

Paper: A Case for Court Governance Principles (Becker and Durham 2010)



State courts have had ample reasons for questioning the continued viability of traditional approaches to organizing their work and to providing leadership. This paper proposed a set of principles for governing state court systems that was intended to provoke a debate about how court governance could best be enhanced to meet current and future challenges. The principles outlined in this paper were developed by examining what courts, as institutions, need to do internally to meet their responsibilities. This is in contrast to much of the writing about the future of court governance, which tends to focus on ways in which the state courts can improve their relationship with the other branches of government.

The state courts today (in 2010) can be classified into one of four basic models of organization first identified in 1984.

- Constellation: “The state judiciary is a loose association of courts which form a system only in the most general of terms” (Henderson et al.1984:35).
- Confederation: “A relatively consolidated court structure and a central authority which exercises limited power” (Henderson et al.1984:38).
- Federation: “The trial court structure is relatively complex, but local units are bound together at the state level by a strong, central authority” (Henderson et al. 1984:41).
- Union: “A fully consolidated, highly centralized system of courts with a single, coherent source of authority. No subordinate court or administrative subunit has independent powers or discretion” (Henderson et al.1984:46).

There are multiple structural models in place for governing and managing state and local courts. This paper posits unifying principles that can serve as a starting point for critiquing existing models, while understanding that they must be adapted to a variety of political, legal, and constitutional settings. This paper suggests that effective court governance requires:

1. A well-defined governance structure for policy formulation and administration for the entire court system.
2. Meaningful input from all court levels into the decision-making process.
3. A system that speaks with a single voice.
4. Selection of judicial leadership based on competency, not seniority or rotation.
5. Commitment to transparency and accountability.
6. Authority to allocate resources and spend appropriated funds independent of the legislative and executive branches.
7. A focus on policy-level issues, delegation with clarity to administrative staff, and a commitment to evaluation.
8. Open communication on decisions and how they are reached.
9. Positive institutional relationships that foster trust among other branches and constituencies.
10. Clearly established relationships among the governing entity, presiding judges, court administrators, boards of judges, and court committees.

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