Special Issue in Partnership with the International Association for Court Administration

COURT MANAGER

IN THIS ISSUE

A PUBLICATION OF THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT

Volume 32 Number 2 Summer 2017

CONNECTED COMMUNITIES ARE STRONGER COMMUNITIES

VISIT TYLER'S BOOTH AT THE NACM ANNUAL CONFERENCE.

Tyler's Odyssey® software can help you build a stronger community.

When information flows seamlessly between departments and agencies, courts become more efficient, jails become safer, and justice is better served.

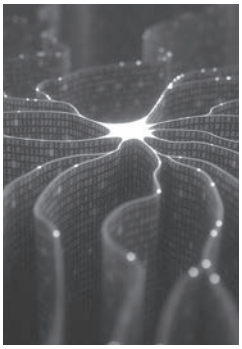
Citizens can more easily resolve disputes and get increased access to justice. Clerks and court staff become more effective, and the entire community grows stronger by working toward a common goal.

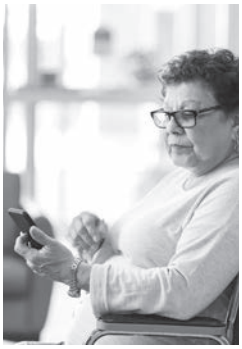
Take pride in building connected communities at tylertech.com.

tyler technologies

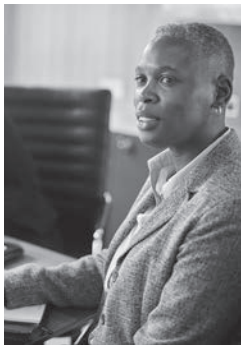
Empowering people who serve the public®

contents


p. 6


p. 14


p. 18


p. 26

p. 30


p. 37

features

DEPARTMENTS

EDITOR PHILLIP KNOX
Principal, KSA Consulting Solutions, LLC.
(480) 440-2088
philknox09@yahoo.com

MANAGING EDITOR CHARLES CAMPBELL
National Center for State Courts
300 Newport Ave., Williamsburg, VA 23185
(757) 259-1838, ccampbell@ncsc.org

A PUBLICATION OF THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT

Court Manager Volume 32 Number 2 Summer 2017

Presidents' Message

SCOTT GRIFFITH AND VLADIMIR FREITAS

The annual **conference agenda** features an abundance of timely and relevant sessions that speak to the **importance** of the pursuit of **excellence** in judicial administration.

A commitment to partnerships has been an abiding feature of the National Association for Court Management's (NACM) work over the last several years. Nowhere has this been more evident than in our recent work with the International Association for Court Administration (IACA) to prepare for this year's joint annual conference.

Discussions about a joint conference began between members of NACM's and IACA's leadership in the summer of 2014, and since then countless hours have been spent by member volunteers from both organizations, with the support of our partners at the National Center for State Courts, in meetings, on conference calls, and by email to address details regarding the conference venue, budget, social events, and, most importantly, the educational program. Many thanks are due to these committed and creative volunteers. We believe that their efforts will yield significant returns in learning for all those who attend, as well as those who view the sessions remotely via live stream or by accessing them on NACM's website.

The annual conference agenda features an abundance of timely and relevant sessions that speak to the importance of the pursuit of excellence in judicial administration. Diverse perspectives on key issues in the field will be offered by a qualified and engaging roster of speakers, who will also provide important practical tools and tips for meeting the challenges of court administration in the modern age.

NACM and IACA members share a passion for their work and a commitment to strengthening and advancing the rule of law. Through collaborating on joint activities such as the annual conference, we seek to learn from each other, challenge each other, and inspire each other. As the two largest professional organizations serving court professionals in the world, our two groups are well positioned to dictate the course of the profession, and convenings like the annual conference provide a great opportunity to do just that.

SCOTT GRIFFITH
National Association for Court Management
VLADIMIR FREITAS
International Association for Court Administration

Editor's Notes

PHILLIP KNOX

The **test of the artist** does not lie in the will which he goes to work but in the **excellence of the work** he produces.

Thomas Aquinas

For several days this July, members of the National Association for Court Management and International Association for Court Administration will have a great opportunity for partnership and for sharing experiences. Both organizations have been planning this conference for nearly two years.

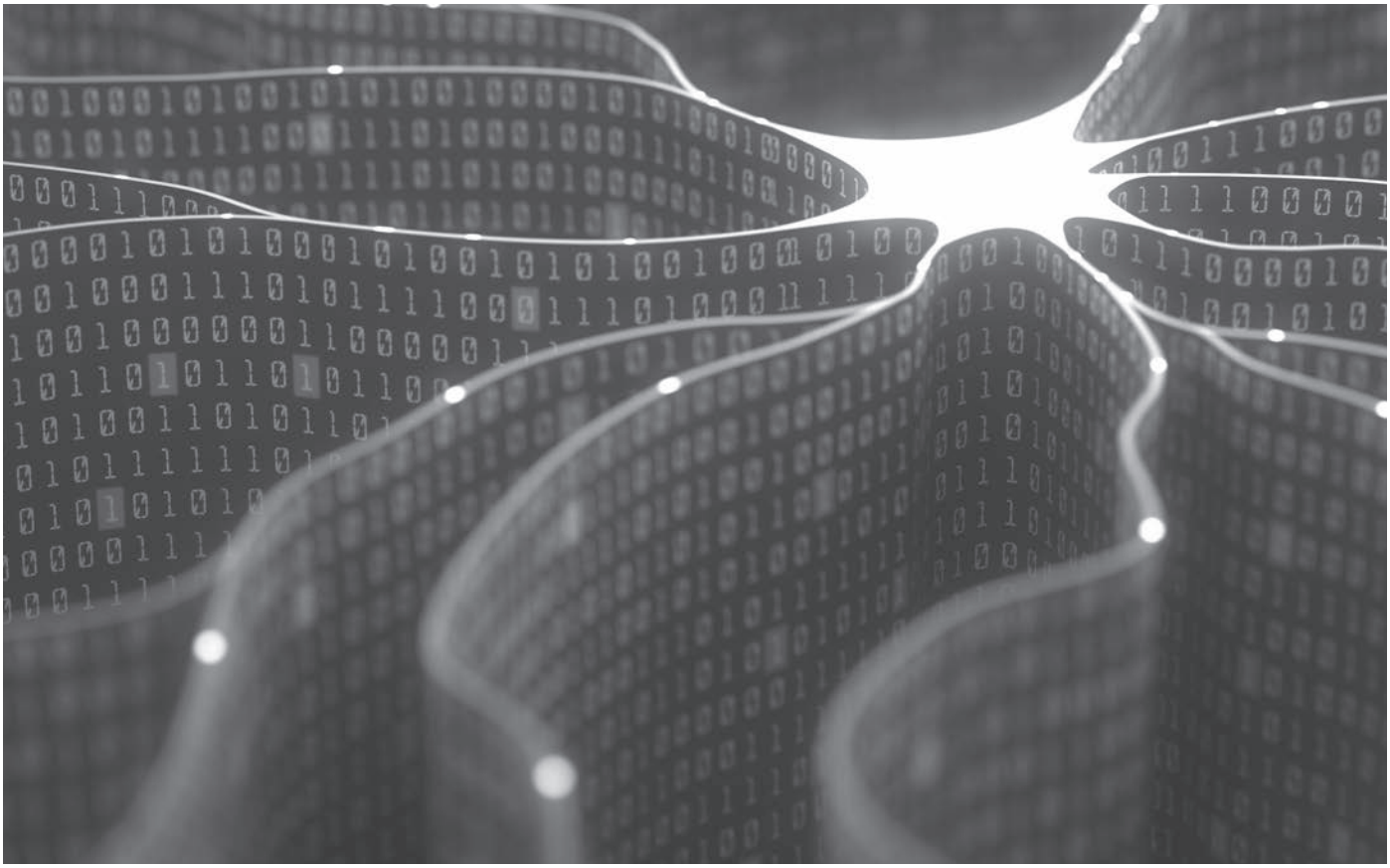
We read in the last issue of the *Court Manager* (vol. 32, no. 1) that NACM created an International Subcommittee that serves as point of contact and outreach with our international colleagues. The conference this summer is a culmination of much planning and offers unique opportunities to learn what challenges are being faced by courts and court administrators across this country and around the world.

As we meet in Arlington, Virginia, near this country's capital, we should not let these opportunities escape us as we discuss issues such as management and innovation in the Brazilian Federal Justice System, cybersecurity and the courts, implicit bias, continuous process improvement, and transformation of the public experience of justice — all leading us to "Excellence on a Global Scale."

To all our readers who have the opportunity to attend the annual conference in July, we hope you enjoy seeing old friends and will take the time to meet and start new connections with international professionals, for it is these interpersonal relationships that can be lasting and worthwhile and can add value to us personally and professionally.

This issue of the *Court Manager* provides a wrap-up of our midyear conference held this February in Portland, Oregon. There are a number of articles on timely topics, such as artificial intelligence, access to justice, caseflow management, how to deal with change, and effective assistance for self-represented litigants.

We continue to seek quality articles for the journal. You may be working on a project at the office or serving on a committee, or you may be intrigued by some of the articles you have read in the *Court Manager*. Wherever you get your inspiration, consider sharing and, until next time, thank you for reading.



Artificial Intelligence (AI)

Coming to a Court Near You

Raymond L. Billotte and Marcus W. Reinkensmeyer

When we hear the term "artificial intelligence," or AI, a great many of us shudder. We immediately contemplate a world full of machines, running our daily lives without emotion, attachment, or feeling. Our minds race with thoughts of driverless cars and robots that can clean our house, wash our car, and shovel our driveway. And we may fear that future — a future less dependent on us as human beings, void of human emotions, and more reliant on the benevolence and will of our machines. What will become of us? As noted theoretical physicist Stephen Hawking has so eloquently stated, "The development of full artificial intelligence could spell the end of the human race."[1]

Like it or not, fear it or not, AI is here and is not only likely to stay, but also to expand to every corner of our society. Most likely every one of us has used or been affected by AI, whether we know it or not. Every time you ask Apple's *Siri*, "Where is the closest gas station?"; fly to a favorite destination and the pilot engages the "autopilot"; or call a consumer help desk and interact with an automated system, some form of artificial intelligence is at work. Today, AI is used in a variety of industries, including agriculture, education, energy, health care, and public safety, to name but a few. Its scope and impact are increasing, and AI has already made its way into the legal environment. And the courts may not be far away.

AI: A Game Changer for Courts?

As trial court executives for more than 30 years, we have witnessed many advancements in the efficiency and effectiveness of our courts. Some

There is no doubt that **technology** will **greatly influence** future courtroom and litigation practices, but the extent to which change will occur is subject to a reasonable amount of **speculation** because of what are now referred to as *disruptive technologies*, that is, **yet-to-be-invented** technologies that will reshape our lives and **change** the way we live.

Judge Herbert Dixon, Jr.
"Technology and the Courts: A Futurist View," *Judges' Journal* 52, no. 3 (2013): 38, italics in original.

have been driven by organizational and procedural innovation. Most however, have been concurrent with advancing technology, prompting the development and use of automated systems to better manage cases, analytical capabilities that allow improved assessment and outcomes, real-time data sharing with justice system partners and stakeholders eliminating redundancy and error, and easily accessible data and information, thus promoting trust and confidence in our courts.

Today, more and more courts have turned to computer-based risk-assessment tools in both pre- and posttrial stages to improve public safety and reduce unnecessary detention. These advancements, whether technological or not, are all ancillary to the heart of what courts do — the fair, prompt, and impartial resolution of public and private disputes. Taking away all the innovation we have today, we are left with what we have had for more than 200 years — a judge, a jury, attorneys, and litigants. The essence of the "system" of getting to case resolution has not changed.

Artificial Intelligence may just be the tool that challenges that traditional case-resolution-system paradigm. Recently, we attended a workshop with IBM representatives and learned about Watson, their supercomputer that combines artificial intelligence with sophisticated analytical software for optimal performance as a "question-answering" machine.[2] We've all heard about Watson's intellectual prowess, competing against and besting two *Jeopardy* champions. But our attendance at the workshop was not to play the TV game show. Rather, it was to learn about how Watson is being used and to explore areas within the courts where using artificial intelligence may be plausible.

Cognitive Computing

To better understand how AI may be of use to the courts, it is imperative that we recognize what it is. When we speak of artificial intelligence, we are referring to "the theory and development of computer systems able to perform tasks normally requiring human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages."[3] For those of us who are not technology savvy, computer systems with artificial intelligence, or cognitive systems as IBM prefers to call them, differ from contemporary computer systems in some unique and amazing ways.

First, these computer systems "understand." Much like humans, AI systems understand natural language or the written word (vocal or visual). Next, they "reason." Not only do AI

systems understand information, they also comprehend the underlying ideas and concepts. Moreover, this ability becomes more advanced over time as the system expands its understanding of concepts. Finally, artificial intelligence systems "learn." Leveraging their abilities to understand and reason, AI systems gain knowledge and develop expertise.

As a result, AI systems are capable of providing an array of services, including answering questions, providing recommendations, formulating hypotheses, and analyzing and organizing immense amounts of data, all while learning from their mistakes and automatically adapting. And the data they consume does not need to be in a structured format (Excel spreadsheet, computer database, etc.). AI systems can "read" newspapers, medical journals, legal briefs, and all other forms of unstructured information and understand their meaning. Unstructured data sources also include video and audio recordings, graphics, social-media posts, and geotags denoting geographical locations.

Our Changing Demographics

Concurrent with the growth of artificial-intelligence capabilities and its expansion to various industries, our society is also changing. Very quietly and without much fanfare, the Millennial Generation, defined loosely as those born between the early 1980s and 2000, surpassed the Baby Boomers during 2015, thus becoming the largest U.S. generation.[4] Moreover, it is estimated that by the year 2020, Millennials will comprise nearly 46 percent of our workforce and will continue to grow their proportional share into the mid-21st century.[5]

The beliefs of these Millennials will likely become the norm in all aspects of our society. From political viewpoints, to marriage, to religion, to attitudes about work/life balance and many more, Millennial perspectives differ from those of the Baby Boomer Generation, which have prevailed for decades. Many of us

To **attract and retain Millennials,** we must focus on the "why" of what we do (not so much on the what and how) and **provide such services** as in-house career-counseling programs, mentoring programs, and tools and assistance that **promote their interests.**

in the practice of court administration have already realized (some of us more grudgingly than others) our organizations need to change, or at least adapt, to this new generation of workers. We have begun to reengineer our recruiting, onboarding, and employment practices to compete in this new labor market. A competitive salary with benefits is no longer the primary motivator. To attract and retain Millennials, we must focus on the "why" of what we do (not so much on the what and how) and provide such services as in-house career-counseling programs, mentoring programs, and tools and assistance that promote their interests.

We also know the Millennials are the first true digital natives of our society, the first generation to have access to digital technology for their entire lives. Unlike previous generations that could point to concrete, substantive technological innovations during their generational era (microwave, cell phones, computers, etc.), this group sees technology in a more intangible, ethereal way. This softer, less physical appreciation of technology has served to lessen its perceived threat and risk, allowing it to be integral to their daily life, not auxiliary to it. Technology is not something to be feared, but embraced, improved, and expanded.

So, what does this mean? While no one can answer with certainty, the rapidly advancing AI systems coupled with a society soon to be dominated by techno-savvy people suggests the use of cognitive systems may be set to rapidly expand. We noted above how court administration professionals are already adopting methods to attract and retain this workforce. We must also consider the potential impact this generation will have on the courts from the outside as well. In the very near future, Millennials may well make-up most of our local, state, and national government officials (supervisors, commissioners, senators, and representatives, et al.) More so than today, they will look to technology to address and solve many societal problems, and as we are in the business of resolving society's disputes, it stands to reason that courts will be impacted. In today's world, none of us could image a state legislature authorizing the use of a cognitive system to assess risk and determine the release status of those accused of crimes, but in ten years that may not be so absurd given the advancing technology and the increased propensity to use it.

Practical Applications in the Court

At this early stage, the potential applications of artificial intelligence in the court are at once both exciting and a bit overwhelming. Some practical court management examples come to mind, just touching the surface of what potentially lies ahead:

- voice-recognition applications for making and accessing the verbatim record of court proceedings, including digital real-time court reporting and electronic transcription production
- bidirectional language interpretation for real-time interpretation, document translation, multilingual Web-based court services, and bilingual court forms and instructions — all available in voice-to-voice, voice-to-text, text-to-text and text-to-voice modes
- online dispute resolution (ODR), including early neutral case evaluation, predictive case analytics, and referrals to alternative dispute resolution (ADR) and other court-annexed services
- dynamic resource allocation for deploying judges and court staff based on case complexity, seasonal workload changes, and peak service demands
- enhanced 24 x 7 customer service via online services, such as AI-enhanced call centers and mobile applications

MACHINE LEARNING AND CRIMINAL JUSTICE

In a recent study by the National Bureau of Economic Research, a computer algorithm was trained to predict whether defendants were at risk, based upon their rap sheets and case records in New York City. The automated system was tested on over 100,000 cases which the computer had not been exposed to before the test. The algorithm "proved better at predicting what defendants will do after release than judges." Discussing the potential benefits of such machine learning to society and the criminal justice system, Cornell University Computer Scientist Jon Kleinberg states, "This shows how machine learning can help even in contexts where there's considerable human expertise being brought to bear."

Tom Simonite
"How to Upgrade Judges with Machine Learning,"
MIT Technology Review,
March 6, 2017.

- enhanced evidence-based practices, including normalization of criminal history records from multiple data sources, offender risk assessment, empirically based pretrial release decision making, and defendant-specific levels of pretrial and probation supervision
- early case triage for dynamic track placement in differentiated case management/pathway systems, case placement in problem-solving courts, community service referrals, etc.
- testing and certification of court service providers, including interpreters, court reporters, fiduciaries, court-appointed advocates, clinicians, and defensive-driving-school programs
- document and evidence scanning and analysis, encompassing text, audio/video, Web content, social media, etc.
- AI-enhanced electronic dashboards for judicial officers, supporting advanced documents search and multimedia search, review of court-proceeding records, application of relevant case law, legal analysis, and drafting of court rulings
- jury management, including juror prescreening and modeling to maximize juror-yield and juror-utilization rates
- human resources management, including staff recruitment, screening, evaluation, time keeping, and tracking the whereabouts of employees and contractors[6]

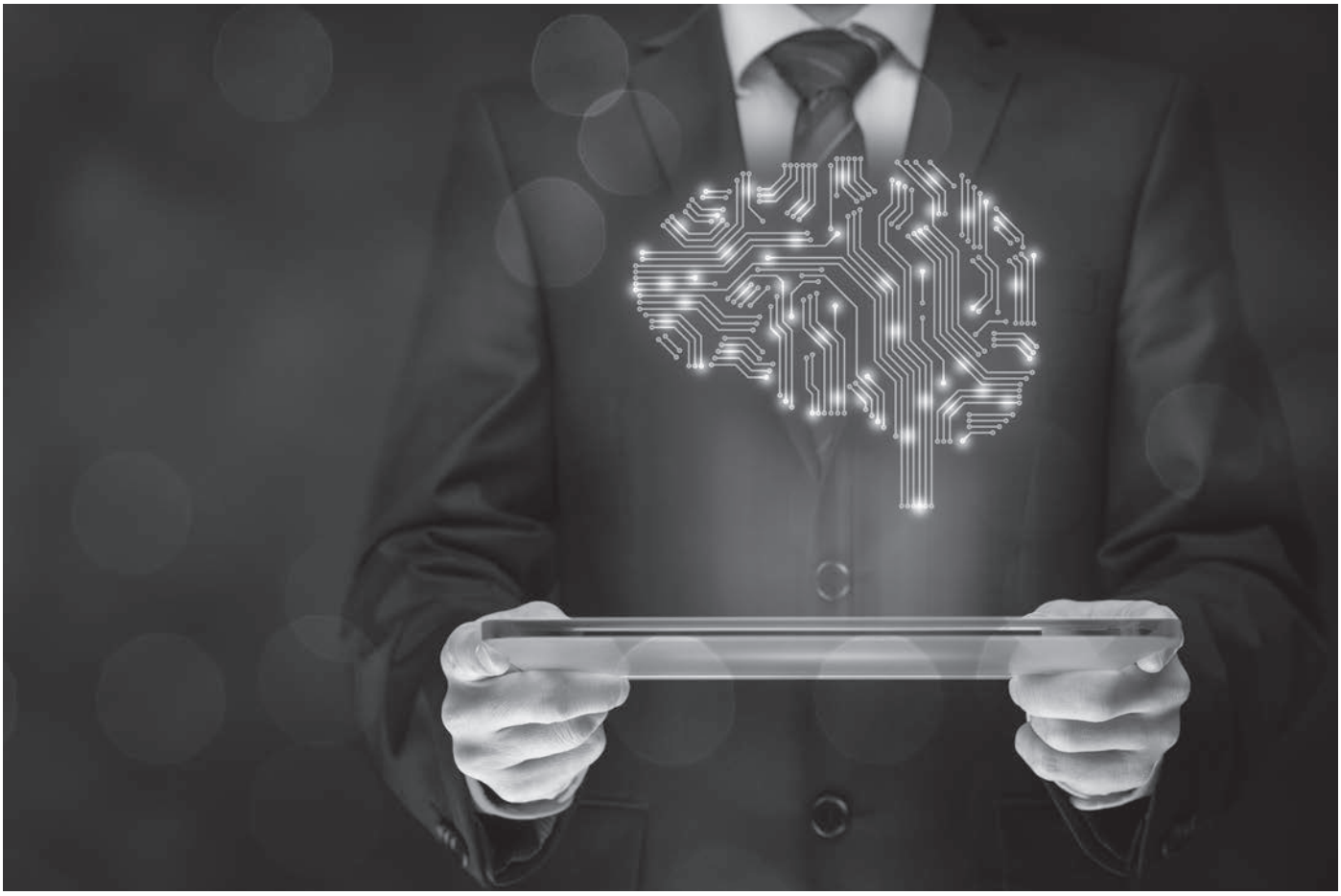
The Path Forward: Thinking Beyond Return on Investment

As responsible public-sector administrators, we carefully consider new technology project proposals in terms of return on investment (ROI). In this framework, courts quantify front-end project investment costs, resulting efficiencies, and prospective long-term cost savings. While these considerations remain relevant, outcomes for some of the foregoing AI applications are not so readily captured in a classic ROI analysis.

For example, while an AI pretrial-release application may yield some efficiencies in staffing, the more significant project benefits are enhanced public safety and streamlined community reentry. Likewise, judges equipped with AI-enabled, multimedia case review will, arguably, make more timely and fully informed judicial decisions. Improved judicial decision-making ability is central to the quality of justice — a key determinant of public trust and confidence in courts.

To fully consider the costs and benefits of AI projects, courts may wish to adopt a return-on-value analysis (ROV), which encompasses a close examination of "soft benefits" along with tangible economic benefits.[7] In this model, courts can use a balanced-score approach to capture and communicate the value of a project based on linkage to the court's strategic goals and mission, as well as measurable noneconomic benefits.

Undoubtedly, this kind of macro perspective entails some new ways of thinking and additional front-end analysis in evaluating prospective AI projects. Given their enterprise-wide view and leadership role in strategic planning, court executives and



leadership judges are well positioned to lead this kind of thoughtful analysis of the use of AI.

Other Considerations: The Human Workforce Factor and Organizational Capacity

Beyond the novelty and complexity of AI, planning in this arena is further complicated by the potential replacement of court staff positions by cognitive computing applications and robotics. Scenarios that were once the subject of science-fiction novels are here, now, particularly in staff-intensive customer-service areas increasingly well supported by AI-enhanced interactive-voice-response (IVR) phone systems and online, Web-based services.

Arguably, the transition to AI will lead to the creation of other new jobs, likely involving higher levels of knowledge and skills. In all likelihood, though, this sweeping technology has the potential to displace a larger number of "routine jobs." Discussing the impact of AI and the workforce of the future, Andrew Ng, chief scientist at Chinese Internet giant Baidu, Inc. and co-founder of education startup Coursera, states:

> Things may change in the future, but one rule of thumb today is that almost anything that a typical person can do with less than a second of mental thought we can either now or in the very near future automate with AI.[8]

Addressing the rapid deployment of robotics and learning machines, a recent article in *Government Technology* provides a more stark future for the government workforce:

> Reducing headcount within the government through technology is one thing, but the wholesale elimination of up to half of all jobs is the making of an unprecedented political crisis.[9]

So, in the foreseeable future, judicial-branch planners may well face tough policy decisions on the use of AI vis-à-vis traditional staffing of court services. This presents an opportune time to closely examine and restructure court operations, perhaps shifting some court staff positions from clerical functions to more highly skilled work supporting case management. Other job positions may necessarily be phased out through natural attrition. It is the responsibility of court leaders to provide

ongoing, transparent communications with the court personnel during this period of uncertainty and rapid change.

Organizational readiness is another critically important factor in considering the deployment of AI. Many courts are still implementing or enhancing core information technologies, including foundational case, financial, and records management systems. Court IT shops are also supporting a growing array of e-court services projects—e-filing, e-bench, and e-access—and an expanded range of video solutions.

With this flurry of technology projects underway, courts must fully consider their organizational capacity to embark on major reengineering projects involving AI, the best timing of such initiatives, and change-management capacity. The path forward here is best charted through a comprehensive strategic-planning approach and close alignment of IT projects with the court's long-term strategic mission.

Closing Thoughts

Artificial intelligence systems, with their ability to understand, reason, and learn, will continue to evolve and become more prevalent in our daily lives. At the same time, our society is becoming more technology friendly and less risk averse to its use. As court managers, we need to be cognizant of both changes and the potential impact to court operations.

The potential benefits of AI are far-reaching, standing to enhance the fundamental quality of justice and public trust in courts as an institution. To fully understand and assess the viability of the cognitive computing technologies, we, as court managers, need to move out of our comfort zone and consider the practical AI applications underway in other sectors: medicine, insurance, retail, manufacturing, etc.

It is a fortuitous time to expand our conventional court-planning framework, incorporating return on value along with return on investment, and to strengthen the alignment of information technology to judicial-branch strategic directions.

Finally, for court leaders willing to brave the new frontier of AI, this is a rare opportunity to truly "reinvent" court services and to share "lessons learned" along the path of discovery. We look forward to hearing from these early adopters and others drawn into this new, transformational, digital world of "e-everything."

ABOUT THE AUTHORS

Raymond L. Billotte is the judicial branch administrator for the Judicial Branch of Arizona in Maricopa County, Phoenix, and a former NACM board member.

Marcus W. Reinkensmeyer is director of the Court Services Division, Administrative Office of the Courts, Arizona Supreme Court, and a past NACM president.

NOTES

1. Rory Cellan-Jones, "Stephen Hawking Warns Artificial Intelligence Could End Mankind," BBC News, December 2, 2014, available at http://tinyurl.com/n4asjhy.
2. See http://tinyurl.com/k87t8vo.
3. See "Artificial Intelligence," Oxford Reference, available at http://tinyurl.com/k8e2h3v.
4. Richard Fry, "Millennials Overtake Baby Boomers as America's Largest Generation," Pew Research Center, April 25, 2016.
5. Brandon Weber, "By the Year 2020, Almost Half of the Workforce Will Be Made up of These People," upworthy.com, September 9, 2013.
6. Ted Greenwald, "How AI Is Transforming the Workplace," *Wall Street Journal*, March 13, 2017.
7. Al Passori, "Return on Value: Communicating IT Organizational Value," META Group, September 2000.
8. "How IA Will Change Everything," *Wall Street Journal*, March 7, 2017.
9. Paul W. Taylor, "Rage Against the Routine: Public CIO's Have a Jobs Problem," *Government Technology*, March 2017.

Access from Anywhere

Report Finds Courts Effectively Deliver Remote Self-Help Services

Stacy Marz, John Greacen, and Katherine Alteneder

Residents of rural Alaska and populated Orange County share little in terms of their living environments. However, self-represented individuals from both areas face the same challenges to get information. They may not be able to physically get to the court or have the time to visit in-person because of challenges with mobility, transportation, child care, or inability to take off from work. Thankfully, some courts have created solutions to serve the public and offer self-help information about court procedure and forms regardless of where an individual may live.

The Self-Represented Litigation Network (SRLN), with funding from the State Justice Institute, released *Serving Self-Represented Litigants Remotely: A Resource Guide* (http://tinyurl.com/zacfusq). The *Resource Guide*, which was written by John Greacen, provides options for courts interested in providing remote services to self-represented litigants instead of, or in addition to, in-person services. After reporting findings from eight court sites, the *Guide* makes a convincing case that remote services should be part of any plan to provide access to justice.

The *Resource Guide* contains detailed descriptions of the creative ways that eight statewide and county-wide courts that range from extremely rural to very urban effectively serve their customers. While technology plays a part in providing remote services, it does not need to be complicated. All programs provide phone-based help, email, and detailed plain-language websites. Some programs

use texting, chats, co-browsing, and videoconferencing to meet their customers' needs. Regardless of the method, the goal is for people to access information from wherever they are and not have to physically go anywhere to get help. The *Resource Guide* is written for judges, court administrators, clerks of court, bar leaders, legal-aid directors, librarians, technologists, access-to-justice commissions, and those involved with access-to-justice expansion.

Background

In 2015, the Conference of Chief Justices and Conference of State Court Administrators passed Resolution 5, urging "national organizations to develop tools and provide assistance to states in achieving the goal of 100 percent access [to effective assistance for essential civil legal needs] through a continuum of meaningful and appropriate services." The *Resource Guide* recognizes that providing remote delivery of self-help services is an asset to meeting the goal of 100 percent access. "Remote services" refer to any means of providing information or assistance to a self-represented litigant, or a person who has not become a litigant but is seeking information about a legal problem, other than a face-to-face interaction with the person at a courthouse or the physical location of legal services, a library, an advocacy group, or other entity.

SRLN studied eight courts to develop the *Resource Guide* — state-level programs in Alaska, Idaho, Maryland, Minnesota, Montana, and Utah and county-level programs in Butte, Lake, Tehama, and Orange counties in California. Idaho and Montana were chosen as well for the programmatic efforts of their legal-services programs: Idaho Legal Aid Services and Montana Legal Services Association. The *Resource Guide* contains detailed descriptions of the programs and technology in all eight jurisdictions at the time the study was conducted. There are also detailed discussions about how each jurisdiction addresses 14 business-process issues:

1. scope of its remote service delivery program
2. audiences served (e.g., in addition to self-represented litigants, whether it serves judges, court staff, lawyers, librarians, and other community partners)
3. program goals
4. remote delivery methods supported (e.g., phone, email, chat, text, videoconference)
5. complexity of interactions handled
6. features of its telephone services
7. supporting services (website, forms, etc.)
8. performance measures and data collection
9. average interaction time
10. interactions per FTE (full-time-equivalent position)
11. how it works with limited-English-proficient customers
12. staff development
13. collaborative relationships with other service providers
14. collaborative relationships within the court system to improve court processes

In addition, the study produced spreadsheets of program attributes for each site and full data analyses of the information gathered in seven of the eight sites from users of its remote services.

Findings

In addition to information about specific programs, the *Resource Guide* includes overall findings about the delivery of remote self-help services.

Effective and Efficient

Delivery of services using telephone and Internet-based technologies (e.g., email, chat, text messaging) is an effective and efficient means of providing information and assistance to self-represented litigants. It should be a part of the service-delivery strategy of every entity (courts, the bar, legal aid, libraries, and other social-service entities) interacting with self-represented litigants and individuals seeking legal information.

- Much of the public expects courts, legal services, and the bar to engage with them using these technologies. When surveyed, users in large majorities did not desire in-person options.
- Providing services in a way that does not require the public to visit a physical building is advantageous in terms of time, convenience, and cost savings both for self-represented litigants and for the organizations that serve them. Users appreciate the anonymity of not being seen in the courthouse in small towns and rural communities.
- Remote service delivery makes sense in urban as well as rural settings, especially for people with mobility and transportation challenges and other barriers that make it difficult to physically go to the courthouse.
- Use of multiple remote services (e.g., telephone, email, live chat, video conferencing, and text messaging) is advantageous to the

service provider and the user by providing options for accessing the service. All programs provide telephone-based services as well as comprehensive information and forms through a plain-language website.

- Technology increases the options available to meet the needs of limited-English-proficient customers, using call-center systems to route calls to bilingual staff, telephonic interpreter services, and videoconferencing with a bilingual service provider.
- Most remote-service court users surveyed in the study would not have preferred a different service method; most who preferred another method would have chosen a different remote-service method, not a face-to-face method.
- Studies in two of the participating courts showed that persons for whom documents were created using a remote-services method were highly likely to obtain a determination on the merits, and obtain the relief they were seeking, if they filed the document.

Cost Savings

Remote delivery can save staff resources and costs and benefit customers. Service providers save resources by:

- centralizing staffing with a high level of expertise assembled in a single location;
- having shorter staff/customer-interaction times;
- enabling staff to establish boundaries for remote conversations easier than in-person interactions;
- having less staff burnout and turnover;
- reducing facilities and security costs because the public does not need to be physically accommodated where the service is provided; and
- enabling the use of underutilized staff in remote locations to provide remote self-help services.

Customers benefit by:

- not having to go anywhere, saving time and costs for transportation, parking, child care, and missed work;
- being able to access services more hours per week because services can be delivered outside of regular business hours;
- having less stressful interactions with self-help staff (a customer who forgets to ask a question can re-contact the service without having to go back to the courthouse); and
- receiving right-sized delivery of help in a way that in-person services cannot because visiting a courthouse involves travel costs and time and often long waits for service (the best example is seeking an answer to a simple, straightforward question where the cost of a face-to-face visit is grossly disproportionate to the service provided).

Can Be Better Than Face-to-Face Service

Remote-service delivery offers benefits that walk-in programs cannot, or are challenged to, provide.

- Court users expect instant access to information and assistance using a phone or computer from wherever they are located, which is only possible from a remote-service-delivery model.
- Remote services offer the customer more privacy.
- Service providers can bring together their most experienced staff to provide the highest-quality service. Having remote services staff co-located, or in centrally managed facilitates, provides service standardization and quality not possible when staff are widely dispersed and work for different entities and managers.
- Remote services may offer extended hours beyond the court's traditional work day, making accessing the service more convenient for customers. It is easier to extend the hours of a relatively small group of staffers compared to keeping a courthouse open to the public.
- Remote-services staff often develop specialized materials to improve their own services and to enhance the materials available to the public, including forms, canned email and text responses, and short, focused videos.
- The centralized approach of statewide, remote self-help-services programs gives managers an optimal vantage point from which to recommend ways to simplify court procedures, as they observe local practices and can easily compare and contrast to identify the most effective and efficient options.

Powerful Catalyst for Developing Provider Networks

Some users will not be able to get their needs met through only remote mechanisms. The programs studied are remarkably inventive in creating and maintaining relationships with organizations and individuals to whom users can turn for supplemental assistance. An indispensable aspect of these relationships is that programs make careful referrals to both legal

This data can be from **customer's** online behaviors or through the staff, who can offer a **candid** and **constructive** view of the litigant's **voice** and perspective.

and nonlegal providers. Referrals to legal services, particularly to lawyers providing limited-scope representation, is a critical outreach activity, but like other referrals requires the exercise of judgment by remote-service staff.

Source of Ideas to Improve Court Operations

Remote-service providers have an excellent opportunity to learn about their users' needs because of the volume, interactivity, and data analytics produced by remote service. This data can be from customer's online behaviors or through the staff, who can offer a candid and constructive view of the litigant's voice and perspective. High-performing courts take advantage of this data and expertise to learn what parts of the legal process create the greatest obstacles for self-represented litigants and then modify their processes to remove them. Several remote-services programs have assisted their courts to:

- improve forms;
- develop proactive case management processes that actively direct self-represented litigants through the court process;
- create triage-screening processes, including resolution options and services for the triage system;
- create simplified court procedures designed for self-represented litigants; and
- provide expedited resolution calendars that obviate the need for contested hearings.

Legal Information and Legal Advice

All study sites, except Maryland, provide legal information instead of legal advice. They provide substantive and procedural information, but do not provide strategic or tactical advice. They explain how to bring matters to the court's attention but do not opine about the efficacy or outcome of bringing a matter to the court.

Maryland departs from this practice because self-help services are provided under a contract with Maryland Legal Services, whose self-help attorneys located in a court facility provide brief legal advice. The advice offered does not include advocacy on behalf of the client in the form of an interaction with the other party, an agency, or a third party, or if there is a known conflict. Maryland adopted a modified version of the comment to ABA Model Rule 6.5 to support this practice (see Maryland Rule of Professional Conduct 19-306.5, at http://tinyurl.com/jwh3u7j).

Program Metrics Vary Based on Different Approaches

The *Resource Guide* includes information on some program metrics. The average telephone call length varies among the programs, with a high of seventeen and a half minutes and a low of two and a half minutes. The number of clients served annually per FTE varies from a high of almost 6,000 to fewer than 1,500. The time differences appear to be attributed to differing approaches of what the program is trying to accomplish. Shorter call times reflect a service that simply answers questions. Longer times reflect a service that attempts to answer all relevant questions and anticipates potential issues and next steps. When the number of persons served each year is compared with the state's adult population, all four statewide programs show a remarkable outreach. The Alaska and Utah programs serve customers equivalent to over 1 percent of the state's adult population each year. Maryland and Minnesota, with much larger populations, serve customers equivalent to roughly one half of 1 percent of their state's adult population annually.

Conclusion

The SRLN *Resource Guide* finds that it is a best practice to have remote services in establishing or expanding services to self-represented litigants, tailored to the jurisdiction and audience to be served. No matter if someone lives hundreds of miles from the nearest courthouse or across the street, the *Guide* is the sole publication that offers tools to create remote self-help services that improve access to justice.

ABOUT THE AUTHORS

Stacy Marz is director, Self-Help Services, Alaska Court System.

John Greacen is principal, Greacen Associates, LLC.

Katherine Alteneder is executive director, Self-Represented Litigation Network, Washington, D.C.

Promoting Access to Justice Across the Globe

Critical Leadership Role Court Administrators Can Play

Caroline S. Cooper

What's at Stake

The past several decades have witnessed escalating attention to the limited, and often nonexistent, access to justice that exists for most everyday citizens in countries across the globe. While the situation may play out in different scenarios, the net effect (among others) is the growing erosion of public confidence and trust in the justice system and the rule of law. For the purposes of this article, "justice" is defined as *fairness* in the resolution of disputes, with the specific attributes associated with "fairness" determined by the nature of the dispute and the culture and other "norms" and procedures that the local society has developed for resolving various types of disputes — for example, property, family, neighborhood, or contractual.

This article focuses on criminal matters where promoting/preserving *access to justice* is particularly critical because of the tremendous potential imbalance in resources and "bargaining position" between the parties — the state on the one hand, and the defendant on the other. How can the court administrator and court administration functions be used to promote and preserve access to justice in criminal matters? What is the role of the court and court administration to simultaneously preserve and protect the public safety of the community and individuals from the arbitrary exercise of government power?

Gauging public opinion across the globe regarding perceptions on the degree to which "access to justice"

exists in a given locale is difficult for a number of reasons. This includes the capacity to "poll" individuals; their knowledge of how their respective local justice systems should — vs. do — operate; and the way polling questions are phrased. In the United States, where polling practices may be more feasible, only 23 percent of individuals responding to a recent Gallup poll indicate they had "a great deal" or "quite a lot" of confidence in the criminal justice system.[1] While we do not have readily available information on the demographics of those in the United States who participated in the poll and reportedly have "a great deal" or "quite a lot" of confidence in the U.S. criminal justice system, it is fair to assume that *they are not* those caught up with the too frequent cases of disparate law-enforcement practices. This includes those with disproportionate burdens of fines and fees imposed by courts for minor traffic offenses, wrongful convictions, prosecutorial misconduct, and high numbers of defendants without meaningful defense services. Thanks to critical investigatory journalism, a number of "Innocence Projects," and the work of leading justice reform organizations, the ramifications of many of these issues have been documented in detail (see, for example, National Registry of Exonerations, U.S. Justice Department report on Ferguson, and the Southern Poverty Law Center's Economic Justice Project), as well as discussions of justice reform efforts at the 2016 NACM conference in *Court Manager* (vol. 31, no. 3).[2]

Across other countries, however, even without public-opinion polls, and without the tools investigatory journalism and justice reform initiatives have provided in the United States, there is consensus among experienced justice system professionals of the generally low confidence levels that are relevant to the capacity to access justice. These perceptions can be ascertained, often supplemented, through observation and on-the-ground-research and service-delivery efforts.[3] Although many factors unique to specific jurisdictions and nations are undoubtedly at play producing this consensus, the field of court administration has also matured sufficiently to provide a number of universal benchmarks that can be applied globally to transcend differences in legal structures and processes among nations to measure the degree to which "access to justice" is being provided globally. Further, these advances have led to mechanisms that promote achievement of these benchmarks over the longer term.

Meaningfully promoting "access to justice" and, in particular, developing sound, workable strategies to begin to remedy deficiencies where they exist will require the efforts of multiple organizations and disciplines. A major stumbling block in moving forward with these efforts, however, is the lack of adequate case-specific data to document the nature and extent of these problems and the impacts they are producing in local communities and for the individuals involved. Because of the diffusion of agencies and practices entailed, there is, at this point, no single source of information that can be tapped to delineate both the degree to which "access to justice" exists for the population in any given locale, as well as feasible remedial actions that can be taken where it does not exist. Therefore, unless a local effort is specially launched to address the issue, the topic remains primarily one for discussion, at best. Here is where court administrators can play a crucial role.

The Role Court Administrators/Court Administration Can Play

Court administration leaders can play a key role in filling this information vacuum, providing both leadership and critical baseline information through data that are, or can be, within the court's purview. These actions go to the heart of ensuring "access to justice" and "public confidence" so that the topic can move from theory to the front burner. Recognizing that most courts do not compile information relevant to delineating the degree to which "access to justice" is, in fact, provided to all the potential "user groups" eligible for justice system services — in this case, criminal justice system services — this article suggests four preliminary and interrelated areas for the court administrator's attention. These areas are relevant regardless of the specific legal system involved, and requisite information gathering could be readily accomplished to delineate the degree to which "access to justice" is being provided:

1. public information/education regarding how the local criminal justice system is designed to operate, including the rights of defendants and victims, the typical steps in a criminal proceeding, and the role of other agencies in the criminal justice process;
2. availability of defense services for each defendant from initial arrest through sentencing;
3. timely disposition of criminal cases; and
4. practices that promote the release of defendants pretrial to the extent possible, consistent with the protection of public safety.

These suggested benchmarks are presented as a first step in jumpstarting the more multifaceted assessment that is critically needed to determine the degree to which "access to justice" regarding criminal matters exists in a locale. Hopefully, they will prompt the delineation of many additional indicia to frame the degree to which "access to justice" exists in a given locale, including protection of victims and witnesses and adherence by all justice system "actors" to requisite constitutional, statutory, and other applicable standards of conduct. Each indicator is particularly ripe for priority attention by court administrators. Court administrators are in the unique position of having — or being able to compile — the critical information from multiple sources, which feed into the information systems of most courts, that can tangibly address each of the indicators presented. Through this process, court administrators can develop a concrete snapshot of the degree to which key indicators relative to "access to justice" exist in their locales and then identify specific practices that may promote or inhibit the delivery of this core value.

The sections below provide a synopsis of available research findings and resources on each of the four indicators, potential information gaps that court administrative leaders could seek to fill, and a preliminary suggested template that court administration leaders might adapt for compiling needed information to initiate and spearhead local collaborative efforts to address gaps identified. Hopefully, this effort will promote justice improvements within individual jurisdictions and the sharing of information, ideas, and improvement strategies across them.

Four Preliminary Indicators of the Degree to which Access to Justice Exists

1. Readily available public information on how the local criminal justice system is designed to operate.

RELEVANT ISSUES

Unfortunately, even with the best of intentions, there frequently appears to be a misplaced assumption that individuals understand how the justice system works. This situation is due to a number of factors, including lack of public education on the topic,[4] lack of relevant educational opportunities generally, and the mobility of populations, particularly those from foreign countries who may be unfamiliar with how the justice system works in their adopted country. That said, even with some minimal orientation to the criminal justice process, the actual operation of the criminal justice system, particularly as it affects individuals involved, is almost invariably different from textbook descriptions. Sound public information and education services by the court need to focus on how the local criminal justice system is designed to operate, and include answers to questions that can be commonly anticipated, a summary description of procedures applicable to various types of proceedings, and contact information for personnel available to answer follow-up questions and provide follow-up assistance.

RELEVANT RESEARCH/ RESOURCES

- National Association for Court Management, "Court Community Communication: What this Core Competency Is and Why It Is Important" (https://nacmnet.org/CCCG/court-community.html).
- National Association for Court Management, "Court Community Communication: Public Information" (https://nacmnet.org/CCCG/cccg_5_corecompetency_publicmedia_cg4.html).

PRELIMINARY DATA TO COMPILE

Does the court provide readily available brochures that describe the court's processes, written in a user-friendly format, geared to the literacy level of the populations served? Are these brochures translated (accurately) into the languages of the populations the court serves?

Does the court provide additional informational regarding access to the court system and related topics the public may need and, if so, are these materials translated (accurately) into the languages of the populations the court serves?

Do all court personnel (administrative staff, probation if applicable, judges, and others) who have contact with individuals involved with the criminal justice process (victims, witnesses, defendants, family members, and others):

- communicate with them in a user-friendly manner;
- speak with them respectfully;
- provide an explanation of the process and the proceeding in which they are involved; and
- explain their respective rights and duties, as relevant?

Are "procedural justice" concepts incorporated in the training and evaluation of the performance of all court personnel?[5]

The **right to defend oneself** against a criminal charge is considered an essential element of **"due process"** and embedded in the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* and **recognized** in the **constitutions** and statutes of many countries.

2. Provision of (adequate) defense services for each defendant from initial arrest through sentencing.

RELEVANT ISSUES

The right to defend oneself against a criminal charge is considered an essential element of "due process" and embedded in the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems*[6] and recognized in the constitutions and statutes of many countries. In the United States, this right is provided in the Sixth Amendment to the U.S. Constitution, incorporated in several other provisions of the U.S. Constitution and additional state constitutions, statutes, and case law. In other countries, it is frequently provided through constitutional or statutory provisions (or both). Although the scope and application of the right varies significantly from country to country, certain "benchmarks" appear essential for the right to be meaningful: 1.) mechanisms in place to promptly identify defendants needing defense services and for promptly appointing attorneys to provide these services; 2.) services provided by adequately trained legal professionals; 3.) access by the defendant to legal services promptly following arrest; and 4.) the absence of any conflicts that would preclude the appointed lawyer from effectively representing the defendant.[7]

RELEVANT RESEARCH/ RESOURCES

Various standards have been developed applicable to the public-defense function, most of which focus on either the performance of the individual attorney or characteristics of the organization providing defense services. For the purposes of this article, the focus for reviewing key indicia relevant to promoting access to justice is on the performance of the individual attorney and the services that attorney is providing to the defendant. Among the most widely referenced standards addressing attorney performance are those promulgated by the National Legal Aid and Defender Association (NLADA) and by the American Bar Association.[8]

PRELIMINARY DATA TO COMPILE

Recognizing that there are a variety of organizational structures for providing public-defense services, both within the United States and beyond, data regarding the benchmarks cited above for the provision of effective public-defense services may, in some instances, need to be compiled through case-by-case review. The following baseline information will be relevant.

Mechanisms in place to promptly identify defendants in need of defense services and to appoint attorneys to provide these services.

- Are mechanism(s) in place to systematically identify each defendant needing an attorney at public expense promptly after arrest?
- Are mechanisms in place and adequate resources available to promptly assign an attorney to each defendant who has been identified as needing a publicly appointed attorney?

Services are provided by adequately trained legal professionals.

- Is specific training relating to criminal defense (e.g., not simply law-school education) and the criminal justice process in the locale provided to each attorney before they take on criminal cases?
- Does the attorney's training prepare him or her for defense of the type of cases to which he or she is assigned (e.g., dealing with forensic information, mental health issues, relevant trauma issues)? What about any language-assistance skills or awareness of special legal issues, such as requisite experts,

mitigation, and sentence exposure (including potential death-penalty cases)?

- Does the process for assigning the attorneys to individual cases reflect consideration of the training and expertise required?

The defendant has access to legal services promptly following arrest.

- Is the attorney assigned shortly (e.g., no more than a few days) following the defendant's arrest?
- Are procedures in place to monitor the services the attorney provides both for substance and timeliness?
- Does the attorney assigned provide continuous representation of the defendant through disposition of the case?

The individual providing legal services has no conflicts that would preclude effective representation of the defendant.

- Is there a system in place to ensure that the attorney assigned has no conflicts that would preclude effective representation? (See ABA Rule 1.7: Conflict of Interest.[9])
- Does the attorney's responsibilities for other cases and other commitments present no conflicts in terms of his or her being able to effectively prepare for and provide the services needed by the defendant in a timely and effective manner?

3. Timely disposition of criminal cases.

RELEVANT ISSUES

The maxim "justice delayed is justice denied" sets forth the principle that if a party has suffered an injury but a court is unable to resolve his or her claim in a timely manner, the individual is, effectively, denied "justice" — i.e., a fair resolution of the claim. There are many ramifications to situations in which court delay exists, including victims and families not receiving a timely resolution regarding the criminal offense; defendants who may be innocent having the criminal proceeding unnecessarily looming or, if they are guilty, not receiving the penalty that is applicable; the fact that, as time passes, witnesses' memories can get stale, making the case more difficult

to prosecute; and the financial costs associated with protracted criminal case processing — all of which combine to jeopardize the public's confidence in the court system and the rule of law.

In the United States, "speedy trial" provisions have been enacted for most federal and state proceedings that set timelines for key events in the criminal process (e.g., indictment, production of discovery, trial, etc.) Often, however, these "speedy trial" requirements are waived for various reasons during the pretrial process. At one time, significant attention was given by court researchers and administrators to both the overall time to disposition as well as internal time frames between events, with the goal of weeding out early cases that clearly would result in dismissal or plea so that court resources and those of other justice agencies could be devoted to those remaining cases that would require trial and scheduling them at the earliest possible time. While there are many factors that produce delay in the criminal case process and consequently inhibit access to justice, developing a snapshot of the time frame for disposing of criminal cases, both completely and between critical events, can provide the court administrator with a framework for identifying the presence of delay and any potential opportunities to reduce delay.

RELEVANT RESEARCH/RESOURCES

Volumes have been written about various causes for delay in the court process, strategies to reduce it, the direct and indirect consequences for victims and defendants, and the erosion of public confidence in the justice system and the rule of law.[10] For the purposes of this article, it is suggested that court administrators focus on several preliminary key measures of court delay that will provide a snapshot of both the timeliness of relevant procedural events and the overall timeliness of criminal case processing generally.

PRELIMINARY DATA TO COMPILE

- Are there provisions that mandate the length of the overall criminal case process, from arrest to disposition, or other comparable measures? If so, how frequently are these timelines met?
- Are cases/events heard when scheduled? Or are they continued with such frequency that "scheduling certainty" is not an expectation for attorneys or litigants?
- Are mechanisms in place to triage cases according to their complexity so that those cases[11] that can proceed faster can bypass those that may need to proceed at a slower pace (e.g., need forensic examination, competency evaluation, etc.)

4. Pretrial release of defendants to the extent possible, consistent with the protection of public safety.

RELEVANT ISSUES

A defendant's right to be released pretrial is grounded in the *Universal Declaration of Human Rights* under the premise that, while the purpose of pretrial detention is to ensure the defendant's appearance at trial, it is unjust to detain a person to ensure his or her appearance at trial if detention is not needed.

- Article 9 provides, "No one shall be subjected to arbitrary arrest, detention or exile."
- Article 10 provides, "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."
- Article 11(1) provides, "Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense."[12]

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in December 1948 and has since been translated into over 500 languages.

In the United States, the extent to which defendants are being granted pretrial release and the methods being used have received increasing attention during the past several years due to several key factors: 1) the frequency with which defendants have been detained pretrial because of inability to make the cash bonds required and 2) the frequent protracted nature of the criminal case process, which results in many defendants being incarcerated for longer periods than required under the applicable sentence they would likely have received if they were, in fact, convicted. Efforts to reform the pretrial release process in the United States are focusing on a) eliminating the requirement for cash bail in any amount and b) equipping pretrial agencies with enhanced resources to supervise defendants on pretrial release, through regular telephone or other contact, electronic monitoring, and other intensive supervision mechanisms in lieu of the requirement to post money bail.

RELEVANT RESEARCH/RESOURCES

As with other components of the criminal justice system in the United States, national standards for pretrial release have been promulgated,

including those by the American Bar Association and the National Association of Pretrial Service Agencies.[13] A major initiative has been launched by the Pretrial Justice Institute to expand pretrial release practices through public awareness, legislation, judicial practice, and other mechanisms.[14] The goal of these various initiatives is to promote the release of all defendants pretrial who do not present a public-safety risk or likelihood of not appearing in court, with appropriate supervision requirements imposed.

PRELIMINARY DATA TO COMPILE

- Do mechanisms exist to identify defendants who do not present public safety risks or the likelihood of not appearing in court for release pretrial without the requirement of posting money for bail?
- If yes, are the mechanisms applied consistently for all defendants at or near the point of arrest?
- Does a snapshot of the pretrial population in the local jail corroborate the use of pretrial release mechanisms for these defendants?

A Call to Action for Court Administrators

Court administrators, and the field of court administration, are uniquely positioned to move forward to promote attention to the degree to which access to justice is available in their jurisdictions. Court administrators can develop an initial snapshot of the existing situation, using the operational information that is often routinely collected, or can be routinely collected, during the criminal case process. They can use the results of this data-gathering effort to develop plans for tailoring the application of relevant improvement efforts to the local criminal justice context. Recognizing the wide range of authority, resources, and organizational structures applicable to court administrators and the court administration function that exists nationally and internationally, the collection of relevant preliminary operational data in these four critical areas can provide a foundation for identifying further actions, as appropriate, to promote "access to justice" across the globe and to ensure that critical associated benchmarks are in place.

ABOUT THE AUTHOR

Caroline S. Cooper is research professor at the School of Public Affairs, American University. Ms. Cooper has worked as a private consultant in the field of national and international justice systems. For many years, she served as director of the Justice Programs Office of the School of Public Affairs at AU and as a research faculty member of the School of Public Affairs. She is a member of the bars of the State of Maryland, District of Columbia, and the Fourth, Fifth, and Eleventh Circuits. Email carolinecooperesq@gmail.com.

NOTES

1. Report of a poll conducted June 1–5, 2016, among 1,027 adults reached through a random telephone survey, *Washington Post*, March 5, 2017, p. B4.

2. See https://www.innocenceproject.org/; National Registry of Exonerations, a project of the University of California-Irvine Newkirk Center for Science and Society, University of Michigan Law School, and Michigan State University College of Law, at https://tinyurl.com/moalhx8 (more than 2,000 exonerations as of the date of this article); U.S. Department of Justice, Civil Rights Division, "Investigation of the Ferguson Police Department," March 4, 2015; and Southern Poverty Law Center, "Economic Justice," at https://tinyurl.com/k5e2nq5.

3. See, for example, Anthony N. Doob (comp.), "Research on Public Confidence in the Criminal Justice System: A Compendium of Research Findings from Criminological Highlights," 6th Annual Reinventing Criminal Justice Symposium, Ottawa, January 2014, at Centre for Criminology and Sociolegal Studies. University of Toronto, at https://tinyurl.com/mbsfu2j.

4. In the United States, "civics" is no longer taught as part of the public-school curriculum — a deficiency that is reflected in public perceptions (or lack thereof) regarding many aspects of governmental functions, including the criminal justice system.

5. The concept of "procedural justice" focuses on ensuring that justice system procedures are fair and transparent and promote respect for the individuals involved and elicit their "voice" in the process. See Michelle Maiese, "Beyond Intractability: Procedural Justice," updated June 2013 by Heidi Burgess and Sarah Cast, at https://tinyurl.com/lfd6sft.

6. *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (New York: United Nations, 2013), at https://tinyurl.com/nkcdbhz.

7. For relevant applicable standards, see National Legal Aid and Defender Association, "Performance Guidelines for Criminal Defense Representation," at http://nlada.net/library/article/na_performanceguidelines; and *ABA Standards for Criminal Justice. Providing Defense Services: Third Edition* (Washington, DC: Criminal Justice Standards Committee, 1992), at https://tinyurl.com/lk73oxk.

8. *Ibid*.

9. See "Model Rules of Professional Conduct," American Bar Association, at https://tinyurl.com/663983e.

10 See, e.g., publications of the National Center for State Courts at http://www.ncsc.org/; National Association for Court Management at https://nacmnet.org/; and *International Journal for Court Administration* at http://www.iaca.ws/iaca-journal.html.

11. This type of triage often falls under the category of "differentiated case management."

12. "Universal Declaration of Human Rights," United Nations, at https://tinyurl.com/na8jx3q.

13. See American Bar Association, "Criminal Justice Section Standards: Pretrial Release," 2017, at https://tinyurl.com/8r37ztt; and National Association of Pretrial Services Agencies, "Standards on Pretrial Release: Third Edition," October 2004, at https://tinyurl.com/8r37ztt.

14. See http://www.pretrial.org/.

Managing and Transitioning Through Change

Patricia Duggan

What was the last change you had to go through? Was it a major event, like conversion to new technology? Or did you get a new presiding judge? Did you initiate the change, or were you simply the one who had to implement it? Maybe it was more personal, such as you bought a house and moved to a different neighborhood. Come to think of it, what was the last change your co-workers had to deal with? Or what about your customers? Indeed, change is all around us, all the time! We are faced with having to adapt and adjust regularly. Given this, why are we not better at handling it?

Change is the result of something becoming different. It is important to understand that managing change and using persuasion techniques are not the same thing. In *The Change Cycle*, the authors explain that rather than attempting to force an attitude adjustment or influence someone to take a preferred action, "managing change is more about understanding and accepting a set of common human reactions."[1]

Change happens for one of four reasons. It might happen because of a crisis, such as a budget reduction resulting in layoffs or reallocation of resources, or maybe a divorce. It could be because of chance, like winning the lottery, or being at the right place at the right time. It often happens because of progress, as when technology is upgraded, or when we learn something, or we mature and gain a new perspective. Or it happens because of choice, like when we choose to take a new job, go back to school, or

Research has shown that people react, respond, and **adjust** in a particular sequence, called a schema, **regardless** of whether the change took months or a day, was a **significant** event or seemingly trivial one, or was planned or unplanned.

get healthy and exercise. Regardless of the reason, we all go through the same process to accept and adapt to change.

The good news is there are predictable stages that everyone goes through when change occurs. Research has shown that people react, respond, and adjust in a particular sequence, called a schema, regardless of whether the change took months or a day, was a significant event or seemingly trivial one, or was planned or unplanned.[2] The brain establishes how we react as a response to human nature first. Then it searches for memories and past experiences to categorize new information. Finally, it conceives of a larger picture and concepts, resulting in the attitude that leads to implementation. The not-so-good news is that there are also unpredictable characteristics, such as time and intensity of individual responses. This is why the change process must be managed. If we take the time to understand the emotional and the cognitive challenges that are caused by change, we can learn to move proactively. This brings focus to what is going on and helps people move through one stage to the next. This article describes those six stages.

The most significant issue is that managers and leaders throughout the court system, at all levels, must be willing and able to manage themselves first. This is because we all react and respond to change not as employees, administrators, or judges; we react and respond as human beings. Regardless of our title or place in the court system, we essentially all respond to the disruptions caused by change in the same way. Our work is about trying to help people, whether they are victims of a crime, a relative of an alleged criminal, a business owner facing financial stress, or a family arguing over another's estate. We used to need our staff to be steady, dependable, and loyal to offset these daily reminders of disruption to society. Now, we appreciate employees who are flexible and can multitask, can keep up with technology so we can do our jobs faster, and are resilient in the face of the dwindling resources that are not keeping up with speed of change.

Being resilient is what we value when we hire staff today. We want people who can accept change, but we have not given them the skills to manage or cope with it. Consider the response to, finally, a new computer system being implemented. We want everyone to be happy with the new programs, larger monitors, wireless connectivity, and the other features we paid big dollars for. We send people to training on how to use the many new features. We expect this organizational shift to modern technology to be applauded, but we ignore or minimize the personal shift that must occur first. For example, there are implications for the tenured staff who knew how the old system worked, quirks and all. Now it takes them longer to search a record because they have not learned the shortcuts yet. New electronic files that were supposed to be paperless become paper-on-demand, so the judge demands every case file be printed. Vocabulary changes and shortcuts disappear, creating a bump in the road until the new programs become second nature. To make it worse, there are programs that do not meet the needs because the staff who uses the system was not asked for input. Mismanaged change or a messy approach will result in a high price to pay in terms of productivity, trust, and long-term relationship dynamics. It is critical to understand that personal change precedes organizational change, and that is what needs to be managed.

Implementation and implication are not the same thing. When the people are ready, the organization will adjust on its own accord.

From Maslow's theory of human motivation and his model called the Hierarchy of Needs to Kubler-Ross's work on the grief process to Bridges's work on managing transitions, it becomes clear that change is, in essence, a neurological process.[3] Studies of human behavior indicate there are distinct, sequential, and predictable stages of response to common changes we all face.

What is this first stage? As you might guess, we arrive at this stage when something in our life has become different in some way. It could be something is lost, or it could be that something is new. No matter the underlying event, the primary feeling is a loss of control and what is familiar. Our thoughts become cautious and hesitant. Our behavior is often that of paralysis. The goal in this stage is to acknowledge the concerns; to keep moving, even if slowly; and to regain some sense of safety. Let's use the example of the implementation of a new case management system. The initial announcement of this change will influence how this news is received. If this a surprise, there will likely be a stunned reaction, with people needing time to understand not just the fact of a new implementation, but what the full implications are. If people knew this was coming, there may be a quick sigh of relief that a decision was made, or that a date has been set.

In either event, people will likely experience some measure of loss, especially a loss of control. This will be loss of control over what they already knew, even if it was not working how they wanted it to work. The primary response will be caution and anxiety because, at this stage, there is much that is unknown compared to what is known. It is important in this first stage to guard against paralysis. Work still needs to be done, plans need to be made and implemented. A good question to ask is, "What is the worst that could happen?" This can help us think more clearly about our initial fears and allow us to move to a more visible stage — that of doubt.

The second stage of change is more noticeable because people are now more vocal about their uncertainty. Where they may have been cautious initially, now people may be short-tempered, complaining about any manner of things and often rather loudly. "Why now? What do I do about X, Y, and Z projects? This (fill in the blank) isn't working!" Skepticism is obvious, so collecting valid and accurate information to fill in the blanks about what we do not know will help us address this resistance and move through this stage. Communication is vitally important now, and this means not just giving out information, but making sure that the message is getting through. Be patient, listen, answer questions, acknowledge the situation. The priority here is to get the conversations out in the open, to diffuse uncertainty by providing relevant responses. In our example of a technology conversion, this could mean letting people know how and what the change means, separating fact from fiction, and getting input on what matters most. Programmers will fear losing their jobs, but other staff may be feeling inadequate and insecure about how they will learn the new software. If jobs will change, such as if efiling is going to happen and paper will not be the way of the world any longer, then talk about what this means to the clerical staff. Do they now take on a proofreading and auditing function? Will judges have to call up their cases using a screen instead of a file folder?

If we have taken the time to address the resistance and resentment up to now, things will be a little better. It seems counterintuitive that confusion would be a good thing, but that is the third stage. When you understand cycle of change, it indicates progress. Having come to terms that a change has happened, it is time to sort out what actually still needs to be done and what no longer needs to be done. These are good questions to ask. This can quell feelings of anxiousness and of being overwhelmed. Expect the behavior will be unproductive and give your brain time to process. This may involve taking small steps to clarify what has changed or can be a diversion, which allows the subconscious to process your new reality. It is only when we have come to grips with our new reality that we can start managing ongoing competing priorities. If this stage is not managed, there is a high danger that our patterns and perceptions stay negative, and we might well loop back to stage one. Now people will start to feel overwhelmed, and not as much work will be done, even by the best staff. Planning for this dip is important, as it signals not only continued understanding of the change process, but it prioritizes people over the organization. Acknowledge that there is still discomfort but encourage small steps forward. There is a danger zone here, and if this stage is ignored, people will backslide to anger instead of progressing to being motivated.

In the first three stages, we were focused on problems to solve. If we have been successful in moving beyond the loss, doubt, and discomfort, we will now start thinking of solutions to those problems. Looking for the benefits of the change and recognizing

It is only when we have come to grips with our **new reality** that we can start **managing** ongoing competing **priorities.**

new opportunities is the hallmark of the fourth stage. Here there are possibilities galore, and this is motivational. Now we feel anticipation, we have thoughts of being resourceful, and we find our energy again. The challenge with this stage is that there are so many things that look good, it is hard to decide which ones to implement. All the bells and whistles of a new computer program are enticing the staff, and separating what is necessary and what is nice is important. Supporting staff by soliciting input helps them gain perspective and see what the benefits of the new system will be. Concentration should be returning now, and energy will increase. This renewal brings optimism; people are regaining the control that they may have lost earlier. Eventually to move into stage five you will make a decision, or several, that will propel you into a very productive phase of the change.

Now in stage five, we finally understand the change that happened, and we regain confidence. We might not necessarily be happy about the change, but we are again productive. We can accept it, even if it was not pretty or easy. We have perspective back, and with our new feelings of capability, we make up for all the unproductive time we had earlier in this process. People are talking about the change in a more respectful and contributory way, having accepted that the change is here and life goes on. This is a good time to reinforce with staff all that they have accomplished and to reflect on what is working well or what they learned during this change process.

Now it is time to be actively engaged and committed. Eventually the change will seem so normal you can hardly remember what it was like before. This is stage six, where we have fully integrated the change experience. We can help others because we now live in the "new normal." People will joke about the old computer system, and they say things like they would never go back to the old way even if they could. They start to forget the labor pains that initiated the change, and they even freely offer up assistance to others who may not have progressed at the same rate. Still, it is wise to watch out for feelings of ego or complacency, where the last loose ends are left open. An evaluation of the full change process would serve you well to bring this full circle and prepare everyone for whatever the next change is. It is helpful to review the stages and assess all the growth that has taken place. This solidifies the resiliency people have gained. It fully integrates the change and makes it sustainable, so that when issues come up, as they will, staff is capable and flexible about dealing with them.

There are many ways to prepare for change. Recognizing that an even brighter future can emerge from change is heartening. Practicing flexibility early and often will help moving through the change process happen more quickly. Recognizing that there is a change process can shorten the duration of each phase.

Change caused by implementing new laws or policies, moving to a new location, or losing friends to a move, promotion, or retirement are all changes that we face. Our customers on the other side of the counter are also dealing with change. Being aware of their process and understanding how to help them move through change can help the entire court system function more effectively.

ABOUT THE AUTHOR

Patricia Duggan is founder and CEO of The Duggan Difference, LLC, a professional coaching and mentoring consulting firm. She is a former state court administrator of South Dakota.

NOTES

1. Ann Salerno and Lillie Brock, *The Change Cycle* (San Francisco: Berrett-Koehler Publishers, 2008), p. 2.
2. *Ibid.*, p. 11
3. See Abraham Maslow, *Motivation and Personality* (New York: Harper, 1954); Elisabeth Kubler-Ross, *On Death and Dying* (Abingdon, UK: Routledge, 1969); William Bridges, *Transitions* (Reading, MA: Addison-Wesley Publishing Company, 1991).

Caseflow Management Practices as Seen Through Three Domains

Janet G. Cornell

This article inventories best practices for caseflow management from select sources on caseflow management and considers them in three important domains: internally, with partners, and externally.[1] Court leaders will be provided with a new framework to view caseflow management practices. Strategies will be suggested related to these three realms in the hope that increased awareness will allow court leaders to have greater success with caseflow programs and processes.

Caseflow Management and the Current Operational Environment

Caseflow management is a crucial, if not the primary, function of courts. It involves leadership, dedication of resources, use of goals and discreet practices, and knowledge about and accountability for outcomes.

Caseflow management is what courts do with legal disputes (cases that are filed or initiated at a court), and caseflow has been described as the set of protocols and actions that a court uses to manage (or pay attention to) those cases that have been filed with the court.[2] Courts considered as "high performing" tend to be familiar with and use proven fundamentals of caseflow management. In high-performing courts, individual attention is sought for every case; services are

Caseflow management is a **crucial,** if not the **primary,** function of courts.

proportionate to specific case needs; processes and protocols are apparent and understandable to court users; and judicial control is exerted over the process.[3]

However, there is renewed attention to courts' ability to demonstrate best practices in caseflow management. Recent focus on caseflow practices is evident in initiatives on:

- access to justice and self-represented litigants;
- integration of technology for operational access and performance data; and
- reforms in criminal and civil case handling.

Some individuals have asserted that courts are "slipping" in their attentiveness to processing cases.[4] Recent examples include perceptions of disparate treatment of system participants; focus on civil justice practices for fairness, clarity, and understandability; assessment and consideration of practices for financial-sanction enforcement; and growing processing times and delays in handling criminal cases. Initiatives in these areas are coupled with renewed court focus on processes and practices to ensure they are providing access; providing clear expectations and understandability of the system; and being attentive and accountable for outcomes. These examples are related to caseflow management practices in the operation of courts.

Caseflow Management Challenges

We often attribute caseflow management challenges to a variety of influences: lack of focused leadership in support of best practices, insufficient agreement on practices and processes, substandard or missing technology to support protocols, and the roles and actions of our system partners.

Articles have outlined reasons for the lack of caseflow success.[5] The following are some of the underlying reasons and influences that may impact effective caseflow management:

- persuading judges that the timely resolution of cases is the first priority;
- having insufficient training for judges on calendar oversight and procedures;
- encountering negative impacts from judicial and calendar rotations, or newly elected or appointed judges without exposure to caseflow principles;
- needing to remember and use best practices and time goals;
- working with judges "who don't know what they don't know" about best practices;
- sensing a lessening concern about caseflow management;
- lessening attention to caseflow practices due to systemic influences and failures;
- having a limited and lessening number of courts making a serious commitment to caseflow and earnestly engaging in caseflow performance evaluation;
- sensing that the heyday of court administration is "behind us";
- growing workloads and continuing limitations in resources and funding; and
- experiencing impacts on caseflow management from problem-solving or SRL services.

These influences may, indeed, sway the attention to caseflow management or affect the ability to attend to case-handling needs.

Caseflow Management Best Practices

Numerous sources have expounded on known caseflow practices over the years. A select group of them are noted here as the more prominent sources on success in processing and handling cases. Here are some of the more common caseflow best practices.

Caseflow Management — Selected "Best Practices"

(LISTED BY DATE OF PUBLICATION; PRACTICES ADAPTED AND PARAPHRASED)

YEAR(S)	SOURCE	PRACTICES
1973	*Caseflow Management in the Trial Court* (Solomon)	• Individual and collective judicial control and case management • Continuing consultation with system partners • Use of standard procedures on flow and processing • Adoption of a restrictive continuance policy • Centralized caseflow management responsibility • Use of time and system performance standards • Continued measurement of performance against standard and periodic review of procedures • Periodic modification of caseflow management systems to meet changing conditions • Monitoring case status from filing to termination • Use of techniques to minimize attorney schedule conflicts • Coordination of caseflow management by the court administrator
1988	*Changing Times in Trial Courts* (Mahoney et al.)	• Calendaring/Case assignment systems • Judicial intervention • Early control • Case scheduling/Continuance policies • Information systems/Monitoring practices • Practitioner attitudes/Expectations
1990	*Courts that Succeed* (Hewitt, Gallas, and Mahoney)	• Leadership and goals • Use of information • Judicial responsibility and commitment • Education and training • Backlog reduction and inventory control • Communications • Mechanisms for accountability • Administrative staff involvement • Caseflow management procedures
2000, 2002, 2004	*Caseflow Management: The Heart of Court Management in the New Millennium* (Steelman, Goerdt, and McMillan)	• Early court intervention • Continuous court control • Differentiated case treatment • Meaningful pretrial court events • Realistic pretrial scheduling • Firm and credible trial dates • Trial management • Management of events after disposition

YEAR(S)	SOURCE	PRACTICES
2007	*The Art and Practice of Court Administration* (Aikman)	• Court control of pace of litigation • Constant attention and commitment by all judges • Differentiation in handling different types of cases • Sharing of goals and performance expectations • Overall case-processing-time standards and intermediate time goals • Separate time goals for problem-solving courts, pre-disposition matters • Several means of resolving disputes • Credibility of scheduled dates and trial time management • Macro and micro statistical reports • Discussion of caseflow at judges' meetings • Use of bench-bar committee • Orientation and continuing education of new judges and staff • Training for attorneys
2012	"Fundamentals of Caseflow Management" (National Center for State Courts, Institute for Court Management)	• Leadership and vision • Consultation with stakeholders • Court supervision of cases • Use of standards and goals • Control of continuances • Early disposition of cases • Information and information systems
2016	"Caseflow and Workflow" (National Association for Court Management, Core Competency)	• Leadership • Judicial commitment • Goals or standards • Information • Communication • Caseflow management procedures • Education • Mechanisms for accountability • Backlog reduction and inventory control

The Concept of Different Perspectives and Domains

In court facility planning, having three zones of circulation is considered a best practice.[6] The three zones are public and common areas; restricted and private-circulation areas for judiciary and court staff; and secured in-custody holding areas or rooms. These three zones allow for clear separation of access and for orderly, efficient, and secure movement within the courthouse. Separation may be achieved by physical and architectural design or by operational practices. Clear consideration and planning are required for these access areas.

In caseflow management, considering operational practices through three zones or domains can also be beneficial. It will aid us in remembering our users and constituents. When we consider who cares about or who may be influenced by caseflow practices, three groups emerge:

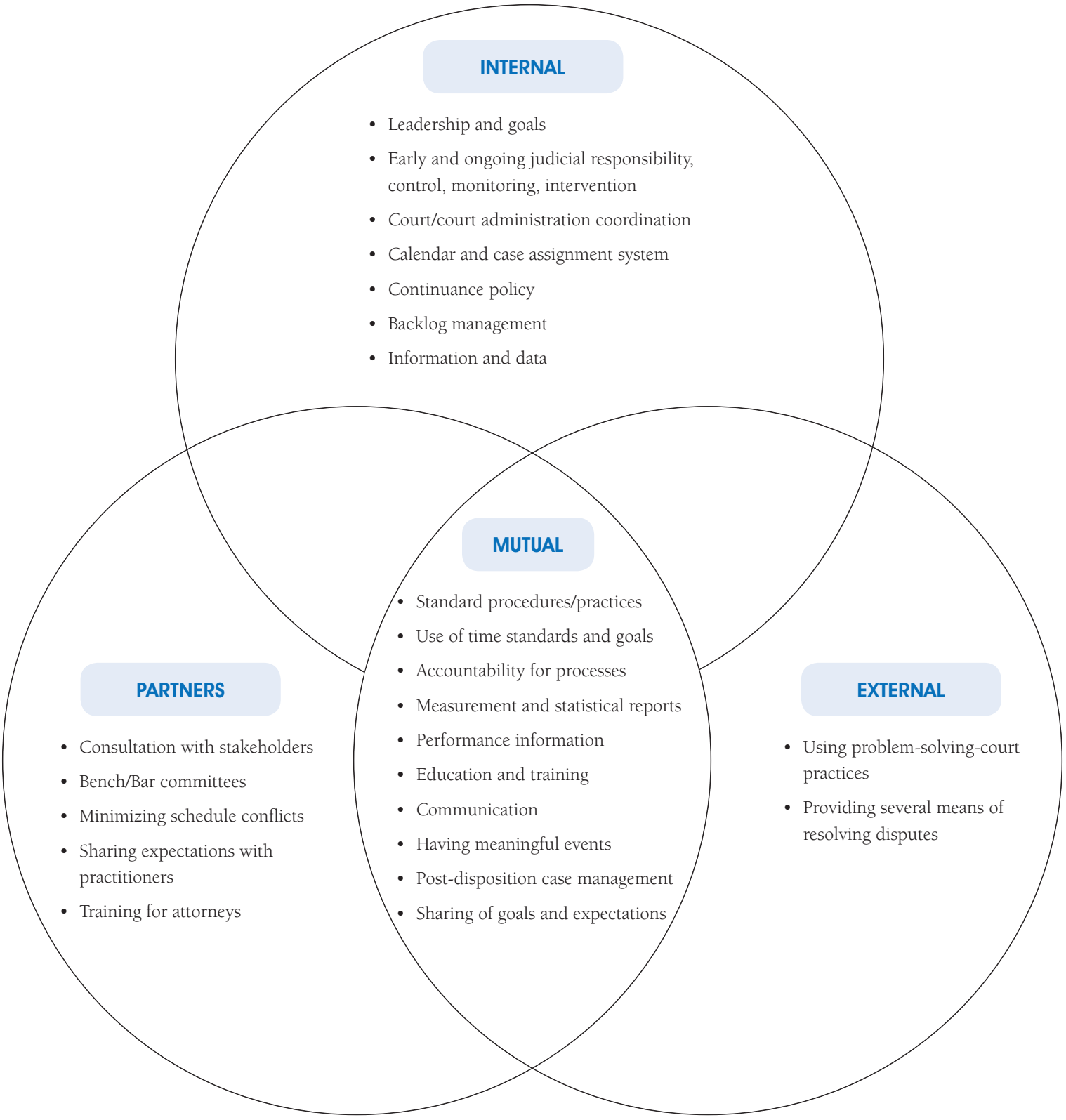
- parties internal to the court;
- justice partners with whom the court interacts and collaborates; and
- parties external to and served by court processes.

The chart below expands upon and illustrates which players fall in each group or domain.

Topics of Most Importance to the Different Domains

When considering these caseflow best practices, we gain new insights from examining them in light of the different domains. The chart below notes the common caseflow best practices and relates them to the three domains. It attempts to illustrate which of the practices are most important or pertinent to which domain. Consider it a starting point in the evaluation of how the court needs to consider the different participants in caseflow management.

INTERNAL	• Judges • Court Managers • Court Staff
PARTNERS	• Funding Agency • Local Providers • System Stakeholders • Justice Collaborators
EXTERNAL	• Litigants/Customers • Attorneys • Public • Media


INTERNAL
Leadership and goals
Early and ongoing judicial responsibility, control, monitoring, intervention
Court/court administration coordination
Calendar and case assignment system
Continuance policy
Backlog management
Information and data
MUTUAL
Standard procedures/practices
Use of time standards and goals
Accountability for processes
Measurement and statistical reports
Performance information
Education and training
Communication
Having meaningful events
Post-disposition case management
Sharing of goals and expectations
PARTNERS
Consultation with stakeholders
Bench/Bar committees
Minimizing schedule conflicts
Sharing expectations with practitioners
Training for attorneys
EXTERNAL
Using problem-solving-court practices
Providing several means of resolving disputes

Implications for Court Leaders

Court leaders may want to evaluate the importance and impact of caseflow-related actions. Specifically, court leaders should consider the information and craft the message based upon the perspective. Leaders should ensure understanding is sought from each domain and create multiple methods to communicate about operations, expectations, and processes regarding successful caseflow.

Therefore, court leaders should ask some questions:

- Does our court need to view caseflow practices in a different light?
- How do we share practices and expectations with the different constituents or domains?
- How do we ensure that goals and expectations are clearly explained?
- How do we communicate effectively?
- How are court practices made clear and understandable to court users?
- Which practices are most important to those in different realms?

☑ **FOR INTERNAL REPRESENTATIVES AND STAFF:**
As our court works to modify or enhance caseflow management practices, how will it look to our own staff? What is needed for all to understand the direction we seek?

☑ **FOR PARTNERS AND STAKEHOLDERS:**
What is important to share and discuss with our justice partners and stakeholders?
How do I accomplish a "WIIFM" ("what's in it for me?") benefit for them?

☑ **FOR THE PUBLIC AND EXTERNAL REPRESENTATIVES:**
Which policies and practices need to be fully shared with the public and court users?

Concluding Thoughts

This article represents one tabulation of the various published best practices, and the related grouping by type of domain. In considering these domains, court leaders may want to pose these questions to themselves and senior leadership:

- How should we/our court form our leadership actions to the benefit of all three domains?
- What do we need to tailor in our communications about practices?
- In what way do we explain our expectations?
- Where can we and should we define the practices and protocols to be used?
- How can we ensure we are delivering accountability for our caseflow management?

How does this fit with your views? What is applicable from this in your court? Can you consider applying initiatives on caseflow practices through the lens of these domains?

ABOUT THE AUTHOR

Janet G. Cornell is a court administration consultant; jcornellaz@cox.net.

NOTES

1. Among the sources on caseflow management: National Center for State Courts, "Fundamentals of Caseflow Management," educational course, Institute for Court Management, Williamsburg, Va., 2012; National Association for Court Management, Core, "Caseflow and Workflow", available at http://nacmcore.org; David Steelman, John A. Goerdt, and James E. McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, VA: National Center for State Courts, 2000, 2002, 2004); Alexander B. Aikman, *The Art and Practice of Court Administration* (Boca Raton, FL: CRC Press, 2007); Barry Mahoney et al., *Changing Times in Trial Courts: Caseflow Management and Delay Reduction in Urban Trial Courts* (Williamsburg, VA: National Center for State Courts, 1988); William E. Hewitt, Geoff Gallas, and Barry Mahoney, *Courts that Succeed: Six Profiles of Successful Courts* (Williamsburg, VA: National Center for State Courts, 1990); Maureen Solomon, *Caseflow Management in the Trial Court* (Chicago: American Bar Association, Commission on Standards for Judicial Administration, 1973).

2. One description of caseflow management may be found in the NACM CORE Competency on "Caseflow and Workflow," at http://tinyurl.com/l5o7jh2.

3. Brian Ostrom and Roger Hanson, "High Performance Court Framework: A Road Map for Improving Court Management," National Center for State Courts Working Paper Series, Research Division, Williamsburg, Va., 2010, available at http://tinyurl.com/kfd3d9m.

4. See Ernest Friesen, "Caseflow Management: A Prescription for Renewal," *Court Communiqué* 9, no. 2, (2008); Conference of Chief Justices and Conference of State Court Administrators, Resolution #5, "Reaffirming Meaningful Access to Justice for All," Access, Fairness, and Public Trust Committee, 2015 annual meeting, at http://tinyurl.com/mtek6dn; Conference of Chief Justices Civil Justice Improvements Committee, *Call to Action: Achieving Civil Justice for All* (Williamsburg, VA: National Center for State Courts, 2016), at http://tinyurl.com/l779wb8; National Center for State Courts' National Task Force on Fines, Fees and Bail Practices, at http://tinyurl.com/jnrx9o5; and National Center for State Courts, "Rethinking Felony Caseflow Management to Create a Culture of High Performance," report written for Criminal Courts Training and Technical Assistance Initiative, Bureau of Justice Assistance, Williamsburg, Va., 2013, at http://tinyurl.com/k2gerwg.

5. See Ernest Friesen, "Caseflow Management," supra n. 4; Alex B. Aikman, "An Essay on Restoring Caseflow Management to 'The Heart of Court Management,'" *Court Manager* 30, no. 2 (2016); Brian Ostrom and Richard Schauffler, "Strengthening Caseflow Management," *Court Express* 10, no.3 (2009); and David Steelman, "Caseflow Management," in Carol R. Flango, Amy M. McDowell, Charles F. Campbell, and Neal B. Kauder (eds.), *Future Trends in State Courts 2008* (Williamsburg, VA: National Center for State Courts, 2008), pp. 8–10.

6. See "Court Security," in *The Virtual Courthouse: A Guide to Planning and Design*, website, National Center for State Courts, at http://tinyurl.com/jw8f9hr; Nathan Hall, "The Courthouse of the Future: A Planning and Design Primer for Court Managers and Judges," in Peter M, Koelling (ed.), *The Improvement of the Administration of Justice, Eighth Edition* (Chicago: American Bar Association, 2016).

2017 Midyear Conference
Improving the Public's Trust and Confidence in the Judiciary

Portland, Oregon February 5-7, 2017

The National Association for Court Management's 2017 midyear conference was held in Portland, Oregon, February 5–7. This year's theme was Improving the Public's Trust and Confidence in the Judiciary. Educational sessions provided practical information to attendees on how to provide improved and expanded services to the public and focused on the NACM Core. Conference materials are available on the NACM website (www.nacmnet.org) under "Past Conferences." Many of the conference educational sessions were live streamed and recorded. The recorded sessions, which were produced with the support of the State Justice Institute, are also available on the NACM website.

Midyear Session Highlights

Monday, February 6

A Path Toward Racial Equity

PRESENTER: **David Dwight IV**

REPORTER: **Scott Sosebee**

This session shared the lessons learned from Ferguson, Missouri; raised awareness of what racial equity can look like; and issued a call to action for courts to not be bystanders in working toward racial equity.

David Dwight IV is a native of St. Louis and alumni of Washington University. He participated in the Ferguson Commission (https://stlpositivechange.org/) and now is responsible for outreach for Forward Through Ferguson (http://forwardthroughferguson.org/), an entity formed after the Ferguson Commission completed its work. Forward Through Ferguson's purpose is to make lasting, positive change in the St. Louis region.

Dwight summarized the work of the commission and its final report, *Forward Through Ferguson: A Path to Racial Equity* (https://tinyurl.com/lt4lc5j). Four areas of focus were identified in this report:

1. Racial Equity
2. Justice for All
3. Opportunity to Thrive
4. Youth at the Center

Racial equity is a state in which outcomes are no longer predictable by race. A vision for racial equity was outlined that set expectations of what racial equity is and what it could look like in St. Louis. Forward Through Ferguson's Path to Racial Equity framework shows how individuals, institutions, and the region can progress toward racial equity with awareness, understanding, and transformation.

Dwight also challenged attendees to adopt a culture of trying: "In trying, new coalitions will be built, and a new sense of community will be developed. As the region tries together, people will learn new things from each other, and generate new ideas they would never have come up with if they'd said 'that's too risky to try' or 'better to leave well enough alone' or, worst of all, 'that'll newer work here.'"

David Dwight IV is with Forward Through Ferguson.

Forward Through Ferguson's purpose is to make lasting, **positive change** in the St. Louis region.

Sessions with the camera icon next to the title were videotaped, thanks to a grant from the State Justice Institute, and can be viewed at www.nacmnet.org

Arizona's judicial performance **evaluation goals** are to **improve** judicial performance, **inform** voters, and **support** the judicial merit system.

Lights

Judicial Performance Evaluations by the Public: A Critical Element of Public Trust

PRESENTERS: **Marcus Reinkensmeyer, Kent Batty, and Marcy Podkopacz**

The session highlighted the purpose and benefits of a judicial performance evaluation and Arizona's and Minnesota's programs. The public has a right to know how well courts work, and that extends to judicial performance. Judicial performance evaluations began in 1975. Eighteen states currently evaluate judicial performance, either officially or unofficially.

Arizona's judicial performance evaluation goals are to improve judicial performance, inform voters, and support the judicial merit system. The evaluation process has been around since 1992, and approximately 100 judges are subject to it, including judges in Maricopa, Pima, and Pinal counties. Surveys go out to the public, judges, and court staff, and the results are provided to the voters and used during the election (the judges are originally selected through a merit process but retained through the election process). The vast majority of judges are retained. Some challenges include the belief that the surveys are not anonymous (they are) and judges' hesitancy to be honest about their fellow judges' performance. However, even with its flaws, Arizona's is currently the best system.

Minnesota's evaluation process includes a survey that goes to judges and court staff but is not made public, nor is it a state statute. Hennepin County originally had its own process where the bar sent out a "bar poll" to every registered attorney. In 2012 the bar poll was replaced with a more "scientific" poll. The poll was originally 100 questions and a manual process, but was eventually replaced by an online survey with fewer questions. Judges cannot opt out unless they have two years or less until retirement. The survey is more of a "360" evaluation that is used for providing safe judicial feedback and addressing judicial training needs.

Marcus Reinkensmeyer is director of court services, Administrative Office of the Courts, Arizona Supreme Court.

Kent Batty is court administrator (ret.), Pima County Superior Court, Tucson, Arizona.

Marcy Podkopacz is director of research and business practices divisions, Fourth Judicial District Court of Minnesota, Minneapolis.

"The End of Debtors' Prisons: Effective Court Policies for Successful Compliance with Legal Financial Obligations" (COSCA 2016 Policy Paper)

PRESENTERS: **David Boyd, Callie T. Dietz, and Jeff Shorba**

REPORTER: **Jeff Hall**

The U.S. Supreme Court has twice held that a person may not be incarcerated for failure to pay legal financial obligations (LFOs) absent an inquiry into the defendant's ability to pay (see *Tate v. Short*, 1971, and *Bearden v. Georgia*, 1983). The Conference of State Court Administrators' (COSCA) 2016 paper strongly advocates for all courts to meet the *Bearden* requirements through a hearing to assess an offender's ability to pay. COSCA intends to support NACM membership in addressing local practices where unpaid LFOs may lead to incarceration and in advocating for local and state policies that provide alternatives to unpaid LFOs and support offender accountability.

The COSCA paper also recommends that courts adopt evidence practices that reduce failures to appear and improve compliance with court orders. Simplifying the information provided to defendants, clarifying their responsibility regarding their LFOs, and eliminating additional collection-related fees were also identified as key practices that support defendant compliance with LFOs.

At the broader policy level, the paper advocates for judicial authority to modify, mitigate, or waive fees for defendants who are truly unable to satisfy their LFOs and, conversely, to impose jail time for the willful refusal to pay, providing reasonable financial credit for the time served.

Additional references include prior COSCA policy papers: "Courts are Not Revenue Centers" (2011) and "Evidence-Based Pretrial Release" (2012). Questions regarding the paper should be directed to Arthur Pepin, director, New Mexico Administrative Office of the Courts, at (505) 827-4800.

David Boyd is state court administrator of Iowa.

Callie Dietz is state court administrator of Washington.

Jeff Shorba is state court administrator of Minnesota.

Using Social Media and Tech as Your PIO

PRESENTERS: **Casey Kennedy and Michael Sommermeyer**

REPORTER: **Jeff Chapple**

Michael Sommermeyer and Casey Kennedy discussed how Twitter is the new PIO of today. They stated that as social-media topics are discussed, Facebook is phasing out and Twitter is where it's at. They demonstrated how easy it is to start a Twitter account, defined the two types of messages, and discussed Twitter's symbols and the reasons for their use.

They discussed policy needs and considerations that should be established for using Twitter, such as who uses the account and to what purpose and personal versus work accounts. A court must also consider who to "follow" or "not to follow." There is no such thing as "delete" in the world of social media, as it is better to do a correction tweet to keep transparency.

Social media can be good for a court to help protect its public Image. Twitter improves accessibility to the public and the press, unlike press releases and delayed responses. Accomplishments and positive communications are in the court's control as to what and when they get released.

Casey Kennedy is director, IRM, Office of Court Administration, Austin, Texas.

Michael Sommermeyer is public information officer, Nevada Appellate Courts, Las Vegas.

Our Changing Community: Trust and Confidence in a Time of Shifting Demographics

PRESENTERS: **Peter C. Kiefer and Phillip Knox**

REPORTER: **Liz Rambo**

Peter Kiefer and Phillip Knox shared important information about how our nation and our communities are changing in what they expect of the courts. The trend is demonstrated in the recent CCJ–COSCA resolution calling for meaningful access to justice for all (100 percent access). As court leaders, we strive to understand this vision of 100 percent access. Using the "PollEverwhere," voting app, Kieferand Knox sparked lively and fast-paced conversation on the concept of the resolution, how our court customers will perceive it, and the trends that will affect it in the years to come.

Kiefer and Knox informed the group about their ongoing future of the courts project. Since 2012, they have sent out series of surveys. More than 1,000 people have responded to at least one of the six surveys sent to courts of all levels. The responding courts range in jurisdiction from municipal to state to worldwide. The surveys ask for opinions on likelihood of a scenario occurring over the next ten years (from improbable to highly likely).

Volunteers presented scenarios and snapshots of futures information in three distinct areas: access to justice, bail and user fees, and the virtual courthouse. Interactive polling provided instant opportunities for thoughtful comments about futures and futures scenarios. Participants had an in-depth discussion about the juxtaposition of access to justice and caseflow management.

Those interested in responding to a court futures survey should contact Peter Kiefer at pkiefer@superiorcourt.maricopa.gov.

Peter C. Kiefer is civil court administrator, Maricopa Superior Court, Phoenix, Arizona

Phillip Knox is principal, KSA Consulting Solutions, LLC, Phoenix, Arizona.

Minimizing Bias and Improving Access to the Courts: LGBT Perspectives

PRESENTERS: **Lisa Cisneros and Ming Wong**

REPORTER: **Helen Hall**

As visibility of the lesbian, gay, bisexual, and transgender (LGBT) community increases, it has become necessary to educate the courts on how to better serve LGBT litigants. This session provided information about common myths, terminology, and improvements to court processes for litigants that identify as LGBT.

The speakers highlighted three main objectives:

1. Recognize LGBT terminology.
2. Examine common legal issues faced by LGBT litigants and the importance of access to the courts.
3. Understand ways to reduce anti-LGBT bias.

The speakers dispelled common myths regarding the structure of LGBT relationships and families. Legal issues pertaining to civil and family law can be especially difficult for the LGBT community. Name and gender changes are becoming increasingly common in the courts. The speakers highlighted the importance of staff education so they can better handle LGBT-related matters.

Courts should have resources available to LGBT people to assist them in court processes, including referrals, nonlegal resources, forms, and self-help materials. It is also crucial for nondiscrimination policies to specifically include gender expression, gender identity, and sexual orientation. The speakers also stressed the importance of creating visibility for LGBT people in the courthouse to make it a more welcoming place. This can be done by making sure images and information in the courthouse are LGBT inclusive, having gender-neutral bathrooms available when possible, and not making assumptions based on appearance.

The speakers recommend reaching out to LGBT community centers and LGBT bar associations. A list of LGBT terminology is available on the conference website. Information can also be found on YouTube.

Lisa Cisneros is LGBT program director, California Rural Legal Assistance, Watsonville (lcisneros@crla.org).

Ming Wong is supervising helpline attorney, National Center for Lesbian Rights, San Francisco (mwong@nclrights.org).

Special Interest Group

NACM Talks: Professional Development — Free Is a Very Good Price!

FACILITATORS: **Ellen Haines and Roger Rand**

REPORTER: **Alexa Olsen**

This interactive session focused on professional development tools court employees can use that are either free or inexpensive. The audience members came ready to share and receive information. Everyone referenced the Internet for their go-to resource. Sites mentioned were:

- YouTube
- Ted Talks
- Court-related sites: NACM (nacmnet.org), NCSC (ncsc.org), NASJE (nasje.org)
- Free/Low-cost education: EdX (edx.org), Coursera (coursera.org), MOOC (mooc-list.com)
- Certified court interpreter training (your state's AOC website)
- RSS reader to pull in content that interests you, like professional development (Feedly, InoReader, AOL Reader, Digg Reader, etc.)
- Content storage to store articles you find online (Scoop.it)
- Online webinars, videos, training through Human Capital Institute (hci.org)
- Resumes, interview skills (Ragan.com)
- Manager-related content (Motivationalmanager.biz)

Speaking of professional development tools, the topic evolved toward the development of employees, where audience members posed these questions:

- What can court employees do to show you that they are interested in moving up or making a career change?
- How do you find the time for to develop your employees or make the time?
- What do you do with problem employees?
- How do you deal with people that want professional training?
- Can you encourage your employees to do professional development outside of work hours?
- What does your court do for employee enrichment?

Roger Rand is IT manager, and Ellen Haines is applications training supervisor, Multnomah Judicial Department, Portland, Oregon.

Tuesday, February 7

Plenary

National Task Force on Fines, Fees and Bail Practices

PRESENTERS: **Scott Griffith, Yolanda Lewis, and Jeff Chapple**

This session introduced the work of the National Task Force on Fines, Fees and Bail Practices, which was established by the Conference of Chief Justices and Conference of State Court Administrators in February 2016.

Scott Griffith set the context for the task force, from the 2014 officer-involved shooting in Ferguson, Missouri to key findings of past State of State Courts reports from the National Center for State Courts. The active work groups of the task force are Access to Justice and Fairness; Transparency, Governance and Structural Reform; and Accountability, Judicial Performance and Qualifications, and Oversight. Products of the task force include bench cards for judges; a model political subdivision court registration act; and language for model uniform citations. Principles for fines, fees, and bail practices are being developed, too.

Jeff Chapple's role on the task force is bringing forward best practices derived after Ferguson. He reported on several initiatives from the Missouri legislature to reform practices related to fine/fee structures and to reduce fine amounts overall. Recent legislation has also reduced the amount of time defendants are held in custody on municipal court warrants. Missouri has also established performance standards for municipal courts, making them accountable to superior courts. Yolanda Lewis concluded the plenary, noting that Georgia is now seven years into the process of criminal justice reform, with the current primary concern being the reform of private probation agencies. Additional initiatives involve rethinking the standards constituting indigency and reclassifying some minor offenses to civil matters that require no criminal-justice-system involvement. She acknowledged that the judiciary and legislature are the decision makers in developing and implementing reform, but we must embrace the role of being effective influencers.

You can follow the work of the task force by visiting http://www.ncsc.org/topics/financial/fines-costs-and-fees/fines-and-fees-resource-guide.aspx.

Scott Griffith is NACM president and director of research and court services, Texas Office of Court Administration, Austin.

Yolanda Lewis is district court administrator, 5th Judicial District, Superior Court of Fulton County, Atlanta.

Jeff Chapple is municipal court administrator, O'Fallon, Missouri.

Evidence-Based Practices and Access to Justice

PRESENTERS: **Christopher L. Griffin, Jr., and Erika Rickard**
REPORTER: **Tracy J. BeMent**

Harvard Law School's Access to Justice Lab (A2J Lab) works to "transform access to justice and adjudicatory administration into evidence-based fields." They empirically test ways to communicate, interact, and engage those who use court services to ensure that their access was meaningful and procedurally fair while minimizing costs to courts. They seek to produce rigorous evidence of what works by incorporating evidence-based thinking and learning from other fields and by implementing creative interventions and randomized, control-trial field studies.

Such evidence is sorely needed. In most states, 80 percent or more of family-law cases involve at least one unrepresented party, yet courts have limited knowledge of how to structure and deliver legal self-help materials. Further, resource scarcity compels local court providers to deploy varying levels and types of service, yet the A2J Lab research has shown courts have no rigorous knowledge of the relative advantages or disadvantages of each level or type. While courts may think they are having a positive impact and improving access, perhaps they are not doing so effectively.

The A2J Lab has been working to produce this evidence. The presenters gave examples of self-help forms, pretrial risk assessments, and court-ordered mediation. Using social-science research tools, they show how court services can be improved and if they are effective in delivering due process. For example, they found that using fewer words, more white space, simpler language, and even more color increased understanding of self-help materials. Their challenge to the courts is to increase testing of their strategies to deliver customer service and administer justice.

For additional information on the A2J Lab, please visit http://a2jlab.org. They are seeking local courts in need of transformation to partner with on projects.

Christopher L. Griffin, Jr., is the research director, and Erika Rickard is the associate director of field research, at the A2J Lab.

Harvard Law School's Access to Justice Lab (A2J Lab) works to **"transform access to justice and adjudicatory administration into evidence-based fields."** They empirically test ways to **communicate, interact, and engage** those who use court services to ensure that their access was meaningful and **procedurally fair** while minimizing costs to courts.

New Issues in High Profile Trial Management

PRESENTERS: **Beth Riggert and Rick Pierce**

The National Center for State Courts, the Conference of Court Public Information Officers, and the National Judicial College designed a ten-step plan for dealing with high-profile court cases (see http://hpcstage.ncsc.org/):

STEP 1
BUILD A LEADERSHIP TEAM. The trial judge is the central figure but will rely heavily on the court administrator or clerk. Other players could act as advisors.

STEP 2
ASSESS THE CASE AND THE INTEREST IT MAY GENERATE. What is unique about this case?

STEP 3
ARE WE AWARE OF ANY SPECIAL SECURITY ISSUES? Who might be at risk? Do sensitive documents require special care? Will crowd control be needed?

STEP 4
WHERE SHALL WE HOLD THE PROCEEDINGS? Can the court accommodate an overflow crowd? Do you need to secure the participants to ensure access to the building?

STEP 5
WHAT JUDGE SHOULD HEAR THE PROCEEDINGS? Do your court rules allow for preempting a judge, and how do you bring in an outside judge? Does the judge have adequate workflow management skills?

STEP 6
WHAT ABOUT ALL OTHER COURT CASES? Who will keep the rest of the cases flowing while the judge focuses on the high-profile case?

STEP 7
HOW BEST SHOULD WE SELECT A JURY? Can you get an impartial jury? How large of a jury pool is needed?

STEP 8
WHAT MEDIA ISSUES MAY ARISE? Will you have a small contingent of print and still photographers or a gaggle of reporters from national companies with satellite trucks, helicopters, and drones?

STEP 9
WHAT DO WE DO ABOUT SECURITY AND LOGISTICS? Can the weak areas in and around your court be monitored?

STEP 10
HOW DO WE MANAGE EVERYONE'S EXPECTATIONS? Make sure that the judge and leadership team holds a meeting or disseminates information so that everyone knows the expectations and parameters at every step of case.

Beth Riggert is CCPIO president and communications counsel, Supreme Court of Missouri.
Rick Pierce is judicial programs administrator, Administrative Office of Pennsylvania Courts.

Why Does that Court Have All of Those Cool Public Services Tools and I Don't? Getting the Right People in Your IT Shop!

PRESENTERS: **Heather Pettit and Shannon Stone**

This session explained how courts can find the right IT people to get the job done. The presenters reviewed the generational talent with a focus on Millennials, who will make up 45 to 55 percent of the workforce in 2020.

First, how do courts recruit IT people effectively? Most courts use court websites, yet technologists typically go not to court websites but to technologists' job boards. Courts should consider using brief job summaries with links to the job announcement. More consideration should be given to the person the court is trying to hire. Emphasis should be placed on the importance of the service.

Second, how do courts compete with the private sector for talented IT staff when unemployment for IT professionals is low, wages are high, and the private sector offers flexible schedules? Courts must be more creative when hiring IT staff. For example, courts should consider hiring a core IT team that provides leadership, vision, business requirements, testing, and training. However, the court must also focus on hiring young developers for shorter projects, such as modules or interfaces that may be separate from an application. Courts should consider hiring interns for these shorter projects and do the following for all IT staff:

- Allow for flexible work schedules
- Tell them they are doing a good job
- Tell them the problem and that the application must meet the needs of the public
- Give them opportunities to develop cool applications
- Invest in training for them
- Sell the project as fun and meaningful with a positive social impact

Finally, the session focused on how young, talented technologists can assist courts in creating self-help websites and centers that take customer needs into account.

Heather Pettit is chief information officer, and Shannon Stone is HR director/attorney, Contra Costa Superior Court, Martinez, California.

Jury News

PAULA HANNAFORD-AGOR AND JENNIFER K. ELEK

Addressing the Conundrum of Implicit Bias in Juror Decision Making

A recent "Jury News" column discussed *Peña-Rodriguez v. Colorado*, which was then pending before the U.S. Supreme Court.[1] *Peña-Rodriguez* raised the issue of whether an exception to the widespread prohibition on allowing juror testimony to impeach a jury verdict should be created for instances in which the deliberations were tainted by racial or ethnic bias. On March 6, 2017, the U.S. Supreme Court ruled in the affirmative, reasoning that the "central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States."

This was a close case — the decision was 5 to 3 — due to concerns that any exceptions created might eventually swallow the "no-impeachment rule," which is the prevailing approach in state and federal courts. In addition to the "unique historical, constitutional, and institutional concerns," the rationale for the justices in the majority opinion was recognition that the traditional safeguards against racial bias by jurors are mostly ineffective after the jury begins deliberations. Which brings up the question, what can courts do to prevent racial bias in jury deliberations from violating defendants' rights to a fair and impartial jury?

Part of the problem for courts is that racial bias is very difficult to detect among jurors. It is socially disfavored in contemporary society, so jurors are extremely reluctant to disclose it during jury selection, even when asked directly. More critically, many jurors are completely unaware of their own biases, and thus would not even think to bring them to the attention of the judge and attorneys during jury selection. The existence of implicit bias is an especially challenging problem for courts.

What Is "Implicit Bias"?

Explicit racial prejudice has no place in the American justice system, and most people make a concerted effort to suppress biased behavior or speech, even when they consciously recognize that they have those attitudes. But some biases operate on a subconscious level, without the person's knowledge or control, and can affect how people interpret information and make judgments. Social scientists have coined the phrase "implicit bias" to describe this phenomenon. There is extensive evidence that implicit biases contribute to racial disparities in a wide range of consequential real-world decisions and growing evidence that implicit biases contribute to racial disparities in decisions at every stage of the criminal process (e.g., police investigations, prosecutor charging decisions and plea negotiations, bond hearings, trials, and sentencing, including capital punishment).[2] Implicit bias can also distort juror decision making by affecting how jurors interpret trial evidence. Jurors with strong implicit biases toward whites and against blacks may be more likely to assume the worst about a black witness's trustworthiness or a black defendant's dangerousness while giving a white witness or defendant the benefit of the doubt.

Courts have developed educational programs for judges and court staff that are designed to raise awareness of implicit bias to reduce its impact on judgment and behavior. Self-awareness is a critical first step. Many promising strategies for reducing bias in decision making require the person to be acutely aware of her own propensity for implicit bias and to have a genuine desire to correct for it. The Race Implicit Awareness Test (IAT), an online self-assessment tool developed by researchers at Yale and the University of Washington, is a popular test developed to identify, measure, and study implicit bias. Education about

Given this interest, the NCSC Center for Jury Studies undertook a research **study in 2015** to test the effectiveness of an implicit-bias jury instruction. Working with an advisory committee of nationally recognized **experts** on implicit bias, project staff drafted an instruction designed to **reflect the most efficacious** approaches in implicit-bias educational programming.

implicit bias is not sufficient by itself, however. How that information is delivered can influence its effectiveness. For example, messaging that attempts to coerce compliance with racial fairness (*extrinsic motivation*) can result in hostility that may increase expressions of racial prejudice; a more effective approach is to appeal to each person's personal standards for fairness (*intrinsic motivation*).

Researchers have also identified other educational approaches to address implicit bias. For example, the traditional color-blind approach to adjudication, which has been embraced by the American justice system for more than a century, tends to generate greater individual expressions of racial bias on both explicit and implicit measures. In contrast, a multiculturalism approach that promotes the value of diversity tends to minimize the effects of implicit bias. In addition, greater exposure to individuals who contradict prevailing racial or social stereotypes may reduce those implicit biases. Finally, discrimination tends to emerge more in ambiguous decision-making contexts than straightforward ones. The more concrete the decision-making criteria, the less room implicit biases have to distort individual judgments.

Addressing Implicit Bias in Juror Decision Making

While many of these educational approaches have become staples in judicial training initiatives, opportunities to provide similar opportunities for trial jurors are extremely rare. Most jurors only serve for the duration of a single trial and, understandably, judges and lawyers are reluctant to prolong the duration of the trial long enough to replicate the judicial education experience as each new pool of prospective jurors reports for orientation. That leaves only two small windows of time in the typical jury trial in which judges and lawyers can highlight implicit bias for the jury: jury selection and final jury instructions. For a variety of reasons, court policymakers have focused primarily on jury instructions as the intervention best suited to minimize expressions of implicit bias by trial jurors. Judges instruct jurors on the law in every trial, so adding an implicit-bias instruction does not complicate trial procedures. In most jurisdictions, judges and lawyers use pattern jury instructions, reducing the risk that individual judges would include counterproductive elements, such as extrinsic motivation or colorblind ideology, in the instructions delivered to jurors.

Given this interest, the NCSC Center for Jury Studies undertook a research study in 2015 to test the effectiveness of an implicit-bias jury instruction. Working with an advisory committee of nationally recognized experts on implicit bias, project staff drafted an instruction designed to reflect the most efficacious approaches in implicit-bias educational programming. We also adapted a trial scenario used in previous studies that had repeatedly demonstrated racial bias in juror decision making. We then conducted a mock-jury experiment in which jury-eligible citizens were recruited online and asked to read one of eight versions of the trial scenario (varying the race of the defendant, the race of the victim, and the type of jury instruction); watch a video of a judge delivering either an implicit-bias instruction or an admonition prohibiting Internet use while on jury duty; and answer survey questions

about their verdict preference in the case, their confidence about their verdict preference, and the appropriate sentence if the defendant was found guilty. Finally, jurors were asked to complete the Race IAT and a series of explicit-bias measures.

We wish we could report that our implicit-bias instruction was a smashing success and that all traces of implicit bias evaporated in the sample of jurors who received the instruction. Unfortunately, the results were considerably more ambiguous.[3] The implicit-bias instruction did not significantly influence the mock-juror verdict preferences, verdict confidence, or sentencing recommendations. In fact, we were not even able to replicate the traditional pattern of white-juror bias against black defendants. The only meaningful impact of the implicit-bias instruction was that the defendant's claims of self-defense were perceived as stronger by white jurors in black-on-black trial scenarios compared to white-on-black trial scenarios. We did not detect evidence of backlash effects from our instruction, but could not rule out the possibility of individual differences between jurors (where backlash effects are likely to be observed).

Is the Justice System Ready for an Implicit-Bias Instruction, Even if We Crafted One that Really Worked?

Added to the disappointing study results, we received a sobering assessment of the receptiveness of trial judges to using an implicit-bias instruction in jury trials. We had circulated the instruction for comment on a listserv for members of pattern-jury-instruction committees. Many of the comments were generally supportive of the concept, but thought that our instruction was much, much too long. For the record, our instruction was 342 words, which takes approximately two minutes to deliver using a measured speaking cadence. This resistance to extending the time allotted for instructing the jury does not bode well for the likelihood of systemic implementation.

Some judges also raised substantive objections. For example, one thought that the instruction that encouraged jurors "to openly discuss the possible influence of hidden biases on decision-making" might intrude on jurors' prerogatives to manage their own deliberations. Another was concerned that the instruction did not differentiate adequately between illegitimate biases based on race or ethnicity and legitimate factors about the defendant that would be legally relevant to the jurors' decision-making task. And one judge identified a fundamental paradox in the very concept of a jury instruction on implicit bias — namely, that jury instructions are intended to express the rule of law that is applicable in the case, but an implicit-bias instruction focuses on the intrinsically personal question of "can you be fair as a juror?"

The (Renewed) Importance of a Diverse Jury

Based on the difficulty of crafting a jury instruction that effectively addresses implicit bias, or developing other approaches to educate prospective jurors, it appears that jury diversity continues to be an efficacious and eminently feasible way to minimize the impact of implicit bias on juror decision making. Research has repeatedly found that diverse juries are, on average, less biased by the defendant's race. The quality of jury deliberations benefits from the presence of minorities when jurors engage with one another on an equal basis and expressly confront different conclusions about the trial evidence. A diverse jury obviously brings more diverse perspectives to deliberations, but also increases white-juror awareness of race-related concerns in a way that stimulates a more thorough and more factually accurate evaluation and discussion of trial evidence. For jury managers, this means that ensuring the jury pool reflects a fair cross-section of the community takes on a heightened importance.

ABOUT THE AUTHORS

Paula Hannaford-Agor is director of the Center for Jury Studies at the National Center for State Courts. Contact her at phannaford@ncsc.org.

Jennifer K. Elek is a senior court research associate with the National Center for State Courts. Contact here at jelek@ncsc.org.

NOTES

1. Paula Hannaford-Agor & Greg Hurley, *Jury News: Racial Bias and the American Jury*, Ct. Manager, Winter 2016, at 41.

2. See Jennifer K. Elek & Paula Hannaford-Agor, *First, Do No Harm: On Addressing the Problem of Implicit Bias in Juror Decision Making*, 49 Ct. Rev. 190 (2013).

3. See Jennifer K. Elek & Paula Hannaford-Agor, *Implicit Bias and the American Juror*, 51 Ct. Rev. 116 (2015).

A Question of Ethics

PETER C. KIEFER

Ex Officio

Let us return to the question of problem-solving courts and impartiality. One example of how the judicial branch has been adapting to serve the community's changing needs is by the institution of problem-solving courts. An array of them now exist, including veterans' courts, homeless courts, drug courts, gambling courts, domestic abuse courts, and mental health courts, just to name a few. Some contend that since participants have to admit they have a problem before being admitted, the question of maintaining impartiality is irrelevant; the court's focus is on restoration and rehabilitation. Others contend that just because problem-solving courts occupy a unique niche in the overall organization does not mean they are allowed to abdicate a fundamental tenet of the judicial branch: impartiality in all matters that come before it.

Different problem-solving courts usually serve specific segments of the community and often have allied support groups dedicated to offering comfort and relief to those participants in need. Consequently, many of these courts come with an accompanying organization: the 501(c)(3). Is the problem-solving court to be viewed differently from the rest of the court? Given the uncommon nature of their relationship, questions arise. How intimately can court staff associate with these support organizations? Must courts ethically keep an arm's length distance?

The Scenario

Allison Griswald has supervised the problem-solving courts in a medium-sized metropolitan trial court for the last seven years. A variety of such courts have formed over the years, including a veterans' court, a homeless court, a drug court, and a mental health court. Several years ago a local veterans' support group started a 501(c)(3) organization named *Veterans for Justice* to assist veterans, including those going through the veterans' court. After some negotiations with representatives of other clienteles, *Veterans for Justice* agreed to expand its financial support to all four problem-solving courts and change its name to *Citizens for Justice*. Part of the expanded financial support included Allison serving as an ex-officio member of the *Citizens for Justice* Board of Directors.

Over the years, the community's support has grown. Citizens started with an annual golf tournament, then added a raffle and a silent auction, and then added a clothing drive. Eventually, it acquired corporate sponsors and even started crowdfunding to raise money.

Allocation of the funds has not been without some controversy. Although the name changed, veterans still held most of the board positions, and the veterans' court always received all of its requested allocation without question. From time to time, Allison has had to inject herself into the funding debate to explain what the money was actually used for and how the court planned to use future allocations.

The ever-growing amount of funding somewhat mitigated the annual allocation pressure since each court got most of what it wanted (mostly). *Citizens* even used grant money to send two court staffers to the annual conference of the National Association for Drug Court Professionals and to attend a weeklong training on the latest mental health research involving the justice system.

Drug Court Judge Iris Culpepper is a fierce defender of drug court in particular and problem-solving courts in general. She sees nothing wrong with Allison serving on the board and

Different **problem-solving** courts usually serve specific segments of the **community** and often have allied **support group**s dedicated to offering comfort and relief to those **participants in need.**

participating in funding-allocation decisions. Since the courts are post-adjudication, the rules about arm's length impartiality do not apply. Participants have admitted they have a problem. The focus is on returning them to being contributing members of the community.

Toby Bell in the state attorney general's office is less enthusiastic when he hears about how extensive *Citizens* has become and how intertwined it is with the court. The court has directly benefited from the organization's generosity, as demonstrated by several staff members going to conferences and training sessions using organization grants. Also, Allison sitting on the board of directors is a direct conflict of interest with the court; she cannot advance the goals of the court and the goals of the 501(c)(3) concurrently. Something has got to give.

Judge Culpepper counters that staff members going to conferences on *Citizens*' money is not a benefit; rather, it is an essential component of keeping these problem-solving courts current on the latest trends. Besides it is no different from staffers obtaining grants from other agencies to attend conferences, a practice they have done in the past. Allison is not an official board member; she is simply providing advice and insight into the court's position and workings. This is something the board clearly benefits from, and it can always ignore what Allison says.

Toby chats with the state attorney general who contemplates the office's next move.

The Respondents

Here to comment on the scenario are Ross A. Munns, previously assistant trial court administrator for Unit Three of the North Dakota Supreme Court for eight and a half years, and currently human resources director for the City of Mandan, North Dakota; Karl E. Thoennes, court administrator for the Second Judicial Circuit Court in Sioux Falls, South Dakota; and Mary Majich Davis, chief deputy executive officer for the San Bernardino Superior Court in California.

The Questions

If problem-solving courts are post-adjudication, does that not remove the concern over impartiality?

Mary Majich Davis said that even if a problem-solving court is post-adjudication, it is still a court and impartiality is still of paramount concern. "So long as there are open cases being heard by a judicial officer the appearance of impartially is of upmost concern. It never goes away. The case is still on the court's active case management inventory and the judge is overseeing the regular reviews and is monitoring the defendant's compliance and progress."

On the other hand, Ross Munns sees problem-solving courts as somewhat immune to issues of impartiality, not so much because they are "post-adjudication," but rather by their nature and the acceptance of the very idea of problem-solving courts as a form of justice. "You are conceding that the usual constraints and lines of division between government entities

are now less clear. The partnered approach and emphasis on healing requires a higher level of involvement by court personnel—far beyond what the founding fathers had envisioned when setting up the three-branch model."

Karl Thoennes looked at the specific scenario. The veterans' court may be post-plea and post-adjudication, but when it comes to impartiality Judge Culpepper still needs to keep clients' individual legal rights as well as the court's broader role in mind. "I understand that problem-solving courts are very different from the traditional adversarial court model, so concerns about impartiality may work a little differently — it's all about a mutual, group effort at recovery or resolution, not a battle between competing parties. I also understand that Allison's program receives support from the community at large, like so many drug, veteran, or other problem-solving courts, and that's a great thing for community engagement and recovery. However, both on practicality and principle, I think courts should be very careful about becoming financially dependent on nonprofits or any other single community partner. Second, a nonprofit, or a service provider, or an individual donor, or even a local business that generously supports drug court today could easily become a litigant in a traditional legal dispute tomorrow. What if you are an unhappy car owner suing an auto-repair business and you find out later that Joe's Auto Repair Shop offers job-skills apprenticeships to the clients in Judge Culpepper's favorite problem-solving court program?"

Does having a court staffer serving as an ex officio board member of a 501(c)(3) constitute a conflict of interest?

Mary thought it was a conflict of interest. "The board of directors may take actions not in the court's best interest and having a court leader on the board, even in an ex officio capacity, is not ethical."

Ross disagreed thinking it would not be a conflict as long as there was an equal balance of representation by other entities, contributors, and team members on the board. "There must be balance in order to avoid any perception or assumption of bias."

Karl, again looking at the specific scenario, saw Allison's service on the board as a clear conflict, regardless of whether the positon was "ex officio." "Service with many charitable organizations may present no problems at all for court employees, but in this scenario we're talking about a board that makes direct decisions on court funding. Whether Allison is technically a voting board member or not, and whether problem-solving courts are a fundamentally different court model or not, she is still in a position to directly influence board decisions on court program funding. Be a cheerleader for drug court. Do presentations at the Rotary Club, do media forums on the benefits of problem-solving courts, testify to legislative committees, do the golf tournament as a guest, even encourage the board to support the program *from the outside* — but Allison should not be on that board, even ex officio."

Does your court have a 501(c)(3) support organization that assists specific calendars?

Neither Mary, Karl, nor Ross said their court was supported by a 501(c)(3) organization. Karl said that his court's drug, veterans', and DUI programs do receive support, directly and indirectly, from an array of community organizations, donors, and businesses, and this is typical of many courts across the county, but the court itself never accepts cash or checks from donors. He was unsure if the distinction between being chartered a 501(c)(3) nonprofit or not is that significant. "I'm not sure that distinction is important (after all, just as an example, Microsoft and the Boy Scouts may both become litigants and be sued for various reasons). Again I think community engagement is wonderful, and I don't know of any other court activity or program area in recent years that has engaged the community, donors, and service organizations as actively as problem-solving courts. Supporting problem-solving courts gives the community, like the veterans in this scenario, a closer engagement and vested interest in the courts and what we have to offer, and that's a good thing — I think we just need to be careful."

Ross said the North Dakota court system does not have a support organization directly involved with calendaring decisions. The courts are associated with a statewide association of drug court professionals, which operates as a 501(c)(3) nonprofit and assists in facilitating the exchange of information and ideas between its members and the respective courts.

Has there ever been a discussion of the type in the above scenario in your court?

Karl and Mary both said their courts had never had such a discussion about nonprofit support organizations. Karl added that 501(c)(3) nonprofit organizations have never been chartered to support his court's drug, DUI, or veterans' court programs.

Having said that, the South Dakota court system is careful about court employees serving on boards. "In fact we have a personnel rule that requires written permission from the employee's appointing authority and the chief justice before accepting a board position. The rule also invites employees to seek an opinion from state court administration if the employee is at all unsure of the request. Similarly, the NACM Code talks about avoiding relationships that would impair our impartiality, independent judgment, and vigilance about conflicts of interest (Canon 2.1)."

Ross said there have been discussions of this type in North Dakota, but they have not evolved to the point that they are directly concerned with court staffing and procedural decisions. "Rather, the nonprofit arrangement exists to provide fundraising, lobbying efforts, and public awareness for the need and purpose of drug courts. Any calendaring decisions are made at the local level based on the volume of participants in the program and by the staffing team, which regulates the program directly."

What can 501(c)(3) money be used for? Is it okay for court staff to use the funding for training?

Again, Karl, Mary, and Ross said support money has never been used for court staff training. Karl said that asking the very question about whether nonprofit money could go toward staff training is why courts need to be careful about accepting or advocating for outside funding. Independent nonprofits can use their funding for just about anything they choose; it's entirely up to the outside organization. Although training per se is not a gift, some may consider it as such, which violates the NACM Code (Canon 1.6 on avoiding privilege and Canon 3.3 on avoiding gifts). "As for funding the training trips: every time I travel for work and I'm sitting in a nice conference hotel, I think to myself that there's a rancher somewhere in western South Dakota rescuing cattle in the blowing snow to pay his taxes so I can attend the conference. That makes me very grateful and diligent about watching expenses and showing up at the conference sessions."

Ross said the monies from support organizations in North Dakota have been used for things like postage and minimal weekly rewards and prizes, as well as somewhat larger expenditures, such as enrichment and educational scholarships for program participants. The monies have never been used for staff training.

Does it matter how a 501(c)(3) acquires its funding? Can such a support organization solicit corporate donations or pursue crowdfunding on the Internet?

Karl thought it does matter how a nonprofit organization raises its funding. Courts need to be careful, particularly about donors. "To pick one extreme example just to illustrate the point, I can't imagine courts would or should accept specialty court contributions from the Democrat or Republican booster clubs, or highly partisan political action committees." Keeping NACM Canons 1.2 and 1.4, which address "not impugning the dignity of the court," and treating litigants and others with respect would help in evaluating whether to accept offers of outside support.

In Ross's opinion keeping the fundraising on a local level is best when considering the impact of community buy-in to a program. "Yes, it would be legal to do things to involve corporate-level donors, but you would risk the appearance of bias or potential impropriety with one very large entity paying for the majority of expense, it would be risking the integrity of not only the specialty court but maybe even the local court system as a whole." Using innovative techniques such as crowdfunding would be legal, but would miss an opportunity to forge community involvement in the program.

My thanks again to Ross Munns, Mary Majich Davis, and Karl Thoennes for their thoughts on this timely topic. As the number of organizations that support specific trial court programs grows, questions such as these are sure to arise. Be sure to visit the NACM ethics web page at http://nacmnet.org/ethics to see previous ethics columns, and to download educational ethics modules your court or state association may use to present ethics training in your state. If you have an ethical issue you would like to discuss, or if you have comments on this or any of the previous columns, please contact me at pkiefer@superiorcourt.maricopa.gov.

ABOUT THE AUTHOR

Peter C. Kiefer is the southeast regional court administrator for Maricopa Superior Court in Phoenix, Arizona. He has been questioning ethics for *Court Manager* since 1994.

IJIS Exchange

A Column Dedicated to the Exchange of Ideas on Information Sharing in Justice

SUE HUMPHREYS

You probably don't associate a personality with your court, or if you do, it may reflect the demeanor of your judges, clerk of court, or other passionate leaders within the court's walls. From an outsider's perspective, though, your court has many personality traits that have little to do with justice officials. For instance, your court may be deemed conscientious, reliable, picky, or difficult, depending on the services people need and how they engage to receive those services. Last year, NACM honed in on one major personality trait — *friendliness* — to help courts evaluate and address their responsiveness to internal and external customers. The resulting guide, *Creating a User-Friendly Court Structure and Environment*, is available online at https://nacmnet.org and covers three main areas: your buildings, people, and the technology/resources that can help you deliver outstanding services.

STEP 1: Assess the Landscape

Setting the right tone for friendliness in your court starts with assessing your "as-is" environment to help define where you want "to-be." This quick quiz is intended to jumpstart that journey by asking a few of the questions you'll want to consider about the experiences of people who interact with your court. Although the quiz focuses on public customers, we encourage you to consider how these same situations apply to others, like attorneys, internal staff, and your justice partners. Total up your score using the key at the end to gauge your current situation and then check out ideas, examples, and resources that can be found in the guide.

STEP 2: Start the Conversation

The results of your quiz and information in the guide will help frame conversations about areas you can tune to improve perceptions and satisfaction. There may be ways to "friendlify" your court without breaking the budget! We urge you to use the guide to inspire engagement and strategic thinking with your colleagues. You may also find it helpful to check out the video from a session on this topic presented at the NACM Midyear Conference earlier this year: https://vimeo.com/204100673.

ABOUT THE AUTHOR

Sue Humphreys is vice chair, IJIS Courts Advisory Committee.

"**The Guide** helps courts to recognize techniques that **improve usability of space and operations** while also improving staff morale and confidence. We've identified some quick wins and some **long-range projects** as well as tips and tricks that will help no matter where you are in that journey. Of course, **our collective goal is improved public trust** and confidence in our courts and **increased access to justice for our users.**"

Renee L. Danser, Esq., Chair, *2016 Guide Workgroup*

The User-Friendly Court Quiz

1. *My courthouse has allocated space for queuing visitors*

A. ❑ Yes, both before and after they pass through security
B. ❑ Yes, but only in some areas of the building
C. ❑ Visitors are queued only before security
D. ❑ No queueing exists

2. *In some/most spaces, we use an automated queueing process that allows people to sit while waiting instead of standing in line*

A. ❑ Yes, and our system includes signage that lets them know their place in line
B. ❑ Yes, but they are alerted only when it's their turn
C. ❑ We have a manual process that allows people to sit and we call them by name
D. ❑ People must stand in line at our courthouse

3. *Our jury assembly area has worktables or private cubicles to accommodate juror activities*

A. ❑ Yes, we have private cubicles/spaces for jurors to use
B. ❑ Yes, but only common worktables without privacy
C. ❑ No, but our jurors can find tables in the courthouse when they have free time
D. ❑ We do not have worktables or private spaces in our courthouse

4. *We have established a childcare center for parents/guardians doing business at the courthouse*

A. ❑ Yes, and our childcare center is free of cost
B. ❑ Yes, but there is a fee for using our childcare center
C. ❑ No, but we work with a nearby childcare center(s) to provide services
D. ❑ We do not make any accommodation for childcare

5. *Courthouse staff who interact with patrons are knowledgeable about our website content, available forms, and available services/community programs*

A. ❑ Yes, and we have a formal program to continually train staff
B. ❑ Yes, but ongoing training is informal
C. ❑ We train new staff but after that they are on their own
D. ❑ We do not have any formal program to ensure that staff are knowledgeable

6. *My court has dedicated service centers to assist self-represented litigants (SRLs)*

A. ❑ Yes, both onsite and online dedicated SRL service centers are available
B. ❑ Yes, but our dedicated SRL service center is onsite only
C. ❑ We provide some services to assist SRLs but not through a dedicated service center
D. ❑ We do not provide any specialized assistance to SRLs

7. *My court ensures that our website, forms, instructions, brochures, videos, and signage are produced in plain language to be understandable by everyone*

A. ❑ Yes, we have people trained in plain language who regularly review and update these materials

B. ❑ Most of our materials are regularly reviewed for plain language by general staff

C. ❑ We try to review materials for plain language, but it is hit-or-miss

D. ❑ We have not reviewed our materials for plain language

8. *My court collects information that helps us identify the person's level of understanding before we provide service*

A. ❑ Yes, and we have automated this data collection to improve service delivery

B. ❑ Yes, we manually collect this data

C. ❑ Our staff does their best to determine level of understanding on-the-fly

D. ❑ We interact with everyone the same, regardless of their level of understanding

9. *My court collects data to analyze our service/call center(s) for wait times, volume, peak times, and information requested*

A. ❑ Yes, we have an automated system that collects this information and guides our service delivery

B. ❑ We manually collect this information and use it to help guide our service delivery

C. ❑ We collect some of this information but have not yet used them to adjust services

D. ❑ We do not collect or analyze any data in our service/call centers

10. *My court conducts cultural competency and anti-bias education for court staff*

A. ❑ Yes, and we have a formal program to continually educate all staff

B. ❑ Yes, but education is informal/hit-or-miss

C. ❑ We educate new staff but after that they are on their own

D. ❑ We do not provide any cultural competency or anti-bias education

11. *My court regularly tests our website for usability and updates it accordingly*

A. ❑ Yes, and we utilize resources, methods, and/or analytics specifically for this purpose

B. ❑ Yes, but it is an informal process

C. ❑ Yes, but usability improvements are infrequent

D. ❑ We do not specifically address website usability

12. *My court uses technology (kiosks, fillable forms, etc.) to provide self-service options*

A. ❑ Yes, we heavily promote self-service and have many options available

B. ❑ We have a few self-service options and have budgeted to expand them

C. ❑ We do not yet have self-service options but they are in the budget

D. ❑ We do not currently have plans for self-service options

TALLY YOUR SCORE:

Each "A" response = 5 points

Each "B" response = 3 points

Each "C" response = 2 points

Each "D" response = 0 points

13. *My court uses technology so that participants can attend court proceedings remotely*

A. ❑ Yes, we conduct remote hearings for all participants and plan to expand this capability

B. ❑ We allow some, but not all, participants to attend certain hearings remotely

C. ❑ We believe that remote hearings are valuable and have budgeted to support them

D. ❑ We do not have plans to support remote hearings

14. *My court has an e-reminder system that notifies parties and participants about hearings and what is needed to be prepared*

A. ❑ Yes, we automatically notify people by preference of telephone, email, or text

B. ❑ We automatically notify people by at least one of telephone, email, or text

C. ❑ We manually notify people by at least one of telephone, email, or text

D. ❑ We do not notify people other than by USPS, if at all

15. *My court uses technology to help people find their way and provide other useful information*

A. ❑ We use a combination of displays, signage, kiosks, and mobile technologies in multiple languages to help guide courthouse visitors

B. ❑ We guide visitors with at least one of displays, signage, kiosks, or mobile technologies in multiple languages

C. ❑ We guide visitors with at least one of displays, signage, kiosks, or mobile technologies in English only

D. ❑ We do not use technology to help guide courthouse visitors

16. *My court uses technology so that disputes can be resolved entirely online*

A. ❑ Yes, we have an online dispute resolution system and plan to expand it

B. ❑ We have an online dispute resolution system but plan to use it for minor violations only

C. ❑ We do not yet have online dispute resolution but it's in our budget

D. ❑ We do not plan to implement an online dispute resolution system

TOTAL SCORE

80 – 65 Congratulations! Your court clearly demonstrates that providing a user-friendly structure and environment is a top priority. If you're looking to improve even further, the guide is full of tips and additional considerations for ensuring that your buildings, people, and technologies/resources continue to be user-friendly into the future.

64 – 45 Nice work! Your court is making real headway in becoming user-friendly. Be sure to continually review each area for improvement opportunities and to formalize training or processes that may be informal today. Check out the guide if you're looking for examples, help with planning, ideas for automation, etc.

44 – 25 Not bad, but there's room for improvement at your court. Look at your answers to this quiz to find patterns. Do your people and technologies score high but you're hindered by an older building? Is the building covered but you don't make use of new technologies? Whatever the shortcoming, the guide can help stimulate ideas for possible solutions.

24 – 0 Your court has work to do to improve its user-friendliness. One way to start is by using the results of this quiz to have conversations with staff about areas that are not so user-friendly today. Are there opportunities for "quick wins" in one or two areas without a heavy investment of time or money? The guide can help you identify these and provide other insight about what it means to be user-friendly.

Having a Heart for Service

Interview conducted and edited by Matthew Kleiman

Courtside Conversation

EDWIN BELL

Background

Deputy Court Administrator, DeKalb County (Georgia) Superior Court

Number of Superior Court Judges — 10

Total staff — 96

Court Budget — $10,000,000

NACM member since 2008

How did you get involved in court administration?

I guess I could be looked at by some as a journeyman. I started off working for our state parole organization and then moved on to work in the executive branch for a couple of different governor offices, and then I accepted a position with the judicial branch at the Georgia Administrative Office of the Courts (AOC). I was with the AOC for several years before becoming the Fulton County Juvenile Court clerk. And then five years ago, I had an opportunity to come over here to DeKalb County as the deputy court administrator.

What motivated you to start working at the trial court level?

I spent about half of my career in the executive branch, and I was excited by the opportunity to work in the judicial branch and have more of a direct impact on the lives of people. Working at the trial court allows me to work closely with the local community. Our community here is very diverse. In fact, there are over 100 different languages and dialects spoken here in DeKalb County. When we see and hear these people in our courthouse, we are reminded daily that our job is to ensure that the court system serves all the different people who come to the court.

How would you describe your management style?

I manage by walking around. And what I mean by that is get out of my seat and out of my office and visit various departments and sections around the courthouse, not to micromanage anyone, but just to observe what's happening. I believe that people need to see you and that you need to see and hear things for yourself.

What makes someone a great manager?

First, a great manager trusts the people that they've hired to do their jobs and to be the experts at what they do. Second, they do not make decisions in a vacuum and are willing to solicit input from others. Finally, great managers are ones who do not panic during times of adversity.

How do you go about hiring the right people?

I start with the basics, making sure that the candidate has the necessary experience and educational qualifications. But I also look at other things, such as what is motivating them to apply for the job that is available within the court. I try to see if they have a heart for service. I want to hire individuals who are not merely seeking the job for the sake of a job or for the sake of a salary. We're public servants and we play an important role in serving the public and our judges. It is important to find people that not only understand that, but are happy to do it.

How do you build teamwork?

I am a morale booster. I like to talk to staff and show them that I do appreciate their work and their commitment to the work. When staff are doing things right, when I can see they put forth some extra effort, I am always sure to commend them on that. I don't mind doing that publicly. I think that this helps build the camaraderie around the office and around the building. And I think that the staff appreciates it. I like to think that by expressing my appreciation, whether it's a simple email or whether it's a visit to their office or to their cubicle to tell them I appreciate the work they're doing, teamwork is strengthened here.

What strategies have you found to be effective for promoting change?

To make any meaningful change in the judicial system requires getting the buy-in from the people who are going to be required to carry out the change and from those who are going to be most impacted by that change. Change is scary to some people. Especially when some of the changes impact processes that have been around since the employees have stepped foot in this building.

I find it effective to start by communicating with the staff why there is a need for the change. I also find it important to seek input from the staff on their concerns and hear any ideas that they might have about how to improve things.

What advice would you give to new court managers or professionals?

To be patient. I have found that doing things right often takes a little bit more time, a little bit more effort, and certainly a lot more patience than I thought. Being deliberate usually leads to better results and fewer ruffled feathers than if you are to try to force things through and get things done quickly. Patience is a virtue. I don't think you could have too much of it. If anything, we could all use more.

ABOUT THE EDITOR

Matthew Kleiman is a principal court research consultant with the National Center for State Courts.

Management Musings

GIUSEPPE M. FAZARI

Addition by Subtraction

Niccolò Machiavelli, the renowned philosopher and author of *The Prince*, once wrote "the first opinion which one forms of a prince, and of his wisdom, is by observing the men he has around him. If they are capable and loyal he will be considered wise, because he knows how to recognize their ability and to keep them faithful. But when they are lacking in those qualities, one forms a bad opinion of the prince, for his first error was in choosing them." Machiavelli goes on to enumerate three types of intelligence when it comes to selecting staff:

1) Intelligence that understands things for itself (great to have).

2) Intelligence that understands what others can understand (good to have).

3) Intelligence that does not understand for itself, nor through others (useless to have).

Machiavelli argued that if a prince did not have the first type of intelligence, the second type was obligatory because he "must have the discernment to recognize the good or bad in what another says or does even though he has no acumen himself."

As court administrators, we do not preside over the affairs of the Florentine Republic, where his advice on the competency and loyalty of staff does us a lot of good. The negative connotations of Machiavellianism aside, however, there is some value to what he is saying that can be applied to our contemporary court environment (and perhaps any professional workplace) — that is, the ability and skill of a court administrator to hire and retain good employees and in those, hopefully, rare instances, manage others out of the organization.

There are many characterizations of employees that can be used to distinguish the very good (or the not-so-good) when managing. What is sometimes overlooked, though, is that one key to retaining the best employees, and ultimately creating the best possible organization, is managing those employees at the other end of the spectrum. In her article, "Managing the Unmanageable: The 6 Most Common Types of Difficult Employees," Beth Miller, a contributor to *Entrepreneur* magazine, briefly discussed the importance for leaders in learning to manage difficult personnel because of the negative impact their behaviors have on the organization's performance and morale. Miller creatively identified the following types of "difficult" staff:

1.) THE VICTIM — employee victims are never accountable for the outcomes of their actions. Negative results are always the fault of someone else's poor decision making rather than their own choices and judgment.

2.) THE HISSER — employee hissers can also be described as workplace bullies and can be prone to outbursts that occur with little to no notice.

3.) THE NEGATIVE NELLIE/NED — negative employees who are the eternal pessimists and can bring down the entire tenor of the team.

There are many **characterizations** of employees that can be used to distinguish the **very good** (or the not-so-good) when managing.

4.) THE GHOST — employee ghosts are the phantoms of the workplace who are often abusers of leave time, habitually late, or are consistently absent when there is work to be done.

5.) THE NARCISSIST — employee narcissists are the opposite of team players and cannot see beyond themselves, the role they play, and what benefit or detriment the said role has on them as individuals.

6.) THE EINSTEIN — Einsteins are genuinely intelligent and at the same time acutely aware of their prowess. They can be inflexible, believing their approach is always best, and their voiced intellectual superiority over other employees can make them come across as patronizing and create a contemptuous environment.

Miller's list is certainly not exhaustive, but it is useful for the purposes of highlighting some behaviors that an administrator will need to manage from time to time to ensure that the court continues to perform at an optimal level. These and other taxonomies cited in the literature are not to imply that all types of "difficult" employees are equally detrimental to the organization's culture. In fact, rather than making any one of these groupings into a bad, worse, and worst sort of classification, recommendations often center on identifying the shortcomings of individual employees (for whatever reason) and then offering techniques and strategies in managing them to change their behavior (egregious actions aside) and work performance to be more aligned with the organization's values and objectives. All of this "management," however, takes time — in many instances, considerable time. Is that investment worth it? In light of the litigious and bureaucratic nature of the court workplace, is the court administrator's time better spent on those folks who are assets? Should the court administrator simply accept that any system — hers being no different — will invariably include some unproductive people? For some, the decision to avoid expending energy on these perpetual, inevitable personnel issues because it is a losing battle and poses too much of a personal risk comes easy enough. But is it the right call over the long haul?

* * *

It was too late for breakfast and too early for lunch, so Toni and I met for brunch at *Frenchy's*, a place in town that specialized in some great comfort food.

I already knew what I was going to order, but decided to look at the menu anyway. My mood didn't change, so I closed the menu and began to people watch while Toni reviewed the specials. It was ordinarily more crowded on a Friday, but it may have had something to do with the hour of the day. Things would be a lot more crowded in another hour or two when folks would begin breaking for lunch.

"What are you thinking about?" Toni asked.

"You mean to eat or in general terms?"

"To eat. I already know you're always thinking about something in general."

"I'm going to go with the Ham and Gruyere Croque Madame."

"Oh — that sounds good. Talk about comfort food." She took another minute to review the menu, but my choice persuaded her, "I think I'm going to order the same thing."

"Can't go wrong with it," I said.

"What kind of tea are we going to wash it down with?" she asked.

"How about some herbal orange and spice?"

"Perfect." Toni had her elbows on the table and folded her hands bringing them beneath her nose as she stared at me trying to decipher if anything besides the signature French dish was on my mind. "Now that the important stuff is out of the way, what else are you thinking about?" she asked.

"We're going to fire someone today," I said.

"Really?"

"Yep."

"Are you having second thoughts about the decision?"

"No — not really. It's taken a year and a half to get to this point, and I did everything I possibly could to try and work with him. Every time I thought I was making progress, it was like one step forward and two steps back."

"Sounds like the right thing to do is to have him move on."

"It's frustrating because I feel as though I spend 90 percent of my time dealing with the behaviors and poor work ethic of 5 percent of the people. I feel like it's not the best use of my time . . . no, I know it's not the best use of my time. There are many more important things that need to be accomplished," I lamented.

After ordering, the waiter brought the platter of sandwiches over to us a short time later. They were quite decadent: The fried egg on top was cooked to perfection and stretched almost end to end to the golden and browned edges. If you looked close enough you could see the cheese sauce still bubbling from having just been removed from the oven. It looked delectable as the simmering heat percolated the thin sides of the albumen.

"Now that's a sandwich fit for brunch," Toni said. As she began to carve out a corner with her knife and fork, she asked, "You know that you're only half right?"

"What do you mean?" I asked.

"What you were saying before we got distracted."

"Okay — you mean spending most of my time managing the wrong people?"

"Yes, and it not being the best use of your time. I'd agree with you entirely, if you were in another position other than management. That part of the job comes with the territory — you must have known that before deciding to take on the role."

"Yes, but I think I underestimated how many folks would need to be 'managed,'" I demonstrated with my fingers in the air signifying the quotation marks around the word "managed."

"Perhaps that's part of the reason your predecessor moved on," Toni remarked.

"Maybe, but the world is a small place. If that was the primary reason that prompted his departure I would've known. There were anecdotal stories I heard about some of the staff, but nothing that gave me pause."

"Be that as it may, doing what you're doing is not a waste of time. And I'm accounting for the 18 months it took the system to manage this person out of the organization. What you're doing is equally important — maybe more important in some instances — than any other aspect of your job."

"How do you figure that? Do you know how many other projects I could've tackled over the last 18 months with the time I spent on just counseling and following up with just this one person?"

I hadn't touched my sandwich yet, but Toni carved out her third corner, took another bite, and closed her eyes briefly and chewed slowly. I imagined she was carefully putting together her thoughts, when she opened her eyes and responded, "This sandwich is heaven on a plate — start eating before it gets cold." I looked at her and smiled. I too began to sculpt a sizable piece to eat.

The waiter made his way back to us and asked rhetorically, "Orange and spice tea?"

"Yes — thank you," Toni said.

As he placed the teas down, the aroma of the oranges mingled with piquant cloves quickly filled the small dinette area where we had been seated. After taking a sip, she decided to share her opinion on where my logic was wrong, "I don't doubt that you would've accomplished a great deal on those other projects, but it would've come at the expense of the greatest commodity you have."

"What would that be?"

"Your people."

"You'll have to walk me through the logic of that conclusion."

"It's really quite easy, once you're aware that sometimes there's addition by subtraction."

"Addition by subtraction?" I asked but then immediately speculated at what it meant, "You mean even though I think I lost a great deal of time in managing this person, in the end, I've gained?"

"Well, I would describe it as more of a system gain than a personal one, but you get the idea. There are two points here. First — and this is the more fundamental one — your job is to manage all the people in your purview, not just the ones you like because they're smart, industrious, whatever. So, there's no choice in this matter. If you only choose to manage the manageable, then technically you're not doing *your* job."

"Okay — I can understand that."

"Second, when you fail to do your job in this respect, the system gets weighed down with those employees that make the work more difficult, whether it be because they choose to be unproductive, are in the wrong job, fail to show up and be accountable, et cetera. When managers of the system like you tolerate it and take the supposed easy way out by ignoring them, you're sending a message to those other employees that are pulling their weight and are the ones responsible for making the system work. Eventually, but as sure as you're sitting there, it affects morale and shapes organizational culture. What you — the system — end up with is more and more of those difficult employees. And the irony of it all?"

"What's that?"

"At some point when you have too many of these difficult employees, you're led to believe that you need more staff to accomplish the same work. You don't need more staff — you need to retain the right staff, and that means managing all the people."

"Addition by subtraction, huh?"

"Yes — I think the math is a requisite part of Management 101," she teased.

"Kind of reminds me of what Judge Santo said once."

"What's that?"

"It was during one of our monthly management meetings, and we were reviewing caseflow data for different teams of judges. There was a group of five or six courts that he served as the lead judge who were by far the worst performing group. Without naming names, the managers and other lead judges in the room started weighing in about the performance of his group going back and forth about different strategies, training, et cetera. All the while Judge Santo is just sitting there reviewing the reports—not saying a word. Finally, after a few minutes of this, he looks at everyone in the room and says, 'I can do the work and improve the group's performance with half the judges.' We all look at each other, understandably perplexed, when he adds the qualifier, 'if I could pick the judges.'"

"Ha! So, he wanted the authority of picking and choosing the judges from all the teams and then argued he would only need half the number currently allocated to his team to get the same workload done better."

"Exactly."

"Sounds like he understood the math in that Management 101 course, but didn't account for the actual management part. Figuring out that the team could do a better job with five top-performing folks than ten poor-to-mediocre people is the easy part — managing your team to get and retain those five people is the hard part."

* * *

Erika Anderson, a contributor to *Forbes* magazine, discussed some of the key methods in managing some of the organization's more challenging employees. In her article "9 Ways to Deal with Difficult Employees," Anderson highlighted the following points:

1.) LISTEN — sometimes there are valid reasons underlying an employee's actions beyond their control that should be addressed.

2.) PROVIDE CLEAR, BEHAVIORAL FEEDBACK — while uncomfortable, the best managers provide these employees with specific information of where they are failing and what should be done to improve.

3.) DOCUMENT — it takes time and effort, but prudent managers maintain a record of the key points and steps taken when they are having significant problems with an employee.

4.) BE CONSISTENT — actions speak louder than words. Standards that are set by management must be followed through with all employees, all the time. If this is not conceivable, then it should not be made into a standard.

If and when the time comes to let an **employee** go, the process ought to be **thoughtful, objective, and transparent.** That **process** should occur over a series of steps that commences long before the person is ultimately terminated.

5.) SET CONSEQUENCES IF THINGS DON'T CHANGE — good managers remain hopeful and are at the same time specific in counseling problem employees with consequences if they fail to change course.

6.) WORK THROUGH THE COMPANY'S PROCESSES — if it appears that termination is becoming more of a possible outcome, then the court manager will want to collaborate with human resources to ensure that all the appropriate policies and mandates have been followed.

7.) DON'T POISON THE WELL — good managers adhere to these best practices and maintain their professionalism at all times. They never denigrate an employee regardless of how deficient they may be because it risks shaping a culture of distrust in the court. Apart from that, it will portray the manager as unprofessional and irascible — two traits that are not indicative of a leader.

8.) MANAGE YOUR SELF-TALK — it is important for the court administrator to remain objective about her observations so that what she is telling herself about the employee and their impact on the organization is accurate.

9.) BE COURAGEOUS — terminating an employee is likely one of the most difficult tasks assigned to a manager. If it comes to that, she should not put it off, make excuses, or make someone else do it.

If and when the time comes to let an employee go, the process ought to be thoughtful, objective, and transparent. That process should occur over a series of steps that commences long before the person is ultimately terminated. It should involve a sequence of discussions, plans, and documented actions, all of which takes considerable time. The time and commitment that it requires, coupled with the genuine discomfort that is created in those conversations, can cloud the court manager's judgment to avoid it altogether, but then she would not be doing the job she was appointed to do. The road in dealing with difficult employees is long and hard, but as Toni reminds us, 2 less 1 sometimes equals 3.

And those are just some of my musings on management.

ABOUT THE AUTHOR

Giuseppe M. Fazari is a consultant with Ijoma & Associates Court Management Consultants. Contact him at fazarigm@aol.com.

NACM NEW MEMBERS — March–May 2017

A

SHARI ANDERSEN-HEAD
Deputy Court Administrator
Superior Court of Arizona
201 W. Jefferson St.
Ste. 215
Phoenix, AZ 85003
(602) 506-6107
Fax: (602) 506-1183
heads@superiorcourt.maricopa.gov

KATHERINE AN
Court Operations Manager
Los Angeles Superior Court
536 Garfield Ave.
South Pasadena, CA 91030
(626) 644-5108
Fax: (213) 633-0043
KAn@lacourt.org

ELLEN M. ATTEBERY
Court Coordinator
King County District Court
401-4th Ave. N., 1A
Kent, WA 98032
(206) 477-5151
Fax: (206) 205-8840
ellen.attebery@kingcounty.gov

B

D. CHARLES BAILEY
Presiding Judge
Washington County Circuit Court
150 N. 1st Ave., MS37
Hillsboro, OR 97124
(503) 846-4403
Fax: (503) 846-2951
d.charles.bailey@ojd.state.or.us

CHRISTY R. BEANE
Assistant Director, Judicial District Operations
Administrative Office of Pennsylvania Courts
601 Commonwealth Ave., Ste. 1500
P.O. Box 61260
Harrisburg, PA 17106
(717) 772-8573
christy.beane@pacourts.us

CATHERINE BENNION
Pre Court Supervisor
Richmond Juvenile & Domestic Relations Court
Oliver Hill Courts Bldg.
1600 Oliver Hill Way
Richmond, VA 23219
(703) 507-8506
cbennion@courts.state.va.us

KELLY L. BIERFREUND
Court Operations Manager
18th Judicial Circuit
101 Eslinger Way
Sanford, FL 32773
(407) 665-4930
Fax: (407) 665-4932
kelly.bierfreund@flcourts18.org

TIN A. BUNJEVAC
Lecturer
College of Law and Justice
295 Queen St.
Melbourne, VIC 3000
Australia
61414639877
bunjevac@vicbar.com.au

CHERYL L. BUNNELL
Family Court Manager
Fifth Circuit, Court Administration
550 W. Main St.
P.O. Box 7800
Tavares, FL 32778
(352) 253-4451
cbunnell@circuit5.org

C

DARRYL CAMPBELL
PMO
Dallas County
509 Main St.
6th floor, PMO
Dallas, TX 75202
(469) 223-2944
Fax: (469) 223-2944
darryl.campbell@dallascounty.org

GLORIA LOPEZ CARTER
Director/Court Clerk
Court & Detention Services
2014 Main St.
Rm. 100
Dallas, TX 75201
(214) 670-3311
Fax: (214) 670-3289
g.carter@dallascityhall.com

MJ CARTWRIGHT
CEO
Court Innovations
213 S. Ashley
Ste. 200
Ann Arbor, MI 48104
(734) 878-3665
mj@courtinnovations.com

DEBBIE CLARK
Director of Case Management
Fifth Judicial Circuit
110 NW 1st Ave.
Ocala, FL 34475
(352) 401-7828
dclark@circuit5.org

CHERI R. COBLE
Court Operations Supervisor
Eugene Municipal Court
1102 Lincoln St.
Eugene, OR 97401
(541) 682-5442
Fax: (541) 682-5537
cheri.r.coble@ci.eugene.or.us

DEBANIE T. COMEAUX
District Manager II
San Bernardino Superior Court
14455 Civic Dr.
Victorville, CA 92392
(760) 269-4818
Fax: (760) 269-4369
dcomeaux@sb court.org

SHERRY CRAIG
Supervising Deputy Clerk
Richmond Juvenile Court
1600 Oliver Hill Way
Richmond, VA 23219
(804) 646-2942
Fax: (804) 646-6103
scraig@courts.state.va.us

MICHELLE CRAWFORD
Court Management Analyst
Department of Judicial Services
435 Chestnut Creek Ln.
Galax, VA 24333
(276) 238-1419
Fax: (276) 238-1915
mcrawford@vacourts.gov

JENNIFER CURE
Legal Office Services Supervisor
North Las Vegas Justice Court
2428 N. Martin Luther King Blvd.
North Las Vegas, NV 89032
(702) 455-0731
Fax: (702) 455-7832
curej@clarkcountynv.gov

D

MARY P. DALBEC
Court Administrator
1st Judicial District, Carver County
Carver County Justice Center
604 E. 4th St.
Chaska, MN 55318
(952) 361-1424
mary.dalbec@courts.state.mn.us

ANGELA M. DAVIS
Deputy Clerk
Michigan Court of Claims
925 W. Ottawa St.
P.O. Box 30185
Lansing, MI 48909
(517) 373-0807
adavis@courts.mi.gov

DANNY DAVIS
Executive Director
19th Judicial Circuit
18 N. County St.
Waukegan, IL 60085
(847) 377-3816
Fax: (847) 984-5954
ddavis@lakecountyil.gov

NACM NEW MEMBERS

RASCHELLE L. DEMSHOCK
Assistant Criminal Division Manager
Superior Court of New Jersey
49 Rancocas Rd.
Mount Holly, NJ 08060
(609) 517-2747
Fax: (609) 517-2747
Raschelle.Demshock@njcourts.gov

PAM DITTMAN
Court Education Professional
Administrative Office of the Courts
1112 Quince St., SE
P.O. Box 41170
Olympia, WA 98504-1170
(360) 705-5280
Fax: (360) 956-5700
pam.dittman@courts.wa.gov

E

TRINA EDWARDS
District Manager II
Superior Court of California
County of San Bernardino
247 W. Third St.
San Bernardino, CA 92415-0240
(909) 521-3084
tedwards@sb-court.org

LAYLA ESMILEY-CARTER
Civil Lead Clerk
Washington County Circuit Court
150 N. 1st Ave., MS37
Hillsboro, OR 97124
(503) 846-2355
Fax: (503) 846-2951
layla.e.zand@ojd.state.or.us

F

ELIAS A. FAJARDO
Administrator II
Superior Court of California,
County of Los Angeles
111 N. Hill St.
Rm. 109
Los Angeles, CA 90012
(213) 633-0018
Fax: (213) 633-0018
efajardo@lacourt.org

NILTZA FLORES
Court Division Director
Cochise County Superior Court,
Court Administration
P.O. Box 204
Bisbee, AZ 85603
(520) 432-8504
nflores@cochise.az.gov

SHELLEY FORREST FOULTZ
Chief Deputy Clerk
Richmond Juvenile & Domestic
Relations Court
Oliver Hill Courts Bldg.
1600 Oliver Hill Way
Richmond, VA 23219
(804) 646-3221
Fax: (804) 646-2906
sfoultz@courts.state.va.us

JESSICA HOPE FRANK
Content Development Coordinator
Center for Computer Assisted Legal
Instruction (CALI)
565 W. Adams
Chicago, IL 60661
(312) 906-5331
Fax: (312) 906-5331
jessica@cali.org

JEFFERY K. FULLER
Senior Court Operations Consultant
5th Judicial Circuit of Florida
550 West Main St.
Tavares, FL 32778
(352) 742-4393
jfuller@circuit5.org

G

PATRICIA (PATTI) GALVIN
Court Administrator
Tonopah Justice Court
101 Radar Rd.
P.O. Box 1151
Tonopah, NV 89049
(775) 482-7234
Fax: (775) 482-7349
pgalvin@co.nye.nv.us

SERGIO A. GARCIA
Sr. Business Systems Analyst
Clark County Government
500 S. Grand Central Pkwy.
Las Vegas, NV 89155
(702) 324-5180
sergio.garcia@clarkcountynv.gov

MICHAEL T. GAUGHAN
Case Administrator
United States Bankruptcy Court,
Northern District of Ohio
201 Superior Ave.
Metzenbaum U.S. Courthouse
Cleveland, OH 44114
(216) 615-4323
Fax: (216) 615-4323
Michael_Gaughan@ohnb.uscourts.gov

KAPRICE L. GETTEMY-CHAMBERS
Management & Program Analysis Officer
D.C. Courts
1652-B Beekman Pl. NW
Washington, DC 20009
(202) 815-4209
Fax: (202) 879-8329
chamberskg@dcsc.gov

WILL GONZALEZ
Executive Court Administrator
City of Phoenix Municipal Court
300 W. Washington St., 9th Fl.
Phoenix, AZ 85003
(602) 262-1899
Fax: (602) 633-3463
will.gonzalez@phoenix.gov

KIM GREVE
District Manager II
Superior Court of California,
County of San Bernardino
860 E. Gilbert
San Bernardino, CA 92415
(909) 269-8928
kgreve@sb-court.org

H

ROBIN R. HAMEL
Court Operations Consultant
5th Judicial Circuit of Florida
550 W. Main St.
Tavares, FL 32778
(352) 253-1607
rhamel@circuit5.org

DOMINIQUE K. HARDEMAN
Probation Service Manager
Pierce County District Court
910 Tacoma Ave. S.
Ste. 200
Tacoma, WA 98402
(253) 798-5826
dhardem@co.pierce.wa.us

ALIYAH MARIE HASSAN
Court Operations Manager
Los Angeles Superior Court
300 W. Maple Ave.
Monrovia, CA 91016
(626) 471-7619
Fax: (626) 471-7619
ahassan@lacourt.org

BERNADETTE HAWKINS
District Manager II
Superior Court of California,
San Bernardino County
247 W. Third St.
San Bernardino, CA 92415-0210
(909) 708-8749
Fax: (909) 708-8586
bhawkins@sb-court.org

BLAKE HAWTHORNE
Clerk of the Court
Supreme Court of Texas
P.O. Box 12248
Austin, TX 78711-2248
(512) 463-1312
Fax: (512) 463-1365
blake.hawthorne@txcourts.gov

NINA M. HESS HSU
General Counsel
Supreme Court of Texas
201 W. 14th St.
Austin, TX 78701
(512) 475-0938
nina.hesshsu@txcourts.gov

EBONY M. HILL
District Manager I
San Bernardino Superior Court
247 W. Third St.
San Bernardino, CA 92415
(909) 521-3575
ehill@sb-court.org

J

RHODA JONES
Purchasing Manager
15th Judicial Circuit
205 N. Dixie Hwy.
West Palm Beach, FL 33401
(561) 355-2012
rajones@pbcgov.org

K

ANGELINA CARDONA KAUFMAN
Court Operations Manager
Los Angeles Superior Court
9425 Penfield Ave., Rm. 1200
Chatsworth, CA 91311
(818) 407-2291
Fax: (818) 407-2291
AKaufman@LACourt.org

DOT KEIL
Education Program Manager
Supreme Court of Ohio Judicial College
65 S. Front St.
Columbus, OH 43215-3431
(614) 387-9465
Fax: (614) 387-9449
dot.keil@sc.ohio.gov

JOY M. KELLER
Circuit Court Administrator
First Judicial Circuit of Maryland
206 High St., Rm. 203A
P.O. Box 923
Cambridge, MD 21613
(410) 221-7651
joy.keller@mdcourts.gov

CHAD A. KEWISH
Deputy Court Administrator
9th Judicial Circuit Court
227 W. Michigan Ave.
Kalamazoo, MI 49007
(269) 384-8253
Fax: (269) 383-8647
cakewi@kalcounty.com

L

GWEN M. LEWIS-JONES
Court Clerk III
Lenexa Municipal Court
12400 W. 87th St. Pkwy.
Lenexa, KS 66215
(913) 477-7600
Fax: (913) 477-7619
glewisjones@lenexa.com

STEVEN DAVID LEWIS
Chief Financial Officer
Superior Court of California, County of Yuba
215 5th St.
#200
Marysville, CA 95910
(530) 740-1630
Fax: (530) 740-1630
slewis@yubacourts.org

FRANK MICHAEL LILL
Analyst, Office of Elder Justice in the Courts
Administrative Office of Pennsylvania Courts
Pennsylvania Judicial Center
P.O. Box 61260
Harrisburg, PA 17106
(717) 231-3300
Fax: (717) 231-3340
Frank.Lill@pacourts.us

RACHEL CELESTE LINDLEY
Specialty Courts Administrator
Van Buren County Courts
212 E. Paw Paw St.
Ste. 204
Paw Paw, MI 49079
(269) 657-8200
lindleyr@vbco.org

JOANNA L. LINKOUS
Sr. Court Program Specialist
18th Judicial Circuit Court of Florida
2825 Judge Fran Jamieson Way
Viera, FL 32940
(321) 633-2128
Fax: (321) 633-2172
joanna.linkous@flcourts18.org

HEIDI LOFGREN
Deputy Court Administrator
Flagstaff Municipal Court
15 N. Beaver St.
Flagstaff, AZ 86001
(928) 774-1401
Fax: (928) 556-1284
hlofgren@courts.az.gov

M

ALISHA MARKLE
Deputy Court Administrator
Chatham County Juvenile Court
197 Carl Griffin Dr.
Savannah, GA 31405-1362
(912) 652-6733
Fax: (912) 652-6900
amarkle@chathamcounty.org

KRISTA MARX
Circuit Judge
15th Judicial Circuit, Palm Beach County
205 N. Dixie Hwy.
West Palm Beach, FL 33401
(561) 355-7814
atracy@pbcgov.org

KIM BUDA MATTIA
Supervising Deputy Clerk
Richmond Juvenile Court
1600 Oliver Hill Way, C-181
Richmond, VA 23219
(804) 646-2980
Fax: (804) 646-6103
kmattia@courts.state.va.us

MELISSA L. MILLER
Deputy Trial Court Administrator
Washington County Circuit Court,
Oregon Judicial Department
150 N. 2st Ave., MS37
Hillsboro, OR 97124
(503) 846-8750
Fax: (503) 846-2951
melissa.l.miller@ojd.state.or.us

MERI BETH MISCH
Court Operations Manager/
Drug Court Supervisor
18th Judicial Circuit
2825 Judge Fran Jamieson Way
Viera, FL 32940
(321) 637-5675
Fax: (321) 633-2172
meribeth.misch@flcourts18.org

MICHAEL A. MOORE
Executive Clerk for Court Operations
Circuit Court of Cook County
50 West Washington, Rm. 1003
Chicago, IL 60602
(312) 603-5400
mamoore@cookcountycourt.com

DEBORAH A. MRAVIC
Civil & Family Director
Administrative Office of the Courts
20th Judicial Circuit
3315 Tamiami Trail E.
Naples, FL 34112
(239) 252-2603
dmravic@ca.cjis20.org

NACM NEW MEMBERS

P

RENA K. PARKER
Court Administrator
Peoria County Court Administration
324 Main St., Rm. 215
Peoria, IL 61602
(309) 672-6066
Fax: (309) 672-6957
rkparker@peoriacounty.org

DANIELA R. PAUL
Supervisor
Umatilla County Circuit Court
216 SE 4th St.
Pendleton, OR 97801
(541) 278-0341
Fax: (541) 276-9030
daniela.r.paul@ojd.state.or.us

ALEJANDRA I. PENA
Research Specialist
Texas Office of Court Administration
205 W. 14th St., Ste. 600
Austin, TX 78711
(512) 463-2417
alejandra.pena@txcourts.gov

HEATHER LOUISE PUGH
Court Division Manager
Yuba County Superior Court
215 Fifth St., Ste. 200
Marysville, CA 95901
(530) 740-1620
hpugh@yubacourts.org

R

HABIBURRAHMAN RAHMANI
Senior Case Management Specialist
Checchi and Company Consulting, Inc.
Shash Darak Main Rd.
Afghanaha St., Home #105
Kabul, Afghanistan
+93797533337
Fax: +93797533337
hb.rahmani@gmail.com

VICTORIA ANN REUSS
Court Administrator
Fountain Hills Municipal Court
16705 E. Avenue of the Fountains
Fountain Hills, AZ 85268
(480) 816-5121
Fax: (480) 837-8256
vreuss@courts.az.gov

JAIME C. REYES
Records Management Services Manager
Supreme Court of Virginia
100 North 9th St.
Richmond, VA 23219
(804) 786-4309
Fax: (804) 371-5034
jreyes@vacourts.gov

CARRIE ROBINSON
District Manager II
California Administrative Office of the Courts
San Bernardino County
351 N. Arrowhead Ave.
San Bernardino, CA 92415-0245
(909) 521-3530
crobinson@sb court.org

RYAN JAMES ROGERS
Assistant Director
City of Dallas
2014 Main St.
Dallas, TX 75201
(214) 670-4945
Ryan.Rogers@DallasCityHall.com

ERIN ROSEMAN
Assistant Director
City of Arlington Municipal Court
101 S. Mesquite St., 1st Fl.
P.O. Box 90403
Arlington, TX 76004-3403
(817) 459-6944
Fax: (817) 459-6963
erin.roseman@arlingtontx.gov

S

KATIE M. SCHALLEY
Clerk of Courts
Dunn County Circuit Court
615 Stokke Pky.
Menomonie, WI 54751
(715) 231-6621
Fax: (715) 232-6888
katie.schalley@wicourts.gov

CHRISTOPHER SCOTT
IT Manager
Fulton County State Court
185 Central Ave.
TG800
Atlanta, GA 30303
(404) 613-1355
Fax: (404) 893-6660
chris.scott@fultoncountyga.gov

JENNIFER M. SHADID
Assistant Court Administrator
Peoria County Court Administration
324 Main St., Rm. 215
Peoria, IL 61602
(309) 677-6230
Fax: (309) 672-6957
jmshadid@peoriacounty.org

SHAWN R. SORENSON
Court Administrator
State of South Dakota Unified Judicial System
10425 Sherman St.
P.O. Box 939
Sturgis, SD 57785
(605) 347-0017
Fax: (605) 347-3526
shawn.sorenson@ujs.state.sd.us

T

JEFFREY N. TORAIN
Director of Court Security
20th Judicial Circuit of Florida
1700 Monroe St.
Fort Myers, FL 33901
(239) 533-1525
Fax: (239) 485-1014
jtorain@ca.cjis20.org

AMY TRACY
Judicial Assistant
Florida State Courts, 15th Judicial Circuit
205 N. Dixie Hwy.
West Palm Beach, FL 33401
(561) 355-7814
atracy@pbcgov.org

JENNIFER L. TREDEMEYER
Court Administrator
368th Judicial District Court
405 Martin Luther King
Box 8, Ste. 117
Georgetown, TX 78626
(512) 943-1368
Fax: (512) 943-1285
jtredemeyer@wilco.org

V

RUTH VEGA-VELEZ
Associate Court Administrator
Northampton County Court Administration
669 Washington St.
Easton, PA 18042
(610) 829-6701
RVVelez@northamptoncounty.org

W

JAMIE WALTER
Director of Court Operations
Administrative Office of the Courts
Maryland Judiciary
2001 E/F Commerce Park Dr.
Annapolis, MD 21601
(410) 260-1725
Fax: (410) 260-1219
jamie.walter@mdcourts.gov

JOSHUA A. WEEKS
Judicial Program Administrator
Cobb County Juvenile Court
32 Waddell St.
Marietta, GA 30090
(770) 528-2501
Fax: (770) 528-3339
joshua.weeks@cobbcounty.org

ERIN CARTWRIGHT WEINSTEIN
Clerk of the Circuit Court
Lake County Circuit Court
18 N. County St.
Waukegan, IL 60085
(847) 377-3223
Fax: (847) 360-6409
ecartwrightweinstein@lakecountyil.gov

GARY H. WENTE
CEO
CourtMedia, LLC
1755 S. Naperville Rd., Ste. 100
Wheaton, IL 60189
(312) 278-3170
Fax: (312) 275-8766
ghwente@courtmedia.com

ANITA (PETE) WHITEHEAD
Court Administrator
Sparks Justice Court
1675 E. Prater Way
Ste. 107
Sparks, NV 89434
(775) 353-7610
Fax: (775) 352-3004
awhitehead@washoecounty.us

ANGELINE KRISTEEN WILLIAMS
Court Operations Supervisor
Morrow County Circuit Court
100 Court St.
P.O. Box 609
Heppner, OR 97836
(541) 676-5264
Fax: (541) 676-5264
Angeline.K.Williams@ojd.state.or.us

RICHARD WILLIAMS
Deputy Judicial Administrator
Louisiana Supreme Court
1600 N. 3rd St., 4th Fl.
Baton Rouge, LA 70802
(225) 382-3182
Fax: (225) 382-3187
RWilliams@LASC.ORG

JANELLE FACTORA WIPPER
Judge
Washington County Circuit Court
150 N. 1st Ave., MS37
Hillsboro, OR 97124
(503) 846-3851
Fax: (503) 846-2951
janelle.f.wipper@ojd.state.or.us

LUANNE K. WOLFF
Civil Division Director
Administrative Office of the Courts,
20th Judicial Circuit
350 E. Marion Ave.
Punta Gorda, FL 33950
(941) 505-4771
Fax: (941) 637-2283
lwolff@ca.cjis20.org

BLANCHE WOODS
Asst. Director of Court Operations-CJC
Court Administration, 8th Judicial Circuit
220 S. Main St.
Gainesville, FL 32601
(352) 264-7043
Fax: (352) 264-7088
woodsb@circuit8.org

NACM SUSTAINING MEMBERS

Alpha Consulting Group, Inc.

AmCad

AnyTrax

D&B (Dun & Bradstreet)

FTR Limited

Harris & Harris

High Court of Hong Kong

HP Enterprise Services

Infocom Systems Services Inc.

ISD Corporation

Justice Systems

McCreary, Veselka, Bragg & Allen, P.C.

MSI Consulting Group, LLC

Municipal Services Bureau

National Safety Council

RevQ

Tetra Tech DPK

Thomson Reuters

Tyler Technologies, Inc.

Vista Solutions Group

National Association for Court Management

The National Association for Court Management is a nonprofit organization dedicated to improving the quality of judicial administration at all levels of courts nationwide. In carrying out its purpose, the association strives to provide its members with professional education and to encourage the exchange of useful information among them; encourages the application of modern management techniques to courts; and, through the work of its committees, supports research and development in the field of court management, the independence of the judicial branch, and the impartial administration of the courts.

Membership

The National Association for Court Management needs your help to reach our membership goal this year. Help us reach out to the next generation of court leaders and stay true to our goal of "Excellence in Court Administration." Let's sponsor new members!

Several categories of membership are offered in the National Association for Court Management: Regular, any person serving as clerk of court, court administrator, or in any court management, court education, court research, or court consulting capacity ($125); Retired ($50); Associate, any person interested in the improvement of the administration of justice ($125); Student, any person enrolled full time in a degree program related to the field of court administration ($35); Sustaining, any person, group of persons, firm, or corporation interested in furthering the goals of the organization ($350).

For more information about NACM or about joining the organization, please write to the president or the National Center for State Courts, 300 Newport Avenue, Williamsburg, Va. 23185, or call (757) 259-1841.

NATIONAL ASSOCIATION FOR COURT MANAGEMENT 2016-17 BOARD OF DIRECTORS

PRESIDENT
Scott C. Griffith
Director of Research and Court Services
Office of Court Administration
Tom C. Clark State Court Building
205 West 14th Street, Suite 600
Austin, TX 78701
(512) 463-1629 Fax: (512) 463-1648
scott@nacmnet.org

VICE PRESIDENT
Yolanda L. Lewis
District Court Administrator
Fulton County Superior Court
Fifth Judicial District
136 Pryor Street, SW, Ste. C-640
Atlanta, GA 30303
(404) 612-4529 Fax: (404) 612-5368
yolanda@nacmnet.org

PRESIDENT ELECT
Vicky L. Carlson
Court Administrator
Scott Courty Court Administration
200 Fourth Avenue West
Shakopee, MN 55379
(952) 496-8207
vicky@nacmnet.org

SECRETARY/TREASURER
Paul DeLosh
Director of Judicial Services
Supreme Court of Virginia
100 North 9th Street
Richmond, VA 23219
(804) 786-1730 Fax: (804) 371-5034
paul@nacmnet.org

IMMEDIATE PAST PRESIDENT
Stephanie Hess
Director of Court Services
Supreme Court of Ohio
65 South Front Street, 6th Floor
Columbus, OH 43215
(614) 387-9407 Fax: (614) 387-9419
stephanie@nacmnet.org

DIRECTORS

DIRECTOR 2014–17
Tracy J. BeMent
District Court Administrator
10th Judicial District
P.O. Box 1392
Athens, GA 30603
(706) 613-3173 Fax: (706) 613-3174
tj@nacmnet.org

DIRECTOR 2014–17
Kevin Burke
Judge
Hennepin County District Court
404 Family Justice Center
110 S. 4th Street
Minneapolis, MN 55401
(612) 348-4389 Fax: (612) 596-7332
judgeksb@nacmnet.org

DIRECTOR 2015–18
Jeff Chapple
Court Administrator
O'Fallon Missouri Municipal Court
100 North Main Street
O'Fallon, MO 63366
(636) 379-5514 Fax: (636) 379-5415
jeff@nacmnet.org

DIRECTOR 2016–17
Alfred Degrafinreid
Chief Administrative Officer
Office of the Criminal Court Clerk
Metropolitan Nashville and Davidson County
408 2nd Avenue North, Suite 2120
Nashville, TN 37201
(615) 862-5663
alfred@nacmnet.org

DIRECTOR 2016–19
Julie Dybas
Court Administrator
Scottsdale City Court
3700 N. 75th Street
Scottsdale, AZ 85251
(480) 312-9244
julie@nacmnet.org

DIRECTOR 2015–18
Kathryn Griffin
Court Administrator
St. Joseph County Circuit/Probate Court
P. O. Box 189
Centerville, MI 49032
(269) 467-5595 Fax: (269) 467-5558
kathryn@nacmnet.org

DIRECTOR 2016–19
Greg Lambard
Chief Probation Officer
New Jersey Superior Court
Burlington Vicinage
50 Rancocas Road
Mount Holly, NJ 08060
(609) 518-2504
greg@nacmnet.org

DIRECTOR 2015–18
Dawn Palermo
Judicial Administrator
Jefferson Parish Juvenile Court
P.O. Box 1900
Harvey, LA 70059
(504) 367-3500 Fax: (504) 227-0707
dawn@nacmnet.org

DIRECTOR 2016–19
Alyce Roberts
Special Projects Coordinator
Alaska Court System
820 W. Fourth Avenue
Anchorage, AK 99501
(907) 264-0889
alyce@nacmnet.org

DIRECTOR 2016–19
Jeffrey Tsunekawa
Judicial Operations Manager
Seattle Municipal Court
600 Fifth Avenue/P.O. Box 34987
Seattle, WA 98124
(206) 898-7200
jeffrey@nacmnet.org


You are
inspiring our communities
It's been said that when we know better, we do better and that's the spirit you embody every day - whether working with citizens, making decisions that protect public safety, or helping to keep justice moving behind the scenes.
We are right here with you! Working alongside you, we get to see first-hand how your efforts make a difference. Helping you in ways to improve access to justice, make the most informed decisions, resolve matters faster, and ensure that you're equipped to help people do better whenever possible.
You inspire our communities. Now, see how you've inspired us to build better solutions that help you do your part.
Visit www.equivant.com/cm or call:
(800) 406.4333
equivant.com/cm
equivant

National Association for Court Management
c/o National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23185
www.nacmnet.org

Nonprofit Org.
U.S. Postage
P A I D
Newport News, VA
PERMIT NO. 110