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Book Note

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BOOK NOTE

AMERICAN COURT MANAGEMENT: THEORIES AND PRACTICES. By *David J. Saari*.¹ Westport, Connecticut: Quorum Books. 1982. Pp. xviii, 163. \$27.50.

Although the American judicial system has existed for over two hundred years, court management has only recently stirred any interest. Within the past twenty years, the court system has grown without bounds and the need to improve operational efficiency has become of increasing concern to judges, lawyers, and all others who have to deal directly or indirectly with the courts. How best to improve the court system depends on the characterization of that system.

Professor Saari looks at the courts from the perspective of a manager, whose concerns are personnel and finance. His analysis in *American Court Management: Theories and Practices* characterizes the courts as *organizations*; therefore, the path to court improvement lies in the application of organizational theory (p.15). Saari's underlying hope and belief is that adequate management increases the probability of achieving an acceptable standard of justice.

Saari first introduces some basic personnel and financial facts about the court system. These statistics demonstrate the business nature of courts. For example, in 1979 the judiciary spent over \$3.3 billion (p.5) and employed 170,000 people (p.7). Saari breaks these figures down in clear, simple tables which indicate the interstate diversity. Saari attempts to identify organizational commonalities within this diversity to reach a national perspective on the needs of American court management.

In the remaining introductory chapters, Saari provides the background for his later analysis. He sets out a court manager's basic concerns in a series of essential statements (p.16). These he later develops in following chapters. Saari next outlines the basic theories of management, including the bureaucratic school, the human-relations school, the systems school, and the contingency school. Saari focuses on the extreme features of each school of thought in a very direct and helpful review.² These ideas help define key terms of management:

1 Professor, School of Justice, American University.

2 The bureaucratic school is typically what everyone thinks of when complaining of bureaucracy and red tape. Every worker does a specific job following specific procedures in a

court environments, complexity in and around courts, rationality in managing courts, court structures, and court processes. These terms are explicitly defined since they key later discussions.³

The first major part of the book draws on the general propositions of management theory to develop theories specifically adapted to *court* management. Saari develops these theories by examining seven management areas: structure, effectiveness, human factors, change, communication, decisionmaking, and leadership processes. For each area, Saari relies heavily on research done within the courts. He identifies studies, examines models, and provides specific examples of management styles: Most of the growth in theory has emerged from actual practice by court operating staffs who have tried several alternatives (p.57). The section ends, not with a single viewpoint on the court system, but with the note that there is no best way to structure the courts in view of the many variables (case flows, differing professional needs, size, environments, and contrasting pulls).

By this point in the book, then, no overall solution is apparent. But Saari has presented the body of organization theory that is available to develop court management. He corrals the available theory but leaves the gate open for individual choice and application of the theory to particular courts.

In its second part, *American Court Management: Theory and Practice* examines contemporary management practice and the roles of court administrators. Saari looks at the state of the art in the five most significant topics in court management: case flow, personnel, finance, records, and strategy and tactics. These discussions identify

specific number of steps (p.21). The human relations school sprung from psychology and focuses on people at work and their motivation for acting on the job. Work environment and worker troubles on the job are two of its major concerns. The systems school is based on the idea of synergism, i.e., that the whole is more than the sum of its parts. The key to the theory is integration to maximize and optimize systems (procedures) to achieve maximum efficiency (pp. 23-24). The contingency school simply recognizes that there exist many ways to organize and manage depending on the variables of the particular circumstances; therefore, careful thought must precede any management decision including every contingency, i.e., the outside environment (p. 25).

3 Environment refers to everything outside of an organization, i.e., the court. This concept focuses on the boundaries of areas within and without court environs and the influence each has on the other. Complexity refers to the horizontal (geographical) and the vertical (topical) jurisdiction of a particular court or court system. Rationality refers to the logical, orderly means to achieve a known end; organizations all strive for this feature. Structure refers to a court's organizational chart and the relationships defined by the chart. Process fills in the structural chart and refers to the actual goings-on in the court system, e.g., change, communication, decisionmaking, and leadership.

the fundamental tasks facing the court manager: moving cases, hiring and training employees, regulating money flow, dealing with millions of records and papers, and developing future improvements. Saari directs the reader to relevant literature and pushes through that literature to determine what makes sense and why. Most interesting in this discussion is Saari's presentation of Henry Mintzberg's theory of managers' working roles and the variables influencing those roles. Saari relates Mintzberg's general managerial concepts to specific court management situations (pp. 64-68). By incorporating other scholars' views, Saari presents varying descriptions of the manager's work; each view is insightful because of the uniqueness of varying managerial tasks. No two managers have identical jobs, as Saari points out, and no one manager has two identical days. The book thus reflects the full variety of a court manager's role.

For example, case-flow managing clearly appears as the most important court function and probably the most difficult for a court manager. A court must take the cases that come to it and deal with the progression of each case. Saari cites a federal trial court study which points out the characteristics that distinguish the highly productive courts from the others (p.73).⁴ Reduction of uncertainty is the key to operational efficiency, but no single formula can provide that result.

Personnel is second. The court manager is the expert on the technical aspects of each job, but he must also be expert on human nature. Money management requires special attention since courts spend public monies and contribute little to state, county, or city coffers. Moreover, the budget is limited. Paper managing is essential, since every case or action involves at least one piece of paper. Saari points out that in 1976 over 45 million cases were filed in the United States. Saari's discussion of the development of record-keeping techniques to the computer age provides the manager with an extensive source of literature from which to draw. Finally, strategy, planning ahead, is every manager's overall task. The individual manager's

4 Briefly, the highly productive courts exhibited the following characteristics:

- a) Procedures, invoked in every civil case, assure strict monitoring of procedures, quick discovery, and a prompt trial.
- b) Problems prior to the completion of discovery are in the hands of a clerk or magistrate and only reach the judge when he is indispensable.
- c) The court takes a minimal role in settlement, only initiating it selectively.
- d) Few written opinions are prepared for publication.
- e) All proceedings, except those specifically requiring confidentiality, are held in open court (p. 73).

perspective will necessarily direct his choices; Saari suggests several values important in strategy choice (pp. 91-92).

The third section of *American Court Management: Theories and Practices* expands on the role of court managers as policy developers and court improvers. The court manager is characterized in an advice-giving role—he gives advice on policy and management matters. Saari illustrates this advisory function in four areas: speedy trial, jury trial, defense of the poor, and affirmative action-equal protection. This discussion emphasizes how important this role is, since informed advice can help to improve the judicial system as a whole and specific issues as well.

Saari's hypothesis is generally that defective management is likely to produce substandard justice. For example, improved case flow enhances speedy disposition of litigation, preserving the right to speedy trial. Improved jury management may ensure the survival of the jury trial in more cases by advancing its effectiveness. Proper budgeting and selection of effective counsel to represent the indigent can enhance sixth amendment protection. Finally and most importantly, a court seeking egalitarian, representative justice will create a court which mirrors its society. The author convincingly argues that the judiciary can achieve these noble goals through better court management although he recognizes the struggles involved. In support of his ideas, Saari makes realistic suggestions on just how management can assist in providing this greater justice.

Finally, *American Court Management: Theories and Practices* looks to the future. The prognosis is good, but concrete steps need to be taken. The court management can begin by helping judges help themselves. Courts are not appropriate forums for every dispute and so should select tasks for which they are suited. The judicial branch should also renew its interest in legislation that impacts on the courts to protect its co-equal constitutional status. And as in any organization, improved morale increases performance. Finally, courts should establish criteria for assessing themselves in order to regenerate their better qualities (p.119).

Saari concludes by stressing that the future of court management depends on the perception by the public and judiciary that court managers can improve the provision of justice to society. Of course, over-bureaucratization and budget cuts could all but eliminate court managers and managerial staffs. But by applying general management principles to the court system, staffs can remain lean

and cost-effective. The realization of this, according to Saari, is essential.

Saari tells us that the best management occurs when parts of each organizational theory are considered in management decisions, selecting the ones most appropriate to the particular situation. What remains to be done is for court managers to incorporate organizational management thinking into their experience. The result will be an improvement in court management, both in theory and practice.

The value of *American Court Management: Theories and Practices* lies in its scope. Saari incorporates management theory with practice and provides a direction for future court management. He carries the reader through the twenty years of development and lays the ground work for the future. Saari has a unique ability to discuss very theoretical concepts in simple, understandable terms. His concern with achieving justice is apparent throughout the book and should be lauded; he never loses sight of the very personal nature of the court system. The concern of every court manager, judge, and attorney should mirror that expressed in *American Court Management: Theories and Practices*—perhaps then justice can be guaranteed by the system that promises it.

Randy J. Curato