

Question: Should new or remodeled court space be designed, developed, and built to support and emphasize collegial judicial chambers and shared courtrooms?

Answer: Yes, when and if there is either substantial remodeling in the Historic Courthouse or relocations of portions of the Court's adjudication process to buildings outside the Courthouse

Background: A national trend is growing toward building collegial judicial suites, as well as the construction of shared courtrooms and away from the traditional courthouse model of one courtroom to one chambers, each one-to-one set assigned to a specific judicial officer. Similar to a law office environment, collegial judicial suites and the joint use of common areas...in a law office environment, it means conference and client meeting rooms; in a courthouse, it means courtrooms...are increasing in popularity not only because of spatial economies; but, because of opportunities for shared resources, increased security for judicial officers and staff, and the indirect benefits of creating a stronger, collaborative judicial community.

In this new approach, chambers are clustered together in a secure section of a courthouse rather than scattered throughout the building attached to separate courtrooms. Collegial judicial suites in new courthouses are often located on the uppermost floors or in strategically secured areas behind courtrooms, allowing for increased safety and better controlled access to judicial officers and support staff. Shared courtrooms are also recognized as an efficient use of space and a growing best practice, especially in times of limited resources and underutilized jury trial courtrooms.

A shared courtroom is one used routinely by more than one judicial officer based on the nature of the matter litigated and/or the calendaring system utilized by the court. Rarely does jury courtroom utilization reach 100 percent. However, caseflow experts generally conclude that general jurisdiction trial courtrooms in use for formal litigation more than 50 percent of the time are indicative of an inefficient caseflow system.¹ This is by virtue of the fact that most general jurisdiction cases – whether criminal or civil – are resolved without trial, but require judicial attention to prompt resolution. Often the attention comes in the form of quick hearings or conferences in the courtroom (motions, pretrials, settlement conferences, sentencings, pleas etc.) or consultations in chambers, jury deliberation rooms, or conference rooms rather than protracted formal trials.

In today's world, jury courtrooms often sit vacant for two reasons. First, there are noticeably fewer formal court hearings and a confirmed decrease in trial rates over the last three decades nationwide. The numbers of criminal and civil jury trials in state and

¹ National Center caseflow studies and observations.

federal courts have been declining steadily according to the Center for Jury Studies at the National Center for State Courts.² Since 1976, as an example, the number of civil jury trials decreased about two-thirds in both state and federal courts while the number of filings and dispositions continued to rise dramatically.³ Although there are many causal factors, chief among them are the burgeoning use and availability of mediation, arbitration and other forms of alternative dispute resolution, and active early settlement and issues' resolution conferences by judges during the pretrial stages of a case.⁴ The judicial system in Polk County has a number of court-based services in place to increase the likelihood for early and party-based resolution. Smart caseload management is centered on reducing trial court delay by promoting settlement at the front-end of the process to reduce both cost and delay in litigation at the back-end.

Secondly, responsible pretrial caseload management techniques frequently require judges to "work the case" in more informal settings such as chambers (provided the chambers area is large enough to accommodate a number of participants), or conference rooms adjacent to chambers' areas. Also, it should be noted that more specialized courtrooms have increasingly appeared in response to the reduction in jury trials. In newer courthouses, criminal pretrials are frequently scheduled en masse for in-custody defendants in specially secured courtrooms without jury boxes, but including appropriate adjacent space for attorney/client conferences to review plea agreements.⁵

² Additional information on trial trends in state courts can be obtained by referencing the Court Statistics Project of the National Center for State Courts (http://www.ncsconline.org/D_Research/csp/CSP_Main_Page.html) while additional data regarding the "Vanishing Trials Project" can be obtained by contacting the Litigation Section of the American Bar Association (<http://www.abanet.org/litigation/taskforces/cji/>) The Knowledge and Information Services Division at the National Center is also a good source of updated information at http://www.ncsconline.org/D_KIS/index.html

³ A number of in depth studies over the years have been conducted on trial trends. The most recent reviewed data samples from state trial courts over a 26-year period from 1976 to 2002. Conducted by the National Center, it was published in the *Journal of Empirical Legal Studies* in November 2004. In addition to the actual trial numbers, trial rates have been also assessed. The use of trial rates standardizes the variations that are inherent in states of different sizes and with different disposition trends, thus allowing for better comparisons to be made among states. In 1976, the starting point for the felony trial trend, there were 52 felony jury trials per 1,000 felony dispositions (approximately 5 percent of all felony dispositions) and 37 felony bench trials per 1,000 felony dispositions. By 2002, the felony jury trial rate had fallen to 22 jury trials per 1,000 dispositions, or just over 2 percent of all felony dispositions, while the felony bench trial rate fell to 10 trials per 1,000 dispositions. Similarly, civil jury trial rates in general jurisdiction courts fell from 1992 to 2002, from 18 trials per 1,000 civil dispositions to 13 trials per 1,000 dispositions. General civil bench trial rates experienced no change; both the 1992 and 2002 bench trial rates were 43 trials per 1,000 dispositions. Source: Court Statistics Project, National Center for State Courts.

⁴ Nationwide, general jurisdiction trial courts rarely try to verdict more than 2 to 5 percent of the cases filed, yet the typical courthouse is often structured as if every case will be formally litigated by jury trial.

⁵ Two jury courtrooms at the Polk County Courthouse are currently being used for pretrials and front-end in-custody hearings. The jury box is used as seating space for prisoners; notably a somewhat dangerous and chaotic practice.

Drug courts are another example of jury-rigged⁶ or contorted courtroom space in many older courthouses, including Polk County. These specialty courts are an example of what judicial administration has begun to label “problem-solving courts.”⁷ They follow a medical/behavioral model in applying progressive sanctions coupled with evidence-based treatment regimes for chemical addictions and behavioral problems. Recidivism rates have been shown to be much less for defendants handled in these settings. Space requirements are quite different than traditional jury courtrooms, generally entailing unique areas for conferences, caseflow staff, lawyers, treatment providers, and probation adjacent to the courtroom. The striking difference in these new approaches is the absence of the adversarial model and in its place a much more interactive, team approach among prosecution, defense and support services.

Regarding shared courtrooms, it can be argued that the District Court in Polk County largely does so now from the standpoint that district judges (except probate court) routinely move assignments every one to two years and most associate district judges (except juvenile court) change calendars every six months. Additionally, there is a culture of relinquishing larger courtrooms by their “resident” judges to other jurists when multi-party or complicated trials necessitate it.

Further, it is an acknowledged fact that judges in general jurisdiction trials are required, in the course of formal litigation, to occasionally recess a trial for private conferences with lawyers and/or other participants in chambers. District judges in Polk County do so. Any widespread, effective, shared courtroom plan would call for accessible, confidential “meet and confer areas” near the courtrooms should resident chambers not be located adjacent to permanently assigned courtrooms. How to accomplish that in the Polk County Courthouse is challenging; likely requiring additional non-adjudication functions to vacate the building and substantial, well thought-out remodeling.

As possible, courtroom locations in the Polk County Courthouse are currently clustered by function. For the most part, civil trial courtrooms, generally having smaller numbers of participants and presenting fewer security problems than criminal cases, are located on the upper floors. Higher volume criminal matters are sited on the lower floors along with juvenile hearings. Exceptions

⁶ “Jury-rig” is a term referring to makeshift changes created with only the materials that happen to be on hand. Originally a nautical term on sailing ships a jury rig is a replacement mast and yards (a horizontal spar used with square sails to which the sails are attached) improvised in case of damage or loss of the original mast. It has nothing to do with juries in a court setting.

⁷ Some researchers term these new approaches diagnostic adjudication or therapeutic justice. Essentially, the approach is a combination of therapy and accountability for the offender, and restoration for the victim and community. Drug courts, mental health courts, homeless courts, juvenile courts, teen courts, quality-of-life courts (prostitution, ordinance violations, vagrancy, etc.), and prison re-entry courts are examples.

are two busy Family Courtrooms located on the fourth floor presenting both congestion and security issues.⁸ It should, also, be noted that unresolved contested cases in family law, and to a smaller extent overflow criminal cases in exigent circumstances, are heard by eleven district judges on the civil docket. This does tend to exacerbate space and security problems generally throughout the courthouse.

Analysis: Collegial judicial suites provide the opportunity for...

- a law firm-like, efficient environment;
- shared judicial officer, court staff, technical and supply resources;
- a less encumbered exchange of legal and case-related information among judicial officers and judicial support staff;
- a convenient and more informal mentoring process for new judicial officers;
- a stronger commitment to judicial community and the court as an institution; and
- a heightened level of safety and protection for judicial officers consistent with separate courthouse zones of security.

All judicial and suite support staff (e.g. court attendant, court reporters) would office in a common area with modular office cubicles in close proximity to their assigned judicial officers. Team-building, cross-training, and ease in covering staff absences will be enhanced. Sharing resources are more achievable as well.

The configuration of judicial officer and support staff for associate district judges would be similar, only the location will change to congregate them near juvenile, front-end felony, and misdemeanor courtrooms. Associate judges frequently share courtrooms now. A first floor location in the courthouse or specialized space in other areas can more effectively accommodate high case volumes accompanied by shorter adjudication processes, ease of public access into and out of court facilities, more trouble-free “way-finding” by the public once inside court buildings, and reduced overall building infrastructure stress (e.g. elevators, restrooms, hallways).

In addition to the effective use of limited resources and the chances that a one-to-one ratio of courtrooms to judges will likely never achieve 100 percent utilization, shared courtrooms offer the benefits of increased usage of existing courtrooms, the equitable assignment of dignified and more spacious courtrooms for all case types⁹, and the very real possibility of courtroom design and

⁸ Suggestions by some court leaders to move Juvenile Court functions out of the Courthouse and Family Court to the first floor are responsible directions to pursue.

⁹ Family and juvenile court judges are often assigned to smaller and less formidable courtrooms because there is no need for jury space. This often creates the perception to the litigants and the legal community that family and juvenile court cases are not as important as civil and criminal cases. Additionally, smaller courtrooms are confining when parties are in conflict and numerous participants are present.

development by function rather than one archetypical courtroom template.¹⁰ Considerations that must be included in a shared courtroom environment, however, include the administrative resources and processes devoted to courtroom scheduling; and the need for an adjacent, private, dignified space (e.g. dedicated conference facilities, non-used jury deliberation rooms, etc.) for traditionally “in chambers” discussions and work areas for judicial officers to temporarily retire during short breaks and recesses to make telephone calls, confer with her/his staff or lawyers, perform legal research, check e-mail, etc.

Finally, current judicial culture is often laden with the perceptions of courtroom entitlement; that justice is tied to the ensured availability of a courtroom; and that the difficulties of scheduling judges to a limited number of courtrooms is an overwhelming administrative task.¹¹ Although some judges interviewed expressed openness to the shared courtroom concept, district judges in Polk County are generally accustomed to permanently assigned courtrooms for each judicial officer. It is important to note that unassigned courtroom scheduling does work in many general jurisdiction courts across America, but to move to that pattern in Polk County will require a willingness to change and adapt to new work patterns on the part of the judges. One factor which may encourage change is the current deplorable condition of many of the courtrooms and chambers in the Courthouse and the likelihood that with significant remodeling things will be much better.¹²

Advice: In addition to the very real savings in space and dollars, collegial judicial suites offer a host of benefits. The Court should be mindful of the space implications, of course; but the real pluses in collegial judicial suites for Polk County lay in the anticipated enhancement to judicial and court culture, economies realized in support staff assignments, the potential for better and more useable space, and improved safety and security for judicial officers. It is upon this basis the NCSC believes the Court’s decision should be predicated.

Overcoming a culture of judicial entitlement and the tradition of a one-to-one ratio of judges-to-courtrooms will be the greatest challenge in moving to shared courtrooms. However, court researchers are acutely aware of the limited number of cases that go to trial, nationally and locally, as well as the substantial efforts and services of the Court toward early resolution of cases. A shared courtroom concept is a reasonable option, NCSC consultants feel, for the better use of adjudication space in light of vanishing

¹⁰ For example, courtrooms could be designed by court functions such as arraignments, motion hearings, jury trials, bench trials, sentencing, etc.

¹¹ See *Courthouse Construction: Information on Courtroom Sharing*, United States General Accounting Office, April 2002, Washington, D.C.

¹² There are many District courtrooms that have no private ingress or egress to the attached chambers, a courtroom and chambers that must be disinfected weekly to avoid a roach infestation, another where the air conditioning noise is so bad proceedings have to be recessed from time to time, and at least two where heat and cooling cannot be controlled effectively in either winter or summer.

formal litigation, the growth of more informal problem-solving judicial forums, and the extremely dysfunctional space the Court endures at the moment in the Historic Polk County Courthouse.

To a certain extent, high-volume, short-cause calendars assigned to associate district judges, juvenile judges or magistrates - most dockets handled by these judicial officers are brief, fast acting ones - or those district judges on one-year exclusive assignments – principally family and criminal – take place in special-purpose courtrooms now. Judges assigned to these highly rotated calendars are somewhat fungible; traveling from one location to another to conduct court in a multi-use courtroom is therefore not unusual. The 11 district judge general civil calendars, each having a one-to-one chamber to courtroom ratio, have potential for sharing in a newly configured courthouse. A commonly seen general jurisdiction ratio of chambers to courtrooms in this new model is 1 to 0.75 or 1 to 0.80, essentially 4 chambers to 3 courtrooms or 5 chambers to 4 courtrooms, respectively. Caution is advised in making a leap to this new design within the Old Courthouse as it exists today. Workable collegial chambers and shared courtroom patterns within the confines of the present layout would be exceedingly problematic due to the varied and contorted condition of many courtrooms, poor chamber and courtroom configurations,¹³ difficulties in travel distances, and inherent security problems within the building.

In both issues of collegial judicial suites and shared courtrooms, work toward that model should begin concurrent with planning for broadscoped development of new space for the Court. It is a recognized smarter, efficient, and more citizen-friendly way of doing business.¹⁴

¹³ In some instances, judges cannot enter or leave their chambers without going through their courtrooms. Some chambers are too small to conduct status conferences with lawyers and the parties; others are not acoustically soundproof, and many do not meet recognized national security standards and guidelines.

¹⁴ Citizen wayfinding within the courthouse is enhanced when calendar assignments and courtrooms remain static.