Purpose of Courts: continued....

• Make a formal record of legal status.

• Deter criminal behavior.

• Rehabilitate persons convicted of crimes.

• Separate persons convicted of crime from society.

(Friesen)
PUBLIC DISSATISFACTION

• Causes of dissatisfaction with *any* legal system.

• Causes lying in the peculiarities of our Anglo-American legal system.

• Causes lying in our American judicial organization and procedure.

• Causes lying in the environment of our judicial administration.

Roscoe Pound
1906
Court Leaders Must Be Able To:

• Develop and use appropriate standards and measure of court performance and to assess and report on court performance internally, to funding authorities, the public, and the media.

• Align court performance, court structure, court operations, and court processes with court purposes.
• Faculty resources
• Activities
• Slides
• Bibliography

**Bibliography**


**KEY CONCEPTS MATCHING TEST - Exercise 2**

On the line to the left of each factual statement in Column 1, write the letter of the document in Column 2 that best describes its source.

- A. All men are created equal
- B. The power of war is vested in the executive branch
- C. Declaration of Independence
- D. Federalist No. 51
- E. Federalist No. 78
- F. Bill of Rights
- G. U.S. Constitution, 17th Amendment
- H. U.S. Constitution, 18th Amendment
- I. Magna Carta
- J. Declaration of Independence
- K. U.S. Constitution, 17th Amendment
- L. Declaration of Independence
- M. Bill of Rights
- N. U.S. Constitution, 18th Amendment
- O. Federalist No. 51
- P. Magna Carta
- Q. U.S. Constitution, 17th Amendment
- R. U.S. Constitution, 18th Amendment
- S. Federalist No. 78
- T. Declaration of Independence
- U. Bill of Rights

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
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</thead>
<tbody>
<tr>
<td>All men are created equal</td>
<td>B. The power of war is vested in the executive branch</td>
</tr>
<tr>
<td>The right to life, liberty, and property</td>
<td>I. Magna Carta</td>
</tr>
<tr>
<td>Declaration of Independence</td>
<td>J. U.S. Constitution, 17th Amendment</td>
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<tr>
<td>U.S. Constitution, 17th Amendment</td>
<td>K. U.S. Constitution, 17th Amendment</td>
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<tr>
<td>U.S. Constitution, 18th Amendment</td>
<td>L. Declaration of Independence</td>
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<tr>
<td>Bill of Rights</td>
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<td>Magna Carta</td>
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<tr>
<td>U.S. Constitution, 18th Amendment</td>
<td>V. Federalist No. 51</td>
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Activities

- Learning needs assessment
- Purposes of courts exercise
- Key concepts matching test
- Due process courtroom activity
- Electronic definition search
- Court reform activity & PSA
- Practical impacts activity
- New directions brainstorming
- Why study proposes
**Activity 1**
Why do courts exist?
• Roving Reporter
• Friesen Video

**Activity 2**
Key concepts matching test

**Activity 3**
Due process courtroom activity

**Activity 4**
Electronic Definition Search
• Justiciability
• Equal Protection

**Activity 5**
Court Reform
• PSA
To Preserve the Judiciary’s CORE

1. Protect citizen’s constitutional rights;
2. Provide procedural due process;
3. Ensure each case receives individual justice; and
4. Preserve the rule of law.
The Competency

Court Governance

A court leader needs to be able to manage court operations with consistency and predictability, by providing the guidance and policies for both day-to-day operations and long-term decisions. To do this, the court leader will need to develop and maintain an effective governance structure for the court.

Relevance

One of the most challenging responsibilities of a court leader is developing and maintaining an effective governance structure for the court. The governance structure provides the framework for the court leader to manage court operations with consistency and predictability, by providing the guidance and policies for both day-to-day operations and long-term decisions. A well-developed and effective governance structure should include a set of rules and responsibilities that give individuals and/or groups of individuals in supervision/management roles the authority to make binding decisions regarding the organization’s policies, directions, and strategies. In developing an effective structure, the court leader will need to ensure that the structure:

- Upholds the principles of judicial independence, fiscal responsibility, and procedural justice.
- Ensures consistency, predictability, and integrity in leadership actions.
- Promotes a collaborative, strategic partnership between the presiding/administrative judge and court administrator.
- Promotes participation and consensus building either directly or through representatives of the organization. (On a statewide level this is most often accomplished by a judicial council for state courts; in an urban trial court it may be achieved by a judicial executive committee for courts with federal jurisdiction, generally by the Judicial Council of the United States, with implementation supported provided by the United States Administrative Office of the Courts; for trial courts, governance is generally determined by the trial court’s government.)
- Adheres to the highest ethical standards of the justice system.
- Fosters positive morale among court personnel.

Because there is wide variation in complexity and organizational structures among courts, developing and maintaining constructive governance mechanisms can be a daunting task for a court leader. Some states have multiple layers of courts, a variety of elected officials and short tenures for leadership, judicial and funding arrangements at various levels. The court leader needs to be aware of and account for all of the complexity of the court when developing the governance structure. In addition, the court leader needs to ensure the structure adheres to ethical standards in all aspects of court operations.

Court must be fair and impartial, and they must be perceived as such. The court leader’s role is to promote clear and understandable policies, practices, responsibilities, and decision-making processes applicable to all aspects of court operations to foster transparency, accountability, and open communication. The court leader must also work to cultivate and sustain a governance structure that promotes the principles of independence, for both the court and the individual judges deciding cases, even as they simultaneously work to educate relationships with others throughout the government and community.
Original vs. New Competency

Court Governance
Court Governance

- Governance History and Principles
- Governance in Today’s Courts
- Organization and Governance Models
- Building an Effective Court Governance Structure
- Evaluating the Effectiveness of the Governance Structure
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Learning Objectives

• Define court governance principles and structure;

• Describe the role and importance of court governance in promoting the rule of law, judicial independence, procedural justice, and developing and maintaining a high performance court;

• Identify various organization and governance models, observe and explore his or her own court organization, and list the inherent complexities of courts as public organizations;
Learning Objectives

• Conduct an organizational readiness assessment and identify areas and issues that require attention and resolution before adopting a governance structure; and

• Develop and implement a comprehensive governance structure evaluation process that will enhance effectiveness and encourage improved planning.
Why is Court Governance Important

• Provides a framework to operate both day to day and long term
• Provides consistency and predictability
• Increases transparency and accountability
• Promotes meaningful input into organizational decision making process
AND...
• Advances the Rule of Law
• Supports Procedural Justice
• Enhances Judicial Independence
• A well-defined governance structure for policy decision making and administration for the entire court system.
• Meaningful input from all court levels into the decision-making process.
• Selection of judicial leadership should be based on competency, not seniority or rotation.
Principles of Court Governance

• Commitment to transparency and accountability.
• A focus policy level issues; delegation with clarity to administrative staff; and a commitment to evaluation.
• Open communication on decisions and how they are reached.
• Clear, well-understood and well-respected roles and responsibilities among the governing entity, presiding judges, court administrators, boards of judges and court committees.
Principles of Court Governance

• A system that speaks with a single voice.
• Authority to allocate resources and spend appropriated funds independent of the legislative and executive branches.
• Positive institutional relationships that foster trust among other branches and constituencies.
• The Judicial Branch should govern and administer operations that are core to the process of adjudication.
Building an Effective Court Governance Structure

- Step 1 – Commitment
- Step 2 – Assess Your Readiness
- Step 3 – Identify the Key Participants
- Step 4 – Define the Model
- Step 5 – Design the Model
- Step 6 – Implement and Communicate the Model
Activities

• Applying the Court Governance Principles
• Fair & Free
• Court Governance Models
• Organizational Readiness
• Planning and Managing the Evaluation
### Organizational Readiness

#### Are conditions right for a court governance structure?

Carefully read each statement. Circle the number that most closely resembles your court.

<table>
<thead>
<tr>
<th>Statement</th>
<th>6</th>
<th>5</th>
<th>4</th>
<th>3</th>
<th>2</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizational leaders are interested in establishing a shared leadership approach to managing the organization</td>
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<td>The organization has adopted a common mission, vision, and values for the organization</td>
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<td>Leaders have time to participate in governing board activities</td>
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<td>There is stability in the organization leadership</td>
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<td>There is an urgent and compelling reason to utilize a governance board structure</td>
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<td>The organization is functioning as an equal branch of government and thereby exercises control over finances, personnel, and space</td>
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<td>The organization routinely adopts both short and long term plans</td>
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<td>The organizational culture supports an open and transparent governance structure that facilitates organizational decision</td>
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</tbody>
</table>

1. The existing leadership provides limited involvement by others in managing the organization.
2. No formal establishment of mission, vision, and values for the organization.
3. Everyone is too busy with other, more pressing matters.
4. There is a volatile, political internal or external climate increasing the likelihood that both the leadership and organizational priorities will change.
5. An urgent, compelling reason, need or opportunity is not present.
6. The organization functions as a separate branch of government and thereby exercises control over finances, personnel, and space.
7. Little or no planning process established; goals and objectives are unclear and not shared across the organization.
8. The existing leadership wants primary control over the organization.

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Adapted with permission of Brenda J. Wategowski-Ivey, Ph.D., Praxis Consulting.
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Liddle, J. D. The Integration of Judicial Independence and Judicial Administration: The Role of Collegiality in Court Governance. The Court Manager, Volume 24, Issue 2.


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