



# The Resource Page



## RECENT BOOKS

Brian J. Ostrom, Charles W. Ostrom, Jr., Roger A. Hanson & Matthew Kleiman, *TRIAL COURTS AS ORGANIZATIONS*, Temple University Press, 2007. 190 pp. \$56.50.

Courts face many challenges, and one of the criticisms that has been made against courts is that they are not well managed. Many of us have heard the common refrain that leading judges is like herding cats, an image that certainly would not be the model for management in the business world.

A group of researchers at the National Center for State Courts and in academia have made a significant contribution to the understanding of how trial courts are—and can be—managed in this book. They begin the book by noting the importance of this subject: “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.”

But getting a sound management culture in a trial court is easier said than done. Local legal cultures and those of their courts vary greatly. In the absence of some way to describe and measure those cultures—and then to compare how court cultures may affect court performance—it would be impossible to make comprehensive suggestions for improvements in court management.

These researchers developed a Court Culture Assessment Instrument, based on a similar instrument used in business. They administered that instrument to judges handling criminal cases in 12 different courts in 4 states, and they simultaneously evaluated court performance through standardized data showing time to case disposition as well as through surveys of prosecutors and defense attorneys on issues like access to justice, fairness, and managerial effectiveness.

The authors ultimately describe four different court cultures that are characterized by high or low levels of two variables: solidarity and sociability. Solidarity reflects the extent to which a court has clearly understood and shared goals, while sociability refers to the degree to which people work together in a cooperative and cordial way. The book provides a great deal of detail about these cultures, but here’s a quick overview:

- *Networked*: high solidarity, high sociability. This culture values consensus but strives toward innovation, visionary thinking, and personal development.
- *Communal*: low solidarity, high sociability. This culture provides flexibility and values egalitarianism, negotiation, trust, and collegiality.
- *Autonomous*: low solidarity, low sociability. This culture is self-managing and values personal loyalty, independence, and autonomy.
- *Hierarchical*: high solidarity, low sociability. This culture has an explicit chain of command and is rule-oriented, with a high value placed on merit, modern administration, and standardized procedures.

While many courts had divergent cultures within them, a dominant culture could generally be found, and all courts dominated by each of the four cultures were found within a single state, Minnesota.

So does court culture affect court performance? Yes. The courts that emphasized solidarity (networked and hierarchical court cultures) processed their criminal cases faster—more closely reaching ABA time standards—than courts that did not emphasize solidarity.

Does that mean that all courts should move toward a hierarchical or networked approach? Maybe not. Surveys of prosecutors and defense attorneys showed that the attorneys working in these courts rated hierarchical and networked courts lower in areas like promoting access, fairness, and managerial effectiveness. The attorneys preferred autonomous court cultures and seemed to view timeliness as strictly for the court’s benefit, not that of the attorneys or the parties.

The authors conclude with a paraphrase of a famous line from literature. Anna Karenina begins, “Happy families are all alike; every unhappy family is unhappy in its own way.” The authors’ version for the courts: “Happy Courts are all alike; every unhappy court is unhappy in its own way.” As in many other areas, they conclude that there is no single key to success for a court but that any number of factors may cause failure: “To be successful across all . . . trial court work areas, courts must pay attention simultaneously to multiple, and often competing, values. . . . [T]here are many ways in which court leaders can fail.”

We’ve only scratched the surface of the interesting data and insights presented in the book. Political science professor Susette Talarico called the authors’ work “the most innovative study of trial courts in the past 10 or 15 years.” We think you will find it quite interesting too. The authors have reviewed research on organization and management in the private sector, and they have adroitly adapted it to trial courts. They conclude that there is no single “right” answer to court culture—none of the cultures is by definition good or bad, but there are consequences to performance. If you’re interested in the differences in cultures between courts and how these differences may affect performance, you should take a look at this book.

## UPCOMING CONFERENCE

American Judges Association  
Annual Educational Conference  
<http://aja.ncsc.dni.us/conferences/>

The American Judges Association will hold its 51st annual educational conference October 3-8, 2010 at the Westin Tabor Center in Denver, Colorado. The conference should be our best ever—held in collaboration with the Colorado state courts and many other entities. For an overview of the conference program, take a look at the inside back cover. Then go to the AJA’s website for more information on the conference and full registration details. We hope to see you in Denver!