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**CREATING CHANGE IN RURAL COURTS:**

**CASE MANAGEMENT IN THE  
SOUTHWESTERN JUDICIAL CIRCUIT  
OF GEORGIA**

**Institute for Court Management  
Court Executive Development Program  
Phase III Project  
May 2000**

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## ABSTRACT

This paper reviews the issues that strike the rural court system which serves one-quarter of the United States. Rural courts face the basic issues of all courts: limited resources and expanding caseloads. Funding maybe lacking because unlike their urban sisters, the rural courts are often not remembered by the media or the legislature. The research literature and studies of rural court issues, though limited and dated, find that the issues of comity, isolation, distance, and inertia differentiate the culture of the rural court from the urban.

Until January 2000, the Southwestern Judicial Circuit (SWJC), State of Georgia, employed two full-time general jurisdiction trial judges for a six county circuit. The appointment of a third judge and the possible addition of a circuit-wide criminal calendar clerk created a need for organizational change in the SWJC. Clear opportunities are available for increased case movement, timely dispositions, and improved record keeping. This paper addresses ways the SWJC can create effective cultural and organizational change that will benefit the constituents of the six counties.

The methodology used for the paper combines a literature review of rural court systems, case flow data collection and informal interviews with personnel in the SWJC. Several national standards for case management were used to establish objective criteria for SWJC's court management. These standards include the American Bar Association's (ABA) Time Standards, National Center for State Courts Trial Court Performance Standards, and corporate organizational operations. Rudimentary data is presented based on the case

counting methods used in the State of Georgia. Further data was collected through informal interviews of the judicial staff of the SWJC and the six county superior court clerks' offices. A "Process Plan" to implement changes for improved case management concludes the paper.

The Process Plan is adapted from appropriate dispute resolution techniques, corporate business, and organizational design. Each phase of the plan is designed to show immediate small results in the work lives of the court employees. Employees are encouraged to take part in a structured decision making process that blends brainstorming and consensus-building developmental strategies with the no-nonsense realities of case statistics, limited resources and community interdependence. The Process Plan cuts away at the niggling idiosyncrasies of personality and tradition conflicts by focusing the participants on the self-defined problems of the court rather than the personalities that run it. Based on several studies of large corporations and by refocusing on the rural court as an organization, the Process Plan lays out steps for the self-diagnoses of problems and the creation of solutions. The premise of the Process Plan is to provide the SWJC with a short term (nine month) process that gives all stakeholders a voice in the decision making. Outside objective standards as listed above are for comparison and the Process Plan itself is a road map for change not a destination. Taking a lesson from corporate businesses that have successfully managed cultural change, the Process Plan asks each member of the court personnel to tackle issues facing them and develop solutions.

### Phase I Taking Care of Business

This phase is meant to be a short cut or band-aid measure to allow the court to proceed with further planning.

### Phase II Joint Diagnostic Teams

Involving all the court personnel in the planning and decision making for the court is time consuming in the beginning. The reward for deliberate and thoughtful planning with the persons who will deliver the service is a smooth implementation process.

### Phase III Setting Common Visions and Goals

This reviews the court as an organization. The court is the instrument of impartial justice in the community. How does this get accomplished? Is the court producing a superior product? Are clients being served effectively? Do employees have the resources they need to do their jobs properly? What objective standards are available to establish whether or not the court is accomplishing its goals? Develop an overall Statement of Purpose.

### Phase IV Generating Options

Does the court accomplish its daily tasks? What options are available? What resources? Can changes in responsibilities or a shift in priorities create options?

### Phase V Implementation

Once priorities are set and buy-in is created with the court personnel, the implementation can begin. What if there are glitches? What are feedback loops? Who makes final decisions?

### Phase VI Informal Evaluation

Are we meeting our overall Statement of Purpose? Are there visible signs of improvement? What needs to be revised?

### Phase VII Evaluation

How does this court compare to national standards? What do the end users say about our service? Is this procedure written down somewhere for new court employees?

### Phase VIII Completion and Maintenance

How does the court maintain existing standards? What needs revision? How do we not lose momentum?

Immediate changes and visible results are the key attention grabbers in the Process Plan. The high level of flexibility in the Process Plan allows the court employees to direct their energies to the specific needs of the court. The plan is



intentionally content light and process heavy to focus participants on their own knowledge and ability to respond to problems. A facilitator is highly recommended for the first five stages. During Phase VII an outside evaluation would enhance the credibility of the organizational change. In the end, any plan is only as good as the effort that is behind it.

## Acknowledgements

I would like to express my sincere gratitude to David Ratley, District Court Administrator and the Superior Court Judges of the Third Judicial Administrative District State of Georgia who made my participation in the National Center for State Court's Fellowship Program possible. Thank you to the Southwestern Judicial Circuit personnel for all their delightful stories and reality checks about the daily life of a rural court system. The fantastic staff at the Office of Dispute Resolution deserves a round of applause for the effortless way they managed the office in my absence. Special thanks to Pennie Beniot, Pam Dixon, Madelynn Hermann, Roger Ivey, and David Ratley all of whom, rearranged their busy schedules to help me collect, formulate, draft and re-draft the enclosed study. Hats off to Elizabeth Basch, who persevered late into several evenings and a few Saturdays to help me make sure that the statistics, graphs and charts were perfect. Finally, to Baldric who never lets me forget that there is always a time to play.

## INTRODUCTION

"Who are you?" said the Caterpillar.

Alice replied, rather shyly, "I—hardly know, Sir, just at present—at least I know who I was when I got up this morning, but I must have changed several times since then."

Lewis Carroll, *Alice's Adventures in Wonderland*

Change, the unstoppable factor of life, is entering the hallways of the Southwestern Judicial Circuit (SWJC). The SWJC is reacting to positive and negative forces of change that require a revision of their organizational operation. Given the new resources of a superior<sup>1</sup> court judge, a criminal calendar clerk, and a case management plan, this paper addresses how the SWJC can revise its organizational structure to meet the court's constitutional mission to provide justice in a timely, effective, and impartial manner for all the circuit's citizens.

The nostalgic feel of the 1950's hovers over the SWJC. Vast peanut, cotton, and pecan fields surround the many towns that struggle to survive. Self-defined as a rural circuit<sup>2</sup> by the court personnel, the SWJC is comprised of six counties ranging in population from 31,324 in Sumter County to 2,193 in Webster County. Formerly supported by two circuit riding judges, a third judge was added as of January 2000, to help cover the 2, 059 square miles of the circuit. The distinct pace of life in rural communities like the SWJC often lacks the sense of urgency in the area of court reform that is demanded by the public in growing urban areas.

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<sup>1</sup> Superior denotes a State of Georgia general jurisdiction trial judge as defined by the Georgia Uniform Rules. The references to SWJC judges in this study will apply only to superior court judges.

<sup>2</sup> U.S. Bureau of Census defines "rural" as an area of 2,500 people or less outside of an urbanized town. Or anything that is outside a metropolitan area with a density level of 50,000 people and/or an 'urban fringe' area with a density level of 1000 people per square mile.

Prior to the addition of the third judge, the SWJC could clearly be defined as a mostly “rural” court. While over one-quarter of the United States is served by one or two-judge court systems, there has been surprisingly little research conducted in this area (White 7). The SWJC currently battles with decrepit court houses, outdated technology, personnel conflicts, individual leadership styles, isolation, and helplessness. The SWJC contains some of the smallest, least populated counties in the state. This circuit also remains the least urbanized area among the three other circuits in the Third Judicial Administrative District<sup>3</sup>. The SWJC personnel perceives itself abandoned by the state and district court administrative agencies while at the same time treats ideas or offers of help from these same agencies with suspicion. The limited rural court literature referenced for this paper echoes the same sentiment, rural courts are failing to embrace the progress made in urban court management.

Of the numerous issues faced by all courts operating today, four are particularly relevant to the rural courts: poverty, inertia, isolation, and comity. The SWJC is faced with all of these plus a prevailing crisis in leadership. Additionally, the SWJC faces the extreme lack of technology that makes it difficult to develop case management systems that would end much of the widespread inertia. Although the present literature on rural courts hypothesizes on why advances made in urban court management do not work in a rural settings, little is being done to address the problems encountered by rural courts

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<sup>3</sup> The State of Georgia is divided into ten judicial administrative districts. The Third Judicial District is comprised of four circuits and 16 counties stretching from middle to southwest Georgia. All district references in this study refer to the Third Judicial Administrative District.

as they move into the twenty-first century. In this paper I propose to discuss these issues, concluding with steps the SWJC could take to develop new and existing resources to improve the delivery of justice to the community.

The closing "Process Plan" is adapted from appropriate dispute resolution techniques, corporate business, and organizational design. Each phase of the plan is designed to show immediate small results in the work lives of the court employees. Looking at the rural court as an organization, the Process Plan lays out steps for self-diagnoses of problems and creation solutions based on several studies of large corporations. The premise of the Process Plan is to provide the SWJC with a short-term (nine month) process that gives all stakeholders a voice in the decision making. Outside objective standards are given for comparison while the Process Plan itself is a road map for change not a destination. Taking a lesson from corporate businesses that have successfully managed cultural change each person in the Process Plan is asked to tackle specific problems and develop solutions.

This paper is a prelude to the changes that are needed in the SWJC. The proactive "Process Plan" points the way for internal reform which will ultimately change the existing culture of the SWJC.

## METHODOLOGY

This paper reviews the literature on rural courts in an effort to develop a conceptual framework for the unique issues faced by the SWJC. The limited amount of research that is available on rural courts is prior to 1990, with a significant portion being done in the early to mid 1970's. To supplement the lack of recent field specific literature, I have reviewed articles pertaining to corporate business in the areas of leadership, change management, strategic planning, customer service, and systems design. Although the purpose of the court is to provide justice not profit, the courts like corporations experience growth, serve the public, employ multiple levels of people, and develop systematic ways of working.

### Collection of Case Statistics in the State of Georgia

In an effort to achieve a baseline understanding of the current operation of the SWJC, I requested that the 1999 case counting statistics be completed ahead of schedule. The raw data of six counties in the SWJC is included in Appendix A. The finished format of this data will not be published until August. This data represents the only performance measurements kept by the SWJC.

The State of Georgia's annual case counting statistics are conducted by the Administrative Office of the Courts (AOC) and the Judicial Administrative Districts of Georgia<sup>4</sup> sending case counters out into all 159 Georgia counties to do a "measure of the judicial activity in each court" (AOC 3). The results are

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<sup>4</sup> For in-depth explanation of the Georgia case counting methodology please see Appendix B "Caseload Collection Procedures Manual for Calendar Year 1998 Caseload."

reported to the courts in the form of the Delphi Weighted Caseload<sup>5</sup> System and the Ratio Weighted Caseload System<sup>6</sup>. These reports are predominately used to determine which circuits will receive additional judgeships.

In the AOC Case Counter's Handbook, counters are told that "although uniform rules for Georgia courts, including recordkeeping rules, were adopted effective July 1, 1985, there is considerable variance in the record keeping systems of the 159 counties" (14). The count basically measures the number of filings and dispositions of the previous calendar year including pending cases not older than five years. Therefore, the case count for 1999 would begin in the winter of 2000 with reports being produced in August and September that rank the amount of judicial activity of all the circuits in reference to each other. The circuits who display the greatest need are then able to lobby for a new judgeship.

In the SWJC, all the superior court clerks' records must be counted by hand. Human error, differing approaches to record keeping, lack of communication with the court or within the court all contribute to a less than accurate count.<sup>7</sup> As a tool for the daily running of a specific court, the statewide

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<sup>5</sup> Delphi Weighted Caseload System first calculates the average amount of judge time available (in hours) to hear and handle cases. Second, the amount of judicial time required (in hours) to handle the anticipated caseload is calculated. Lastly, the number of judicial positions needed to process the cases is calculated.

<sup>6</sup> Ratio Weighted Caseload System is the number of felony equivalent cases filed for superior courts in each circuit.

The SWJC superior judges have also served as the circuit's juvenile judge since 1995. Juvenile cases are heavily weighted in the Delphi and Ratio Weighted Caseload Systems. The increase in "judge time" in 1996-1998 is largely due to the increase in juvenile cases.

<sup>7</sup> Documentation of cases can vary greatly. The following is a personal experience with confused documentation of criminal cases. Guilty pleas in the SWJC are normally taken on non-trial days as an administrative action of the judge. The defendant pleads guilty and is sentenced by the judge. A bench trial is an evidentiary hearing where the defendant is tried by the court and is either proven guilty or innocent. Some examples of confusing documentation included recording a guilty plea taken in front of the judge as a bench trial instead of guilty plea. The judicial time

Note continued on next page.

case count is problematic for the following reasons: the reports are produced annually, publication happens nine months after the active calendar year, many measurements are only reported for the circuit not county, the report is printed in a format that is difficult to understand, the distribution is limited, and the counting methodology differs from the method and items counted by the clerk.

#### National Standards for Case Flow Management

A few national organizations are delineating criteria to "judge" the effective running of courts. The American Bar Association Time Standards for the processing of court cases were developed by the National Conference of State Trial Judges and approved by the American Bar Association (ABA). The National Center for State Courts has also produced the Trial Court Performance Standards (TCPS) which look at the overall running of the court as an effective organization for its consumers.

The ABA Standards are the ideal for any court. SWJC does not maintain the data needed to obtain information on disposition times to compare themselves with the ABA Standards. Hand counting this information becomes impossible when it is discovered that a few clerks do not include case filing dates in their docket books. The State of Georgia's case count does give each court the number of open cases 2 years or older, but if they are open longer than 6

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allocated for a bench trial is significantly more on the Judicial Council of Georgia's weighted ratio scale than the time allotted for a guilty plea; therefore, by documenting this procedure incorrectly the judicial work load looks heavier than it truly is. Another error occurred when a seasoned case counter discovered that the clerk of one county administratively decided to record a certain type of case, i.e. child support, in a separate docket book from the general civil docket book used for

*Note continued on next page.*



years the case counters are told not to include them in the backlog count. It is impossible without extreme effort and time to present a chart for the SWJC that would measure the time to disposition. I present the ABA Time Standards Chart as an aspirational tool and the most commonly used standard in court case flow management (See fig. 1). A few extremely generalized comparisons can be generated by reviewing the SWJC backlog against the ABA Time Standards.<sup>8</sup>

AMERICAN BAR ASSOCIATION TIME STANDARDS			
	Time Within Which Cases Should be Adjudicated Or Otherwise Concluded		
Case Type	90%	98%	100%
General Civil	12 Months	18 Months	24 Months
Domestic Relations	3 Months	6 Months	12 Months
Felony	120 Days	180 Days	365 Days
Misdemeanor	30 Days	--	90 Days

Figure 1 American Bar Association Time Standards

In the Process Plan,<sup>9</sup> I further expand on the ABA Standards by introducing case flow measurement tools from the Trial Court Performance Standards developed by the National Center for State Court. Understanding

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all other civil cases. Unaware of this clerk's particular procedure, the cases in this docket book had not been counted in the last 6 years.

<sup>8</sup> See Appendix A for SWJC Case Count Charts.

<sup>9</sup> See Appendix C Process Plan for SWJC.

where the SWJC falls in comparison to the national standards, the court can implement organizational improvements based on objective criteria. While some problems become visible through the rudimentary calculations I am able to include, others are hidden behind the deficiency of technology.<sup>10</sup>

The final area of data collection includes several informal interviews with the three SWJC judges, secretaries, and six court clerks. During this time, I was able get a sense of the cultural environment by participating in the 1999 case count, implementing a new telephone and computer system, and working with the district court administrator to prepare for the arrival of the third judge in January 2000.

### Process Plan

The concluding section of this paper is a flexible Process Plan designed to assist the SWJC in reviewing the existing structure to actively cut away unhealthy procedures while increasing the oxygen to procedures that are healthy. Based on a combination of the techniques developed for case flow management, strategic planning, and dispute resolution, the Process Plan will enable the SWJC to develop procedures for enduring cultural change. A key ingredient for change is the appointment of a third judge which provides the SWJC with a significant increase in the ability to change the status quo. The concluding proposal addresses these increased possibilities to better serve the constituency of the SWJC.

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<sup>10</sup> See Appendix A for figures from 1999.

### Delimiting Factors

The reader will note that I have been working with the SWJC as a court-annexed appropriate dispute resolution provider for five years; therefore, biases are a foregone conclusion. The Process Plan is devised to alleviate many of these biases by making the members of the circuit both designer and implementers of their own destiny. As with good dispute resolution processes, self-determination is a vital part of the decision and problem solving process that makes for a lasting resolution.

## **DILEMMAS FACED BY RURAL COURT SYSTEMS**

In developing the delicate balance of powers to protect the rights of individual citizens in the fledgling United States of America, the authors of the United States Constitution probably envisioned the court system functioning similarly to the rural court operation. The tightly woven fabric of a small community links persons to families, incidents to shared histories, and individual issues to communal responses. "Because of their ties to the community, rural judges at their best, can fashion responsive, tailored solutions that address the actual needs of defendants, victims, and litigants" (Time to Justice, 9).

Yet, the lack of change in rural courts in the last twenty years raises some questions. Are rural courts simply overlooked by their legislatures in lieu of a more impending "crisis" in an urbanized area? Do rural courts refuse to ask for resources outside their communities preferring autonomy to the often demanding regulations attached to state and federal funds? Are tight knit communities able to "make do with less" because the caseload is smaller? "Rural courts are not merely miniature versions of urban courts with fewer cases and challenges" (Goldspiel 20). Poverty, lack of resources, leadership, comity, isolation, and inertia are key challenges faced by rural courts in their everyday operations.

## Poverty

Poverty is rampant in rural America. Rural poverty lacks the publicity received by urban areas which often results in the loss of federal and state dollars. In his 1977 research Stott suggested,

“the degree of rural representation in the legislature is a factor in the division of available court resources among urban, suburban, and outlying areas. If metropolitan areas dominate the state, the legislature may find it difficult to resist the demands of high crime rates and bulging caseloads in order to support the arguments of rural poverty and poor economics of scale” (64).

Nearly 10 million people were living in poverty in rural areas in 1989. A study by the Rural Justice Center of 19 rural counties found that “the rural justice system snares a disproportionate number of poor people” (Gieger 16). Prosecuting persons below the poverty level places extensive demands on limited rural court resources.

In the SWJC, the District Attorney (DA) determines how many criminal cases get heard by the court. In Macon County alone, there are 500 open misdemeanor charges dating back to 1994 yet to be disposed of by the court. In other instances, a person charged with a criminal offence may remain indefinitely in the county jail on the county's tab for several months waiting an arraignment hearing. The county pays for each day a defendant is held in custody until the defendant is released on bond, moved to another institution, or tried and found not guilty. A more timely movement of the criminal calendar would relieve many of the SWJC's expenses associated with holding and prosecuting a person accused of a crime.

In addition, insufficient social programs in many rural areas require that the court step in where it normally would not. Rural areas are notorious for understaffed, under-funded social programs. The court in SWJC is routinely required to act as parent, therapist, and referee in family squabbles that are beyond the court's purview. Mounting contempt actions in domestic relations situations keep the judges busy with heart wrenching stories that the court is not equipped to settle.

In an interview, one SWJC judge commented, "I order these families to seek counseling at the Middle Flint,<sup>11</sup> but I have no way of knowing whether they go or not." In a civil case, the court has no way of enforcing an order for family therapy sessions short of finding the person in contempt. In a busy court, finding the time to pursue a person for not attending therapy sessions is a low priority. If the case is brought before the court, often the person or family does not have transportation to get to the therapist, or is unable to take off work without losing their job, or was told that the therapist could not see them for several months, or did not have the right paper work, or a mirriade of other plausible problems that prevented the family from complying with the court order. Thus, in our highly adversarial society, the court is asked to rear children, settle ex-spouse arguments, and provide unlimited conflict resolution intervention in areas that the framers of the constitution never anticipated.

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<sup>11</sup> Persons ordered by the SWJC court to seek therapy are referred to the Middle Flint Behavioral Health Care, a United Way Agency, employing 15 full time and part time counselors who serve an  
Note continued on next page.

## Resources

The SWJC is in need of technical and human resources and modernization of existing buildings. One area of need has been recently filled by the appointment of a new superior court judge. The legislature granted the appointment of a third judge in the SWJC after the Georgia Judicial Council's Calendar Year 1998 per Judge Case Count Rankings determined that the existing caseload was too large to be managed by two judges.<sup>12</sup>

Unfortunately, the SWJC does not have the resources to take full advantage of the additional judge. According to the National Center of State Courts, American Bar Association and the Georgia Supreme Court, providing justice includes moving cases to disposition in a timely manner. Lacking both human and technical (computers, databases, faxes, phones) resources, the courts ability to keep records and measure performance is greatly impaired. Entering all cases manually into a docket book is a time consuming procedure that allows for little opportunity to provide monthly status reports on cases. Without the updated technology of a database, generating an open case list for each of the counties two trial terms takes days.

The cycle of the court clerks' work life is determined by the terms of court. The clerks understand their job as the "keeper of the records" in accordance with State of Georgia Uniform rules. There is a pervasive fear of offering too much information or help to a client so as to be perceived as practicing law. This

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average of 2,300 people in eight counties per year. Middle Flint provides services on a sliding fee basis.

<sup>12</sup> This ranking is determined every year as explained in the methodology section on page 4.

predicament is exacerbated by the fact that a significant number of persons do not hire attorneys.

The SWJC judges and staff are centrally located in the city of Americus, Sumter County, Georgia, which makes travel time to the other counties' courthouses approximately 30-45 minutes. Although historically charming, the surrounding courthouses lack modernization. Many do not have air-conditioning in the second floor court room nor a telephone in the judges chambers. The Macon County Courthouse was remodeled after the devastating flood of 1994 making it the only courthouse that complies with the American's With Disabilities Act.

In today's government, all courts are being asked to do "more with less" or as Ronald Stupak puts it "do everything with nothing" (Court Leadership 621). Stupak contends that the doing "more with less" syndrome is a farce and "a cop-out for not making tough strategic choices" in the court system when necessary. Setting priorities in an over extended court system requires leadership and follow through. The question still remains, given the resources to modernize the management of the court, would the SWJC have the management knowledge to develop a prioritized plan of action for improvement or are there other issues that rural courts face which are not resolved by management theory?

#### Leadership in Isolation

"Isolation is still a very real problem for the rural judge " states Vivi L. Dilweg Circuit Court Judge, Green Bay, Wisconsin (70). The job-imposed isolation in SWJC judges' private lives is compounded by the isolation at work.



As circuit riders in a previously two-judge court system, there is little opportunity to review cases with colleagues. Urban judges are able to pop down the hall to discuss matters or just lament with someone who holds the same power and responsibility. The "Time to Justice" surveyors found that "the burdens of judicial isolation are heavier because judges receive little accurate feedback. For the most part, a rural judge hears agreement: 'Yes, your honor.' ...The small amount of criticism directed at rural judges very seldom comes from peers" (86). The lack of negative and positive feedback from trusted peers not only detracts from the judges' perceptions on the bench, but also in his/her role as the leader of the court organization.

Rural courts are often inclined to take on the persona of the current judge. In many cases, a charismatic leader is able to motivate and manage an organization by personal relationships and will. For the eleven years prior to 1992, the SWJC was lead by an authoritative chief judge. During this time, the SWJC was organized and operated according to the chief judge's standards with very little indecision on policy or participation of court employees. Eight years later the superior court clerks still warily question any adaptation that might change a direct procedure this particular chief judge established. The leadership style of the present chief judge is mostly the reverse, laissez-faire, though still non-participatory.

If providing leadership to the organization is distasteful to the judge, it is often provided by another member of the court personnel. The effect of this in regards to internal court policies is that they tend to be less a matter of consistent

written policy and more a reflection of who is in charge at the moment. This often leaves the court staff and public at a great disadvantage requiring them to “read the leader’s mind” for direction. Unlike urban judges, the isolation of rural judges limits meaningful exchanges with other colleagues who hold the same power and authority which could promote and support organizational change.

### Comity

The central difference between a rural court and an urban court is outlined by Kathryn Fahnestock and Maurice D. Geiger in *Time to Justice: Caseflow in Rural General Jurisdiction Courts*:

Rural courts are frequently at the center of the web of cooperation and accommodation that allows small communities to function year after year. In any given case, both of the attorneys are probably among the court “family”. The parties and/or victims, too may have some relationship with those who work in the justice system (85).

Organizationally, when the same people routinely appear there is a great need to preserve the civility, if not give and take, of work among the fellow players. Based on a 1990 study of rural courts, the researchers found that the parties in a law suit often determined the cases disposition time. Attorneys, judges, and sometimes clients in a rural court system are all well aware of each other’s customs and behaviors, all of which are taken into account when trying a case. “This is not to say that the rural practitioners engage in lengthy analyses...but the familiarity of other actors and the rich context in which any rural case is set govern the nature and timing of case dispositions far more than knowledge of procedure, law, and litigation techniques” (*Time to Justice* 85).

This small but dynamic connection in the rural community changes the scope of court management. Fahnestock labels this connection comity, defined by Black's Law Dictionary as "courtesy; complaisance; respect; a willingness to grant a privilege, not as a matter of right, but out of deference and good will."

Fahnestock adds,

Comity is the greatest threat to judicial independence in rural communities ...clearly at work when the interests of the participants—including attorneys, enforcement officers and the court—in preserving their long-term relationships outweigh the facts of the case or the interests of the parties" (Fahnestock 15).

Judge Dilweg commented "people feel they can come to the judge and tell the judge about their case in the grocery store, gas station, or local restaurant ...being a judge in a rural court is a 24-hour-a-day job" (71). One of the SWJC judges reports that he is literally unable to find privacy in his own backyard. Rural judges are not granted the same anonymity in public as their urban counter parts. The interdependence of the rural judge and the community they serve is a threat to judicial independence. The same aspects of comity that make the court run smoothly can also threaten judicial independence and increase both personal and professional isolation.

#### Inertia: Is there a need for change?

The rural court is traditionally not required to respond to changes as quickly as an urban court. As with most government agencies, it perceives itself as under-funded and understaffed for the tasks required. The question then becomes, how or even why implement change other than the addition of a third judge?

The appointment of the third judge is seen by many to be the answer to a growing case load in the SWJC. While Stupak would argue,

If the only time an organization fixes something is when it is broken, it will always be reacting to, rather than shaping its future. Clearly, if an organization is on a crisis treadmill, then the 'urgent' systematically drives out the "important" to the point of institutional breakdown" (622).

By taking advantage of the increased judicial support and revisiting management areas that were pushed aside due to the more urgent tasks of adjudicating cases, the court may be able to further reduce delay and work loads on all court personnel.

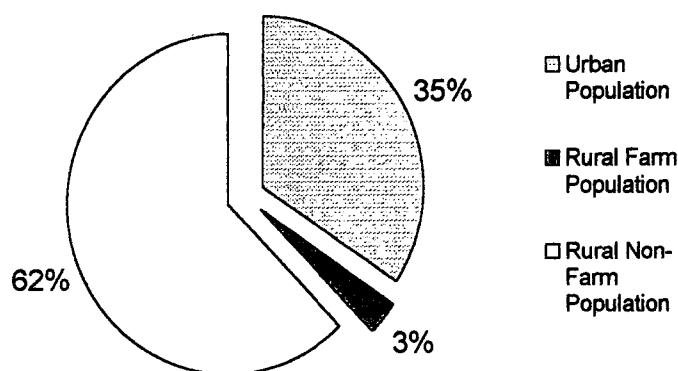
### Conclusions

Issues of finance, physical and human resources, case management, collaboration with outside agencies, and customer service are reoccurring problems that affect all public organizations. The same is true for high levels of poverty in rural areas. The concept of comity in the rural setting challenges the court leadership to maintain their judicial independence while respecting the fact that the court as an organization is a key player in the life of the community. Leadership of the court, as a servant of the community, is a lonely and at times dangerous position. Does the fact that the SWJC is not "Atlanta" mean that its citizens' courts should be managed any less professionally than the major metropolitans; or that innovations, pilot projects, new approaches to case management, and other opportunities that would increase the courts ability to be a responsible member of the community should only be instituted after an urban sized crisis? With the amazing increases in the access to information and communication provided by new technologies, rural courts can no longer afford

to wait “until something is broken before they fix it.” The addition of a third judge is a bright opportunity for the SWJC to develop new organizational paradigms.

## **SOUTHWESTERN JUDICIAL CIRCUIT: AN OVERVIEW OF CASE MANAGEMENT AND COURT CULTURE**

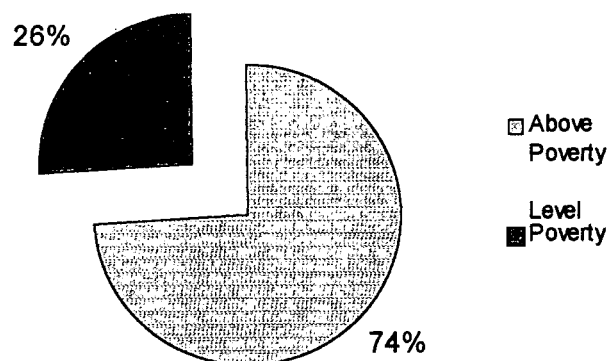
The heart of the circuit is Americus, Georgia, home to the International Habitat for Humanity and next door to Former President Jimmy Carter's hometown of Plains. Americus boasts an 1800's historical hotel, a newly refurbished theatre and a small public university. The mixture of tourism, Habitat for Humanity, and Georgia Southwestern State University make this the most cosmopolitan thus least rural of the counties (fig.2).



**Fig. 2. Urban & Rural Population  
Southwestern Circuit  
1990 US Census Data**

Lee County, in the south, is responding to the needs of Albany, Georgia, a city of 78,122 located in the Dougherty Circuit, by providing affordable housing to create a "bedroom" community. Macon and Lee Counties both contain state correctional agencies that feed into the court's work load. Webster, Schley and Stewart Counties more clearly fit the classical definition of rural areas. The

poverty level for this circuit is 26% for a total population of 71,970 according to the 1990 U.S. Census Bureau.



**Fig. 3 Southwestern Circuit Poverty Statistics  
1990 US Census Data**

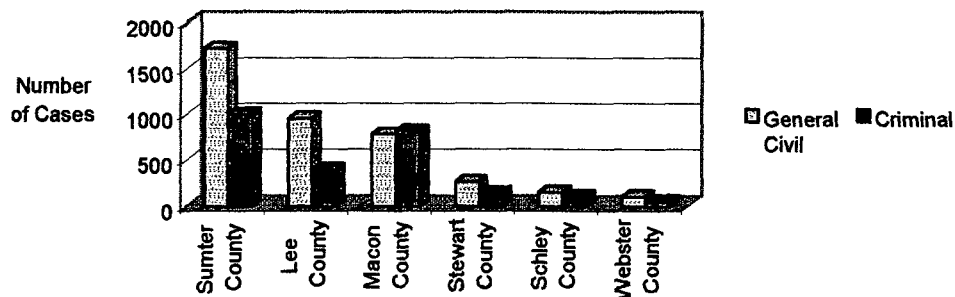
### Economy

There is a great disparity between socio-economic classes in the SWJC. Historically an agricultural region, as the crops did well, commerce increased which brought with it the railroads for transportation of the crops and people. The families who benefited from this invested wisely in banking while others raised their fortunes on timber farms. Prior to the Civil War, Southwestern Georgia flourished with strong economies in areas that are now almost deserted by businesses.<sup>13</sup> Oglethorpe the county seat of Macon County, once a thriving community, languishes with a 40% poverty rate that was only exacerbated by the flood of 1994 which reached the second floor of the courthouse.

<sup>13</sup> Historical information taken from prints and posted materials in the Macon County Court House, Oglethorpe, Georgia.

### Case Management

The SWJC as expected maintains a fairly small case load overall. Only 3480 cases were filed in the circuit during calendar year 1999 (see fig. 4).

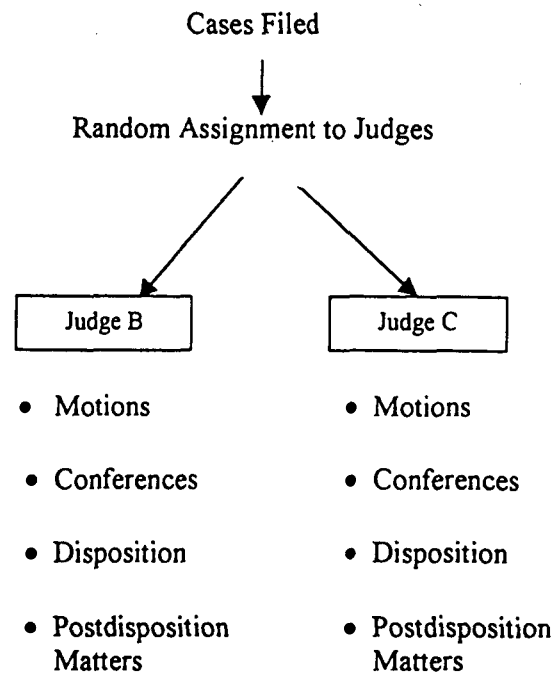


**Fig. 4 Total Number of Cases  
Filed in SWJC 1999**

With the addition of the third superior court judge and a criminal calendar clerk, the human resources appear to provide enough for effective case management. If Ingo Keilitz's argument, "what gets measured gets attention; and what gets measured gets done," is true, then the state wide case count is serving its purpose for the establishment of new judgeships. The next step is to take advantage of the new resources by "measuring" the effectiveness of the court system's management of cases.

The backbone of the State of Georgia superior court case management is a constitutional requirement that each county receive two terms of court a year. In practice, a SWJC Master Calendar<sup>14</sup> is devised so that each of the two judges "preside" over three counties half the year switching in mid-year. This closely resembles an individual style calendar (fig. 5).





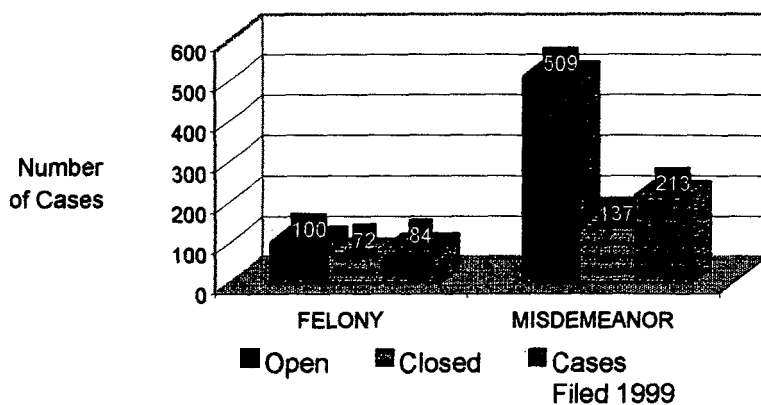
**Figure 5. Master Calendar Individual Case Assignment. Adapted from Case Flow Management: Heart of Court Management.**

Management of the movement of a case is dependant on counsel for civil cases and the district attorney for criminal cases. As with many rural courts, the symbiotic relationship between bar and bench enable the court to shed responsibility for movement of the case with the phrase, "if an attorney wants a hearing then they need only bring it to my secretary's attention." It is often reminiscent of the "open door" policy that until recently was touted as the way to encourage open communication in an organization. Neither concept encourages active management or problem solving by the entities in charge. In the 1998 case count statistics, the SWJC was second only to Atlanta (Fulton County)<sup>15</sup> in their poor disposition time of civil cases. Macon County is one of the

<sup>14</sup> See Appendix D 2000 SWJC Superior Court Master Calendar.

<sup>15</sup> Population of Fulton County is 648,951 people.

most problematic. Macon County presently has 500 open misdemeanors cases while only 27% of the case load was disposed of in 1999 (see fig. 6).



**Fig. 6. Macon County  
Criminal Case Count 1999**

The length of time for criminal arraignment of minor issues is so egregious that an attorney quipped, "after three months in jail his client was contemplating pleading guilty just to get out before trial". Like many states, time served prior to sentencing is applied to the sentence time for a post sentence reduction based on time served. There is some conclusion that this may cause the DA's office to be ambivalent about the arraignment time for a person they believe to be guilty. The criminal procedures are presently under revision after the court was found to be in violation of the Uniform Superior Court Rules.<sup>16</sup> As outlined by the Southwestern Bar members:

Unfortunately, the clear language of this decision {Cuzzort v. State of Georgia}, and the continued use of the District Attorney's Office to prepare calendars, has left the criminal defense bar in an awkward position. If we don't object to the continued use of the DA as a calendar

<sup>16</sup> See Appendix E Uniform Superior Court Rule 3.1 reference to Cuzzort v. State of Georgia.

clerk, we are open to perpetual claims of ineffective assistance of counsel. However, if we do object to the practice, then we run the risk of disturbing the entire calendaring system without having workable alternatives (Cooper et al n.p.).

A proposed plan to hire a criminal calendar clerk to assume the responsibilities for moving the cases in a timely fashion is being discussed. The larger issue of the district attorney's staff and work load is yet to be addressed openly. The questions of the criminal calendar clerk's location, responsibilities and reporting structure are not yet answered.<sup>17</sup>

### Conclusions

In the SWJC, residents' lives no longer center around the harvest. The days of the court house being packed with spectators during the twice yearly term of court are over. Even in rural settings, the fast pace of a technological life demands a quicker response time from all institutions. The court can not afford to remain stuck in the traditions of 100 years past. However, as shown by *Cuzzort v. State of Georgia*, neither the public nor the Georgia Bar is forcing antiquated case management systems to change. Keilitz and Buenger ask, "all other things being equal, should courts not be among the most effective public and private organizations for their 'customers,' employees, and stakeholders if their daily practices were aligned with the values reflected in the substance and procedure of the law?" (Moral Values 3). As an institution that provides justice,

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<sup>17</sup> See Appendix F Proposal for Judicial Calendar Clerks presented to the Southwestern Circuit Criminal Bar January 13, 2000.

the SWJC must start a new phase in the leadership and organizational structure of the court to adequately serve its constituents.

## RURAL COURTS AS ORGANIZATIONS

In February 1777, Georgia ratified a constitution providing a superior court session be held in each county twice a year. Still in practice today is the 1789 constitutional decision which sets the two terms of court at specific times of the year. At that time two superior court judges were responsible for dispensing justice in a territory that now equals 159 counties (Ratley 3). The 1983 revision of the Georgia Constitution charged the superior court with jurisdiction over all cases with "exclusive jurisdiction over trials in felony cases, except in the case of juvenile offenders as provided by law in cases respecting title to land; in divorce cases; and in equity cases" (GA. Cont. Art. VI, Sec. IV, Par. 1). The operation guidelines of the court system designed by the Supreme Court of Georgia in conjunction with the various judicial councils shall "by order adopt and publish uniform court rules and record-keeping rules which shall provide for the speedy, efficient, inexpensive resolution of disputes and prosecutions" (Georgia Constitution, Article VI, Section IX, Paragraph 1). The Georgia Constitution establishes the court, defines it, invests it with powers then returns the judicial branch to its own governance.

### The Court's Statement of Purpose

Both statements above define the court with the State of Georgia Uniform Rules going into detail on what the court should be responsible for in the lives of its constituents. Is the courts' purpose or mission apparent to the employees, to

the public, to the attorneys? Is it important that the person with the likelihood of serving the highest number of court patrons (the deputy clerk) understand the purpose and mission of the courts as an organization? In Raymond Smith's opinion, former head of Bell Atlantic, "in large business, the most important determinant of success is the effectiveness of millions of day-to-day interactions between human beings" (Kanter 122). For many people, an actual experience with the State of Georgia Judicial System is a one time event with a local court. In a small town, a single experience with the court system could shape that person's view of the American judicial system for a lifetime.

For the SWJC, the establishment of a common understanding of purpose would provide a starting point for organizational change; although, by itself it will do nothing to affect an actual change in the "day-to-day".

Because organizational culture generally develops around espoused values and basic assumptions that are influenced by *early leaders* and *historical circumstance* and are strongly held and shared throughout an organization, organizational '*members will find behavior based on any other premise inconceivable*' (Carter 63, 1999) {emphasis added}.

### Change Management

Rural communities are notoriously long on memory and short on willingness to change. At present, the changes required to incorporate a third judge, criminal calendar clerk, and the ABA Standard of case management are inconceivable. As one judge expressed, "the court has functioned long before case management got here, and it will continue to function long after. It will all get done by someone." The daunting amount of data needed to establish a base line for the Trial Court Performance Standards' three monitoring levels is

monumental.<sup>18</sup> The collective memory of the SWJC court personnel will make new behavior impossible unless the focus is visibly redirected on changing the “work itself not on abstractions like ‘participation’ or ‘culture’” (Beer 32). In a study on “Why Change Programs Don’t Produce Change,” professors at Harvard Business School found that by dropping the formal rhetoric of change and focusing instead on the concrete problems and issues that were hampering “the organization’s most important competitive tasks” enduring organization change is possible (Beer 159). If the court’s “competitive task “ is providing justice, the SWJC needs to ask itself if the existing case management system is working for the constituents of the circuit?

The ten businesses in the Harvard study tackled the problem by forming ad-hoc diagnostic teams of the employees in each department to jointly work through specific problems. This allowed the employees to decide on the issues which most effected their daily work. When the diagnostic team could clearly “see” the problems, they developed concrete ways to improve their department. The diagnostic team approach creates awareness and ownership which is the springboard for the creation of a common vision.

Court management gurus began in the early 1970’s developing models to help courts reinvent themselves as efficient, effective organizations. One of the latest conceptual models is the Judicial Administration Dashboard (JAD)<sup>19</sup>

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<sup>18</sup> See Appendix C: Sample Process Plan: Phase III, PAGE!!!!

<sup>19</sup> The Judicial Administrative Dashboard (JAD) is the conceptual work of Kelilitz, Ostrom, and Kauder that likens the instruments on a car’s dashboard to the types of measurements a court receives from implementing Trial Court Performance Standard (TCPS). The car’s instrument panel indicates fuel level, temperature, speed etc. in conjunction with the actual use of the car  
Note continued on next page.

that is designed to help seminar participants rethink their negative attitudes about measuring court performance (Keiliz 21). Although the JAD is an excellent conceptual metaphor, it does little to affect actual change when seminar participants return to their respective courts.

Preaching the gospel of Trial Court Performance Standards to one or two members of a court system does not address the day-to day problems nor does it create buy-in from those who will need to make changes. It is not so much about negative mindsets around measurement as the basic human fear of the unknown. Beer holds "that starting at the periphery and moving steadily toward the corporate core, is the most effective way to achieve enduring organizational change" (159).

### Conclusions

The constitutional vision of the courts merely establishes its jurisdiction. The daily operation of the courts is a development of time and tradition. The SWJC does not see itself as an organization, with each county being a member of a larger whole. Building a foundation for increased communication can counter some of the individualism of the counties. Assuring the court personnel of their value to the overall operation will also stem the fear of being subsumed by the whole. Encouraging staff to diagnose organizational problems and develop solutions on everyday issues that will immediately improve their work lives generates the initial commitment needed to tackle larger areas of change



(Beer 162). Giving the court staff the resources and training to control their own change process will greatly reduce their fears. Leadership's fostering of an environment that is safe for change is also essential.

## DEVELOPING AN INITIAL PLAN FOR THE SWJC

Initiating change in any organization means targeting the balance between the forces driving change and the forces actively resisting change. Lewin suggested that the system's status quo can be changed by one of three methods: 1) increasing the forces driving change, 2) reducing the forces restraining change, or 3) converting the restraining forces into driving forces (Constantino 28). Two driving forces of change are taking place in the SWJC; 1) a third judge is being added; 2) responsibility for the criminal calendar is being shifted from the DA's office to a criminal calendar clerk who will be under the supervision of the superior court judges. Before intensive planning can begin, the immediate issues such as where to house the new staff members, resources, hiring, personal relationships, and necessary technologies must be addressed.

The next phase, once the basic needs are met, is to re-organize the judicial case load. Those who are more comfortable with change will see this as a great opportunity to revamp the whole system. However, in a situation that is already destabilizing to accept new staff members, comprehensive reorganization would only incite contempt for the "outside person" and any "insider" involved in attempted changes. As noted by Goldberg and Brett, "any new organizational ... system will likely be opposed by those who believe they were winning under the old system or fear that their work will be diminished under the new system" (Carter 63).

### Process Plan

It is with this logic in mind and the appreciation that cultural change takes time, I have enclosed a "Process Plan". The Process Plan is designed to engage what is known in dispute resolution as all the stakeholders.<sup>20</sup> Involving all the persons in the delivery of services in the court system in process planning requires more time than a unilateral decision; however, the buy-in support that is generated by giving all stakeholders a voice greatly improves the speed of implementation. As with a mediated agreement, a decision that an employee has participated in is more likely to be carried out than a decision that is by top management. On the other hand, a totally consensus based decision making process is too impractical and time consuming for this environment. Therefore, the enclosed Process Plan uses a team approach similar to the diagnostic teams used in each department to determine from their perspective what problems existed and how to handle them. Each diagnostic team included a representative from every level of a specific department. The different views provided the diagnostic team with an overall view of the department and a clearer picture of how to resolve internal problems ().

### Creation of Teams

The "Vision Team" is the most comprehensive unit, involving a person from each level of the court organization. The Vision Team would consist of one

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<sup>20</sup> Stakeholder is anyone who will be affected by the resulting system. Important stakeholders that are not mentioned in the Process Plan are the end users of the court system. An inclusion of the public could be handled through focus groups of citizens that have used the courts at strategic times during Phase II and Phase VII adds valuable feedback.

of the following: judge, judge's secretary, private attorney, district attorney, court administrator, one court clerk from a high case volume county, one court clerk from a low case volume county, two deputy clerks each from a high and low case volume county, and an outside facilitator. The Vision Team could decide to include other constituents. The Vision Team would not extend past nine months and they would not meet more than twice a month for an hour and one half each meeting with the facilitator present to move the process forward. The members of the Vision Team are representatives from the Primary Teams. Primary Teams are groups designated by job title. For simplicity, the judge who is going to head the Vision Team can designate a chairperson for each of the Primary Teams (ie court clerk, district attorney, etc.). It is the Primary Teams' responsibility to notify all members and to arrange meetings. These two teams will enable all the stakeholders to have a voice in the process. (See Appendix C for a detailed outline of all the phases structured for the SWJC. All the facilitation tools are provided in Appendix C.) Because it is impossible for anyone inside the SWJC to be viewed as an impartial facilitator an outside facilitator is highly recommended.

#### Phase I: Taking Care of Business

"Taking care of business" is simply handling the most pressing needs in order to move on to Phase Two. For the SWJC this would mean housing the new judge and criminal calendar clerk, appropriating money and hiring the