



Organizational Culture in American Trial Courts

Introduction

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

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

In this regard, some court experts have expressed doubts about the courts' abilities to discharge their institutional obligations effectively.

The reason for the skepticism is the absence of an appropriate management culture. For example, Tobin (1997, p. 8–9) writes:

The executive and legislative branches . . . have been reluctant to accord broad management latitude to a branch that has been historically uncomfortable with a management culture and inclined to diffuse power among individual judges. . . . *Courts must either create an effective and credible management system* or lose control over their internal management, and ultimately, the independence of the judiciary. [Emphasis added]

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

Developing and molding an appropriate court culture is an enterprise with consequences, one that judges and administrators should attend to as purposefully and deliberatively as they do when making legal decisions, issuing orders, and distributing institutional resources. In many ways culture shapes and defines what is possible in the work environment.

As an introduction to the importance of organizational culture in the trial courts, consider the following vignette:

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

However, when conversation turned to day-to-day processing of criminal caseloads, they found less to agree about. The first

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

The second administrator noted how work was a bit different in his court. He wasn't really sure what the average time to disposition was because the judges had limited interest in knowing. In addition, the new automated system was proving difficult to use. One thing he did know was that continuances were readily available and trial calendars typically had more than thirty cases set per judge. The administrator had a number of ideas to improve the situation, but felt he had essentially no support from the judges. Meetings of the bench were infrequent and unstructured, and it was widely known that the head prosecutor and head public defender were reluctant to be in the same room with each other. "Given all our similarities in size and structure," said the first administrator, "I wonder why everything else is so different?" "I don't know," said the second, "but our culture has always been kind of dysfunctional."

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

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

If the scenario laid out in the preceding text were unique, then it would merely present a frustration for the people involved. But this scenario is not unique. It has long been recognized by court

administrators and judges that culture plays an important role in how courts function.

Some management cultures are thought to inhibit modernization, reform, and performance. Others are seen as more conducive to the development and adoption of better ways of doing things. For at least the last thirty years there has even been a term for how courts conduct business: *local legal culture*. In essence, this notion has emerged as a shorthand phrase to refer to a host of norms and resulting behaviors not otherwise easily explained. Unfortunately, simply naming a phenomenon is not the same as measuring it and using it to both explain and improve court performance. Without a vocabulary and set of tools to distinguish fundamental types of cultures, courts will continue to struggle in building a management culture that supports and expects to achieve high-quality case resolution.

This book provides a comprehensive framework along with a set of steps and tools to assess the prevailing culture guiding the management and performance of trial courts—an essential and often overlooked public institution. The material explains how *culture assessment* furthers observation and measurement of the abstract concept of court culture, thereby making it an explicit part of court management and reform efforts. Assessing court culture yields systematic information compatible with and useful to understanding court performance and the allocation of court resources. To substantiate that claim, a practical approach is developed to clarify the role and import of culture. This book helps explain the core dimensions of court culture and is designed to assist students of public policy and court managers learn how to work through a systematic culture analysis.

Nature and Relevance of Culture to Courts

Culture is often described as the *glue* that operates at many different levels in an organization. Schein (1999) argues that to comprehend what matters in culture, one must strive to understand the espoused values (i.e., the values that shape why an organization acts in a particular way) and basic assumptions (i.e., jointly learned values, beliefs, and assumptions that become shared and taken for granted in an organization) that shape the way work gets done in the organization. Therefore, culture is the mental representation of the work environment that members of the organization carry in their heads. Schein's