate solutions to management problems in the judiciary.

In keeping with these critiques, the purpose of this essay is two-fold: first, to develop a general theory of court organization which takes account of the unique qualities of the judiciary while placing it in the context of other formal organizations; and, second, given this theory, to identify basic precepts from the appropriate organization theory literature which can be used to assess the effects of proposed structural reforms. The essay begins with a general review of organization theory as it relates to the courts and the assumption on which it rests. It then turns to two key concepts drawn from the writings of James Thompson (1968): core technology, that is, the basic production process of an organization; and institutional issues, that is, the place of an organization in its environment. These concepts are applied to the courts in a form which lays the foundation for the final section of the paper, which examines the criteria for the design of judicial management structures.

Courts as Formal Organizations

A formal organization is distinct from other social organizations in that they are deliberately created for a certain purpose or set of purposes, and operate under an explicit set of rules and procedures. Blau and Scott begin

this important distinction: "The goals to be achieved, the rules the members of the organizations are expected to follow, and the status structure that defines the relations between them (the organizational chart) have not spontaneously emerged in the course of social interactions but have been consciously designed a priori to anticipate and guide interaction and activities." (1962:5, also see Etzioni, 1964:3; Simon, 1957:4; Thompson, 1967) The sanction of the formal structure is to reduce the uncertainties associated with collective action so that the purposes of the organization will be realized. If the explicit design is incomplete, or inappropriate, informal arrangements will emerge among organization members, or between members and non-members to complement or even overwhelm the intentions of the formal structure. Because of the complexity of most organizations, no formal structure can eliminate all of the uncertainties with which its members must deal. However, the fact that an explicit set of expectations exists leads to a set of dynamics which are less likely when the interactions are governed by informal arrangements alone.

The distinction between organizations of purposive design from those based on other foundations is critical to the current endeavor. Court unification is predicated on the assumption that manipulation of the formal structure of the judiciary will lead to changes in court performance. The reforms are, in effect, an attempt to design an organization through an explicit definition of the interactions and activities of court personnel. By way of contrast, interactions and activities of the participants in the trial process which are examined by Eisenstein and Jacob are the product of informal arrangements among the participants based on mutual adjustment. (1977) The participants are drawn from a variety of organizations - prosecutor's office, public defenders' office, law firms, sheriff, police, corrections - rather than a single source. Because their individual goals and objectives overlap at times accommodations can be developed to govern their continuing interaction. But there is no overarching purpose to which they must all subscribe and which justifies the organ-

ization. Nor is there an explicit structure which defines their respective roles, binds them together in a common purpose, and is subject to change through a formal redefinition.

This is not to deny the significance of the work group as described by Eisenstein and Jacob. On the contrary, as they make clear, the informal arrangements which develop among the judge, prosecuting attorney, and defense counsel in the criminal court are inevitable in many settings. But these arrangements must be treated as a contingency which must be taken into account in the design of the formal organization rather than as an alternative approach to structuring the judiciary.

The building blocks of formal organizations are the differentiated tasks required to accomplish their goals and objectives, and the mechanisms for coordinating these tasks so that they are mutually reinforcing and supportive rather than in conflict. Henry Mintzberg begins his effort to develop a comprehensive theory of formal organization with these twin concepts. "The structure of an organization can be defined simply as the sum total of the ways in which it divides its labor into distinct tasks and then achieves coordination among them." (1979:2) The complexity of an organization is reflected in the extent of its task differentiation and specialization and the nature of the coordinating mechanisms necessary. At one extreme are simple organizations which combine all roles and skills in a few people. Coordination can be achieved through either direct supervision, or through mutual adjustments among equals or near equals. At the other extreme are the complex structures associated with large organizations with highly differentiated tasks and many specializations. Coordination can only be achieved through formal rules and procedures as physical distance, infrequent contact and disparate skills impede the development of informal arrangements among actors.

Courts vary widely in their degree of complexity. The traditional structure of the trial courts in most states has been more akin to that of a simple

organization than complex. In a single member court, for example, there is little or no task differentiation or specialization. The same person determines points at law, holds hearings, schedules meetings, and hires personnel. Support services are provided by a small staff -- e.g., secretary, recorder, or judicial clerk -- or by an external organization -- e.g., county clerk, county recorder, sheriff. The operations of the courts are likely to be a function of the personality of the judge and the informal arrangements which have evolved among the key actors with whom the judge works -- lawyers, clerks, bailiffs, and county commissioners -- as much as formal rules and regulations.

Several courts, especially large, urban courts of general jurisdiction, have taken on many of the attributes of a complex organization. The presence of such diverse skills as probation officers, family counselors, budget personnel, evaluation staff, fiscal officers, and data processors, to name a few, as well as several judges suggest a differentiated task structure and a set of coordinating mechanisms based on established rules and procedures. Informal arrangements are likely to be an inadequate foundation for integrating the various activities into a common purpose.

The design of the tasks and coordination mechanisms cannot occur in a vacuum. If the formal structure is to be a major influence on performance, it must take into account the kinds of problems the organization will address. These problems can be divided into three distinct levels of activity and control: technical, institutional, and managerial. (Thompson, 1967:10-11; also see Mintzberg, 1979: Part III; and Down, 1967) Technical refers to the activities associated with the basic production process of an organization, for example, the assembly line of an auto plant, or the operating room of a hospital. Institutional level activities are those necessary to maintain the organization within its environment. Included here are the efforts to define the boundaries between members and non-members, and to insure that the organization has access to the resources it needs from external

sources. Finally, the managerial level contains the activities and techniques used to provide services to and deal with the uncertainties which arise out of other levels of an organization. The activities associated with this level include coordination of the tasks in the technological core, control over input and output of the organization, and internal allocation of resources. (Downs, 1967:44-47; Mintzberg, 1979:267-287) Although each level of activity in the organization has unique problems associated with it, it is the interaction among the three which defines the criteria for organizational design.

Court Unification and Organizational Design

There is little consensus on the exact reforms which are to be included in the concept of court unification. In a review of the literature Berkson and Carbon list twenty-two specific reforms which have been promoted under this rubric including such things as state financing of courts, use of parajudges, requirements for statistical recordkeeping, and a simplified court structure. (1978:2) They distill these various components into five categories: consolidation and simplification of court structure; centralized management; centralized rule-making; centralized budgeting; and state financing. Although observers may quarrel with individual items which Berkson and Carbon include or exclude from their definition, their conclusion is based on an implied consensus on the components derived from a thorough review of the literature beginning with Pound in 1906 and ending with the American Bar Association standards published in 1974. (Berkson and Carbon, 1978:3) Since our purpose is to use court unification reforms for illustrative purposes rather than as the object of the critique, their summary provides a useful overview of one approach to organizational design for the courts.

Structuring the activities of the managerial level of an organization is the most common focus of organizational design as it raises questions concerning control, centralization, departmentalization and staff-line relations. Most of the court unification reforms identified by Berkson and Carbon are concerned with

the appropriate structure for this level of court activities. Financing, budgeting, personnel administration, recordkeeping, uniform rules and procedures are management level questions. They deal with how the activities of the court should be coordinated, where the support services should be located in the judiciary, and how the exchanges between the courts and other actors are to be carried out. Whether the changes advocated are appropriate for the courts depends upon two sets of contingencies: the core technology; and the environment. (Gallas, 1976)

The formal design of the managerial level of an organization must reflect the needs of the core technology. The ultimate justification of a particular configuration of management activities must be the services it provides to the core. If the formal structure is inappropriate, informal arrangements will emerge to compensate for the inadequacies of the formal. Thus, a centralized management structure for a state judiciary must be considered from the perspective of the activities it is expected to serve, that is, the various trial courts and/or appellate courts in a system.

Although the management structure must be directly linked to the requirements of the core technology, the problems it must resolve to meet those needs will vary depending upon the environment. Calendar management in a rural setting, for example, is very different from calendar management in a large urban area. The formal design of the management structure must be able to accommodate such differences or it will bear little relationship to the actual operation of the court.

These two sets of contingencies provide the criteria for assessing the design of the management structure implied by the unification reforms. Three general questions will guide the discussion. First, under what circumstances is a judicial management substructure appropriate? The unification reforms assume that the courts cannot continue to operate as simple organization, but rather must develop complex coordinating mechanisms, support services, and boundary maintenance units

to be effective. This assumption cannot be taken as a given, but rather must be considered in light of the technology and task environment of the courts.

Second, to what degree can uncertainty in the courts be managed through reliance on bureaucratic controls? A major component of court unification reforms is the need to reduce the managerial discretion of individual judges by imposing a uniform set of operating standards on their behavior.

Third, where should the locus of managerial decision-making be located. A central issue in the debate over judicial reform has been the wisdom of the centralized design implied by the several components of court unification.

There is no single answer to each of these questions. In classic public administration literature there was a search for the "one best way" to structure an organization. (Gulick and Urwick, 1937; Taylor, 1947) This search for a single orthodoxy has been replaced with a recognition that the appropriate design is a relative one. (Thompson, 1967; Blau and Scott, 1962; Mintzberg, 1979) It is unlikely that a single organizational design will be appropriate for all courts, or all state judicial systems. Therefore, the thrust of this assessment is to identify the circumstances under which alternative managerial designs are appropriate, including the designs implied by court unification, not to accept or reject the validity of a particular judicial reform.

CORE TECHNOLOGY

The concept of core technology has had a checkered career in organization theory literature. Like the concept of power, it is an intuitively appealing concept which seems to evaporate when attempts are made to define it in precise terms. (See Mintzberg, 1979:240-250) Nevertheless, the concept is extremely useful in the current endeavor. First, it facilitates distinguishing between that part of an organization involved in the direct, purposive production process from other activities. Second, the concept allows one to distinguish among issues of complexity which arise 1) from the actual process of deciding legal issues; 2) from

outside the organization itself; and, 3) internally in the management of the first two.

The Technology of the Courts

There have been many attempts to define the concept of technology in a form which can be used to distinguish organizations. Woodward focused on the relative complexity of the production process and the predictability of control operations (1965:51); Perrow distinguished between routine and non-routine processes (1967); and Hunt abandoned the concept of technology altogether using, instead, the notion of a technical system. (1972, Chapter 6) One problem with the work of these authors is that their primary concern is with organizations which bear very little resemblance to the courts, for example, manufacturing plants, universities, and hospitals. The typology of James D. Thompson, however, seems much more relevant to the judiciary. He identifies three types of technologies:

- Long-linked technology -- one part of the production process is dependent upon a previous step for completion, such as an assembly line;
- Mediating technology -- the primary activity is linking individuals who are or wish to be interdependent, for example, the commercial bank linking depositors and borrowers;
- Intensive technology -- a variety of techniques are used to produce a change in the object but the selection of the techniques depends upon feedback from the object itself, for example, patients and a general hospital. (1967:15-18)

This typology is especially useful for our purposes because it facilitates distinguishing between the dominant activity of the courts and that of other organizations.

The primary technology employed by the courts can probably be best characterized as one of mediation, that is, linking individuals who, voluntarily or in-

voluntarily, need to be interdependent. In criminal cases the individuals are represented by the prosecutor and the defense; in civil cases, the plaintiff and defendant. The means for bringing them together will vary according to the stage of the process involved, for example, preliminary hearings, plea bargainings, motion filings, negotiated settlements, or trials. But throughout the process the technology remains constant -- linking individuals. This characterization captures most of the activities of judicial personnel involved in the adjudication process, and reflects the primary focus of most courts. There are exceptions to this general pattern, however.

The activities involved in sentencing and determining civil remedy are more akin to Thompson's description of an intensive technology than that of mediation. In both instances, the judge (or jury) must select a course of action based on an interaction with the individual. When a judge sets sentence, he or she is expected to take into account the peculiarities of the case, the person charged, and what will best serve the good of the individuals as well as society.

Several special jurisdiction courts employ an intensive technology as their primary core activity rather than limiting it to one part of the process. Juvenile courts provide a clear example of this point. The role of the judge in these courts is to act upon the individual in much the same way a doctor acts upon the patient. The action taken is expected to be for the good of the juvenile or the family, that is, it is therapeutic. (Fox, 1971)

It is more difficult to find examples of a long-linked technology on the courts. There are some authors, especially those concerned with criminal justice issues, who have argued that the movement of criminal cases from arrest to adjudication to incarceration to release is analogous to the movement on an assembly line. This characterization treats the courts as an integral part of this long-linked process. (President's Commission on Law Enforcement and the Administration of Justice, 1967) However, this characterization ignores the fact that criminal cases are only part of the judiciary's responsibilities. (Parker, 1972) Moreover, a long-linked

process assumes that a sequential set of steps must be followed to produce a successful product. However, there are several ways for a court to successfully resolve a case including dismissal at an early stage in the proceedings, recognizing a bargain struck elsewhere for a plea or sentence, or settlement of a dispute out of court altogether. It is only in a small proportion of the cases that resolution of the dispute requires all steps in the adjudication process from filing to disposition by sentencing or determining the remedy.

The management issues involved in the technological core lie in the need to coordinate the activities taking place at this basic production level in order to reduce the uncertainties associated with it. Each of the three technologies differ in the degree to which a subdivision of tasks is appropriate, and the appropriate form which those subdivisions may take. These differences in the complexity of the core have critical consequences for organizational design.

Complexity of the Core

A traditional one judge court produces little uncertainty in the core of the court. Whatever uncertainty there may be which arises out of the process of deciding cases is purely idiosyncratic to the judge. The judge personally directs his own calendar, manages his time and coordinates court activities. All tasks dealing with the core operations of adjudication and definition of remedies in all cases in the court are handled by him directly. Whatever support staff exists operates as a direct extension of the judge under his/her direction.

The problem of complexity in the core arises only when attention shifts from single member to multi-member courts. Under these circumstances some means must be found for allocating tasks among the members. There are three forms which the subdivision of tasks may take: segmentation, differentiation, and specialization.

Segmentation is the simplest form of subdivision as it involves adding more persons to the core without distinguishing their tasks. For example, cases may be assigned to the judges on a multi-member court without regard to content. No

distinction is made in the type of law or the proceedings to be followed from one court room to the next. Under these circumstances, the level of uncertainty associated with the core will be relatively low. If the court is small, it may operate in much the same fashion as a single member court as coordination among the members can be handled through direct negotiations among the judges. As the size of the court increases, however, uncertainty is also likely to increase. A more complex coordination structure may be called for, even if segmentation remains the primary form for subdividing the tasks.

Differentiation of tasks in the core increases the level of uncertainty because of the increased problem of coordination of the activities of the members. In a differentiated core, the activities are divided into distinct tasks and assigned to formally defined positions. For example, a multi-member court may differentiate by case type so that one judge handles criminal cases, another general civil cases, a third civil domestic, and a fourth juvenile. Alternatively, differentiation may occur by steps in the process, for example, preliminary hearings, motion hearings, and trial.

Specialization is, in one sense, a subcategory of differentiation in that it too is characterized by a subdivision of the core activities into distinct tasks and assignment of those tasks to formally defined positions. However, unlike differentiation, the tasks are organized around specialized skills and call for specialized personnel to fill them. The result is a much more complicated coordination problem as uncertainty may arise from the number of persons, from multiple tasks, and from differences in skills of the individuals. It is difficult to find examples of specialization among judicial actors because of the long-standing norm of judges as generalists. However, when the perspective is expanded to include support personnel such as probation officers performing pre-sentence investigations, or counselors providing assistance to juvenile judges, the problem of coordinating specialization in the core becomes more apparent.

Mediating technologies have much less of an imperative toward a complex organization than do intensive or long-linked technologies because they are less given to task specialization. Organizations using long-linked technologies by definition begin by separating tasks and assigning them to different persons. An elaborate, formal coordinating structure is necessary to ensure the various tasks fit one with another. Intensive technologies are frequently differentiated by specialized services. For example, a surgical team in a hospital draws on a variety of specialities and support services to carry out its purpose.

Mediating technologies, by contrast, do not depend upon task differentiation for effectiveness. A real estate broker essentially works alone in carrying out his/her task. He/she may draw on others for support such as a listing service, loan officers, building inspectors, and lawyers, but these can be obtained through contract; the task itself remains undifferentiated. By the same token, a judge, like the real estate broker, essentially works alone in the adjudication process. Except for exceptional civil cases such as anti-trust disputes, there is little specialized knowledge around which tasks can be structured which will increase the effectiveness of the judge.

Given this character of the adjudication process, it should not be surprising that the traditional court structure was that of a simple rather than a complex organization. On the other hand, it should also not be surprising that many courts do not conform to this simple model. The sheer size of multi-member urban courts, for example, complicated the coordination problems regardless of the form -- segmentation, differentiation, specialization -- of the subdivisions which are used. In addition, it should be borne in mind that courts employ an intensive technology as well as a mediating one. Sentencing decisions, juvenile cases, and many family disputes are dependent upon information and skill which are different from those developed during legal training. These differences provide a logical focus for differentiating the core with the concomitant complexity in the management structure.

Finally, judges are not the only members of judicial organizations. A court may be a complex organization because it offers several services outside of the court room such as counseling, probation, drug treatment centers, or even residential programs. Thus, like the real estate office which also provides apartment management services, a simple core may be part of a complex organization because of the support services it acquires.

INSTITUTIONAL LEVEL

The importance of the members of the immediate environment in the daily operations of the trial courts has been well documented in the literature. (Eisenstein and Jacob, 1977; Nimmer, 1975; Cole, 1970; and Church, et al., 1978) The uncertainties accompanying the dependence of the court on such external actors as prosecutors, defense attorneys, sheriff's deputies, civil counsel, and probation officers can only be minimized through careful management; they cannot be avoided altogether. Less well documented, but equally important when considering the structure of the court, is the dependence of the judiciary on external sources for financial support, legal authorization to carry out certain activities, and even for acceptance of their legitimate role in resolving certain kinds of disputes. (Barr, 1975; Baar, 1974; Korbakes, et al., 1978)

Any consideration of organizational design must take account of the range of issues which must be resolved at this institutional level. The implications for design will vary, however, depending upon the magnitude of the dependence. At its broadest level, an organization must act to establish and maintain its claim to a functional territory, a task domain, which is accepted by critical actors in the environment as legitimate. "The specific categories of exchange vary from one type of organization to another, but in each case exchange agreements rest upon prior consensus regarding domain." (Italics in the original; Thompson, 1967:28; also see Downs, 1966:212) These agreements may appear as formal contracts with outside agencies or organizations; informal arrangements between judges and practicing

attorneys; the laws establishing an organization; or the general norms in society. The issue is that the critical actors in the environment must be identified, a consensus must be reached, and the agreements must be maintained.

At the other end of the continuum, members of the organization must manage the day to day exchanges which are necessary to ensure that resources are available and the products have a market. The two sets of problems are interrelated. If there is a low level of consensus among the critical actors on the domain, the day to day problems are compounded. If, on the other hand, the daily operations are at odds with the general outline, the legitimacy of the claim to territory must either undergo a major shift, or risk destroying the organization.

Task Domain

The dimensions of an organization's task domain are defined by 1) the activities it carries out; 2) the resources it requires; 3) the clients it serves; and 4) its competitors for markets. (Thompson, 1967:26-29) One source of definition for the courts for each of these dimensions is the legislative mandate. For example, court unification reforms attempt to shift the source of finances from local to state government, broaden the activities of the judiciary to include budgeting and managerial functions as well as judicial, expand the number and type of clients of trial courts by eliminating special jurisdictions, and reduce the number of competing organizations by consolidating most courts into a single court of general jurisdiction. An additional source of formal domain definitions can be found in broad policy statements by the organization's leadership, for example, rules and procedures established by a judicial council or supreme court, or rulings by appellate courts.

Simply defining the formal boundaries of an organization, however, does not ensure that it will be successful in laying claim to the implied task domain. This will depend upon the response of the critical actors in the environment. For example, assignment of management responsibilities to a state level office as called for by the court unification reforms implies a state oriented domain which may not

be possible given the political configuration of the environment. Berkson and Hays describe the successful effort of the elected county clerks in Florida to thwart attempts by the newly established state court administrator's office to standardize their recordkeeping operations. The clerks as independent elements in the environment of the court were able to maintain their own definition of the domain in spite of a central office attempt at changing it. (Berkson and Hays, 1976)

The degree of consensus about the domain will affect directly the organizational design as it will dictate the level of effort which must be devoted to managing the uncertainty. In Florida the court administrator was faced with the uncomfortable choice of either redefining the task domain of his office in much narrower terms, or devoting a major part of his energies to dealing with these external actors.

Establishing and maintaining a firm consensus on an organization's domain is an important management problem. However, consensus does not eliminate the uncertainties associated with the environment. Independent of the level of agreement regarding its boundaries, task domains vary widely from one organization to the next in their complexity and, therefore, in the uncertainties they pose for management.

Environmental Complexity

The complexity of the environment surrounding the courts can be described in terms of two dimensions: its relative stability or instability; and its degree of homogeneity or heterogeneity. Stability of the critical actors in the environment is a central issue in the management of the courts, as it is for all organizations. (Eisenstein and Jacob, 1976) Fluctuations complicate any attempts to establish routine relationships. Uncertainty must, by definition, be high since a large proportion of the exchanges between the courts and the environment are based on ad hoc arrangements instead of long standing agreements and accepted norms. (Nimmer, 1978)

Any changes in the definition of the task domain are likely to produce instability on at least a short term basis until consensus over the boundaries is established. (Hays, 1978) For example, if probation services are moved from a Department of Corrections to the judicial branch of government, renegotiations must take place over the auxiliary services that the DOC provided to probation officers such as secretarial assistance, counseling programs, office space or transportation. The courts may have to find new sources for these services at the state or local level; or become involved with federal money from corrections sources rather than judicial programs. (Council of State Governments, 1977) In other instances the instability of the actors is a long standing condition. In some jurisdictions certain courts of limited or special jurisdiction are used as the training grounds for neophyte lawyers. As soon as they gain experience in misdemeanor courts, or juvenile courts, they move on to other activities. (President's Commission on Law Enforcement and the Administration of Justice, 1967) As a consequence, these courts must contend with a constant shift in the counsel who appear before them.

The degree of homogeneity of the environment is also related to the uncertainty which the organization must face. The more heterogeneous the environment, the greater the range of demands with which the courts must deal. In part this heterogeneity is reflected in the socio-economic composition of the court's jurisdiction. Thus, urban areas present a much more heterogeneous set of demands on the courts than do rural. (Eisenstein and Jacob, 1977; Scott, *et al.*, 1977) But this is only one form which heterogeneity may take. A special jurisdiction court, by definition, has a much more homogeneous set of demands than a court of general jurisdiction. Moreover, even in a heterogeneous environment, structures external to the court may narrow the range of exchanges. For example, one of the effects of the increased reliance upon public defenders offices for counsel in criminal cases is to introduce an organizational buffer between the courts and those practicing criminal law. (Casper, 1972)

These two dimensions are analytically distinct. That is, a court's environment may be homogeneous and stable (a rural area); homogeneous and unstable (a new suburban bedroom development); heterogeneous and stable (a medium sized urban center); or heterogeneous and unstable (a rapidly declining or expanding urban center). Clearly, the situation with the greatest uncertainty is that which is heterogeneous and unstable; the one with the greatest certainty is that which is homogeneous and stable; and the other two located somewhere in between.

Court unification reforms, by definition, increase the heterogeneity of the environment. Consolidating trial courts into one or two courts of general jurisdiction ensures that a wider variety of clients must be accommodated. Arguments in favor of shifting financial support from local to state government rarely include providing and maintaining courtrooms which usually remains a local responsibility. (Baar, 1975; Lawson, *et al.*, 1979) As a result, the courts must deal with multiple funding sources instead of just one. Increasing the administrative and budgeting responsibilities of a state court administrator's office means that such practices cannot be tailored to a particular jurisdiction but must take account of court practices in the full range of environments, from sparsely populated rural counties, to the cities and towns in the state.

Whether unification reforms will also affect the stability of the environment is more open to question. A short term instability can be expected because of the disruption to the domain consensus which any shift in the formal boundaries of an organization is likely to produce. The long term effect, however, is much more problematical.

THE MANAGEMENT STRUCTURE

The two preceding sections of the paper have attempted to establish the sources of uncertainty for formal organizations as they relate to the courts, which give rise to the needs of a management substructure. These needs provide the substance for designing a court structure. This section of the essay addresses three questions:

1) is a management substructure necessary; 2) given that it is, what are the issues to be considered in determining the approach to management; and, 3) given that a management structure exists, what are the issues in determining the appropriate locus of authority?

Is a Management Substructure Necessary?

In a simple organization the managerial function seldom implies any structural subdivision. (Mintzberg, 1979:306) The person who performs the production work will also serve as personnel manager, treasurer, salesman, even bookkeeping if the organization is small enough; or he will contract out many of these services to another agency. In an organization with a more complicated technological core, however, the managerial level is likely to be differentiated from core activities. Coordination becomes a full-time job for someone rather than one of many assignments; and support services are provided by specialized staff within the organization such as budget officers, personnel directors, planners, or management information specialists rather than something done under contract with another agency.

The court unification reforms are predicated on the need to develop a managerial substructure. Trial court consolidation is expected to provide the conditions necessary in the technological core for resource management to take place. The argument is that multi-member courts will lead to greater coordination, flexibility in the assignment of personnel resources and use of facilities, and sufficient demand for support services to warrant specialization. The shift of financial, budget and management responsibilities from local courts to a state level office is based on two arguments: the increased need for such services from the courts once they have been consolidated; and on the increased difficulty in dealing with the environment. Most of the arguments based on the needs of the technological core parallel those in support of court consolidation: need for coordination, potential for specialization, and increased efficiency in the use of resources. The arguments relating to the environment are based on an assumption that a separate

management substructure will be more effective in obtaining resources from the state executive and the legislature than will part-time judicial administrators dealing with local actors because full-time administrators will have the skills necessary to gather technical information and make an effective case. (Berkson and Carbon, 1978; Baar, 1975)

From an organization theory perspective, the link between each of these contingencies and the presence of a managerial substructure is not as clear as the arguments in favor of court unification would suggest. There is a great deal of ambiguity in the managerial needs of the technological core of the judiciary; and the variety of task environments from one court to the next and from state to state suggests that the external imperatives for a unified court system are also more problematical than the advocates have recognized.

The Managerial Needs of the Core: The internal structure of the managerial level must reflect two needs of the technological core: the need for coordination; and the need for support services. We have already suggested that a multi-member court, in and of itself, does not constitute a complex organization. If coordination can be achieved through direct negotiations among the members, the court may operate as a simple organization even though it has many of the external trappings of a complex formal organization. Thus, there may be a position of chief judge, but the person who fills it will also serve in a judicial capacity and the role is more akin to chairman of a committee than to manager of an organization. This is most likely to happen where all judges on a court are handling the same type of case, that is, the task has been segmented. However, if a multi-member court differentiates tasks by stage in the process, or creates specialized tasks by distinguishing between case types, or includes the intensive technology of a juvenile court as well as the mediating technology of criminal or civil, it is much more difficult to coordinate through mutual adjustment among peers. A chief judge or court administrator who actively manages the allocation of time, money, and

personnel on the court becomes a necessity rather than an option. (For a discussion of the role of chief judge on appellate courts see Tobin and Hoffman, 1979; and Ducat and Flango, 1976).

Although differentiation in the core requires differentiation in the management structure, this factor, in and of itself, does not automatically lead to task specialization at the management level. If the only need to be met for the core is coordination, this can be achieved through a limited number of management positions such as chief judge or court administrator. The need for a specialized staff within the management level will depend upon the support skills required by the core. There is a distinct difference in the courts between those employing primarily an intensive technology such as the juvenile courts, and those employing mediating technology such as civil courts. The former require a set of specialized skills such as counseling staff and probation officers, which are not required by the latter. The presence of such staff, in turn, generates a further need for an explicit coordinating mechanism.

It is more difficult to identify specialized skills that are needed by the mediating technology in the courts. At a minimum the management level must ensure there are sufficient funds, records are kept of proceedings, personnel are hired, and space is provided. However, very few of these services require a sophisticated management effort to satisfy the needs of the judges.

Recordkeeping is important for the courts primarily during proceedings. At all other times search and retrieval is significant for actors outside of the courts -- attorneys, citizens, and other government officials. Space requirements are also highly standardized in most courts. That is, the number of courtrooms is largely a function of the number of judges. The primary management requirement for courts with a mediating technological core is the recruitment of support personnel -- bailiffs, court recorders, clerks. So long as the requirements can be standardized, however, such services can be handled by outside agencies as

as easily as in-house. They need not be part of the same organization and, traditionally, they are not. Jury management is the most demanding of the functions to be performed at this level. However, jury trials constitute a very small percentage of judicial activity and, therefore, are insufficient in and of themselves to generate a complex management structure in all but large, urban criminal courts.

The flow of cases through the courts may also be a source of impetus for a formalized, complex management structure. Some means must be found for establishing priorities among filings, scheduling hearings, and assigning cases to judges. However, in the absence of a formal deadline such as a speedy trial rule a simple standard of sequential assignment and scheduling will suffice. An informal set of accommodations among the regular participants in the process can regulate the flow of cases. (Eisenstein and Jacob, 1977; Nimmer, 1978; Church, 1978)

If this variation in the needs of the technological core were the only consideration, it is reasonable to suggest that the insistence of the court unification reformers on a distinct managerial substructure is at best premature, and perhaps, in some instances, dysfunctional. This is especially the case since there continues to be disagreement on whether there should be one trial court level or two in a consolidated system. (Berkson and Carbon, 1978:5) Preservation of a two-tier system at the trial court level may result in a reduced need for a managerial substructure because of the reduced need for coordination. This suggestion assumes, of course, that the task environment of the court is constant. However, such is not the case. The need for a separate managerial substructure is as dependent upon factors outside of the court as it is on internal influences.

Managerial Needs of the Institutional Level: The more difficult it is for individual members within the court to identify the critical actors outside and establish informal arrangements with them, the greater the need for a differentiated management structure. This is most likely to occur when the environment is heterogeneous and relatively unstable. (Thompson 1967:72) Eisenstein and Jacob document this effect in their study of the work group. (1976) But it holds true for other

exchanges between the court and its environment such as funding levels, space requirements, records management, and personnel. So long as the source of each of these remains relatively stable and limited, it is unnecessary for there to be a separate management structure to deal with them. As these sources lose their predictability, however, more time and energy must be devoted to obtaining the needed resources.

The most obvious differences in judicial task environments are between urban, suburban, and rural settings. The limited number of political and legal actors in a small town setting eliminates the need for a management structure. Such things as budget hearings, calendaring decisions, and personnel recruitment are likely to take place among long time associates. A separate managerial staff would add very little to the exchanges.³ At the other extreme, however, are the large, urban courts. The competition for financial resources in the local government is likely to be much more intense, requiring major political skills supported by specialized budget expertise. A part-time administrative judge may be at a distinct disadvantage when dealing with a full-time mayor or executive budget officer. All of these factors are compounded if a jurisdiction is undergoing a major shift in population increasing the uncertainties from the environment. (Baar and Baar, 1977)

If the environment is stable but heterogeneous, the most appropriate structure may be to segment the technological core according to subsets of the population, reducing the need for a distinct management substructure. This is consistent with the rise of specialized courts. It is not specialized legal skills which have encouraged small claims courts, for example, but rather the clientele which they are to serve. (Ruhnka, et al., 1978)

What is the Appropriate Management Approach?

Even when the size and organization of the court are consistent with a separate management structure, the style or pattern of management is still an open question.

Management is frequently confused with the behavior of those in a position of authority in a hierarchical structure. Management, however, also refers in organization theory literature to the means used to coordinate the various activities carried out in an organization. These means can be ranged along a continuum depending upon the degree to which they are dependent upon formalization of behavior to ensure coordination rather than mutual exchanges and adjustments. (Mintzberg, 1979:81-88) The appropriateness of the approach is dependent upon the core technology and the environment.

At one end of the continuum are organizations which depend almost exclusively on explicit rules and procedures, preferably in writing, to define tasks, proscribe exchanges among members, determine authority relationships, and establish criteria for positions. The objective is to render predictable as much as possible all activity affecting the organization through standardization of practices and behavior. The control mechanisms have all of the attributes of Weber's classic definition of a bureaucracy, and we will use that term to describe such an approach to management.

At the other end of the continuum are those formal organizations which depend heavily upon individual initiative and problem solving to accomplish their goals and objectives. Individuals are assumed to have the background and skills necessary to exercise a high degree of discretion. Coordination is accomplished through mutual adjustment and accommodation through teams, and review of performance after the fact. (Blau, 1962; Pugh *et al.*, 1963-64; Burns and Stalker, 1961) This approach has been labeled in the literature organic because it assumes that the procedures and interactions will change as the problems and issues change.

There is no assumption that all parts of the management level, or all activities, conform to the same management approach. The particular mix will depend upon the circumstances. The traditional single judge court, for example, can be characterized as organic when describing the internal operations. That is, coordination of court personnel is likely to be accomplished through either direct

supervision of the judge over secretaries and clerks, or through mutual adjustments with other judges and members of the work group. The relationship with those supplying support functions from outside the courts, such as recordkeeping by the county clerk, on the other hand, is usually dealt with in bureaucratic terms because it is based primarily on an explicit set of standards regarding what will be recorded, who will have access to the records, and how they will be updated. The exercise of significant discretion is less important.

There is nothing in the court unification reforms which precludes the use of an organic approach to management. However, the implicit assumption underlying most of the changes is that a bureaucratic approach will improve judicial performance. For example, among the arguments cited by Berkson and Carbon in favor of centralized management is that "intrajudicial coordination is also enhanced . . . during the implementation of policy decisions. Channels of communication are established so that managerial personnel have a clear understanding of their responsibilities." (1978:25) Following the same logic, standardized procedures will be possible under a consolidated court system because it will simplify the process; uniformity and consistency of administrative operations will result from centralized management through the development of standardized forms, a judicial personnel plan, record management procedures, and a state-wide classification scheme for filing cases. Similar arguments are advanced in favor of state financing and budgeting. Little or no attention is given to ways of improving the courts where a bureaucratic approach is inappropriate either because of the character of the core activity or the task environment of individual courts.

Management Approach and the Core: The core technology of the judiciary is clearly more suited to an organic management approach than to a bureaucratic one. In fact, linking the adjudication process to the term bureaucracy almost seems a contradiction in terms. (This discrepancy may explain why there has been resistance among judicial experts to using the concept of formal organization to understand the courts. The assertion is frequently made that one cannot "administer" justice, when

the objection is actually to using a bureaucratic model.) By definition, the judge must exercise large amounts of discretion. Control is achieved through professional norms, peer review, and appellate review. This characterization holds for both mediating (civil, criminal) and intensive (juvenile, sentencing) technologies. The debate over the appropriate body for establishing rules and procedures stems, in part, from the debate over the appropriate style for managing the core technology of the judiciary. Those who advocate locating such authority in the state supreme court are relying on an implicit hierarchical concept of management structure. The advocates of locating the authority in a judicial council are tending to the organic end of the continuum, that is, management through consultation and mutual adjustment among peers.

Although a bureaucratic approach to management may be inappropriate for the core itself, it may be a useful approach in structuring the other two levels of activities. Budgeting, resource allocation, personnel, and recordkeeping are commonly hierarchically structured and operated on the basis of standardized rules and procedures. The support services of the courts -- probation, counseling, social services -- are also compatible with a bureaucratic approach. These activities may also be organized around an organic model. For example, it is not unusual for probation officers conducting pre-sentence investigations to be assigned to individual judges and operate on a team basis (albeit a superior/subordinate team) with the judge and other members of his staff. By the same token, the assignment of personnel, space, and equipment may be carried out through informal negotiations among the judges, on the basis of previously established priorities such as tenure on the bench, or through a hierarchically structured decision process with an administrative judge or court administrator at the top. The incidence of one approach over the other will depend upon the stability of the demand for services from the core. If the core requirements are relatively stable, a bureaucratic approach is appropriate. If there is a high degree of uncertainty, however, an

organic approach must be used. This explains why efforts to improve recordkeeping have been successful using a bureaucratic model but master calendaring has had such a checkered career. (Church, et al., 1978) Case flow is subject to such fluctuations that it is difficult to establish procedures which will regulate it. Moreover, the objectives of such a system change and a bureaucratic model is difficult to adjust accordingly.

Management Approach and the Institutional Level: The character of the environment also strongly influences the relevance of one management approach as opposed to another. The exchanges between a stable, homogeneous task environment can be easily structured using standardized forms, procedures, and rules of behavior, that is, a bureaucratic approach. When the environment is unstable, however, with new actors and issues being raised, standardized procedures lose their utility. There must be large amounts of discretion available to those who must deal with the external actors in order to resolve the new problems as they arise. An emphasis upon formal rules will undermine the effectiveness of the process as they are designed for the previous set of issues, not the ones currently in dispute. The variation in management approaches when dealing with the environment is reflected in three strategies described by Thompson for reducing environmental uncertainty: contracting, cooptation, and coalescing. (1967:34-36) Their utility will depend upon an appropriate environment with contracting requiring a stable, homogeneous set of external demands and coalescing at the other extreme.

The simplest strategy for managing dependency is through contracting. The term as used here refers to more than just negotiation of a legal agreement. It includes any agreement for the exchange of performance in the future. The most obvious example from the courts is their dependence upon a county clerk for recordkeeping. This relationship is usually involuntary in that it is required by law. However, the dependency is structured through either implicit or explicit negotiations between the clerk and the judiciary. On occasion formal powers of the court are used to coerce conformity with expectations. But this approach is rare. By the same

token, arrangements are frequently made between a family court and shelter care. Implicit contracts occur on a regular basis between prosecutors and the courts regarding calendaring activities. (Cole, 1972)

Cooptation refers to a process by which new elements in the environment are absorbed into leadership positions in the organization or in the support mechanisms to avoid threats to its stability or existence. For example, in some jurisdictions public defender's offices were initially viewed with suspicion by prosecutors and judges. As the public defender's office gained status, it was accepted as part of the on-going process and began to take on many of the attributes of the actors in the process. (Casper, 1972)

Coalescing is the term Thompson uses to describe a coalition which may be stable or unstable. Coalescing assumes that the exchanges between an organization and its environment are regulated through joint decision-making among the interested parties. The work group dynamics in Chicago and Detroit described by Eisenstein and Jacob represent a coalescing approach to institutional issues. No single actor dominates the process. Instead, the procedures are established and maintained through an ongoing bargaining process among equals.

The success of each of these strategies will depend, in part, upon which management approach is appropriate for dealing with the task environment. Contracting is part of a bureaucratic approach to reducing uncertainty as it assumes the requirements of the relevant actors can be determined in advance. Coalescing lies at the organic end of the management continuum. It is most appropriate when maintenance of the exchanges between the court and the environment require frequent explicit or implicit negotiations. In between these extremes lies cooptation which may assume bureaucratic overtones if formally structured as in training sessions, or scheduled conferences among the critical actors; or be organic in nature if carried out on an ad hoc basis.

Where Should the Locus of Managerial Decision-Making Be Located?

The final issue to be addressed in the design of the managerial level of a

formal organization is the distribution of decision-making authority among the various units and actors. This issue is usually defined in terms of a centralization-decentralization continuum. Mintzberg describes the continuum as follows:

When all the power for decision making rests at a single point in the organization--ultimately in the hands of a single individual--we shall call the structure centralized; to the extent that the power is dispersed among many individuals, we shall call the structure decentralized. (1979:181)

He further distinguishes between vertical decentralization which refers to "the dispersal of formal power down the chain of line authority" (185) and horizontal which he defines as the extent to which decisional power "remain(s) with line managers in the system of formal authority, or . . . flow(s) to people outside the line structure to analysts, support specialists, and operators." (185-86)

This issue of centralization has been a major concern in the debate over court unification. However, it is usually defined along the vertical dimension only, that is, to what extent should the locus of decision-making be in a state level agency (court administrator, supreme court, judicial council) instead of a local court. This is reflected in the labels Berkson and Carbon use to categorize the reforms. Centralized management, centralized rule-making authority, and centralized budgeting can all be relabeled state management, state rule-making authority, and state budgeting. The arguments in support of shifting the locus of responsibility from local to state rest on a characterization of the changing needs of the core and of shifts in the environment.

The technological core arguments focus on the growing demand for resources and support services by the courts as the volume of cases increases. According to these arguments, this demand has generated a need for more efficient use of resources across the state.

The arguments based on the technological core are reinforced by the characterization of the environment. Shifting responsibility to the state level is justified

on the grounds that this is the source of most of the resources needed by the judiciary, especially financial resources. Therefore, the structure of the judiciary must be such that it can deal on an equal basis with the key elements in its task environment and that means the state legislature and executive.

Management Centralization and the Core: As with the other dimensions, the final design must be a function of the needs of the technological core and of the task environment. And, as with the other two, it is unlikely that a single approach will accommodate all of the circumstances of the judiciary. The first axiom in the design must be that control over decision-making must rest with those individuals who have the necessary information and skills to make an appropriate response. In the case of the courts, the application of this axiom must begin with the fact that by definition the technological core must be decentralized both vertically and horizontally. At the trial court level, it is the individual judge who has the requisite skills to perform the judicial function. And he does so, for the most part, in isolation rather than as part of a team. At the appellate level, judges are more likely to be acting collectively, but the principle remains the same. It is only when addressing managerial level issues that the question of centralization becomes problematical.

The decentralized character of the technological core encourages a parallel decentralization of the managerial activities. If the function of management is to serve the core, who knows better what those needs are than the individual judge. One need which cannot be defined by the individual, however, is the need for coordination and, as has been argued before, this need is a function of the degree of differentiation, specialization, and segmentation on a multi-member court. Hence, large urban courts have frequently developed extensive management structures independently of state-wide management reforms. The coordination problems which accompanied their increase in size were met with local management structures.

The arguments in favor of vertical centralization, thus, have little bearing on the technological core. It is not the core requirements which encourage vertical

centralization, but rather institutional issues.

Management Centralization and the Institutional Level: Centralization of the judiciary becomes a significant issue when the effect of the environment is taken into account. A centralized structure is most appropriate when dealing with an environment which poses few problems in identifying the critical elements. Thus, a centralized funding source is important in generating a centralized administrative office. Where the environment is shifting, or heterogeneous, it is important to have as many local units as possible in order to recognize the differences and respond accordingly. This is the argument used by those criticizing court unification as being unable to respond to local differences. But this is a cogent argument only if local financing is important.

One approach to managing the exchanges between the organization and its environment is to reduce its dependency on outside influences. This approach underlies many of the components of court unification reform. There are several alternative means for reducing dependency which are reflected in the structure of a formal organization. The first, and most direct, is to expand the boundaries of the formal organization to bring the critical elements of the environment into the organization. The move to vest all rule-making authority in a judicial body, excluding the legislature from such policy decisions, is a clear example of such a strategy. Consolidation of trial courts also contrains elements of such a strategy. For example, in those instances where courts of limited jurisdiction hold all preliminary hearings, consolidation brings the limited court into the general jurisdiction court.

A second means for reducing dependency is to increase the status of the formal organization members relative to the critical members of their environment. A major argument in favor of court consolidation is the increased prestige which will accrue to lower court judges. There are those who bemoan this consideration as an irrelevant one. Paul Nejelski, for example, writes: "In Connecticut, one main reason for the Court of Common Pleas merger with Superior Court was that the judges in misdemeanor cases court eat lunch at the same club as the judges who hear felony cases. . .

That such status problems creep into the judiciary is understandable but regrettable." (Quoted in Berkson and Carbon, 1978:21) However, we are arguing that such considerations are an integral part of the institutional issues facing the courts as the prestige attached to each judge affects the position of the judiciary in society. A centralized budgeting process is also expected to lead to increased resource availability because of the enhanced status of a state level office negotiating with the legislature as opposed to the various courts appearing separately to make their requests. (Baar, 1975:168)

The third strategy for limiting dependence is to leave the boundaries of the formal organization constant, but to shift the composition of the domain by expanding or contracting the task environment. In many ways this is a corollary of the first strategy as the act of changing the boundaries of a formal organization in and of itself will affect the task environment. But, independent of this effect, the courts may change the critical actors in their environment by manipulation of structure. For example, the shift of financing from local to state affects directly the relevant external actors. The composition of the environment will vary depending upon the final mix of state and local financing. If financing becomes an exclusive state responsibility, and all personnel--judges, secretaries, clerks-- and facilities are supported from the same source, the number and variety of external actors is severely reduced. If financing is shared by the two levels of government, however, dependency of the courts on the environment may be reduced by permitting judicial actors to play one off against the other. This approach is directly comparable to firms which develop several suppliers of raw materials instead of one in order to reduce their dependence upon the vagaries of a single supplier. (Thompson, 1967: 32-33)

Efforts to centralize on either a vertical or horizontal basis represent attempts to limit the dependence of the courts on their environment through expanding the boundaries of the organization, increasing the status of judicial actors, or redefining the task domain. Reducing dependence seems a logical response to

environmental uncertainty. However, because vertical and horizontal centralization are also likely to increase the heterogeneity of the environment the effect may be to increase the uncertainty rather than reduce it. Including additional services such as probation, counseling, records management and personnel within the judiciary may reduce the dependence of the core technology, but it may simultaneously increase the number and range of clients it is expected to serve. Juvenile courts, for example, may find themselves in the strange position of spending a significantly larger proportion of their budget and personnel on providing what are perceived to be auxiliary services than they do on adjudication. Horizontal or vertical centralization may increase the status of the leadership of the courts--for example, the chief justice of the supreme court or the local administrative judge--but it may be at the expense of the individual justices resulting in a net decline in the position of the judiciary.⁴ Finally, redefining the task domain is not a unilateral activity. It requires the acquiescence of the critical members of the potential environment as well as the previous ones if the exchanges are to go smoothly.

SUMMARY

One might characterize this essay by paraphrasing Frost: "Before I unified a court I'd ask to know what I was unifying in or unifying out, and to who I was like to give offense." This essay has attempted to establish a framework for addressing the implied question. Several central issues have emerged.

From an organization theory perspective, two technologies were identified as appearing in the core operation of the court: mediating which is the basis for the adjudication process in criminal and civil proceedings; and intensive which is characteristic of sentencing decisions, juvenile courts, and many family courts. Since mediating technologies do not lend themselves to task differentiation or specialization they are unlikely to require an extensive management structure except on a multi-member court which is too large to permit coordination through mutual adjustment among the judges.

The intensive aspects of the core, on the other hand, have much greater needs for specialized support services such as counselors in juvenile courts and pre-sentence investigations units in criminal. The presence of such specialized skills raises significant problems of coordination. As a consequence, the relevance of a separate management structure in the court is more directly dependent upon the degree to which intensive technologies are included within its boundaries than it is on the presence of adjudicative responsibilities.

While the mediating core may not produce the demand for internal management, the complexity of the environment has a direct affect on the need for a separate managerial structure. A high level of heterogeneity and instability among suppliers, clients, competitors, and markets of the court will require full-time managerial units which can establish and maintain the necessary exchanges. In part the composition of the environment is beyond the control of the courts. However, the organizational design can define the character of the task domain and by so doing, affect the level of uncertainty which must be managed.

If there is a major conclusion to be drawn from this essay, it is that no single organizational design will be appropriate for all circumstances, nor is it necessary for all parts of a complex organization to conform to the same structural principles. Issues regarding the presence or absence of a management substructure, the use of a bureaucratic or organic approach to management design, and the degree of vertical or horizontal centralization must be resolved according to the needs of each organizational level of the courts. If the requirements of each are not taken into account, there is the high risk that the needs of one will be fulfilled at the expense of the other; or that the operation of the court is primarily a function of ad hoc, subterranean arrangements among the immediate players rather than in response to the formal structure. The challenge in organizational design is not the neatness of the final product, but rather its utility in reducing uncertainty in a way which reinforces the purposes of the courts.

Footnotes

1. For two exceptions to this general conclusion see Gallas, 1976; and Saari, 1976.
2. Most organization theory literature begins with the same set of assumptions as their primary concern is with complex organizations, not simple ones. See, for example, the quick progression of the introductory chapter of Mintzberg from consideration of one person producing clay pots to a large, specialized work force which requires an elaborate management structure. (1979:Chapter 1)
3. Rural courts whose jurisdictions encompass several counties may require more coordination than those in a small town because of the need to coordinate the movement of judges from one courthouse to the next. (Stott, et al., 1977)
4. Justice Felix Frankfurter makes an even broader assertion in his concurrent opinion in Lumberman's Mutual Casualty v. Elbert, 348 U.S. 48(1954) in which he argues that simply expanding the number of judges may decrease the prestige of any one of them.

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