FJC Staff Paper

THE DISTRICT COURT EXECUTIVE PILOT PROGRAM

A Report on the Preliminary Experience in Five Federal Courts

Federal Judicial Center

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A Report on the Preliminary Experience in Five Federal Courts

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Federal Judicial Center
June 1984

This paper is a product of a study undertaken in furtherance of the Center's statutory mission to conduct and stimulate research and development on matters of judicial administration. The analyses, conclusions, and points of view are those of the author. This work has been subjected to staff review within the Center, and publication signifies that it is regarded as responsible and valuable. It should be emphasized, however, that on matters of policy the Center speaks only through its Board.

Cite as W. Eldridge, The District Court Executive Pilot Program (Federal Judicial Center 1984).

FJC-SP-84-6

Conclusions

1. The workload confronting the larger federal district courts requires an organization of sufficient size and complexity to warrant the full-time attention of a skilled executive.

2. The pilot experiment has demonstrated that there is a wide range of activity that can be skillfully handled by the kind of executives who have been appointed during the pilot program.

3. While many of the district court executive's tasks--individually considered--might in some courts be handled by a staff person such as a clerk, adding the collective responsibility to any available court officer risks serious interference with the primary duties of such officers.

4. The chief judges who carry the prime responsibility for administrative operations in the pilot courts are convinced that the benefits to the courts seen during the pilot program have been substantial and should be assured by continuation and expansion of the program.

5. The pilot program has demonstrated that the goal of reducing the burden devolving on judges from administrative responsibility can be advanced through the features of the pilot program. But there will continue to be great variation in extent of the remaining burden.

6. In the pilot program, the value realized from introducing a district court executive derives primarily from the improvements that resulted from facilitating the previously existing operational approach. Instilling a new management approach in some courts will require developing a consensus among the judges that calls for such an approach in addition to providing the executive resource.

The Surprising Environment

Courts of law tend to be seen as quiet backwaters among the agencies of government activity. Although a specific trial may be a spectacular drama involving a parade of lawyers, witnesses, and jurors, the visible activities of the court give little indication of the size and complexity of day-to-day operations that support the small cast performing in the public eye. Because federal courts, in contrast with their state counterparts, are generally thought of as working in a more rarefied atmosphere and on more Olympian issues, such an image of United States district courts may be particularly pervasive.

Even such regular and frequent participants as litigating lawyers may still hold an outdated and superficial view of the court as a judge (or collection of judges), each with a visible bailiff/crier/factotum and--somewhere in the background on the other side of the robing room--a law clerk and a secretary. The perception of court structure probably extends to and stops with a clerk who receives and retrieves papers with the help of the staff visible from the counter in the "office of the clerk."

Members of the court family know that today's federal trial courts are no longer such Dickensian operations, but even many of these insiders will fail to appreciate the extent and complexity of the structure of larger federal trial courts. At present, twenty-one district courts are authorized eight or more judge-

ships. The smallest total personnel complement among these courts is 152; in all but four the complement exceeds 200; the largest is 572.

Table 1 shows, for each of the courts with eight or more judgeships, the allocation of personnel positions among the major components of court operations. Overall, the 501 judicial positions--that is, judges, magistrates, and bankruptcy judges--account for only 9 percent of the personnel. For each visible judicial officer, ten other persons are involved in the court operations.

Actually, even more persons may well be involved. Each district court is a unit in the federal court system; each court has a substantial degree of autonomy in the way it operates, but all the units share responsibility for the effective operation of the system of which they are parts. Discharge of that shared responsibility is another of the rarely perceived aspects of federal court activity. One illustration of such intercourt cooperation is the service rendered by visiting judges; that is, service by federal judges to courts other than their own to meet exigencies of calendar control. Table 2 shows, for the twelve-month period ending June 30, 1983, that eighty-eight federal judges made 146 visits to these large federal courts for a total of 1,776 judge-days. Obviously, these services are important resources to the courts and the public they serve. Ensuring that the visits provide effective and productive service requires careful preparation and management of special tasks.

TABLE 1

AUTHORIZED PERSONNEL POSITIONS FOR DISTRICT COURTS
WITH EIGHT OR MORE JUDGESHIPS
(April 4, 1984)

District	Chambers		Clerk	Probation Office	Magistrates		Bankruptcy			Totals		
	Judges	Other*			Magistrates	Other	Judges	Chambers	Other	Judicial	Other	All
D.D.C	15	46	68	75	3	6	1	2	6	19	203	222
D. Mass.	10	31	58	42	7	10	4	8	22	21	171	192
E.D.N.Y.	10	31	78	94	5	8	6	12	40	21	263	284
S.D.N.Y.	27	82	143	93	9	16	7	14	32	43	380	423
D.N.J.	11	34	67	66	9	8	5	10	36	25	221	246
E.D. Pa.	19	58	85	73	5	10	3	6	29	27	261	288
W.D. Pa.	10	31	35	30	4	4	3	6	29	17	135	152
D. Md.	9	28	60	81	5	13	2	4	28	16	214	230
D.S.C.	8	25	47	42	6	8	1	2	13	15	137	152
E.D. Va.	8	25	65	46	8	15	3	6	34	19	191	210
E.D. La.	13	40	70	33	5	12	2	2	17	20	174	194
N.D. Tex.	9	28	51	69	8	5	4	8	21	21	182	203
S.D. Tex.	13	40	95	110	9	14	3	6	27	25	292	317
E.D. Mich.	13	40	92	66	10	13	3	6	54	26	271	297
N.D. Ohio	10	31	62	49	5	8	8	16	64	23	181	204
N.D. Ill.	16	49	110	95	4	6	8	16	80	28	356	384
N.D. Cal.	12	37	76	63	7	9	7	14	71	26	270	296
C.D. Cal.	17	52	118	149	16	15	13	21	171	46	526	572
M.D. Fla.	9	28	59	53	6	11	2	4	29	17	184	201
S.D. Fla.	12	37	90	82	9	10	3	6	18	24	243	267
N.D. Ga.	11	34	65	49	7	8	4	8	36	22	200	222
Total	262	807	1,594	606	147	209	92	177	857	501	5,055	5,556
Average	12	38	76	29	7	10	4	8	41	24	241	265

*Each judge is authorized one secretary and two law clerks--except a chief judge, who is authorized an additional position of either a law clerk or secretary.

TABLE 2

SERVICE OF VISITING JUDGES TO DISTRICTS WITH EIGHT OR MORE JUDGESHIPS FOR THE TWELVE-MONTH PERIOD ENDING JUNE 30, 1983

District	No. of Visiting Judges	No. of Visits	No. of Days
D.D.C.	3	6	130
D. Mass.	4	6	56
E.D.N.Y.	1	11	80
S.D.N.Y.	2	3	30
D.N.J.	0	0	0
E.D. Pa.	3	5	6
W.D. Pa.	0	0	0
D. Md.	0	0	0
D.S.C.	8	16	65
E.D. Va.	0	0	0
E.D. La.	3	3	11
N.D. Tex.	3	4	10
S.D. Tex.	4	4	19
E.D. Mich.	1	1	1
N.D. Ohio	2	17	223
N.D. Ill.	2	2	6
N.D. Cal.	5	8	37
C.D. Cal.	3	3	30
M.D. Fla.	8	12	266
S.D. Fla.	36	55	806
N.D. Ga.	0	0	0
Total	88	156	1,776

The Management Context

To some, the indications of the size of the larger federal courts, surprising as they are, will be less remarkable than the fact that these courts have never been provided with a position comparable to a general manager or executive.

The chief judge is the head of the court, but the chief judge is first and foremost a judge in both theory and practice. Administrative responsibilities have been accommodated in many courts by a reduction in the caseload of chief judges, but this is almost always looked upon as an unfortunate necessity that deflects the chief judge from those judicial tasks that can be performed only by an Article III judicial officer. The number and complexity of the tasks confronting a large district court have been detailed in P. Dubois, Administrative Structures in Large District Courts (Federal Judicial Center 1981); the listing covers three pages of the report. Participation in meeting these tasks may involve any or all members of the court family including the judges, but the general responsibility for seeing that the tasks are performed is usually delegated to the chief judge explicitly or by custom.

In many courts, the clerk of court has functioned to a varying extent as a general manager for the courts. But, like other court employees, the clerk has more specific functions that define the special contribution of the clerk to the operation of a court. (See the appendix for a mission and function statement of the clerk's office.) Activities beyond those special functions have devolved on the clerk out of necessity. Sometimes they mesh well with the core duties of the clerk and sometimes they don't. Almost invariably in courts of the size dealt with here, additional duties run the risk of diverting the clerk's attention from managing core duties to managing activities peripheral to

the clerk's fundamental mission. Just as the chief judge is first and foremost a judge, the clerk is first and foremost the person responsible for the nonjudicial processing of litigation. Moreover, when it comes to providing services such as space, equipment, supplies, or personnel recruitment, the clerk is more logically a consumer, like the probation office, the library, or the magistrates, than the provider to the entire court.

In this structure, where every employee has a full-time responsibility for a separate component of the court operation, it is inescapably difficult to detail one of the employees, such as the clerk, to provide services to the entire court family, including those who help the clerk carry out the core functions of the clerk's office. Sometimes an able deputy can take over some of the core functions, freeing an able clerk to take on some of the duties appropriate to a district court executive. But duties affecting the entire court need to be discharged by a person who is clearly responsible for the whole court, not primarily for one part of it. The chief judge, in consultation with the court, can provide overall pervasive policy and guidance, but implementation of that direction needs to be lodged in a single individual if coherent, cohesive, and efficient operations are to be achieved among court activities as well as within each activity. No position for such an individual has been available to the federal trial courts.

The Response

The need for court management services in large courts became increasingly clear and urgent throughout the late 1970s.

Both the courts and Congress, however, have exhibited commendable caution in introducing new personnel functions in the judicial branch. Concern about the "bureaucratization" of the judicial process has been widely expressed and discussed. Administrative and management support do not present dangers to the integrity of the judicial decisional process, but the aura of concern has kept response at a carefully measured pace. The judiciary continued to ask for appropriations for an executive position, but the appropriations committees declined to provide additional funds in the absence of direct statutory authorization.

By the spring of 1981, the need perceived by the judiciary had become so strong that the Judicial Conference asked the appropriations committees to approve limited experimentation with district court executives without any additional funding. Funding would come from temporary reprogramming of items in the judicial budget. The committees agreed and the experiment began. Five courts among those with ten or more judges were authorized to appoint a district court executive from a list of persons certified by the Board of Certification, which had been established to certify candidates for circuit executive positions. (In the fall of 1983, an additional pilot position was authorized, bringing the total number of participating courts to six.)

In preparation for the pilot program, a comprehensive list of appropriate duties for the district court executive was developed by the Subcommittee on Supporting Personnel of the Committee on Court Administration and approved by the Judicial Conference.

The list seems to reflect the collective aspirations for the position by those who appreciated most keenly the need for relief of chief judges and the need for more integrated and efficient court management. At the same time, due regard for the variations in local customs and needs required a procedure that left final determinations to the district court but gave very clear indications of what was expected. The list is set out below, preceded by a paragraph that often accompanied it.

> Although the precise duties and functions of the district court executive will evolve through the operation of the pilot program, it can be assumed that this executive will exercise administrative control of the nonjudicial activities of the court, as for example, the formulation of budget requests, the administration of the personnel system within the district court and supporting staff, liaison with the Administrative Office on furniture purchases and property controls, coordination of the court security programs, supervision of the court reporter and court interpreters programs as well as the court's equal employment opportunity program, the monitoring and revision of local rules of court, and liaison with the bar and civic groups.

DUTIES OF THE DISTRICT COURT EXECUTIVE

> The District Court Executive shall be the chief administrative officer of the court operating under the supervision and direction of the chief judge and shall be responsible for the management of all non-judicial functions and activities of the court and all of its component offices including the magistrates, the probation office, the pretrial services agency, where applicable, and the clerks in the district court. His duties and responsibilities may include, but not necessarily be limited to, the following:
>
> 1. Arrange and attend meetings, prepare agendas, and serve as secretariat to ad hoc or standing committees of the judges established for the administration of specific programs or to resolve procedural or policy issues. Implement and insure compliance with any rules, regulations, or orders of the court.
>
> 2. Review and recommend changes in the local rules, the Jury Selection and Service Act plan, the Speedy Trial plan, the

plan for representation of persons under the Criminal Justice Act, and other internal operating plans of the court.

3. Serve as public relations officer and represent the court as its liaison to the courts of the State, Bar associations, civic groups, the news media, and other public and private groups having an interest in the administration of the court.

4. Administer the court's personnel system in accordance with the Judiciary Salary Plan and rules and regulations promulgated by the Judicial Conference of the United States.

5. Serve as the court's equal employment opportunity administrator and be responsible for supervising the processing of any discrimination complaints and/or grievances by court personnel.

6. Develop and implement training programs for court personnel in conjunction with seminars and other educational programs conducted under the auspices of the Federal Judicial Center.

7. Supervise court reporters and court interpreters and arrange for contractual services as necessary subject to the approval of the Judicial Council and under such terms and conditions prescribed by the Director of the Administrative Office.

8. Formulate the annual budget of the court for submission to the Administrative Office and the appropriate committees of the Judicial Conference. Review and evaluate requests for additional personnel from each of the organizational units of the court to insure compliance with standards adopted by the Judicial Conference.

9. Establish and maintain a space management program to insure maximum utilization of courtrooms and other facilities. Serve as liaison officer with the General Services Administration (GSA) and the Administrative Office with respect to the acquisition of additional space and processing of work authorizations for tenant alterations and other reimbursable services by GSA.

10. Coordinate the court's security program to insure adequacy of protective services being provided by GSA and the United States Marshals Service.

11. Serve as the court's furniture liaison officer and be responsible for the apportionment and allocation of funds made available for that purpose.

12. Establish and maintain property control records and pro-

cess requests for general office equipment, lawbooks, and other accountable property.

13. Administer the program for the admission of attorneys to the Bar and any disciplinary procedures that may be adopted by the court. Maintain a roster and arrange for the dissemination of the local rules, opinions, and other material of interest to the Bar.

14. Conduct studies relating to the business and administration of the court and prepare appropriate recommendations and reports for the chief judge.

15. Perform such other duties as may be assigned by the court and the chief judge.

The first of the pilot executives, John P. Mayer, entered on duty on July 1, 1981, in the Eastern District of Michigan. Nearly eight months elapsed before the second executive, Robert Page, was appointed in the Southern District of New York on February 22, 1982, and another six months passed before appointment of Dyana Ortiz-Castro in the Southern District of Florida on August 2, 1982. A full year followed before appointment of the fourth executive, Richard H. Weare, in the Eastern District of New York on August 1, 1983. The Central District of California appointed the fifth executive, L.N. Jacobs IV, on January 9, 1984. As of this writing, the sixth authorized position had not been filled.

The pace of appointment is somewhat surprising, but some reasons can be discerned. First, when the pilot program was launched, the pool of persons eligible for appointment was limited to those who had been certified for circuit executive positions--initially a small group. Second, the experimental nature of the operation meant that the appointments could not be offered with any assurance of continued employment. Many good candidates were unwill-

ing to move to a new locale on such thin security. Congressional hesitation about the district court executive idea was well enough known in court administration circles to make such anxiety real and reasonable. Second, some courts wanted the executive position and the increment of staff that it provided, but they wanted the incumbent clerk in the position. When certification of the incumbent was denied, sometimes the decision was to forgo the position.

These problems in implementation of the pilot program can be expected to disappear or to be meliorated by future developments in a district court executive program. The list of certified candidates will expand. Job security would improve with authorization of a permanent position. Initial disagreement or irritation with the certification process might well be tempered by experience as the list of approved candidates grew to meet expanding opportunity.

A third factor, however, appears to be affecting the district courts' response to the executive program. There is great variation among the districts in the management style employed to discharge the administrative, policy-making, and other nonjudicial responsibilities devolving on the courts. The variation is discussed fully in Dubois's report on administrative structures. The fundamental differences in approach are capsulized in Dubois's discussion of the varying roles of the clerk of court.

> In some courts, but by no means all, the clerk is delegated authority in a broad range of activities, such as initiating revisions in local rules, suggesting improvements in the supervision of court reporters, designing plans for the

> achievement of the court's equal employment opportunity objectives, coordinating the design and construction of new facilities, studying and recommending improved procedures for the use of court equipment, and recommending procedures concerning disclosure by judges of personal financial statements. In these areas and others, clerks save judges time that otherwise would be spent in the collection and analysis of data bearing on policy problems and in recommending solutions.
>
> Why some courts involve their clerks in the policy formulation process and other courts do not is not easily discerned. Obviously, in some courts, the clerk is viewed as an individual who is incapable (whether by training or for other reasons) of assuming such a role. In other courts, judges may have the highest confidence in the abilities of the clerk but are aware that he is already substantially overburdened with the myriad administrative duties associated with case management. In still other courts, the judges view it as improper for the clerk to be involved in matters bearing on the formulation of courtwide policy. Although few courts see their clerks only in the traditional "green eyeshade" role, many are unalterably opposed to involving nonjudges in the formulation of court policies. In other courts, judges hold no such objections as long as policy decisions remain in their hands. Indeed, these judges welcome the advance work and research performed by the court clerk.

These varying attitudes foreshadow the range of court responses to the emergence of a district court executive program. Some of the problems underlying the specific attitudes towards clerks reported by Dubois will be met and resolved by the program. Others will not be met and may even be intensified.

The limited role of a clerk arising out of inadequate or inapposite training is precisely the kind of limitation that the executive program was intended to remove. Having both a clerk and an executive means that a court can bring to bear the special skills required by the responsibilities properly associated with each position. The role of the certification board was extended to the district court executive program to improve the ability to meet that objective.

When a court has as clerk a person highly skilled and effective in handling an efficient case management operation, there is a significant danger in diverting attention and priority from the core duties of case management. Growth in case filings is a major reason for the size of staff reported above for the larger courts. Coping with the filings responsibilities is a staggering job in itself, and many fear it cannot be coped with if the clerk must also be the overall manager of the entire court operation.

The district court executive program does not answer those judges who believe that it is inherently and basically improper for nonjudges to be involved in matters bearing on the formulation of policy about how the court shall be operated. This attitude derives from a variety of sources, but it appears to be rooted primarily in the belief that if judges do not directly control all the elements of the environment they work in, they will not be able to control the substance of what they do. If the management opportunities afforded by the clerk's office can threaten such a result, it should not be surprising that a court executive's office will be seen as an even greater threat. That perception appears to have generated in some courts a reluctance to add such a position. As will be discussed below, the perception has certainly contributed, in some courts, to the structuring of the district executive's job so that any such result will be minimized.

On March 6 and 7, 1984, the Federal Judicial Center invited the chief judges and the executives from the pilot districts to

meet in Washington. The goal of the meeting was to learn what the experience of the pilot districts had been up to that point, to provide the chief judges and executives of those districts an opportunity to share views, and to consider what the future might hold for the pilot districts and others that might follow if expanded authorization should be provided. On the first day, the five executives were joined by Chief Judge Walter T. McGovern, chairman of the Subcommittee on Supporting Personnel, and by Center staff to discuss the shape of the executive position in their courts, the factors that had defined the position, and their expectations for future development. On the following day, the group was joined by Chief Judge John Feikens of the Eastern District of Michigan, Chief Judge Constance Baker Motley of the Southern District of New York, Chief Judge Manual L. Real of the Central District of California, Chief Judge Jack B. Weinstein of the Eastern District of New York, Judge James Lawrence King representing Chief Judge Joe Eaton of the Southern District of Florida, and Judge William C. O'Kelley representing Chief Judge Charles A. Moye, Jr. of the Northern District of Georgia.

The executives discussed at some length the various tasks that they have been performing in support of their courts. For three of the courts the subject matter of the tasks addressed by the executives had been quite comparable; the activity in one district was much more narrowly confined. (Since the executive from the Central District of California was too newly appointed to contribute relevant experience, discussion here of past ac-

tivity derives entirely from four districts; the newest executive participated fully, however, in discussion of probable future events.)

Detailed inventories of the activities of the executives have been prepared by each of them and shared among participants in the pilot program. For purposes of assessing the benefits and probable future development of the position, the details of what is done tell us less than the picture that emerged of patterns and relationships.

Patterns of Effects from Activities

From the discussion of the executives, confirmed in substantial measure by the participating judges, we gather a picture of activities producing three types of results or effects. No court confined the executive to a single area, but a tendency to emphasize one over the other two could be discerned.

1. Increased and more efficient attention to long-established responsibilities resulting from transfer

This type of effect is conveniently illustrated by procurement of equipment and supplies. In many courts, each office or department of the court will individually obtain such materials. Obtaining a typewriter, a chair, or a ream of paper involves the same knowledge and processes whether the material is obtained for a judge, a deputy clerk, or a probation officer. A single point of service not only conserves personnel time, it concentrates experience producing increased know-how and improved service.

Examples of this kind of activity abound and pervade three

of the experienced districts. All five districts expect this type of activity to expand and to yield increasing benefits to all members of the court family and to conserve costs at the same time.

Another activity of this type is the supervision and coordination of space and facilities within the court. The improvement, however, comes less from conservation of time and resources and more from improved effectiveness and morale. When a major user of court space--for example, the clerk--is responsible for allocation of the limited resource, there will almost always be some questions of evenhandedness. Executives with small needs of their own will likely be viewed as (and indeed actually be) more neutral arbiters. Routine discharge of such responsibility also improves preparation for dealing with the infrequent but critical space problems involved in setting up a new place of holding court or coordinating a new building project.

A farther-down-the-road example in this category is personnel administration. No one has suggested that the executive should have hire-and-fire authority over anyone except the staff in his or her own office, but recruitment (in the sense of advertising, locating, preliminary screening, etc.) is a process that could, like other tasks in this category, benefit from a central point of experience and service. Again, the processes of bringing a secretary into the court organization is much the same whether the secretary will work for judge, clerk, or magistrate--the selection, in each case, should rest with the person for whom

the secretary will work. Thus far, however, this particular example of the category has been deferred. It will probably begin shortly in districts where confidence in the executive is high.

2. Providing services to enhance the performance of others

Activity with this effect, designedly or not, shores up the status quo. The clearest example is staff support to the existing managerial structure in a court. Most often, the support is directed to the chief judge, but in some courts far more of the executive's energy may be devoted to staffing an elaborate committee structure that provides detailed supervision of administrative processes in the court. Activity of this type would appear to be an appropriate and continuing part of the executive's mission since the overall management responsibility will always be shared among court officers.

It must be recognized, however, that "status quo" does not necessarily mean static. The status quo in at least one of the pilot districts appears to be a status of dynamic progress. The chief judge has been committed to and has worked with the judges to develop a professional management capability for the court. The appearance of a district court executive is precisely the resource needed to advance that goal.

At the other extreme, at least one court is firmly committed to retaining firm control of all aspects of court administration in the hands of the judges. The appearance of a district court executive means that the existing structure for judicial management will be strengthened by this addition of highly competent

staff assistance to the chief judge and the court committees.

3. Improving court operations by performance of new duties

Examples of activities in this category may only be new to a court, but the category recognizes the possibility of introducing substantial responsibilities that are new to the management of the federal court system. Activity of this type has constituted almost all the work of the executive in one district, but the new tasks do not appear to be part of any plan to improve court operations. The individual assignments were quite limited in scope and clearly out of the mainstream of managing court activity. The tasks included developing a more efficient way of handling a large number of requirements for court interpreters and a program for improving the experience of jurors called to service in the court. As valuable as these services may be, it was clear that they were not part of a plan to achieve effective administration through the skills of a professional manager. Indeed, in this court there is no evidence that any plan had been developed and agreed upon.

In the discussion of tasks and activities, it appeared that nearly all of the duties listed in the prepared description of the executive position were being handled in some fashion by at least three of the executives. It was also clear, however, that different persons working to discharge any one of the responsibilities on the list were not necessarily functioning in anything like the same capacities in their respective courts. One executive may be developing and carrying out a program to meet a prob-

lem that he has identified in connection with that responsibility; another may be attempting to achieve greater efficiency and effectiveness in that area of responsibility by analyzing operations and instituting changes; and still another may be carrying out a direction received from a committee of judges that has considered the listed responsibility and decided what to direct the executive to do.

There appears to be no disagreement that the duties on the list are important and appropriate for an executive's attention. But it was also clear that a list of substantive matters to be administered through a position goes only a short way toward defining the function of that position.

Experience derived from the pilot program to this point suggests an important lesson to be learned. Courts can obtain benefits from a qualified district court executive--even very valuable benefits--without altering the way management and administration have been approached in the court. Day-to-day operations may be improved or expanded, but so far improvement or expansion has been within the framework of existing operational approaches. Where the district court executive is operating as a professional manager, it is in a court already committed to that approach. Achieving a new management style appears to have two conditions precedent: developing a consensus for change among the judges and providing the court with a management resource--such as a district court executive.

APPENDIX

THE MISSION AND FUNCTIONS OF A UNITED STATES DISTRICT COURT CLERK'S OFFICE

A Report by the Metropolitan District Court Clerks' Conference for the Conference of Metropolitan District Court Chief Judges

Office of the Clerk of Court

I. MISSION

In general terms, the mission of the Clerk's office is to render effective and courteous service to the following groups: (1) The Judges and their staffs, and the Bankruptcy Judges and Magistrates; (2) The Bar; (3) The public, including litigants and jurors; (4) Related Government Agencies; and (5) Other Courts.

II. RESPONSIBILITIES

A. The Clerk must perform all of the statutory duties required of his office.

B. The Clerk should manage the administrative activities of his office. He should be capable of managing all other non-judicial administrative activities delegated to him. In carrying out these responsibilities the Clerk should use modern management principles and techniques, adjusting them to the needs of his court. This is especially true in managing the flow of litigation through scheduling and calendar control. It also applies to space management, records management, forms control, fiscal and accounting controls, and procurement of services and supplies.

C. The Clerk should assist the Court in maintaining liaison with such organizations as State Courts; the United States Court of Appeals; the United States Attorneys Office; United States Marshals Office; Public Defender Organization; Bar Associations; Civic Groups; and other public and private groups having a reasonable interest in the Court's administration.

D. The Clerk should serve the Court in a staff capacity to conduct special studies, obtain special statistical data,

and provide such other information as required for effective management of the Court.

E. The Clerk should regularly provide the Court with timely, accurate and comprehensive data showing the status of the Court's calendar. This may include making periodic analyses of special problem areas, such as juror utilization and Rule 50(b), and making appropriate recommendations.

F. The Clerk should establish a comprehensive career development program for deputy clerks. The program should include systematic procedures for objective recruitment, in-service training, cross-training, performance appraisal and promotion.

III. FUNCTIONS

To achieve its mission and carry out its responsibilities, a Clerk's office must perform a variety of functions. A comprehensive but not all-inclusive listing of such functions follows:

A. Processing Litigation

1. Assign and allot cases under a prescribed plan.

2. Prepare and maintain case files.

3. Maintain the official court docket for each case.

4. Create and maintain party name indexes for civil, criminal, bankruptcy cases and miscellaneous matters.

5. Perform quasi judicial functions including taxation of costs, entry of defaults and appointment of special process servers.

6. Calendaring and scheduling.

   a. Schedule hearings, conferences, trials, etc.

   b. Notify parties of all scheduled events.

   c. Prepare and maintain case status reports for all pending cases.

   d. Analyze case status reports, and identify apparent problem areas.

   e. Terminate cases for lack of prosecution (if such authority is delegated to the Clerk by local rule).

f. Provide and coordinate courtroom service to each Judge (both personnel and space/equipment services).

7. When directed by the Court review prisoner petitions for civil rights violations, habeas corpus and vacation of sentences and related prefiling correspondence and make recommendations to the Court through a legally trained writ clerk or staff law clerk.

8. Perform fiscal functions related to all cases.

9. Provide notice of entry of orders and decisions.

10. Conform orders.

11. Provide copies of documents (and collect fee for same where required) and certify or exemplify same as requested.

12. Provide access to case files and dockets.

13. Provide information by phone, letter, or certificate of search on matters on file.

14. Process wages and effects of deceased seamen or seamen who have deserted.

15. Coordinate the transfer of cases.

16. Issue

    a. Summonses

    b. Subpoenas

    c. Jury summonses.

17. Prepare and issue writs.

18. Register foreign judgments.

19. Prepare record on appeal; coordinate the processing of appeals.

B. <u>Statistical Reporting</u>

1. Prepare periodic reports showing, for each Judge, the number of cases assigned, transferred, terminated and pending.

2. Prepare reports showing trends in the volume and

nature of cases filed in the district and in the divisions of the district.

3. Prepare juror utilization reports that provide feedback to individual Judges and their staffs.

4. Prepare statistical reports of Court's workload.

5. Prepare statistical reports on case filings and terminations.

6. Prepare statistical reports on fiscal operations.

C. Office Services

1. Provide orientation to new employees re operations of Court and Clerk's office.

2. Provide payroll information.

3. Recommend new equipment and procedures.

4. Serve as liaison on matters involving space, furniture and furnishings.

5. Serve as secretary to Court at periodic conferences.

6. Provide reproduction, distribution and messenger services.

7. Maintain and account for inventory of non-consumable furnishings and equipment.

D. Other Services

1. Provide assistance to the Court in the development and implementation of:

   a. Jury Selection Plan

   b. Rule 50(b)--Speedy Trial Plan

   c. Criminal Justice Act Plan.

2. Coordinate the drafting of new or revised local rules or standing orders.

3. Provide support to visiting Judges.

4. Participate in pilot projects designed to improve the administration of justice.

5. Provide services associated with bar admissions and disciplinary actions.

6. Provide service and advice to passport applicants.

7. Conduct tours and lectures for public, student and civic organizations.

8. Provide service and facilities to such public and private agencies as required.

9. Provide service to persons seeking to become citizens.

10. Prepare and maintain system for controlling court reporters' notes and tapes and transcript deliveries.

11. Recruit, train and supervise permanent and temporary reporters.

12. Orient new jurors and manage day-to-day juror pool operations.

13. Participate in such long- and short-range planning as necessary to meet the needs of the Court.

IV. ORGANIZATION

To accomplish its mission, carry out its responsibilities and perform its functions effectively, the Clerk's office must have an organizational structure which will facilitate the achievement of these objectives.

In doing this the Clerk must organize to meet any unique requirements of the Court. Whatever else the Clerk's job may be, his primary function is to provide the Judges of his Court the best possible service to enable them to dispose of cases. Some of the variables that may make a Court unique and which affect organizational structure are: how the Court and/or Clerk view the functions of the Clerk's office; whether the office has bankruptcy and/or magistrate clerical functions consolidated with it; the size of the Court, in terms of Judges and filings; and, whether the Court has single or multiple divisions. Courts range from the one large single-division Court to the Court with two or three divisions of equal size to the Court with one large office and several divisional offices that may have only one or two deputy clerks.

Needless to say, the organizational structures for these courts will be different. However, the same primary functions must be

performed, and the same management principles applied. Organizational patterns that can be adapted to any of these situations have been developed by the Metropolitan Clerks' Conference. Since these patterns depend upon a mission statement, they have not yet been published. Once a mission statement is endorsed, it is contemplated that they will be published in a manual along with detailed functional statements.

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