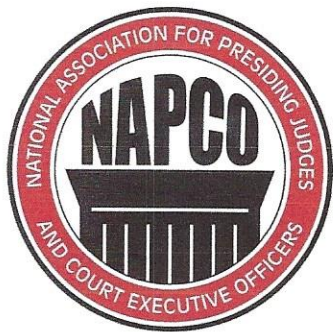


A golden statue of Lady Justice, blindfolded and holding scales and a sword, set against a dark background with a circular emblem containing the word 'COURT'.

**Presiding Judge and Court Executive Officer
Trial Court Governance and Leadership
Principles, Roles and Responsibilities**



This monograph is intended for use as a leadership guide in structuring modern-day principles, roles and responsibilities for governing and leading state and local trial courts regardless of size or jurisdiction. It has been developed by the *National Association for Presiding Judges and Court Executive Officers (NAPCO)* through a grant from the *State Justice Institute (SJI)*, a federal government program dedicated to improving the quality of justice in state courts. NAPCO is an independent, nonprofit, education and research organization of current and former trial court leaders and court leadership teams dedicated to enhancing the effective administration of justice. NAPCO was formed in 2016 through re-purposing its predecessor organization the *National Conference of Metropolitan Courts (NCMC)*, one of the oldest judicial branch public benefit corporations in the United States chartered in 1963.

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Presiding Judge and Court Executive Officer Trial Court Governance and Leadership Principles, Roles and Responsibilities¹

In April 2005, the National Center for State Courts (NCSC) created and hosted a forum on *Strengthening Management by Strengthening the Presiding Judge / Court Executive Team* with presiding and chief judges, court executives, administrators, educators, and researchers from 13 different states. At the conclusion of the forum, participants voted on ways the National Center could most effectively support court efforts to strengthen trial court leadership teams. The result was a monograph published in June 2006 entitled *Key Elements of an Effective Rule of Court on the Role of the Presiding Judge in the Trial Courts* listing a collection of rules supporting the priorities of those attending the forum. It has served as a guide and model for more than a decade.

Recently, however, the National Association for Presiding Judges and Court Executive Officers (NAPCO), a new nonprofit public benefit corporation (circa 2016), obtained a State Justice Institute grant to revise the *Key Elements* monograph so as to (a) document more succinctly trial court governance and leadership principles, roles and responsibilities for both chief judges and court executives, and (b) pinpoint the interrelated duties and competencies they should possess and perform as productive partners in leading and managing their jurisdictions. The premise for this effort flows from the reality that leading and managing a modern trial court is widely viewed as a two-person job.

Significantly more data, research, knowledge, and experience has also been acquired in recent years about trial courts as loosely-coupled organizations and the leadership structures, techniques and methods that enable them to improve and flourish. To that end, these *Governance and Leadership Principles, Roles and Responsibilities for Trial Court Presiding Judges and Court Executive Officers* have been developed. They identify highly effective practices that enhance the functioning of trial courts, preserve their judicial independence, and strengthen their organizational leadership.

As was true for the task force and authors of the *Key Elements* in their work many years ago, a parallel objective underscores these *Principles, Roles and Responsibilities*. Namely, “to engender thoughtful discussion among court officials about constructive trial court governance and leadership values, systems and practices, and provide a tool for presiding judges and court executives to improve their synergy as strategic partners in leading courts.”

¹ The term “presiding judge” and “court executive officer” may be designated by different titles in various trial courts. As defined here, they are the top judicial and nonjudicial leaders of a trial court, judicial district, or circuit. Irrespective of the titles, they operate as an executive team in their leadership responsibilities. And they are collectively responsible for the operation, administration, and performance of the jurisdiction under their direction.

Table of Contents

1.0	Governance Principles	
		Page
1.1	For the Bench: The Board of Judges	3
1.2	For the Leadership Team: The Presiding Judge / Court Executive	3
2.0	Roles and Responsibilities: Presiding Judges / Court Executives	
2.1	Terms of Office	5
2.2	Appointment and Selection	5
2.3	Selection Criteria	6
2.4	Removal from Office	6
2.5	Professional / Management Cultures	7
2.6	Relationship to the Supreme Court	9
2.7	Caseload Adjustment	10
2.8	Assistant or Acting Presiding Judge	10
2.9	Renewable or Successive Terms	11
2.10	Executive / Legislative Selection	11
2.11	Bench Assignment / Rotation Policies	12
2.12	Case and Docket Management	13
2.13	Cases Under Advisement	13
2.14	Supervising Judicial Officers	14
2.15	Coordinating Judicial Schedules	14
2.16	Meetings of the Bench En Banc	15
2.17	Court Committees	15
2.18	Specialized and Problem-Solving Courts	16
2.19	Court Operations Oversight	16
2.20	Court Facilities and Security	17
2.21	Strategic Planning	17
2.22	Liaison with Outside Agencies	18
2.23	Trial Court Budget	18
2.24	Media Relations	19
2.25	Caseflow Statistics	19
2.26	Crisis Leadership	20
2.27	Systemic Racism	20
2.28	Appellate Records Provision	21
2.29	Elected Clerk of Court Coordination	21

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1.0 Governance Principles

1.1 *For the Bench (Board of Judges)*

- 1.1.A **A well-defined, formal governance structure should clearly identify issues subject to the policy and decision-making responsibility of the judges en banc and any executive committee of judges should one exist.** Collective decisions of the bench should only involve the highest corporate issues that fundamentally impact the role and purpose of the court to effectively serve the public, provide meaningful access to justice, protect the rule of law, or strengthen public trust and confidence in the court system. Some courts also rely on judicial executive committees composed of a select group of judges to provide input and advice to top court leaders on issues, programs, and projects between meetings of the bench.
- 1.1.B **Judicial officers should have the opportunity to serve on committees and in other meaningful roles** to permit discussion and diverse perspectives prior to decision-making by a presiding judge or the executive leadership team.
- 1.1.C **Judicial leaders should be selected based on competency.** To that end, a process should be developed to nurture future judicial leadership.
- 1.1.D As stewards of the rule of law, and to keep the public trust, **bench officers should be as transparent as possible in their decision-making and administrative processes** and hold themselves accountable both individually and collectively for how equal access to justice is provided.
- 1.1.E **Judicial officers should exhibit collegiality** in their interactions with each other.
- 1.1.F All **judicial officers should strive to foster trust and supportive relationships with each other, legislative and executive branches, and the public** in promoting the purposes and values of the judicial branch.

1.2 *For the Leadership Team (Presiding Judge / Court Executive)*

- 1.2.A **Clear roles and responsibilities should be established for the court's executive leadership component** – the presiding judge and court executive officer – pertaining to their overall duties, decision-rights, and functions when acting either independently in their separate roles or collectively as the court's top judicial/administrative team.
- 1.2.B **The presiding judge and court executive should ensure judicial officers, nonjudicial supervisors and court staff are actively involved in committees, task forces, and advisory groups** to analyze and recommend changes and improvements in the operations of the court and justice system.
- 1.2.C **Court executive officers should be selected based on competency.** To that end, a process should be developed to nurture future executives and managers.

Increasingly, many jurisdictions are developing CEO succession plans to ensure no undue or disruptive leadership vacuum occurs with the departure or retirement of a CEO.

- 1.2.D **The court's executive leadership team should be as transparent as possible in their decisions, duties, and responsibilities.** This implies openness, extensive information exchange, authenticity (truthfulness/dependability) and accountability.
- 1.2.E **Presiding judges and court executives are colleagues in a common purpose: to guide, motivate, develop, and energize those in the trial court, justice system, government, and community at large to continuously improve the administration of justice.** In doing so, they are expected to respect each other's abilities in working toward those goals.
- 1.2.F **As court leaders, the presiding judge and court executive should strive to foster trusting and supportive relationships with each other.** This is enabled to the fullest extent when there is extensive access between them, frequent communication, and a shared vision as to what and how improvements should be accomplished.² **This partnership is not one of parity in power, authority, or responsibility. The presiding judge clearly carries the command prerogative. The court executive functions as a strategic partner – a colleague in top-level decision-making – coupled with additional, prescribed administrative duties outlined by statute, rule, order or custom.**

² Monograph: "Judge-Court Manager Relationships: The Integration of Two Cultures." R. Dale Lefever, Applied Theory, Inc., University of Michigan (Ann Arbor).

2.0 Roles and Responsibilities: Presiding Judges / Court Executives

Presiding Judge

2.1 *Term of Office*

It is generally agreed among trial researchers and practitioners that the minimum effective term length for a presiding judge should be no less than two-years. A term less than that length does not easily permit a leadership judge to effectively accomplish a meaningful strategic agenda or business plan for a trial court, regardless of its size or jurisdiction. In recognition of this situation, many courts are moving to even longer terms of office up to and including three to four years.

2.2 *Appointment and Selection*

No longer is it acceptable to select presiding judges by default – rotating judges into this highest station by seniority or searching for volunteers when no one expresses an interest. Consistently high performing courts tap the most talented and best-tested leaders among the bench.

It is further recommended that candidates for presiding judge formally indicate why they desire to serve as the court's top judicial officer by outlining the goals and objectives they would pursue if selected. Such statements need not be made public but should be conveyed and considered by the appointing or elective body.

To preserve judicial independence and uphold the rule of law, the best practice in selecting a presiding judge is either election by a majority of the court's judges or appointment by a higher court, normally a state's court of last resort (i.e., supreme court).

Court Executive Officer

2.1 *Term of Office*

Court executive officers (CEO) commonly serve multiple years based on performance, and often become key resources regarding the court's institutional memory. Generally, there is no fixed term of office for a CEO. As professional courtwide leaders dedicated to the efficient administration of justice, they are expected to work with various presiding judges over their careers. Consequently, their tenure should never be tied to the term of a presiding judge.

2.2 *Appointment and Selection*

Court executives should be selected based on competency. There may be an organizational advantage in those jurisdictions that enable the bench to engage or remove the executive through a majority vote where employment is solely a local decision. Such an employment relationship aligns the executive with the court as a whole and frequently creates a similar relationship to the bench as that of the presiding judge.

The ability of the CEO to build a working relationship with successive presiding judges is critical to the success of the executive team. The executive officer must operate both as an agent of the court en banc and as a strategic partner with the presiding judge. The CEO serves multiple roles and should not be the exclusive agent of a single presiding judge.

Presiding Judge

2.3 Selection Criteria

It is wise for a presiding judge candidate to possess an adequate amount of experience as a trial judge, unless the requirement is waived for good cause by the appointing authority or considered unnecessary by the elective body. Nomination and selection of a leadership judge should take into consideration the following attributes.

- a. Leadership / administrative ability;
- b. Interest in serving in the position;
- c. Experience and familiarity with a variety of trial court assignments;
- d. Ability to motivate and inspire other judicial officers and court staff;
- e. Collaborative abilities vis-à-vis the state supreme court, other trial courts, funding agencies, and justice system stakeholders; and
- f. Capacity to evaluate the strengths of the court's bench officers in making fair and equitable assignments based on those strengths as well as the best interests of the court and public.

2.4 Removal from Office

In substantiated cases of abuse of power, ethical violations, chronic failure to perform, incompetence or other reasons, a presiding judge should be removed from office. Permanent removal should allow for the exercise of due process rights. However, interim removal for good cause should be the prerogative of the state supreme court pending a formal review process and any subsequent decision on permanent removal.

In the interim, an acting presiding judge should be designated by the supreme court or judges of the jurisdiction.

Court Executive Officer

2.3 Selection Criteria

In the complex world of courts today, CEOs who hold graduate degrees in law, business, public or judicial administration have an advantage. Advanced coursework greatly aids in leadership skill-building.

CEOs responsible for large, multiple, or regional courts require substantial experience and have broad administrative duties. Part of those tasks often consist of overseeing and directing high-level executive teams with wide-ranging expertise. The *Core® Competencies* created by the National Association for Court Management, outline the basic criteria CEOs should possess at <https://nacmcore.org/>.

Court executives serving courts smaller in size, jurisdiction or caseload, often are required to possess more minute skills, including front-line supervision knowhow permitting them to fill-in for absent employees or job-share with key personnel. Here, too, advanced degrees help bolster analytical and critical thinking abilities.

2.4 Removal from Office

As a high-level official, CEOs are generally not protected by government merit or civil service personnel provisions regarding dismissal. They are non-tenured, at-will employees who can be terminated for cause or no cause. In most instances, they do not have contractual rights to their position.

CEOs also are commonly bound by many of the same ethical provisions applicable to judicial officers to uphold the integrity of the judicial system and may be removed from office for violating them.

Presiding Judge

2.5 Professional / Managerial Cultures

Judges and lawyers operate within a culture of professional discretion and autonomy. They frequently identify more with their profession than their organizations. Most professionally directed organizations such as law firms, courts, hospitals, and universities, tend not to use the term “manager.” Rather, organization leaders are called partners, presiding judges, medical directors and deans with their roles revolving around leadership rather than management. One of the primary functions of leadership in professional organizations is setting the right purpose and direction for other professionals.

In courts, presiding judges have the organizational power but lack the operational knowledge. Court executives have the knowledge but lack the power. The team approach merges these strengths through four relationships.³

- a. *Clear roles and responsibilities.* For major issues, the PJ and CEO team should determine who performs the work (responsible for the tasks), who makes the decisions, who is consulted in making decisions or doing the work, and who is informed about new directions and processes.
- b. *Frequent access and communication.* Leaders work in a future tense, focused on tomorrow and what changes lie ahead. As an executive team, to err in over-communicating should be preferred in establishing a trusting, open exchange of ideas, information, plans and news.

[continued on the next page]

Court Executive Officer

2.5 Professional / Managerial Cultures

Court executives as leaders identify more with the court as an organization centered on administrative coherence, courtwide performance and corporate accountability. In their view, the court should not be viewed as a collection of individual judges, each with their own agenda, but as a coherent organization with a clear and consistent direction. Judges, on the other hand, tend to feel the press of organization coherence infringes on the autonomy to individually manage cases and structure their own dockets.

Yet, even though professionals and managers may approach their jobs from different orientations, most executive teams are able to balance the two cultures. When properly understood, the tension between these orientations has the capacity to both recognize the mutual dependence between these cultures and accept the reality that any other form of governance and leadership would detract from them and the purposes of a trial court to consider each case fairly and independently while ensuring the entire adjudication process functions in a timely and efficient manner.

The four team-building relationships outlined in the neighboring section 2.5 *Professional / Managerial Cultures* for Presiding Judges are equally applicable to court executives.

³ Ibid.

- c. *Mutual trust.* Trust is palpable. You can sense or feel its presence or absence in a relationship. Simply put, trust means confidence. The opposite of trust is suspicion. Relationship trust is composed of two qualities: benevolence, the quality of putting other interests ahead of your own, and competence, the ability to deliver on what you say or promise. “Benevolence behaviors” include talking straight (being honest and upfront), demonstrating respect, creating transparency (tell the truth in ways people can verify), making things right when you’re wrong, and furthering the interests of others. “Competency behaviors” are evident by delivering results (don’t over promise and under deliver), continuously improving, confronting reality (acknowledging the unsaid), clarifying expectations (agree on what must be accomplished upfront), being accountable (take responsibility for results), and keeping commitments (say what you’re going to do and do what you say).
- d. *Shared vision and strategies.* A vision is an inspiring “word picture” of the future. If it’s not shared and embraced by others, it’s merely wishful thinking. Visions provide a focus for change, motivate people to act, and help coordinate a consistent direction for court improvement. Strategies, on the other hand, explain how a vision will be accomplished and are more flexible and action-oriented. It is largely the responsibility of the leadership team to develop these directions.

The PJ / CEO partnership is not one of parity in power, authority or responsibility. The presiding judge carries the command prerogative. The court executive functions as a strategic partner... a colleague in top-level decision-making... coupled with additional, prescribed duties outlined in statute, rule, administrative order or by custom.

Presiding Judge

2.6 Relationship to the Supreme Court

All state and local trial courts - whether unified systems with a one-tier organization structure where judges handle all case types, or general, limited, and special (tax, probate, etc.) jurisdiction courts where judicial authority depends on the case type - are part of a single, integrated, and independent judicial branch overseen by and ultimately responsible to the state's court of last resort. This is true regardless of the way trial courts may be funded or housed and judges are selected.

Consequently, presiding judges have both an administrative and ethical duty to work with their respective state supreme courts in programs, policies and initiatives established by the supreme court, a statewide trial court judicial council given policy-making authority by the supreme court, or the chief justice acting on behalf of the court. For the most part, supreme courts in modern times have oversight authority of trial courts and their leadership judges.⁴

In 14 states (circa 2019), leadership judges are chosen by either the state's chief justice or by the state's highest court as a whole. Twenty-three states select presiding judges by peer election and 13 states either choose the most senior judge or leave the selection to another branch of government.⁵

⁴"In the mid-1800s, a series of populist reforms that continued into the 20th century, shifted broad authority from state legislatures regarding the organization, jurisdiction and administration of state courts and vested it directly with state supreme courts. The combined effect of this almost century-long reform was the creation of robust state judiciaries with greater structural and jurisdictional autonomy." Michael L. Buenger, *Friction by Design*:

Court Executive Officer

2.6 Relationship to the Supreme Court

States vary regarding the formal relationship CEOs have with their state supreme courts or state court administration offices. In some states, trial court executives are employees of the court of last resort or judicial council and may be hired, fired and accountable to them. They also may be assigned or reassigned to various courts or administrative regions in the state by the state court administrator.

In other states, court executives are hired by local trial courts and may serve at the pleasure of a presiding judge or a majority of judges in the court. In this hiring pattern, tensions can develop between local-level and state-level court judicial leaders should disagreements arise over programs, court directions, or management issues.

A few states have developed a blended accountability model. Here, a CEO candidate may be nominated by the presiding judge of a court or judicial district after advice and counsel from the judges of the court, the nominee is then vetted and subject to ratification by the state supreme court or a state judicial council, and once appointed, serves at the pleasure of a majority of judges in the jurisdiction.

The Necessary Contest of State Judicial Power and Legislative Policymaking, 43 University of Richmond Law Review p 571 (January 2009).

⁵ Brutinel, Robert M. "Choosing Leadership Judges by State Supreme Court Appointment: Analysis of a Court Reform," Law and Contemporary Problems Journal, Volume 82, Number 2 (2019), Duke Law School, Durham, NC

Presiding Judge

2.7 Caseload Adjustment

Generally, a provision should be in place by supreme court rule, administrative order or directive enabling the presiding judge to reasonably reduce his/her caseload to permit sufficient time to work on administrative and court-wide policy matters.⁶ In courts with few judges, it is advisable for the presiding judge to maintain a sufficient calendar so as not to greatly reduce the caseload capacity of the court. In larger courts, where substantial time may pertain to administrative matters, it is wise for the presiding judge to periodically assume a trial court docket or calendar for short durations to ensure he/she is not out of touch (read: isolated) from the day-to-day lives of the court's judicial officers.⁷

2.8 Assistant or Acting Presiding Judge

As possible, assistant/associate presiding judge positions should be created to support judicial administration. Often, such duties may be a training ground for new presiding judges. The method of selection usually mirrors that for the presiding judge. Where there is no permanent associate presiding judge, provisions in the court's governance structure should be made to allow for the creation of a temporary, acting presiding judge to cover absences or illnesses of the presiding judge.⁸

⁶ Without such an option, chief judges may feel pressured to maintain a full docket in order to assist with the work of the trial court and maintain legitimacy in the eyes of the other judicial officers. In order to address such anxiety, the best practice is to presume a caseload adjustment without prescribing the size of it.

⁷ In large metropolitan courts, it is suggested that each quarter the presiding/chief judge assume a

Court Executive Officer

2.7 Case Adjustment

Where presiding judges take a relatively full calendar, court executives should ensure that routine meetings are scheduled with the presiding judge either outside the court's business day or during selected noon hours for working lunches. In person meeting times can be challenging in multi-county rural judicial districts where a court executive may be located at great distances from the presiding judge. Digital and telephonic means are commonplace in these situations; the responsibility for their arrangements should primarily rest with the executive officer.

2.8 Assistant or Acting Presiding Judge

It is the obligation of the court executive to ensure assistant or associate presiding judges are kept informed of discussions and decisions between the PJ and CEO. This becomes especially important where a court has a tradition of elevating these leadership judges to the presiding judge position. Increasing numbers of courts are doing so as a training ground for presiding judges and to promote greater continuity between judge-leaders.

calendar or docket of an absent judicial officer for a week. In doing so, the presiding judge should meet informally, as possible, with the judicial officers of the division, department, or geographic area to gather information and concerns of the judges.

⁸ The assistant presiding judge does not need to have the authority to make policy revisions to maintain the continuity of court operations.

Presiding Judge

2.9 Renewable or Successive Terms

The possibility of renewable or successive presiding judge terms is often part of an original selection process. At the very least, it should be included as part of any governance policy adopted by a trial court or promulgated by a state supreme court. Continuity in leadership and successive terms in office can be important when critical issues and long-term changes confront a trial court. Leadership stability is beneficial in these circumstances (e.g., new courthouse planning, court restructuring, organizational crises). Any successive terms should occur in the same manner as the original appointment or election process.

2.10 Executive or Legislative Selection

Where a presiding judge is appointed or elected by executive or legislative branch officials, it is desirable to have a formal written policy, rule, ordinance, or statute that underscores the importance of the separation of powers and acknowledges that the court and its presiding judge are vested with the responsibility to operate independently in the administration of justice within the jurisdiction. One way to do so, considered a best practice and endorsed by NAPCO, is for the appointing or elective authority to develop and select an independent committee or commission composed of judicial officers of other courts, the bar, and the public. Committee or commission members should serve fixed, staggered terms and act in an official capacity to advise the appointing or elective authority on the conduct and accomplishments of the presiding or chief judge and recommend, as appropriate, removal, re-election, or reappointment.

Court Executive Officer

2.9 Renewable or Successive Terms

Although it is common for trial courts to have governance policies or customs that permit presiding judges to be re-elected or seek appoint for multiple terms in office, it is the prerogative of the appointing or electing bodies to decide that issue. Executive officers and nonjudicial staff should remain neutral in that process. Conflicts between public duties and personal interests can otherwise be compromised.

2.10 Executive or Legislative Selection

Separation of powers is a bedrock principle of American government. Its most crucial purpose is to protect the individual from the arbitrary use of government power.

Judicial independence and the three-branch concept at federal and state levels is frequently quite blurry at local government levels in many states. State constitutions generally do not mandate separation of powers in city or county governments, and state and federal courts have historically been reluctant to require them to do so. This situation can be especially troublesome where judges are appointed by local officials. Here, general jurisdiction presiding judges and court executives with oversight responsibilities regarding city and county courts have a duty to proactively guard against threats to judicial independence and the fair, impartial exercise of justice in those courts. CEOs must always be mindful that they work for the court, not the “host government.”

Presiding Judge

2.11 Bench Assignment / Rotation Policies

Calendaring, docketing, and judicial rotation are critical features in the timely and fair processing of cases by trial court judges. Courtwide policies related to case distribution among judicial officers by case type, proceedings or geographic location is generally set by policy, rule, or statute. It is recommended that from time-to-time as caseloads, judicial officers, legal practices, space, jurisdiction, organization structure or technology change, trial courts analyze workload levels, assess performance standards, and explore new and better ways to allocate cases among bench officers. In doing so, courts have utilized weighted case load studies, sought advice and counsel of outside case management experts, or conducted internal studies on their own.

Once overall judicial assignment and rotation policies have been established by court rule or policy, the presiding judge should have the ultimate responsibility to assign judges to specific cases, calendars, divisions, problem-solving courts or to court locations across a region, as well as designating specific judges to hear particular complex or high-profile cases. In doing so, it is helpful for the presiding judge to seek advice and counsel from judge-leaders on the bench, an executive committee (should one exist) and the court executive officer in order to ensure decisions regarding judicial assignments are fair, equitable and compliant with any formal bench or supreme court adopted guiding principles.⁹

⁹ While the status, seniority, ability, interest, and possible conflicts in assigning and rotating judges will always be considerations in determining judicial

Court Executive Officer

2.11 Bench Assignment / Rotation Policies

The allocation and rotation of judicial officers among specific calendar assignments and case types is both an important yet highly-charged responsibility of the presiding judge. No matter how often it is done, or the criteria used, it is the duty of the presiding judge to formally make these assignments based on any bench or courtwide guidelines or principles in place. Court executives can certainly be consulted in an advisory capacity about specific rotations or the resulting new judicial assignments, but they must be mindful that they should not and cannot be involved in the any final decisions. The presiding judge alone is vested with that responsibility.

The power of assignment must be viewed as fair and even-handed, or the credibility of the court's judicial leaders will be seriously impaired. The benefits of judicial officer rotation and re-assignment such as cross-training, desired assignments, equitable workloads, and reduced trial court delay should be balanced against the experience and skill of individual judges and where judicial officers can be most effective and perhaps "fit" best.

At times, presiding judges may be forced to simply meet immediate needs or remediate a troubled calendar, while at other times, they may be able to take a more strategic approach to cross-training judges and capitalizing on the strengths of seasoned judges.

assignments, the suitable distribution of workloads, travel distances, and the health and individual energy levels of judges should also impact those decisions.

Presiding Judge

2.12 Case and Docket Management

High performing courts vest the presiding judge with the responsibility to ensure all cases move efficiently and responsibly through the judicial system to ensure timely resolution of at-issue matters. This also includes court-attached alternative dispute resolution programs and post-adjudication matters.

2.13 Cases Under Advisement

Most state supreme courts have rules as to how long a judge may hold a case under advisement. In some instances, the duty to report and seek an exception to the directive on a case-by-case basis is the responsibility of the assigned trial judge. If a presiding judge is truly to be vested with leadership and managerial responsibilities, then a local or Supreme Court rule concerning the monthly reporting of judges detailing the number and reason for cases under advisement exceeding standards should require that the reports be submitted to the presiding judge. It should be the responsibility of the presiding judge to discuss with the reporting judge any exceptions that the presiding judge determines needs additional explanation for the delay in rendering a decision.

Court Executive Officer

2.12 Case and Docket Management

Court executives and in-court case processing experts, be they judges or non-judicial staff, should provide education, training, and mentoring in proven caseflow practices for various case types. Case management experts from state court administration, other courts, or various consultancies may also be helpful.

2.13 Cases Under Advisement

A problem unique to trial court executives and elected clerks of court is who, where and how should nonjudicial staff track cases under advisement to ensure recordkeeping is accurate, timely, and problems are resolved. Often, judge-appointed chambers staff may be the most appropriate personnel to monitor under-advisements yet judges sometimes forget to inform them only to discover a ruling has languished after a litigant or lawyer inquires or complains about a missed target date.

Consequently, to aid trial and presiding judges in tracking and monitoring cases under advisement, it is incumbent on court executives and clerks of court to devise workable, reliable methods – principally electronic in nature - to alert trial judges about languishing rulings. Judges who exhibit habitual and chronic under-advisement delays should be referred to the presiding judge and provided remedial help in time management skills.

Presiding Judge

2.14 Supervising Judicial Officers

Some states authorize the presiding judge to handle all personnel matters within a trial court, while in others this duty is delegated to the court executive by rule, statute, or custom. Distinctions are made between judicial officers and non-judicial court staff, in terms of supervision, performance review, and codes of conduct. Some rules may incorporate reference to a code of ethics and specific procedures, where such guidelines exist, for professional conduct review. Supervision of pro-tem judges and judicial adjuncts (i.e., referees, commissioners, magistrates, hearing officers) should be the responsibility of the presiding judge. If the behavior of a judicial officer appears to be a violation of a professional code of conduct, then the presiding judge is obligated to report the alleged violation to the respective statewide authority in addition to taking internal action as deemed necessary.

2.15 Coordinating Judicial Schedules

A key duty of a presiding judge is to coordinate the schedules of judges and judicial adjuncts to ensure a sufficient number of judicial officers will always be on duty to carry out the adjudication duties for every business day. This includes coordinating and scheduling vacations, outreach, continuing education, special committee assignments, paternity or maternity leaves, or justice system liaison activities.

Court Executive Officer

2.14 Supervising Judicial Officers

Courts, like hospitals and universities, function as loosely-coupled professional organizations structured to permit relatively high-levels of autonomy by the professionals who work within them vis-à-vis the larger system within which they exist. As such, court executives serve an advisory and sounding-board role for presiding judges and judicial officers concerning organization regulations (i.e., Family Medical Leave Act, harassment policies, Occupational Health and Safety Act, etc.). How such standards condition judicial officer behavior in overseeing court employees may not be supervising per se, but it is a related regulating role, nonetheless.

In some instances, CEOs may be given limited administrative oversight of pro tem judges and judicial adjuncts. CEOs also have a responsibility, as do all court employees, to report any violations of judicial codes of conduct.

2.15 Coordinating Judicial Schedules

Court executives and nonjudicial staff are generally delegated responsibilities for managing judicial leave schedules (i.e., annual vacation leave and leave related to work, sick, family, medical or emergencies). Annual vacation leave should not interfere with the efficient administration of a judicial officer's docket. Most trial courts, according to the American Bar Association's Judicial Division, allow between 21 and 30 working days of judicial vacation yearly. Since judges are commonly available 24/7 and are non-tenured professionals, they do not normally accumulate compensatory, vacation or sick time as do civil service employees.

Presiding Judge

2.16 Meetings of Bench En Banc

The presiding judge should establish a process for consulting with the judges of the court and should call meetings of the judges as needed to consider matters relating to the business and operations of the court. The presiding judge may appoint standing and special committees of judges as needed to assist in the proper performance of the duties and functions of the court.

A presiding departmental or divisional judge, or other designated judge-leader under the supervision of the presiding judge, should use meetings to provide information and solicit comments, create a forum for discussion and resolution of difficult administrative issues, develop and propose decisions and create policy options, as necessary, for a department, division, committee, or task force of the court. A judge-leader may also use these meetings to review management information and to discuss the effectiveness of business processes used in the organization.

2.17 Court Committees

Presiding judges in most states and jurisdictions have the ability to establish committees, including any combination of judges, administrators, court staff, agency representatives, members of the bar and members of the public to address administrative issues concerning the court, study issues and options regarding operations, and propose solutions. Study results should be shared, as possible, with the bench officers, the court executive officer and others related to the topic unless for good cause the information and recommendations must be held in confidence.

Court Executive Officer

2.16 Meetings of Bench En Banc

Judges' meetings include those within a court, as well as across a circuit or district. Typically, the executive officer and presiding judge jointly develop the agenda. Either the executive or a trusted nonjudicial staff member take minutes. Some courts post bench meeting minutes in the interest of transparency, others do not. Judicial adjuncts may be represented at a meeting by a lead judicial officer or attend en mass. Voting privileges for judicial adjuncts at bench meetings vary.

Departmental meetings are conducted similar to bench meetings in paralleling presiding judge and court executive functions in planning and logistical mechanics by department judge-leaders and various court managers. The PJ and CEO should have open invitations to attend these meetings.

2.17 Court Committees

Courts carry out much of their work through standing and ad hoc committees. Oftentimes, when problems are diverse and complex, the combined judgement of a group is superior to a single individual. Court committees are extremely useful in coordinating plans and integrating and unifying varying viewpoints.

The court executive's office is normally tasked with supporting the committees, recommending policies, and handling logistics, minutes, and data gathering.

Presiding Judge

2.18 Special and Problem-Solving Courts

Whether specifically designated or left to local discretion, the presiding judge, upon advice and counsel from the judges, should have authority to create and disband specialized and problem-solving (P/S) courts or calendars as the work of the court requires.¹⁰ Although such courts are often initially funded through grants or local funding authorities, their value has been increasingly recognized as positive and funding more permanentized. Issues regarding judicial burn-out, operational consistency, over-specialization, best-practices, and long-term assignments are now confronting judicial leaders as these courts become more mainstream.

2.19 Court Operations Oversight

Presiding judges generally are vested with high-level policymaking regarding courtwide operational functions including personnel, procurement, accounting, technology, and finance decisions. The day-to-day management of such functions, however, is commonly the responsibility of the court executive. Strategic issues, policy development, and decisions regarding the identification and determination of long-term or overall aims and interests or means of achieving court operational plans and directions should be done in concert between the presiding judge and court executive officer. Significant reorganization, policy changes, or restructuring of court operations should never be undertaken without the advice and counsel of the bench and state supreme court.

¹⁰ Just as there are many variations of P/S courts (i.e., drug courts, mental health courts, veteran's courts, domestic violence courts, etc.), there are many types

Court Executive Officer

2.18 Special and Problem-Solving Courts

Most court executive offices are knowledgeable about these types of courts, including calendaring requirements, case preparation needs, and therapeutic or diagnostic support to address underlying addictive and behavioral problems causing criminal conduct. Training new specialized court and problem-solving judges, developing adequate support staff, and solidifying funding are the principal challenges. Additionally, global triage processes should replace separate screenings and assessments by P/S courts in a jurisdiction, service gaps should be addressed, and system barriers eliminated to improve outcomes.

2.19 Court Operations Oversight

For the most part, court operations are largely the province of the court executive's office and court administration. Although trial courts vary in the nature and extent of their operational components, among the most critical are technology (digitized data, voice and images), business process management (essentially caseload and workflow throughout the court), human resources (workforce operations, recruitment, education, training), budget and purchasing, litigation services (self-help, ADR, jury management, interpreters), court performance assessment, customer service, security, emergency preparedness, facilities management, recordkeeping systems, and in some situations juvenile/adult probation program and service oversight.

of specialty courts and calendars (i.e., business courts, tax courts, small claims courts, landlord/tenant courts, foreclosure courts, etc.)

Presiding Judge

2.20 Court Facilities and Security

There are two items of particular concern regarding court facilities. First, the relationship of the court to its “host government,” whether a state, county, or city. Here, frequently the court is regarded as an “anchor tenant” in a courthouse operated by the executive branch. Although the court may be given great deference in managing and modifying its space in the courthouse, or at satellite facilities owned and operated by the “host government,” it must act diplomatically, conscientiously, and decisively in promoting changes and improvements.

Secondly, courts have unique security and disaster planning needs not commonplace for other government agencies officing in a courthouse or shared court facility. Consequently, court leaders have a duty to responsibly advocate and implement suitable security safeguards for court users and vulnerable populations, cyber security defenses, and widespread emergency management plans.

2.21 Strategic Planning

Certain states require courts to establish long-range plans for their operation and judicial improvements. In some instances, an overarching state court entity may create this plan and trial courts are required to adhere to it. In other states, the presiding judge is empowered to formulate the plan for his/her local jurisdiction and synchronize it with state supreme court objectives.¹¹

¹¹ Recently, some state court systems have abandoned traditional strategic planning, turning instead to “strategic campaigns” built around 4-5

Court Executive Officer

2.20 Court Facilities and Security

Increasingly in recent times, court leaders have moved more forcefully toward managing court space and heightening security. Space configurations are becoming more flexible and utilitarian in new and remodeled buildings exhibiting such changes as collegial chambers, shared courtrooms, multi-purpose jury assembly rooms, and open-plan office configurations for certain nonjudicial staff.

According to the National Center for State Courts, 80 percent of effective security in courthouses pertain to operations, not building or space design. An interagency court security committee chaired by court leaders is recommended in promoting and monitoring security policies and issues. Three separate zones of security – a public zone, judges/staff/empaneled jurors’ zone, and prisoner zone – are suggested for courthouses. Public screening, courthouse surveillance, prisoner transport, court floor inmate holding, CCTV, separate victim/witness areas, and courtroom and conference room duress alarms are all features of modern court security.

2.21 Strategic Planning

Strategic planning is a vehicle for leadership to raise new ideas and directions. If done honestly and openly, usually it is thorough enough to raise the real dilemmas that frequently plague a court. Court executives should be able to exercise objective insight and analytical clarity in that process and in routine strategic decisions outside that process.

themes, a limited set of projects, and a 2-3-year time horizon. More about this approach can be obtained from the National Center for State Courts.

Presiding Judge

2.22 *Liaison with Outside Agencies*

Trial courts, through the presiding judge, must maintain good communications and careful ties with other government agencies, private entities, and the community. Also, given that the court's principal concern is justice, the PJ is in a unique position to constructively convene multi-justice agency initiatives to address systemwide problems.

2.23 *Trial Court Budget*

Budgeting often tends to be a complex and difficult task. It usually requires familiarity with past budgets as well as with formulas and procedures used by the state, county, or city to determine certain aspects of the budget and properly file the budget request. This suggests that the budget is initially best handled by the court executive who has substantial knowledge and experience. Sharing this responsibility with the CEO is beneficial to the presiding judge due to his/her short term in office in many jurisdictions. Presentation of the budget and responsibility for good fiscal administration is a function of the presiding judge in many jurisdictions. The process requires, however, that the presiding judge and court executive act as a unified team in developing, presenting, justifying, and administering the budgets.

Caution needs to be exercised by judicial leaders concerning overly strident demands for funding. Inherent power suits challenging legislative authority to reduce or cut court funding are difficult to win. Generally, appellate courts have found against trial courts that fail to comply with reasonable requests to decrease costs.

Court Executive Officer

2.22 *Liaison with Outside Agencies*

Court executives, as trusted strategic colleagues, are key PJ allies in representing the court with justice system partners and in organizing justice system task forces, projects, and improvements. Often, an executive's institutional memory, collective sense of facts, historical perspectives, diplomatic skills, experience, and know-how prove very useful.

2.23 *Trial Court Budget*

The court executive should take the lead in developing, assembling, and managing the details of the annual operating and capital budgets. Budget estimates are intimately related to expense projections, strategic objectives, hiring practices, funding formulas, and political opportunities and constraints which may be established by state legislatures, counties, cities, state court administrative offices, supreme courts, or judicial councils. Also, revenue from different funding sources must be factored into final court budget requests, appropriations, and expenditure plans.

The budget process typically follows a routine set of timelines established by funding sources. Often substantial program and performance data is required in specially prescribed formats. Court executive offices, and senior management staff under the CEO's leadership, should be skilled at complying with these matters. In essence, the budget and appropriation processes are more about relationships, reliable performance data, accountability, and stable rapport between court and budget officials.

Presiding Judge

2.24 *Media Relations*

Along with the need to interact with other government agencies, courts find that they must also work with the media at certain times and in special situations. This can include anything from simple press releases or responses to pressures of high-profile cases or media-targeted issues within the court. This provides the same need for an official to speak for the court as do liaison duties with government agencies, and so the same rationale for placing the responsibility with the presiding judge exists. The skills necessary or the specific situation in interacting with the media may lead the presiding judge to delegate this responsibility to another court official, such as the executive officer or a public information specialist should the court employ such a person.

2.25 *Caseflow Statistics*

In most states, statistical reporting is a specific aspect of record keeping. Many states require court compliance in reporting to a state court administrator or judicial council case processing and performance data. This duty is also frequently delegated to the court executive officer. In addition to reports required by the state, it is the responsibility of the presiding judge to work with the bench and executive officer to define case management and operational reports needed by judges and staff to monitor and ensure each and every case is progressing through the adjudication process in accordance with applicable standards governing timeliness.

Court Executive Officer

2.24 *Media Relations*

Cultivating positive relationships with the media serves the best interest of the court and judiciary. Consequently, court executives need to be media savvy (e.g., understanding the needs of the media, providing useful, appropriate information, and coordinating media interaction with the court). Commonplace functions CEOs, or public information specialists under their charge, carry out involving the media include preparing press releases, developing educational information about court processes and programs, facilitating interviews, arranging judicial public appearances, developing social media guidelines, working with judges in high-publicity cases, and coordinating “crisis response teams” to counter unjust public criticism of the court or judiciary.

2.25 *Caseflow Statistics*

Caseflow management and the routine development and maintenance of useful performance data for judges and nonjudicial staff in managing calendars, monitoring case processes, and ensuring timely case disposition is critical for well-functioning courts. Court executives should be skilled and capable in such activities. Evidence-based research about proven methods, techniques, and measures for effective case processing should be familiar to court executives and senior management staff regarding case delay reduction, alternative dispute resolution, discovery bottlenecks, calendar structures, time standards, differentiated case management, post-adjudication management, problem-solving courts, and backlog reduction.

Presiding Judge

2.26 Crisis Leadership

How to lead in times of crisis, whether natural or human caused, often requires skills tailored to an environment of urgency, trauma, and uncertainty. Those who have studied effective leaders in such situations point to a short list of valuable key behaviors that include: seeking credible information; communicating frequently, truthfully, and honestly with judges, staff, and court users; functioning decisively (avoiding analysis paralysis) while giving people opportunities to improvise better ways to operate; being present, visible, and available to boost morale; building connections with the front-lines to ensure an awareness of changing conditions; and strategizing often and closely with confidants - most importantly the CEO and court's leadership team - on ideas, directions and action plans.

2.27 Systemic Racism

Research indicates most, if not all U.S. organizations – including trial courts – have baked within their policies, practices and norms inequities that disadvantage people of color. Although constitutional and statutory bans exist against discrimination on a variety of human characteristics (i.e., gender, disability, age, etc.), by far the most pervasive and insidious is race.

The genesis of *systemic racism*, however, is not intentional harm or hate that can be documented and is clearly outlawed, but on collective harm that can be identified and detected by its impact on people of color. To address it, organizational cultures – “the way we do business around here” - must change. Court leaders, starting with the PJ and CEO, must be mindful and vigilant in eradicating organizational racist impacts that commonly are “hidden in plain sight.”

Court Executive Officer

2.26 Crisis Leadership

Over the last few decades, trial courts have been encouraged to develop Continuity of Operations Plans (COOP) to establish policies and guidance ensuring that critical functions continue, and personnel and services know-how exists in responding should a catastrophic emergency occur. CEOs, along with assistance from state court administration, often serve as the key trial court leaders in developing such plans.

COOP efforts call for a high degree of coordination and harmony among the court and its stakeholders (i.e., counties, cities, supreme courts, and health and safety agencies) in developing, practicing, and maintaining the COOP. A COOP guide and template can be obtained from the NCSC at <http://cdm16501.contentdm.oclc.org/cdm/ref/collection/facilities/id/254>

2.27 Systemic Racism

Where to start and how to implement meaningful initiatives to combat systemic racism is not for the short-winded. It frequently begins with outreach efforts to listen to and gain a greater awareness of the experiences of those affected and harmed by racism. Some label this initial step “The Conversation.”

In gaining deeper insights on how court culture can disadvantage people of color, many courts have increasingly promoted diversity, equity and inclusion as an umbrella, overarching philosophy in all their programs; expected court leaders to be “all-in;” continued to elevate the voices of those marginalized; and encouraged judges and staff to be more consistent in thought, word and deed throughout every workplace, every day, and in every encounter.

Presiding Judge

2.28 Appellate Records Provision

In many states, the presiding judge has the duty to ensure records related to cases on appeal are provided to appellate courts expeditiously. Express delegation of this records management responsibility avoids confusion over who is accountable and responsible. The authority of a presiding judge to intervene may vary significantly between those persons who are employed by the court and those who serve as external officers of the court. In particular, the authority of the presiding judge over an elected clerk of court who may have responsibility for all or parts of the “record on appeal” may be limited and/or sensitive.

2.29 Elected Clerk of Court Coordination

The majority of states have elected clerks of court as constitutional officers with responsibilities to maintain official court files, manage fines, fees, and costs, provide courtroom clerks to record proceedings, record and process judgments, and other duties the law may allow (e.g., jury management, assistance to self-represented litigants, etc.). The functions filled by clerks of court are both essential and historical.

In many states, presiding judges have “superintendency authority” over the clerk by virtue of supreme court rule, administrative order, or directive as a result of past tensions, role confusions or operational difficulties. If such problems surface and are unresolvable at the local level, it is frequently left to the supreme court to mediate, reconcile, or formally settle them.

Court Executive Officer

2.28 Appellate Records Provision

Official case records maintained at the courthouse can be held by elected clerks of court or the court executive. Verbatim trial transcripts in audio, video or transcribed stenographic form may be in the custody of court reporters, the clerk, or the executive. Notwithstanding formal statutory or appellate court directives, the court executive should ensure proper protocols are in place and carried out for the effective and timely maintenance, storage, retrieval, and transmission of such records.

2.29 Elected Clerk of Court Coordination

In states with no elected clerk of court, the court executive typically serves that role. Where independently elected clerks of court exist, it is desirable for the three key trial court leaders – presiding judge, court executive and clerk – to coordinate their interrelated duties and activities as an interactive, supportive group.

The day-to-day blended operational activities of both elected clerk and court executive staffs largely centered on adjudication support and intermingled work and business processes (e.g., courtroom recordkeeping helps create caseflow management data; case filings generate calendar assignments, etc.). Where such activity exhibits collaboration, mutual respect, and open communication, trial court systems tend to thrive.