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Engaging Paradox in Situated Practice: A Study of Electronic Case Management in Family Law

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Engaging Paradox in Situated Practice:
A Study of Electronic Case Management in Family Law

DISSERTATION

submitted in partial satisfaction of the requirements

for the degree of

DOCTOR OF PHILOSOPHY

in Organization and Management

by

Alexandra M. Toll

Dissertation Committee:
Professor Gerardo Okhuysen, Co-Chair
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2019

DEDICATION

To

my family

"If there is tragic limitation in life, there is also possibility. What we call maturity is the ability to see the two in some kind of balance in which we can fit creatively."

- Ernest Becker

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ABSTRACT OF THE DISSERTATION

Engaging Paradox in Situated Practice:

A Study of Electronic Case Management in Family Law

By

Alexandra M. Toll

Doctor of Philosophy in Organization and Management

University of California, Irvine, 2019

Professor Gerardo Okhuysen, Co-Chair

Professor Melissa Mazmanian, Co-Chair

This dissertation examines how organizational paradoxes are managed in practice, over time, and under technological change. Paradox theory suggests that technology is a disruptor, intensifying tensions and rendering them salient. Less is known about technology's role in responding to tensions or the complex and situated experience of managing paradox. I investigate these issues through an ethnography examining the implementation of a new case management system in the Family Law division of a California county court. Employing a suite of theoretical lenses – sociomateriality, microfoundations, and power – I present three studies of organizational paradoxes upended following this change.

In the first study, I explore the social and material actors involved in managing the tension between standardization and individualization in the performance of service. I find

that different configurations of people, artefacts, and policies create opportunities to *reframe* the tension. Learning from *errors* allows each reframing attempt to reduce the space and time required for its performance, facilitating the gradual integration of competing demands. The second study examines how visibility into individuals' actions is experienced in performance evaluation schemes that emphasize collective goals. I find that system features rendering individual actions visible trigger defensive behaviors focused on protecting individual interests above collective goals. Managers' use of *empowering actions* and *reassuring discourse* reduce anxiety by anchoring individual performance standards and minimizing dissonance. In the third study, I examine shifting power dynamics in the negotiation of belonging across multiple groups. I find three ways in which the new case management system serves as a tool for circulating power among courtroom clerks, managers, and judges: *collapsing the spaces* of role play, *creating opportunities* for concessions, and *(re)defining expertise* and its relative influence.

Taken together, this research shows how the transformation in court services under electronic case management echoes a transformation in the meaning of service for those charged with its provision. As performing, organizing, and belonging tensions are upended and repaired under the new technology, new practices shift the focus of service from customer to case file, challenge employees' shared sense of responsibility to case resolution, and surface new identities and sources of power.

CHAPTER 1: INTRODUCTION

Use of electronic case files is rapidly becoming the norm in courthouses across the nation. Not long ago, filing a case with a state trial court involved a mountain of paperwork and numerous visits to a courthouse. Since 2014, however, every state in the nation is either using electronic files or currently engaged in a project to enable electronic case filing (MacMillan, 2010). More than 20 states have already implemented mandatory electronic filing for attorneys in civil cases, and some are expanding the practice to other case types (Bergal, 2014). For current and prospective litigants, electronic case files hold the promise of increased access to case information, as electronic records are available from anywhere at any time of the day. For court employees, judges, and attorneys, the transition to electronic files represents a complete overhaul of their practices (MacMillan, 2010).

Despite its popularity, the large upfront costs associated with electronic filing, along with concerns about security, privacy, and infrastructure requirements, continues to pose a challenge for many courts (Liebert, 2001). As a result, "going digital" has taken many forms. For most, the transition has required multiple phases of adoption. Some courts simply use electronic case records as an index, allowing litigants and court employees to search for cases and to obtain summary information. In more advanced courts, litigants initiate cases from the comfort of their homes, 24 hours a day, 7 days a week; they only ever visit a courthouse when they require a judge's intervention. The transition to electronic filing thus reflects a mix of old and new technology and a prolonged period of change within and across state courts.
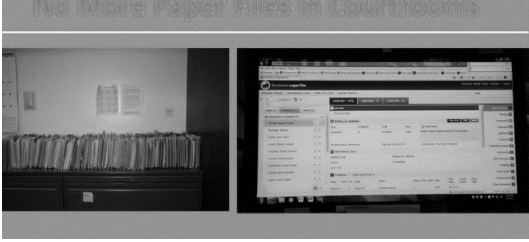
Regardless of its form, electronic case management requires a shift in the way litigants engage with the courts and in the practices performed by employees. Electronic case management systems provide opportunities to codify and to automate business processes, enable remote and flexible work arrangements, and alter the skills required to maintain case files. While the potential benefits and consequences of electronic filing have been debated among legal professionals, less attention has been given to how this transition is experienced among court employees.

The original aim of this research was to explore whether new technologies enabling electronic case management affect the timing, pacing, and location of work. Using the implementation of a new case management system as a marker for change, my intention was to compare employees' practices before and after the system's launch, allowing the initial data to reveal more specific questions from these broad themes. As I became immersed in ethnographic fieldwork, however, an interesting puzzle emerged. During initial meetings with the executive team, I was introduced to their imagined future state under electronic filing. The Chief Executive Officer (CEO) shared pictures of court divisions[1] who were already reaping the benefits of electronic filing (see figure 1-1). These images displayed empty shelves, uncluttered work surfaces, and empty queues where long lines of courthouse visitors once stood. Litigants seemed to recede into the background. In the future state, executives suggested, litigants would be free to stay home, comfortably engaging an online system that would guide them through a set of common procedures

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[1] Court divisions denote different case types (e.g., Civil, Criminal, Juvenile, Family Law, etc.).

required to move their cases from initial filing to resolution. "With these changes," the executive team proclaimed, "courts become more efficient and, in turn, provide better services."

Figure 1-1. Images Depicting the Benefits of Electronic Filing

Benefit	Before & After
Eliminate queue to access the Clerks' Office (file documents)	
Eliminate need for storage space to maintain paper files	
Eliminate space required to store paper files inside courtrooms	
Eliminate piles of paperwork on employees' desks	

Initial observations prior to the new system's launch, however, painted a different picture regarding how Family Law employees viewed the potential future state. As I began observing Court employees at the Clerks' Office, I not only observed litigants lined up to receive their help filing case documents, but I also felt litigants' anxiety and witnessed their uncertainty about the process. Court employees who interacted with litigants during moments of anxiety and uncertainty regarded their work as a deeply personal and emotional labor, requiring a constant balancing act between care for individuals and attention to standard policies and procedures. During interviews, employees expressed pride in the notion that their work required more than "pushing paper," instead equating it with "saving lives." They expressed optimism about "moving into the new age" of technology, but they expressed concern that the changes posed a threat to service quality, as employees' attention would be redirected to the new system's input requirements. The contrast between executives' expectations and employees' concerns piqued my curiosity, as it revealed a paradox. The system intended to improve service and to promote efficiency was feared as a source of inefficiency and poor service quality by the employees charged with using it. This small "p" paradox prompted a preliminary review of management theories to sharpen the focus of my inquiry.

Paradox theory (with a big "p") proved a generative source of insights. Within this theoretical framework, paradox refers to the "persistent contradiction [or tension] between interdependent elements" that appear to be opposites but "exist simultaneously and synergistically" (Lewis, 2000; Smith & Lewis, 2011; Schad, Lewis, Raisch, & Smith, 2016). Paradoxes may be latent and only when they become salient through disruptions

(e.g., change, scarcity, or multiplicity of voices and perspectives) do tensions manifest. It is during these periods of salience that new response cycles ensue, restoring or creating a new balance between poles. For example, the balancing act between caring for individuals and attending to standard procedures is a performing paradox. The introduction of new technology threatened this "balancing act", challenging the intended benefits of the transition to electronic case filing. In Chapter 3, I focus on the paradox of standardization and individualization and explore the practices involved in its management[2] as observed in the Clerks' Office. In the course of data collection, other examples of tension and contradiction became evident. In Chapter 4, I revisit the Clerks' Office, shifting the focus to the tension between fostering collective responsibility and enforcing individual accountability, an organizing paradox managed by Case Processing supervisors. In Chapter 6, I enter the courtroom, focusing on the belonging paradox experienced by courtroom clerks whose loyalties are stretched across competing memberships in the administration and their judge's "courtroom family".

From the underlying theme of paradox and a subsequent review of the corresponding management literature, a set of research questions began to take form, including: How do tensions emerge and reproduce over time? How does the "balancing act" between poles develop from the practice and configuration of tasks? How is it upended or changed? To answer these questions, a deeper understanding of paradox as a theory and

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[2] Paradox management refers to the strategies undertaken by organizational actors to accept or resolve paradox and fuel successful outcomes (Smith & Lewis, 2011).

method of inquiry is needed. Next, I briefly review the paradox literature, providing an overview of key insights and developments in this field from a quarter century of research.

Paradox Theory

Rooted in philosophy and psychology, paradox has recently captivated management scholars, as increasing complexity and the rapid pace of change require new lenses with which to explore organizations. No longer focused on simply documenting paradoxes, scholars use paradox as a lens with which to explore how organizations navigate tension and break through opposition. This promising literature stream proposes a meta-theory of paradox that shifts the focus away from identification (label) to application (theory) in management research.

The following overview of paradox studies and theoretical developments highlights key insights gleamed by management scholars engaged in this research. I begin by defining paradox and presenting its key features. Next, I present three seminal publications that serve as the foundation for the theory of paradox. These works highlight the nature of paradoxical tensions within organizations across levels of analysis and in different contexts. Then, I summarize documented responses to paradox, listing both defensive reactions and active responses that have revealed strategies for managing paradox. Last, I present Smith and Lewis' (2011) *dynamic equilibrium model*, which brings together the key assumptions and insights from the literature and serves as the current framework for the study of paradox. I conclude this section with a targeted list of areas for further inquiry alongside the research questions that guided this research, thereby situating my dissertation in the literature. I explain how this list serves as a roadmap for this study.

Defining paradox. Paradox is broadly defined as "contradictory yet interrelated elements that exist simultaneously and persist over time (Smith & Lewis, 2011)." Key to understanding paradox research is identifying *tension* (Smith & Lewis, 2011), as opposing poles pull in different directions and often require separate and distinct actions (Cameron & Quinn, 1998; Smith & Berg, 1987). Though opposite, when taken together these actions create unity or synergy, a *duality* in which both elements "inform and define" one another (Schad et al, 2016; Lewis, 2000). While the contradictions inherent to paradoxical tensions are never resolved, it is in organizations' interests to keep both poles of the paradox alive and in harmony so as to realize their respective benefits. From this perspective, opposing forces "reflect back on each other" and *persist* in ongoing "interaction and dependence" (Orlikowski & Scott, 2008).

While these key features of paradox (i.e., tension, duality, persistence) provide clarity regarding phenomena of interest, where paradoxes originate and how they surface remain contested. Scholars offer two possibilities: (1) paradox is inherent to organizational systems (Andriopoulous & Lewis, 2009; March, 1991) and (2) paradox is constructed by individuals engaged in sensemaking (Ford & Backoff, 1988; Smith & Berg, 1987). Lacking consensus, recent studies embrace "an integrative perspective" which suggests that paradoxes are "always both": inherent and socially constructed (Smith & Lewis, 2011). The integrative perspective, nevertheless, recognizes that paradox is always *perceptual*, noting that only when individuals focus on contradiction and opposition that tensions surface and become salient.

Smith and Lewis (2011) suggest that tensions are brought to light by conditions in the environment such as plurality (many shareholders with different interests), change (the introduction of new technology, industries, markets, etc.), and scarcity (lack of resources). Whether latent or manifest, tensions exist side by side, and may reinforce one another, highlighting the *multiplicity* and complexity of organizational life. These defining characteristics of paradox (see table 1-1 for an overview) serve as a checklist for discovery.

Table 1-1. Defining Features of Paradox

Tension	• Opposing poles create tension • Poles seem logical when isolated but irrational together
Duality	• "Two sides of the same coin" • Cannot be pulled apart (synergistic) • Distinguishes paradox from dilemmas and dualisms
Persistence	• Ever-present; never resolved • Perpetuated in reinforcing cycles or managed in everyday work • May remain latent until exposed through disruption • Distinguishes paradox from dialectics
Perceptual	• Cognitive & social • Constructed in minds (reflection) or discussion (social)
Multiplicity	• Multiple tensions co-exist at different levels (individual, group, organization) • Tensions take on different forms (tension between competing demands, group memberships, organizational designs, etc.)

* Summarized from Lewis, 2000 and Smith & Lewis, 2011.

Foundations of paradox. Three seminal publications within the management literature capture paradox across various contexts and through various applications. They show how individuals, groups, and organizations are inherently paradoxical, and together serve as the foundation for current research (Schad et al., 2016). This work is described below, and its key findings are used to outline the evolving meta-theory of paradox.

In the first among these foundational works, Smith and Berg (1987) provide a meso-level analysis that reveals the paradoxical nature of groups and brings attention to the nature and sources of conflict within them. While prior research ignored conflict or focused exclusively on how to resolve it, they identify a set of contradictory tensions that are at the center of group dynamics across time. For example, individuals must uphold the unique features of their identity while creating, and at times, subverting it to a collective identity. Once included in the group's circle, members face ongoing tension between the drive for individuality and the goal of collective expression. By understanding group processes as an ongoing negotiation between competing interests, the authors argue, it becomes possible to see conflicting interests as features rather than defects.

Murningham and Conlon's (1991) study of British quartets, for example, provides an empirical example of this argument. Through interviews and observations of group performances, the authors trace underlying tensions related to leadership and democracy (authority vs. subversion) as well as confrontation and compromise (individuality vs. collective expression). Within successful string quartets, they find, members do not seek to resolve tensions, instead *accepting* them. Providing further support for the inherently paradoxical nature of these interactions, they note that members of successful string quartets *focus inward* to improve collective performance. In so doing, they *transcend* the paradoxes of group life, balancing contradictory demands to achieve a successful performance. These authors highlight the multiplicity and persistence of paradox in everyday life and they explore how individuals and groups cope with paradoxical tensions in their day-to-day interactions.

In the second foundational work, Cameron and Quinn (1988) take a macro-level perspective and explore change in organizations. The authors suggest that using a paradoxical frame to embrace disruption is central to achieving peak performance. Because paradox is often undetectable in day-to-day organizing, change is a key factor bringing it into relief (Smith & Lewis, 2011). Identifying examples of change initiatives within organizations, the authors introduce *reframing* as a way of embracing disruption. Building on their insights, Luscher and Lewis (2008) provide an empirical example of reframing and explore how middle managers make sense of change that upends the existing order between contradictory demands. They find that managers' "frames" or the assumptions that guide their sensemaking about change, evolve through conversation and reflection. Through these activities, they develop coping strategies to facilitate the desired change. The authors' reveal the perceptual and social nature of paradox in highlighting tension and in responding to it in order to achieve desired organizational outcomes.

Switching from examples to applications of paradox as a conceptual approach, the third foundational article by Poole and Van de Ven (1989) offers paradox as a tool for theorizing. The authors suggest that bringing multiple theoretical lenses together and finding points of tension provides a fresh toolkit to explore the nature of organizations. They identify several responses to paradox: *acceptance* of opposing poles, *spatial separation*, *temporal separation*, and *synthesis*. Subsequent empirical work has used their typology to describe how organizations react to change and the types of structural and discursive features enabling them to succeed. For example, Adler, Goldoftas, and Levine (1999) found that the underlying meta-routine used by Toyota's manufacturing lines

employed strategies such as *splitting* and *partitioning* to create "small breaks" between the

assembly of different model parts. These splits and partitions enable movement from one

assembly routine to another, allowing managers to engage the tension between flexibility

and efficiency in a productive balance[3].

Together, these articles highlight the presence of paradox across different levels of

analysis (micro, meso, and macro) and phenomena (group dynamics, change, and

innovation). Their findings provide a set of reactions to tensions and coping strategies that

serve as a point of departure for paradox research. Since their publication, a new wave of

paradox studies has emerged, citing increasing complexity and change within organizations

as a catalyst for more targeted research. Calling for a deeper understanding of paradox

within organizations, scholars have begun to develop a framework to explore it. This

framework builds on the three seminal publications discussed above to develop typologies

of paradoxical tensions, reactions, and managerial approaches. In the following sections, I

present an overview of this framework.

Categories of paradox. Building on prior work, Smith & Lewis (2011) highlight

four key activities performed within organizations in which paradoxical tensions are

present[4]. They include: (1) *learning*, focused on when, how, and at what pace knowledge is

acquired, (2) *performing*, focused on strategic goals that generate competing demands, (3)

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[3] I use the term balance to denote the act of "addressing contradictory but interdependent elements" (Schad et al., 2016, p. 37). In the field, filing clerks also used this term, referring to their work as a "balancing act" between saving lives and adhering to standard policies and procedures. Balance does not imply a static state, nor does it suggest equal weight of each element.
[4] Three of the four categories (learning, organizing, and belonging) were first presented in Lewis (2000).

organizing, focused on the design of systems and cultures to motivate and to evaluate employees, and (4) *belonging* paradoxes, focused on identity and competing loyalties within and among organizational groups. Although individual tensions within a category can and often are studied in isolation, organizations typically face multiple paradoxes. In some cases, they are "nested" or "interwoven" and work together to enable and upend one another (Smith & Lewis, 2011). For example, Jarzabkowski et al. (2013) identify three "interwoven" paradoxes in their study of a telecommunication company engaged in a restructuring initiative. They find that the organizing tension between regulatory and market demand triggered by new regulation influences belonging tensions (competing loyalties between department and organization) as well as performing tensions (competing demands and interests across roles).

Table 1-2 provides an overview of these four categories along with corresponding examples. In a recent review of paradox literature, Schad et al. (2016) found a preponderance of studies that focus on learning paradoxes (e.g., exploration and exploitation) and a dearth of studies centered on paradoxes of belonging. They point to new studies that call attention to nested tensions and suggest a need for more research into multiple paradoxes within organizations.

Table 1-2. Categories of Paradoxes*

Type	Definition	Examples
Performing	Reflect contradictory demands, goals and interests	• Cooperation & competition • Global & local
Organizing	Develop from complex systems with competing designs and processes	• Efficiency & flexibility • Empower & control
Belonging	Emphasize competing identities within organizations	• Unity & diversity • Homogeneity & distinction
Learning	Revolve around choices about the nature and pace of engagement.	• Radical & incremental innovation • Episodic & continuous change

* Summarized from Smith & Lewis, 2011.

Responses to paradox. Responses have been broadly characterized as either

defensive, aimed at maintaining the status quo, or *active*, aimed at accepting the

"opportunities" presented by opposing poles (Smith & Lewis, 2011). Summarizing the

management literature, Lewis (2000) identified six defensive reactions: (1) *splitting*

elements to emphasize opposition, (2) *projecting* to another party, (3) *repressing* the

tensions, (4) *regressing* to past actions (5) *reaction forming* or performing the opposite

action, and (6) *ambivalence*. She complemented these with a set of active responses

(*confrontation, acceptance, and transcendence*), offering a revised account of Van de Ven'&

Poole's (1989) techniques for managing paradox productively that was presented above.

Table 1-3 provides an overview of this typology. With this list of responses, paradox

scholars are poised to better understand how tensions may be exacerbated to produce

counterproductive responses and how they may be managed for gain.

Table 1-3. Summary of Responses to Paradox

Source	Defensive Reactions	Definition
Smith & Berg, 1967	Splitting	Spatial or temporal separation
	Repression	Denial
Vince & Broussine, 1996	Regression	Resorting to past understanding
	Projection	Scapegoating
	Reaction formation	Over-emphasis on opposite
	Ambivalence	Lukewarm reaction

Source	Active Reactions	Definition
Smith & Berg, 1967	Confrontation	A form of reframing
Poole & Van de Ven, 1989	Acceptance	Appreciate differences
	Transcendence	Paradoxical thinking (both & and)

* Summarized from Smith & Lewis, 2011.

The dynamic equilibrium model. Smith and Lewis (2011) offer a *dynamic equilibrium model* (see figure 1-2 for an overview), suggesting that tensions exist in ongoing cycles of engagement and in response to environmental triggers. According to the model, when a paradox is rendered salient, the resulting response may be defensive, seeking to maintain the status quo or to emphasize one pole. Such responses trigger *vicious cycles* that maintain the tension's salience through an ongoing push and pull between competing interests (Lewis, 2000). In other cases, the trigger's response takes the form of *active* engagement with the paradox in *virtuous* cycles, accepting duality and confronting the challenges posed by managing contradictions.

Moreover, periods of transition contribute to complexity by requiring past actions to persist alongside new practices (Schad et al., 2016). For example, Gilbert (2005) found that the continued presence of mainframes as the *change* to personal computers was underway prolonged the debate about the preferred strategic focus (presenting a *plurality* of interests) and use of resources (creating a sense of *scarcity),* promoting ongoing

competition between organizational groups (Schad et al., 2016). As paradox persists, the

balance between opposing poles shifts, creating new ways of responding to and engaging

with the tension (Schad et al., 2016). Despite its impact on organizational practices and

outcomes, attention to the dynamics of paradox has been limited.

Figure 1-2. Dynamic Equilibrium Model of Organizing

Paradoxical Tensions	Responses	Outcomes

Latent Tensions
- Plurality
- Change
- Scarcity

(cognition)

Salient Tensions

- Cog/Behavior Complexity
- Emotional Equanimity
- Dynamic Capabilities

Active Reactions
(mgmt. strategies)

Defensive Reactions

- Consistency
- Anxiety
- Defensiveness

Sustainability
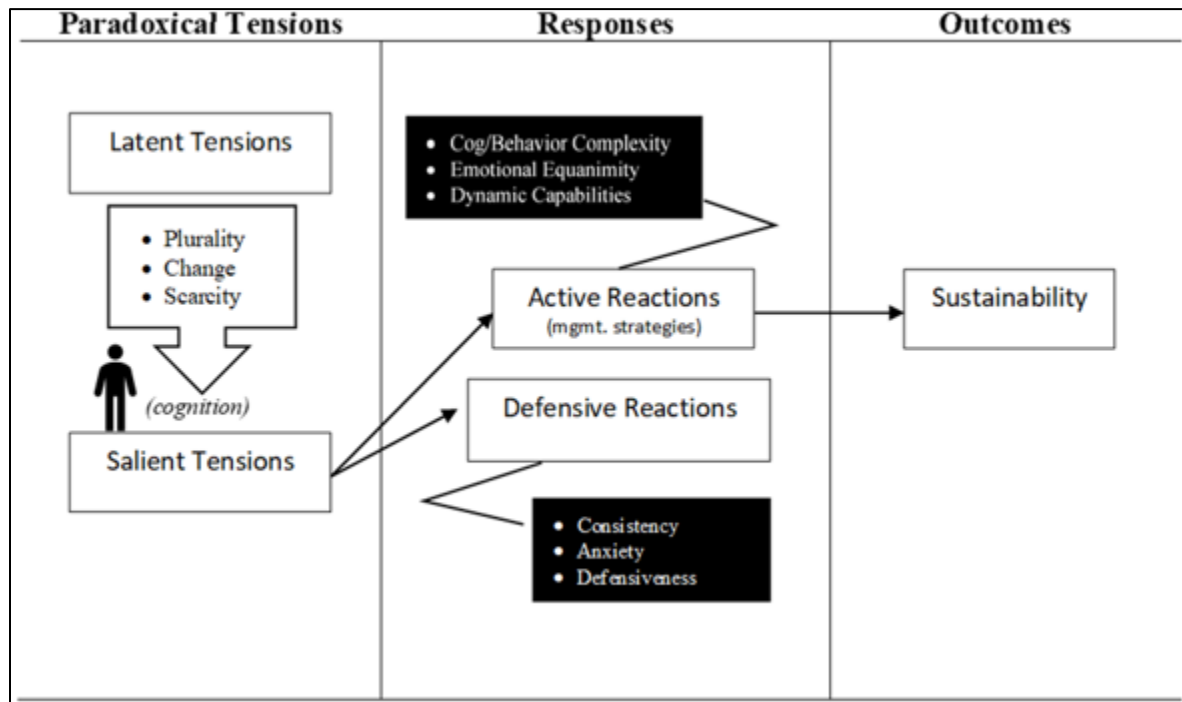
* Adapted from Smith & Lewis (2011)

Areas for further research. The management literature summarized above points to the promise of a developing theory of paradox, growing in scope and expanding in its conceptual clarity and methodological rigor. It also highlights areas for further development[5]. My data provide insights into several open questions and calls for further research. Table 1-4 charts a roadmap for discovery throughout this dissertation. It maps my research questions to key themes that remain underexplored in the current literature (Schad et al., 2016; Putnam, Fairhurst, & Banghart, 2016; Fairhurst et al., 2016) and to the corresponding empirical chapters in which they are addressed. The following is a brief overview of this roadmap.

Process. While management scholars have found a window into paradoxical phenomena, most have focused on a single tension and a "sequential pattern" (Schad et al., 2016). This dissertation research explores three paradoxical tensions and uses participant reflections and observations to look beyond the period of disruption and initial response to capture iterations of ongoing management. In doing so, I answer the call for more *process* driven, longitudinal research that spans multiple cycles of engagement and ongoing management (Putnam et al., 2016; Luscher & Lewis, 2009; Andropolous & Lewis, 2009; Jarzabkowksi, Le and Van de Ven, 2013).

Microfoundations. Further, there is a need for more research on the *practices* performed by employees who engage paradoxical tensions in their day-to-day work and the *microfoundations* of paradox management (Putnam et al., 2016; Jarzabkowski, Le, &

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[5] Several of the questions and themes explored in this dissertation were inspired or suggested by one or more of the recent reviews in the *Academy of Management Annals* (Schad et al., 2016; Putnam et al., 2016, and Fairhurst et. al., 2016)

Van de Ven, 2013). Reacting to the emphasis on cognition in existing paradox research, Putnam et al. (2016) suggest a constitutive approach to the study of organizational paradoxes that foregrounds sociality through discourse and practice. This research draws from the constitutive approach and puts a spotlight on practices, in addition to individual reflections, thus expanding the scope of actors engaged in managing paradox.

Sociomateriality. I argue that practices are not just performed by people; they involve digital and physical artefacts along with the policies and organizational narratives that sustain them. By taking a practice perspective, this research draws attention to the *co-constitutive role of materiality and sociality* in shaping the experience and management of paradoxical tensions.

Dynamics. Lastly, attention to the underlying relational *dynamics* that serve to expose and reconcile competing interests is needed. Putnam et al. (2016) suggest, "paradox insights will be elevated when scholars recognize the multiple approaches by which power informs, and is informed by, paradoxical dynamics (pp. 177-178)." My research tackles this challenge.

Table 1-4. Open Areas for Further Inquiry

Focus	Process	• How do tensions reproduce over time? • How is "balance" upended or changed?
Chapter 3	**Sociomateriality**	• How do digital and physical artifacts, policies, and narratives serve to upend or resolve tensions?
Chapter 4	**Micro Foundations**	• How do individuals influence responses to paradox?
Chapter 5	**Power Dynamics**	• How do power dynamics inform tensions and how do they shift over time?

Summary of the Dissertation

This dissertation research examines how paradoxical tensions are managed over time and under technological change. Three new theoretical lenses inform my analysis of paradox: sociomateriality, microfoundations, and power. Each of the three empirical chapters showcases one of these lenses. To follow, I describe the three empirical chapters, along with the context and methods chapter and the conclusion, which serve as the bookends for this dissertation.

Chapter 2 provides an overview of the research site and the methods I used to collect and analyze data. I also provide context about California court system and its ongoing adoption of electronic filing along with background information on the specific division (Family Law) that is the focus of this dissertation.

Chapter 3, the first empirical chapter, focuses on the performing paradox of standardization and individualization managed by filing clerks. I focus on case filing, a recurring step in the life of a case, and tell the story of the practices that Court employees engage in to process case filing documents into electronic case files. I review how the three-step review performed by filing clerks, data entry clerks, and records specialists facilitated the separation of customer care from case file update, thereby allowing space and time to split the tension between individualized customer care (i.e., attention to customers unique circumstances) and standardized service (i.e., execution of efficient policies and procedures). I trace the evolution of this step through the actors, actions, and management strategies involved in its performance as well as the resulting errors that rendered some changes untenable and propelled new modifications to the workflow. Chapter 3 ends with

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an overview of how materials and policies provide opportunities to reframe and transform the space and time through which the paradox is managed.

Chapter 4 continues the story introduced in Chapter 3. It shifts the focus away from the performance of service to the organization of work. I focus on the organizing paradox that managers face when rendering individuals accountable while fostering a sense of collective responsibility for the Court's work. Throughout this research, Case Processing managers and supervisors engaged in a self-reinforcing cycle favoring collective responsibility, as the tools they used to track performance obfuscated the individual in favor of aggregate measures. When the new system was introduced, however, employees' perceptions about what elements of their work were visible and traceable changed, even as managers continued to focus on aggregate measures. I highlight the key elements that inform whether employees work past their anxiety about what is visible and measurable to continue to focus on collective goals. The comparison between the Case Processing department and the Records department provides valuable insights into the impact of various management practices. Chapter 4 concludes with an overview of the differences that shaped the evolution of responsibility and accountability in the two departments.

Chapter 5 turns to a new set of actors and explores the belonging paradox experienced by courtroom clerks as both members of their "courtroom families" and members of the Court's administration. I describe the way in which courtroom clerks' identity is informed by their membership in both groups, a balancing act between the competing values and interests of administrative "chiefs" and judges. I show how the introduction of the new case management system upended this negotiated order, and I

chart the power dynamics that ensued as courtroom clerks attempted to renegotiate order

between their competing memberships. I explore whose interests are served in the

process.

Chapter 6 concludes the dissertation. I discuss how the insights obtained from this

research inform the broader discussion about paradox within organizations and help to

incorporate more of the complexity and multiplicity that has been largely absent from the

literature to date. I discuss how the use of multiple lenses such as sociomateriality and

power help to capture different aspects of paradox management. I conclude with

implications of these findings for the theory of paradox.

CHAPTER 2: CONTEXT AND METHODS

In this chapter, I describe the context of this study as well as the data and methods used to address its central questions about the management of paradox under technological change. A constitutive view of paradox requires attention to the role of "socio-historical conditions" in creating contradictions, serving as the foundation for their ongoing presence in discourse and action (Putnam et al., 2016). Consistent with this approach, I highlight the historical roots of the three paradoxes explored in this study broadly, situating them in major trends within the court system. I presenti key events in California's trial court system and describing the county court and its Family Law division, which is the setting for this study. I conclude with an overview of my research design and methodology, chronicling the data that I collected and the analyses that I performed to inform this research.

Institutional Context

A trend towards the "managerialization" of courts dates back to the 1980s and remains a central tenant of today's trial courts. This "reform" logic suggests that the rapid growth and complexity of demand for court services requires more efficient and more innovative techniques only possible using management principles. Two key features of the reformist's approach are a trend towards less judicial autonomy and more systemization through information technology (Heydebrand and Seron, 1990). The trend towards less judicial autonomy stems from an emphasis on simplification, standardization and routinization of court services that make it possible to scale up to meet demand. This trend feeds into and is served by a focus on systems and information technology. Technological

innovation facilitates process automation and access to case information, allowing the

courts' work to continue outside of the courtroom and, ultimately, outside of the

courthouse. Technology has the potential to allow the courts to provide services 24 hours a

day, 7 days a week. These trends are best evidenced in the California trial court system

through two key events in its recent history – the consolidation of superior and municipal

courts and the California Case Management System project.

California's unified trial court system. In 1998, California voters approved a

constitutional amendment to consolidate superior and municipal courts in its counties. The

move was intended to alleviate financial pressure from local courts and to create

opportunities for "improved management of court records and reductions in general court

administrative costs ("Proposition 220", 1998)." County courts were centralized under the

state's Judicial Council, the policymaking body of the state's judicial system. While

consolidation alleviated municipal courts' pressure to secure funding and adequate

resources, it also shifted control from the local judiciary to a county superior court and,

ultimately, a state body. The resulting unified trial court system still in place today is the

largest in the nation, serving 40 million people across its 58 unified trial courts.

Under the unified trial court system, the Judicial Council makes decisions about how

to allocate resources across counties. The formula used to allocate funds is reviewed

periodically to ensure equity across courts. Under the current formula[6], counties compete

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[6] The Workload-Based Allocation and Funding Methodology (WAFM) was introduced in 2014. Previously
(1998-2013), funding was based on historical budget amounts, so that courts in communities with more
people and more wealth received a larger cut of the budget than less populous and less affluent communities
("Trial Court Funding Formula," 2018).

for resources with each other (and with other areas of the state budget) based on their workload, defined as a combination of the number of cases received and the types of cases handled ("Trial Court Funding Formula," 2018). As a result, the "numbers", or counts of services offered by categories, play an important role in how the courts evaluate their work and think about their performance. This focus demands greater standardization of procedures and automation of work, allowing courts to both serve litigants more quickly and to keep an accurate count of the services they offer. Technology thus plays a key role in this process.

California's case management system. In 2001, an assessment of the case management systems used across California's superior courts pointed to major challenges to the effective use of technology. Many of the case management systems in use were outdated, unable to meet standard requirements, and produced significant maintenance costs. In response to these findings, the Judicial Council approved a new project to develop a statewide case management system. Development of a custom solution was recommended, noting that available products from third-party vendors did not meet all requirements (Administrative Office of the Courts, 2007). Between 2001 and 2012, California devoted in excess of $500 million dollars to developing a case management system for use across its trial courts. During the project's development, a national recession spurred massive budget cuts throughout the state that demanded court closures, layoffs, and reduced work hours. The technology project, and its ballooning budget, continued until 2012, when the Council voted to cancel it before the system was ever released.

Ironically, while California is the "home of Silicon Valley and produces world class technology, its state courts... the busiest in the nation...operate[d] largely on manila folders and file carts" until recently. The state-wide case management system project's failure led to frustration and questions about the cost efficiency of a centralized system. Superior courts throughout the state were forced to consider how to move forward with their own projects to replace legacy case management systems. This dissertation focuses on some of the actions taken by a county court following these developments.

Research Setting

This study explores the Family Law division ("Court") of a county court ("Superior Court") in southern California (see figure 2-1 for a graphic representation). Within California, Superior Court is recognized as a leader in technology innovation, and it is widely praised for its proactive approach to process improvement. Superior Court is among the five largest county trial courts in the state. Approximately 150 judicial officers[7] preside over nearly half a million new cases a year[8] across several case types (i.e., family law, juvenile, criminal, civil, probate and mental health). Alongside its judicial officers, the Chief Executive Officer (CEO) and the executive leadership team are responsible for Superior Court's administration.

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[7] Judicial officers are either judges or commissioners. Judges serve six-year terms and are elected or appointed by the Governor. Commissioners, on the other hand, are appointed by and "serve at the pleasure of" the court.
[8] Reported in the State Court Overview (July 2016).

Figure 2-1. The California Court System
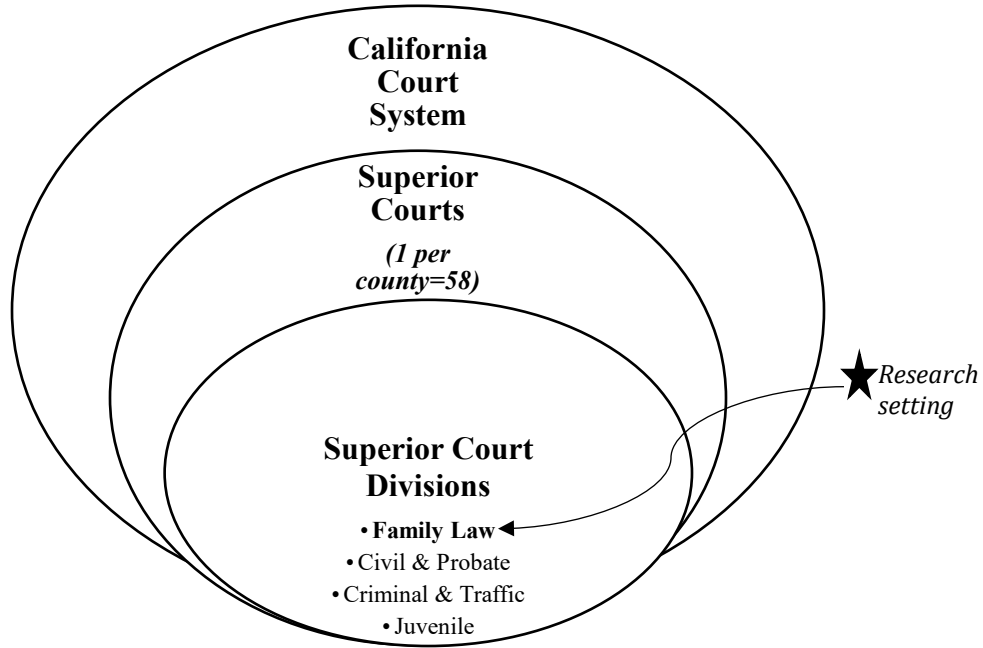
Superior Court, like many state trial courts throughout the nation, faced major external challenges over the last decade that prompted review and streamlining of its services. Following the recession of 2008, massive budget cuts prompted a period of turmoil, and the executive team launched a series of process re-engineering and automation initiatives to continue providing services with fewer resources. These efforts allowed Superior Court to redirect staff across divisions and departments so that personnel reductions resulted from "normal attrition" rather than massive layoffs whenever possible[9]. Nevertheless, Superior Court had 1,500 employees in 2015 (the start of field observations), 400 fewer than were deployed throughout its justice centers before the

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[9] Reported in the Superior Court's Annual Report (2016).

recession. The focus on efficiency and process improvements that ensured Superior Court's survival over this period of turmoil ultimately led to a culture of continuous operational improvement and technological innovation.

Superior Court's drive to implement electronic case filing across its divisions is a key example of its commitment to process improvement through technological innovation. In 2009, Superior Court announced a new statute recognizing the use of electronic case files as the official record, and it embarked on a project to gradually implement electronic case filing across its divisions[10]. The executive team's strategic vision was to eliminate the need for paper documents. Their aim was to realize cost savings (reducing physical storage costs and eliminating the need for personnel to maintain paper case files) and to generate revenue (allowing courts to charge litigants for access to case information online).

Electronic case filing involves an ecosystem of technology, people, and policies (see figure 2-2 for an overview). The use of an electronic case management system is only one component of this ecosystem, albeit a necessary component to which all others are linked. This clarification is important for a couple of reasons. Broadly, the transition to electronic filing involves multiple steps and systems over time. It involves periods in which old and new technology and ways of doing coexist and battle each other for prominence. Specifically, Superior Court's vision required a massive and coordinated effort that could not rely solely on the state's case management system to be realized. In fact, Superior

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[10] Note the distinction between electronic case filing and electronic case files. Electronic case filing denotes an end-to-end electronic process. In such an environment, litigants enter case information, court employees review and process filings, judges view case information, and litigants submit judgments that are subsequently approved by a judicial officer or clerk entirely online.

Court's divisions had been using electronic case management systems as far back as the 1990s, but all divisions continued to operate with paper case files. As of 2009, electronic case management systems across Superior Court's divisions were used for the sole purpose of maintaining a searchable digital index of current and archival cases.

Figure 2-2: Ecosystem of Electronic Case Filing Technology

1. CMS: an index of case records enabling easy search & access to files.
2. ECS: a document viewer allowing judges to use electronic case files, must be able to "flip" through their calendar and cases easily.
3. DMS: a digital repository where scanned images of case documents or eFiling forms are linked to CMS.
4. eFiles: digital forms allow litigants to file their case information online.
5. Website: a user-friendly & robust website allows litigants to access and file case information online & from the comfort of their home.
6. IVR: An automated response system that "reads out" case information from the case management system

To replace paper files with electronic case files, Superior Court needed support from their judicial officers. In 2010, Superior Court released an Electronic Case File System (ESC) for judges and piloted its use in Civil Law. The document viewing system (or "dashboard") was "bolted on" to the case management system, displaying case information that mirrored the way judges viewed paper files and searched cases. With the introduction of the new system, Civil Law judges stopped using paper files in the courtroom, instead using their dashboard system to view electronic case files online. As a result of the new

system's success, Superior Court received the top award for Improvement in the

Administration of Courts that year[11]. A year later, the Family Law division implemented

ECS, becoming the second division to abandon use of paper files.

Between 2010 and 2012, Superior Court continued to invest in projects throughout

its divisions to enable use of electronic filing. Technology projects included procurement

projects for document image management systems and ECS implementation projects in

other divisions. People projects included a large-scale effort to scan existing paper case

files and new employee training programs to adjust to computer-based work. Meanwhile,

the outdated case management systems from the 1990s were still in use, as Superior Court

awaited the release of the statewide case management system. The state's stalled effort

was problematic because the case management systems were the hub to which all other

new technology in support of electronic filing was attached. Divisions where the existing

case management system could accommodate other elements of the ecosystem (e.g., Family

Law) forged ahead with electronic case filing technology projects; however, they continued

to operate under outdated technology. Divisions where the case management system was

too rudimentary to link to other components (e.g., Juvenile) were unable to switch to

electronic case files; thus, they were hampered by their inability to provide new online

services to litigants and attorneys. When the decision to abandon the state-wide effort was

announced in 2012, Superior Court chose the Family Law and Juvenile[12] divisions to begin

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[11] According to the Superior Court's Annual Review, the number of visitors to the courthouse on civil matters between 2009-2015 dropped more than 34% with the introduction of electronic case files.
[12] Given the sensitive nature of juvenile cases and statutes protecting the confidentiality of proceedings, I was not granted access to observe Juvenile's replacement project.

their own case management system replacement project. This dissertation was structured to permit comparison of Family Law practices before and after the new system's implementation. To honor the variety of people and functions involved in performing Family Law services, the following is a detailed overview of its departments, functions, and employees.

Family Law. Superior Court's Family Law division ("the Court") ranks among the top 10 largest family law courts in the country (with respect to case load). On average, the Court receives between 20,000-30,000 new petitions a year across three overarching categories:

- Dissolution of marriage or domestic partnership (~10,000 cases/year)
- Paternity disputes (~2,000 cases/year)
- Adoption and termination of parental rights (~500/year).

The Court also settles related matters concerning:

- Custody and visitation disputes
- Division of assets and spousal/child support (~7,000 cases/year),
- Domestic violence disputes & protective orders (~5,000 cases/year).

As in Superior Court, judicial officers (judges and commissioners) occupy the top rung in the Court's hierarchy. A total of 19 judicial officers are charged with helping families resolve their disputes, and each has over 3,000 cases on their active docket that stretch back three years or more. Alongside judicial officers, a division manager and a team of deputy managers and supervisors are responsible for the Court's operations inside and outside of its courtrooms. While accountable first and foremost to "the bench", the Family

Law manager reports to an executive director who is a member of Superior Court's executive team. Figure 2-3 depicts the link between the Court's judicial and administrative governance and Superior Court's structure.

Figure 2-3. Family Law's Judicial & Administrative Governance Structure
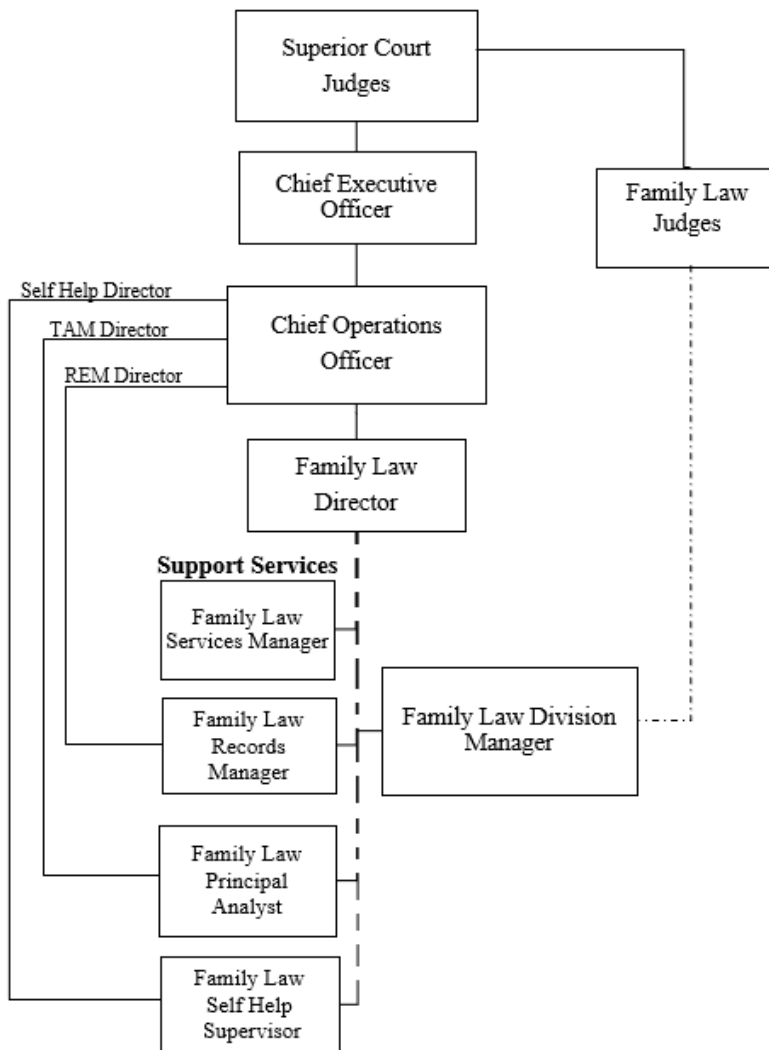
Support services. Working in conjunction with the Court, several divisions provide specialized support services, including records and exhibits management, court reporters, interpreters, child custody mediators, and self-help centers. Family Court Services (FCS), for example, reports to the Family Law Director and provides mediation and investigation

services to families throughout the county. Their trained mediators work with families to resolve custody and visitation issues and to provide supervised visitation services for children and their parents.

Other support services are organized around a shared service model across divisions. The leadership team overseeing each of the support service areas works directly with the Superior Court's COO. Furthermore, a dotted line reporting relationship exists between managers from each team and the director of the division to which they are assigned. The leadership team in each shared service department ensures that services are leveraged across case types and that best practices are upheld whenever possible.

The Records & Exhibits Management department ("Records") is responsible for maintaining all active and settled case records across divisions. At the beginning of data collection, a supervisor and 4 records specialists were assigned to Family Law. They were charged with reviewing and scanning the Court's case documents and maintaining a digital repository of case information. A new quality control specialist function was added during this study, and 4 QC specialists joined the department. Records and QC specialists are a critical part of case filing, as their work ensures that scanned images of case documents appear in electronic case files.

The Training and Analyst Team is responsible for providing training, documenting procedures, and leading process improvement projects across divisions. This department was formed in the year prior to the start of fieldwork. In the past, training analysts had reported directly to division managers. In Family Law, training specialists were part of the Case Processing department, and they served customers at the filing windows and

performed back-office duties in addition to their training responsibilities. According to the Family Law director, the COO created the new department to allow "project teams to lead projects and people (division supervisors) to lead people." By separating training and process improvement projects from the division's day-to-day operations, Case Processing supervisors were free to focus on developing their employees instead of leading process improvement initiatives. At the start of data collection, The Training and Analyst Team in Family Law consisted of 1 manager, 1 supervisor, and 2 training analysts (one of whom had been a training specialist in Family Law). As part of the new case management system's project plan, the training analysts were assigned the work of updating all the Court's procedures to reflect the functionality and workflows in the new case management system.

The Self-Help unit assists self-represented litigants with their cases. Self-Help employees are attorneys and paralegals who organize workshops and provide litigants with general assistance on how to move their cases forward and how to complete their paperwork. Self-Help centers throughout the county offer basic assistance on Family Law cases, providing forms, explaining steps involved in the process, and providing information about the status of cases.

Together, these department support the Family Law division, which is comprised of two departments responsible for delivering the bulk of Family Law services: (1) the Case Processing department handles case filings and (2) the Courtroom Operations department supports judicial officers inside the courtrooms. The following is an overview of these departments' personnel and key functions (see figure 2-4 for the division's structure) along with a brief overview of the Court's experience with electronic case management.

Figure 2-4. Family Law's Organizational Structure and Workforce

```
                        ┌─────────────────┐
                        │   Family Law    │
                        │    Division     │
                        │    Manager      │
                        └────────┬────────┘
                          ┌──────┴──────┐
                          │    Admin    │
                          │  Assistant  │
                          └─────────────┘
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Case Processing Deputy Manager	**Courtroom Operations Deputy Manager**

Case Processing Deputy Manager reports:

Case Processing Supervisor	Case Processing Supervisor	Case Processing Supervisor
8 LPS	13 LPS	9 LPS
2 Data Entry Clerks	1 Info Processing Technician	3 Data Entry Clerks
1 Office Assistant		1 Office Assistant

Courtroom Operations Deputy Manager reports:

Courtroom Ops Supervisor	Courtroom Ops Supervisor	Courtroom Ops Supervisor	Courtroom Ops Supervisor
4 Courtroom Clerks	12 Courtroom Clerks	10 Courtroom Clerks	10 Courtroom Clerks
6 Courtroom Assistants	6 Courtroom Assistants	5 Courtroom Assistants	5 Courtroom Assistants
2 Data Entry Clerks			

Case processing. The Case Processing department is responsible for helping customers file their case documents in the Clerks' Office. A deputy manager, who reports directly to the division's manager, oversees three supervisors responsible for the day-to-day operations of the Clerks' Office. Filing clerks, stationed at the Clerks' Office filing windows, assist an average of 70,000 customers a year. Back-office employees stationed at cubicles behind the filing windows process case documents received by mail or delivered

to the Clerks' Office and placed in a physical drop box. A total of 30 filing clerks and back-office employees are designated legal processing specialists, and they are responsible for receiving and processing an average of 600,000 case filing documents each year. Legal processing specialists are not required to hold a college degree, and they must have at least one year of clerical experience combined with customer service experience at the time of hire. Nevertheless, most of the legal processing specialists I met had some college education or were currently attending college. According to anecdotal accounts from managers and supervisors, the turnover rate among legal processing specialists is high, both the result of promotions and attrition[13].

In addition to the legal processing specialists, a team of data entry specialists created electronic records for all case filing documents in the case management system. At the start of data collection, five data entry clerks entered 600,000 case documents into the system each year. Although they were familiar with the existing system's shortcuts and processed documents quickly, delays in data entry were often a culprit for backlog. By the end of data collection, three of the five data entry clerks had been promoted to new roles in the Court.

Courtroom operations. The Courtroom Operations department is responsible for helping judges conduct hearings and manage their caseload. The Court's 19 judges preside over and issue orders on an average of 90,000 hearings each year. To facilitate this process, the department employees 36 courtroom clerks, 19 of whom are assigned to a judicial

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[13] Data about turnover is not reported in the Annual Report to the state; only vacancies are noted. Although there was a general sense that turnover was high, managers did not point to a specific rate that was being calculated or tracked.

officer while the remaining 17 serve as relief clerks. Relief clerks assist with status and

resolution conferences[14] and fill in for their colleagues who have judge assignments when

they are on vacation, sick, or need a day away from the courtroom to focus on their

administrative duties. Each of the 19 courtrooms assigned to Family Law judges is also

equipped with a courtroom assistant, responsible for managing the courtroom's calendar.

Although courtroom assistants are not assigned to judges, they are assigned to courtrooms.

The Court employs 22 courtroom assistants, 19 are charged with "working the calendars"

of the Family Law courtrooms, and the remaining 3 serve in a relief capacity by filling in for

absent colleagues or managing the specialty calendars.

     Family Law's case management system. At the start of data collection, the Court was

poised to replace its existing case management system in use for over 20 years. The legacy

system was a green-screen, character-based application that had been purchased from a third-

party vendor who provided support services in the early years after its implementation. However,

the Court eventually purchased the software's code and hired a team of developers and business

analysts to provide system support and to develop customizations as needed.

     Although the system was "clunky" and "not user-friendly" it had been heavily

customized in the last decade to accommodate electronic filing. In 2010, for example, the Court

partnered with a third-party vendor to offer electronic filing capabilities, and the case

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[14] In 2013, the Court implemented new status and resolution conferences to help customers obtain regular assistance with their cases. These conferences were established to address the growing number of self-represented customers and to enable timely case resolution. As a case reaches regular milestones (e.g., 90 days after filing, 180 days after filing, etc.) they are called to appear before a judge and to provide a status update. During these conferences, Self-Help employees are available to help litigants with any roadblocks or procedural questions preventing them from moving forward. Scheduling and preparations for these conferences are managed by courtroom clerks and assistants in specialty calendars.

management system was enhanced to receive case information from electronic filings. The seven

most commonly used filing forms were digitized and made available for litigants to file online[15].

In 2011, the Court transitioned to electronic case files, and it implemented Superior Court's

Electronic Case File system (ECS) for judges to view case files online. To accommodate these

changes, the case management system was enhanced to link scanned documents to case records

and to "talk" to ECS and display case information.

In 2012, when Family Law and Juvenile received funding from Superior Court to

replace their case management systems, the Court had already adopted much of the

technology required to enable electronic case filing. As such, the Court viewed the

replacement project primarily as an opportunity to upgrade to a new and improved

technology platform. The new system was intended to save the Court maintenance fees by

outsourcing its development and support to a third party, and it was also intended to offer

a more user-friendly, web-based interface. The Court's managers hoped that improved

user interfaces placing information at employees' fingertips through dropdowns,

hyperlinks, and automated workflows would make it easier to complete data entry tasks.

Shortly after a vendor was selected for the new case management system, Family

Law partnered with Juvenile to conduct a gap analysis, comparing their legacy systems to

the new case management system and addressing differences. Once this week-long effort

was completed, they had identified a handful of gaps that required attention. A project

team, the Case Management System (CMS) Team, was created to work with the vendor on

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[15] Since the conclusion of data collection, e-Filing was expanded. A complete e-Filing pilot program was introduced for use by Family Law attorneys in the Spring of 2018.

customizations to address the gaps and to begin preparations for the new system's

implementation. The Court selected subject matter experts from among its employees to

staff the project team, and the current Family Law manager was chosen to lead it. Though

the analysis and planning phase of the project was intended to last six months, the effort

dragged on for nearly two years. After several postponements, by the summer of 2015 the

team announced that it was entering the final phase of the project. They set a "GO LIVE"

date of December 15, 2015 and announced a series of training and informational sessions

to take place over the next few months. It was during this final phase of the project, while

the legacy system was still in use and the training program for the new system was being

prepared, that I entered the field and began data collection.

Table 2-1 provides a timeline of the major technology projects undertaken by both

Superior Court and the Court (Family Law) as described above. It also includes process

improvement projects and key events discussed in the empirical chapters of this

dissertation, serving as a snapshot of the Court's ongoing commitment to process

improvement efforts through technological innovation.

Table 2-1. Timeline of Key Events

	Superior Court	Family Law
2009	1. Accepts use of electronic files as official record (first launched in Civil Law)	
2010	2. Launches new Electronic Case File (ECS) dashboard system in Civil Law 3. Wins top award for Improvement in Court Administration 4. Introduces new Automated Voice Response System (Traffic & Criminal Law)	1. Launches new eFiling Forms (digitized 7 common forms)
2011		2. Begins using electronic case files 3. Launches Electronic Case File System (ECS) for judges
2012	5. CA abandons effort to develop a statewide Case Management System	4. Launches Case Management System replacement project
2013	6. Wins national award for Civil eFiling	5. Launches more *smart* eFiling forms 6. Introduces new Status Conferences
2014	7. Makes Top 10 Court Websites of the Year list	7. Launches new Digital Image Management System 8. Process Improvement: Printer Project
2015	8. Wins award for Criminal eFiling	9. Process Improvement: Expedited Judgment Revamp Project 10. Implements new Case Management System (December)
2016	9. Launches Case Management System Replacement Project for Civil Law 10. Launches My Court Card, a program providing online Self-Help services	10. Receives NCSC Technical Assistance Grant 11. Participates in the Judicial Council's Resource Assessment Study 12. Introduces Automated Voice Recognition System
2017	11. Receives five Judicial Council grants to make courts more efficient, accessible, and easier to use	13. Introduces end-to-end eFiling for attorneys
2018	12. Launches Text-to-Pay services for Traffic and Criminal Law	14. Implements mandatory end-to-end eFiling for attorneys

Research Design and Methodology

Through a multi-phased design, this research uses qualitative methods to uncover paradoxical tensions in the Court and to chart how they are managed in practice. Identifying paradox and charting its ongoing management is best suited for long engagements in the field during which it becomes possible to find "taken for granted contradictions" (Lewis, 2000). As such, paradox scholars increasingly turn to qualitative methods such as case studies and ethnographies to enable deep and sustained immersion in organizations (Schad et al., 2015).

One of the challenges to capturing and analyzing paradox is recognizing it. To this end, Lewis (2000) identifies three commonly used strategies: (1) narrative techniques (analyzing discourse through talk and text), (2) psychodynamics (working with participants to tap cognition), and (3) multi-paradigmatic inquiry (exploring diverse theoretical perspectives). To identify the three paradoxes explored in this study, I primarily relied on participants' statements about their work and sought examples of contradiction within and across them. To move beyond a focus on individual's perceptions, however, I explored practices in search of contradiction in action. In doing so, I was guided by Putnam et. al.'s (2016) suggestion to consider "social interaction processes" and "practices" to uncover the social aspects of organizational life in which paradox is constituted.

While the planned implementation of a new case management system afforded access to the field site, it also presented a ready-made comparative plan. Fairhurst et al. (2016) note that "more studies depict paradox as a state, with fewer of them emphasizing the ongoing paradoxical interactions (176)." To combat this tendency, I used a multi-

phased design to extend the period of observation beyond the immediate aftermath of the system's launch and to capture the ongoing process of adjustment. The following is an overview of the three phases of my fieldwork.

I entered the field in late July of 2015, a little over four months before the new case management system was to be implemented. In the first phase of fieldwork (July 2015 - December 2015), I interviewed Court managers and employees to learn about their work and to gain their impressions of the new system. In parallel, I shadowed employees performing their daily tasks to get a sense for the pace and variety of work. Two weeks after the new case management system went live on December 15, 2015, I took a two-week break from the field over the holidays. During this time, I reviewed my observations and interview transcripts from Phase 1 and began exploring themes.

I began a second phase of data collection in January of 2016 (January 2016 - June 2016). In this phase, I conducted informal follow-up interviews with employees to better understand their perceptions of the system in use. I also observed filing clerks as they attended to customers at the filing windows and courtroom clerks as they assisted their judge in the courtroom.

During this phase, the Court participated in three key engagements with external parties with the goal of improving its work processes and sharing them with other county courts. These engagements enriched my understanding of the Court and how employees adjusted to the new system. The first engagement took place in March of 2016, when consultants from the National Council of State Courts visited the Court to conduct observations and to provide process improvement recommendations. Though I did not

shadow them during their observations and initial meetings with Court employees, I was

invited to participate in a meeting they held to debrief the Court on their findings in June of

the same year. During this session, consultants presented an early draft of their findings to

judges, members of the Superior Court's executive team, and Court managers and

supervisors. In Chapter 5, I draw heavily from my observations and transcripts of this

meeting to describe the relationship between judges and managers. The second

engagement was also held in March, and it was a meeting requested by executives from

another county court to hear "lessons learned" from the new system's implementation. As

they prepared to implement the system the following quarter, they wanted the Court to

provide a sneak peek into their future. I attended the meeting and observed Court

managers talk about the challenges they experienced with the new system, and I watched

Court employees provide demonstrations of how they used it. The most illuminating aspect

of the discussion was the way in which Court managers and courtroom clerks interacted. In

Chapter 5, I draw from my observations during this meeting to discuss how the

relationship between courtroom clerks and managers evolved between the two phases of

data collection. I ended the second phase of fieldwork in June of 2016, and the third

engagement took place shortly thereafter. In the fall of 2016, the Judicial Council conducted

a Resource Assessment Project throughout the county courts. As part of the project, they

completed a time study of key tasks performed in the Court to evaluate changes in the pace

of work. The final report was delivered in March of 2017 (6 months later). Although I was

not present when the study was conducted, I was given a copy of the report and debriefed

on its contents by the division manager. In Chapter 4, I draw from this report to compare performance expectations before and after the new system's implementation.

The third and final phase of data collection involved three check-ins (October 2016, December 2017, and May 2018). I began each of these sessions with a 1-hour meeting with the division's manager followed by 2-3 days of field observations. During these visits, I limited my observations to the Clerks' Office and to the courtrooms, with the goal of capturing changes in their work practices that can only be observed over a longer timeframe. I also interviewed at least one employee from each department (i.e., case processing supervisor, filing clerk, courtroom clerk, data entry clerk, and records specialist) during each check-in. These interviews were informal, open-ended chats with the goal of capturing how people settled into using the system over time.

Data

This dissertation centers on the employees and managers in the Case Processing department and the Courtroom Operations department in Family Law. Several supporting departments (i.e., Records and the Analyst Team) are also captured in so far as their interactions with case processing specialists and courtroom clerks were critical to understanding their work. Although I collected data from the Self-Help department[16] and the Family Court Services department[17], they did not feature in any of the three paradoxes, so they are not included in this study.

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[16] In a separate publication co-authored with one of my advisors, I explore how Self-Help employees use technologies of formalization to aid customers through the filing process (Toll & Mazmanian, 2015)

[17] The Family Court Services (FCS) department performs most of their work outside of CMS (i.e., mediation reports, child safety evaluations, etc.). Although the new system included a calendaring feature for FCS mediation appointments, the workflow change was abandoned shortly after GO LIVE.

Observations and interviews were the primary tools of data collection. I conducted approximately 300 hours of observations, and I had the opportunity to interact with 90 (including managers) of the 119 employees of the Family Law division throughout these sessions. I interviewed 37 Court employees in the Family Law division. Whether arranged through a one-on-one interview, in focus groups, or during casual conversations in the hall or before meetings, interview subjects' reflections were captured along each phase of the project.

Observations. I conducted 45 separate observations of the Clerks' Office and in courtrooms. Table 2-2 provides an overview of field observations, highlighting the number of departments and people captured as well as the total number of hours engaged in the field. While most observations took place in these spaces, I also regularly observed records specialists, paralegals and window clerks in the Self-Help office, counselors and managers in Family Court Services, and members of the project team. Additionally, I participated in numerous meetings with the executive team, the project team, judges, and various external parties providing consulting services or seeking input from the Court's managers. Throughout my interactions with Court employees, judicial officers, and litigants, I sought to blend in as one of them, attending "lunch and learn" sessions with case processing specialists, participating in potlucks, and attending training sessions (Lofland, Snow, Anderson, & Lofland, 2005).

Table 2-2. Overview of Field Observations

	#	hrs.	ppl.
Courtroom	15	60	18
Clerks' Office	12	72	
Case Processing	10	40	36
Data Entry	8	32	
Family Court Services	3	12	2
Self Help	6	24	8
Records	5	20	8
Analyst Team	3	3	3
CMS Project Team	5	20	10
Total	**67**	**283**	**85**

During the first phase of data collection, I spent an average of 4-8 hours a day, 2-3 days a week in the field. I spent days alternating among the various departments, shadowing an employee during their normal workday as if I were a new-hire learning on the job. I attended project meetings where the plan for the system's launch was discussed, and I attended training sessions and shadowed the project team as they performed the final configuration tasks and user acceptance testing scripts to prepare the system for "GO LIVE". In the second and third phase of fieldwork, I roamed the departments during my visits, acting as a "fly on the wall" and observing employees as they performed their work.

Recording devices and cameras are not allowed in the courthouse, so I always carried a small journal with me and used it to capture notes. While observing filing clerks at the filing windows or courtroom clerks during hearings, I attempted to capture the interactions between clerks and customers or judges as closely as possible. I also recorded time stamps and made drawings of spaces and people. I typed up notes each evening after

exiting the field or early the next day, adding notes and reflections on the day's events (Emerson, Fretz, & Shaw, 1995).

Interviews. In the first phase of the study, I was aided by my main contact at the Court, who set up numerous 20-30-minute one-on-one interviews or focus groups with employees. During these semi-structured interview sessions (Lofland et al., 2006), I learned about the different departments in the Court and their functions. A handful of interviews (5) were recorded, as the division manager approved my request to use my smart phone as a recording device to make it easier to get through an intense day of 10, 20-minute interviews scheduled in quick succession. Among the ten subjects interviewed that day, one of the participants of a supervisors' focus group did not consent to be recorded. I transcribed the recordings of the five interviews, and I typed up notes from interviews that were not recorded later that day or early the next day, adding notes and reflections from the interview as I recalled them.

Whenever possible, I arranged check-ins with interview subjects from the first phase to learn about their experiences with the system and the changes in their work. These sessions were open-ended, allowing subjects to shape the conversation and to delve deeper into the topics on their mind. Beyond the set of interview subjects, I engaged in numerous conversations with employees of the Court as I observed them performing their work, and between meetings or breaks. These were short interactions during which I asked for or received clarification on a task that had just been performed or on a litigant's request (Emerson, Fretz, & Shaw, 1995). Table 2-3 provides an overview of the interviews that I

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conducted, highlighting the number of departments and people who participated (Note: multiple sessions may be attributed to one interview subject).

Table 2-3. Overview of Interviews Conducted

	#	ppl.
FL Management	12	4
Analyst Team	5	2
Case Processing	14	10
CMS Project Team	10	5
Courtroom	11	7
Self Help	4	3
Family Court Services	3	2
Records	5	4
Total	**64**	**37**

Data Analysis

Throughout this research, I used abductive reasoning to guide my analysis and to interpret my data (Smets, Jarzabkowski, Burke, & Spee, 2015; Mantere & Ketokivi, 2013). In other words, I made selections among "plausible hypotheses" (Boje, 2001) to build on my hunches from the field and during initial analyses. Through this process, I settled on paradox as the overarching lens with which to analyze my data.

Memoing proved a generative practice (Corbin & Strauss, 2008), serving as a tool to identify paradoxical tensions in my data. As I prepared for the second phase of data collection after the new system's "GO LIVE," I began writing memos to organize my data around key themes and to focus the scope of future observations. For example, one of my first memos focused on employees' repeated references to their work as "saving lives." I was curious about what they meant by this and how it shaped their work. I recalled a filing clerk's visceral reaction when a customer equated the Clerks' Office with the DMV. I was

struck by the clerk's sense that his work, unlike that of other government employees, entailed more than "pushing paper." I brought together snippets from clerks' talk about what they do, including "being a friendly face in a tough time," "helping them get through this" and "making things easier for [customers]." I augmented this memo with narrative accounts and snippets from field notes of clerks helping customers during subsequent observations. After completing the second phase of fieldwork, I revisited this memo as I began to make sense of the data. This exercise called attention to the importance that clerks placed on the individual customer when providing service, and I recalled the executive teams' focus on efficiency and standardization in their presentation about the new system. The process of bringing these observations and reflections together through memoing revealed a paradoxical tension: the performing paradox of individualization and standardization. subsequent rounds of memoing served to identify other paradoxical tensions in my data.

Once I had identified the three paradoxical tensions featured in this study, I set out to write the stories of the overarching processes in which they operated. For example, to understand the performing paradox of standardization and individualization, I developed an understanding of the case filing process over time. This process was also at the heart of the organizing paradox of individual accountability and collective responsibility, and it required me to "zoom in" and to consider performance tracking and measurement practices involved in the process over time. Similarly, to understand the belonging paradox of multiple group memberships, I explored the way in which courtroom clerks enacted their competing memberships in day-to-day practices. Constructing thick descriptions of

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the work involved in case filing and courtroom management proved a helpful way of organizing my data. In these thick descriptions, I developed chronological accounts of practices, breakdowns, and changes in these processes, incorporating my notes from interviews and field observations to gain a sense of how they evolved over time. I selected representative vignettes to reflect key moments of practice and to reflect differences in practice over time. While the distinction between "pre-implementation" observations and "post-implementation" observations served as two events or phases in these evolving narratives, I also searched for other phases, making use of shifts in practice or anecdotes about breakdowns. The three resulting "composite narratives" (Gehman, Trevino, & Garud, 2013; Czarniawska, 2002) are presented in the three empirical chapters of this dissertation.

Next, I used these thick descriptions to conduct a second round of analyses in which I iterated between the data and the paradox literature to explore how tensions surfaced, what responses were entertained, and acts of repair and maintenance. For example, in the story of case filing, I noted that "attention to the customer" was performed by clerks at the filing window and, "attention to the file" was primarily performed by data entry clerks in the back office. I coded this distinction as an instance of *splitting*, one of the responses to paradox detailed in the management literature. Splitting allowed actors involved in performing service to focus on different ends of the paradox in different spaces (*spatial separation*) and at different times (*temporal separation*). I engaged in iterative cycles of review and refinement as I developed such codes, forming a repertoire of paradox

reactions and management approaches employed in case filing, performance measurement, and courtroom management.

In the third and final round of analyses, I searched for themes in the stories based on the insights gleamed from discourse and actions that seemed "interesting". I used these themes to conduct focused coding of my field notes and interviews (Glaser & Strauss, 1967). Following this exercise, I engaged the management literature in search of theories that resonated with my emerging understandings. For example, I coded for "the tools of case filing" and as I compiled data relating to this category, I began to see patterns in when, how, and why different tools were introduced and abandoned when performing this work. My review of actor network theory led me to the concept of "configurations" or combinations of people, materials, and texts, that perform a "theory" and how errors or "overflows" resulting from this performance enable reframing. This related to my observations of different tools of case filing and how these functioned to enable different balancing acts between individualization and standardization. In each of these analyses, I engaged in iterative cycles of review and refinement, and I compared observations across different phases to sharpen my understanding.

Having provided an overview of how I conducted this research, I present these rich stories about paradoxical tensions in Family Law in the three chapters that follow.

CHAPTER 3: PERFORMING SERVICE:
THE PARADOX OF STANDARDIZATION AND INDIVIDUALIZATION IN
FAMILY LAW

Court employees are charged with providing a public service. To perform this

service, they use standard policies and procedures to resolve Family Law cases efficiently.

In their day-to-day interactions with customers[18], they cater to their individual needs by

showing compassion and commitment to accommodating their unique circumstances.

According to the filing clerks who perform this work, attending to these competing

demands involves a constant "balancing act" between the demands of standardization and

the demands of individualization. Engaging this tension is crucial to the performance of

public service, as the seemingly incongruous goals of providing efficient, standardized

service and compassionate, individualized care are deeply inter-related and synergistic in

the successful resolution of cases. Addressing these competing demands is a *performing*

paradox[19], and the work undertaken to balance these competing demands is a *performative*

struggle[20] inherent to the provision of quality service for Court employees.

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[18] "Customer" is an emic term used by administrative employees of the Court to refer to the people they serve, including litigants, family members, etc. Use of this term highlights the Court's employees' service orientation.
[19] Performing paradoxes arise from the tension among contradictory demands, goals, and interests (Smith & Lewis, 2011), requiring "individuals to perform multiple and inconsistent tasks" (Luscher & Lewis, 2008). Examples of performing paradoxes include the tensions between globalization and localization, differentiation and cost leadership, and cooperation and competition.
[20] A performative struggle is the process by which different theories compete with each other within organizations (Cabantous & Gond, 2011) to affect behavior (D'Adderio & Pollock, 2014). In this case, the competing theories are the two goals of service: standardization and individualization. The performative struggle between opposite poles and alternative ways of achieving balance between the poles operate to affect the behavior of Court employees.

This chapter describes the work undertaken by Court employees to manage this paradox in their day-to-day work. It charts the evolution of case filing, a recurring step throughout the life of a case, in an increasingly complex and technology-dependent environment. In tracking the evolution of case filing throughout this period, this chapter tackles two research questions: (1) *How is the paradox of standardization and individualization managed in the performance of service over time?* and (2) *How do people, artefacts, and policies serve to stabilize and destabilize ongoing efforts to manage this performing paradox?* To answer these questions, I begin with an overview of how Court employees engage this paradox in case filing. Next, I present a chronological account of the changes made to the case filing workflow since its implementation. I discuss both the proactive attempts to achieve efficiency gains while maintaining individual service quality as well as the responses to errors in existing workflows or introduced through change. The focus of this inquiry is the work performed by people, artefacts, and policies engaged in managing this paradox. I analyze how these actors and actions serve to enable, upend, and repair the balance between the competing goals of standardization and individualization in the provision of service.

A Performing Paradox

Case Processing managers and employees alike approach service as a combination of efficient, standardized policies and procedures coupled with compassionate, individualized care. ***Standardization*** enables efficiency, which is measured by numbers, including the number of cases filed by customers and the number of dissolutions granted by the Court. Keeping track of the various services performed by Court employees over

time also enables reporting of metrics, such as the average number of days elapsed between a case's initial filing and its ultimate resolution. The availability of such data drives analyses that inform decision makings about staffing, training needs, and improvement opportunities.

Service also involves *individualization* through thoughtful attention to specific customer needs and unique circumstances. Because many of the Court's customers lack proper experience and knowledge of the system to navigate it successfully, the individualization of service involves actions taken by to provide legal information to customers. In performing this work, employees help customers translate their concerns into the types of data and filings that the Court processes. Individualization also involves managing the emotions of people who find themselves seeking the Court's help with their private matters. Despite its criticality, there is no clear metric for this aspect of public service. This element of the service encounter is personal and fleeting; it is never captured in the case file and there is no clear way to assess its impact on the timely and satisfactory resolution of a case. Even when customers provide comments on the quality of service they receive, such signals of success are rare and merely provide anecdotal accounts of one encounter between one employee and one customer. Nevertheless, Court employees often talk about their drive to serve the needs of individual customers, recognizing their actions have immediate and important consequences on customers' lives.

Because the competing goals of standardization and individualization require simultaneous attention during every service encounter, Court managers and employees recognize the impossibility of separating the two objectives without risking breakdowns in

service quality. As a result, managers acknowledge the challenge of striving for both

efficiency and care in setting expectations about the work performed by their employees.

Cindy[21], a member of the Court's executive team, noted,

> I want all of my employees to feel passion for public service… We want to make an
> enriching personal contribution, providing service that may impact lives… [But,] it is
> complicated because we are a bureaucracy after all… It is about being objective in
> our results [such as] average time to get to a [service] window… People can't
> [measure up] to something when you don't know what to [target]… [so] we need
> service level objectives.

Managers face this dilemma in the practical evaluation of employees' work. For example,

Damon, a Case Processing supervisor, explained his job in terms of tracking performance

and serving people:

> A key part of my job is to report on the work we do… I create monthly reports to see
> how many people we have served, how many tickets were issued, and average time
> at the window… [But, when it comes to our numbers and my monthly reports,]
> whether good or bad, [it is] hard to measure… [T]here are all kinds of variables. [So,]
> I mainly look for an indication of a problem… [And], my philosophy is that we serve
> good people on a bad day… So, I have [an ongoing] conversation with the staff about
> making people feel comfortable.

Damon's description highlights the challenge of measuring customer care, as differences in

complexity, conflict, process knowledge, and resources make it difficult to anticipate

customers' needs and to establish a standard for the level of care required across

interactions. As Damon laments, unless there is a problem, this work is largely invisible.

In a similar vein, Court employees were acutely aware of the need to track the

number of services they provided and the amount of time they took to render such

services, but they placed the source of value in and motivation for their work on the drive

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[21] Pseudonyms are used throughout to protect the anonymity of study participants.

to "save lives" and to serve the needs of individual customers. Their managers encouraged such talk of saving lives; for example, Cindy noted, "Lives fall apart, and we are a remedy… [So, we are] on all the time. We want advocates on the floor." Their drive to provide "life-saving" attention to customers' individual needs expressed during interviews and in casual conversations was complimented by the purposeful attention to standard policies and procedures exhibited in their actions and descriptions of their tasks.

To explore how the Court's employees manage the paradox of standardization and individualization in the performance of service, this chapter delves into the case filing process. I begin with a description of the case filing process used since the move from paper files to electronic case files in 2011 as observed during fieldwork. I also highlight temporary interruptions to this standard process, as recounted by Court employees during interviews, based on the introduction of new technologies intended to improve the process and/or to deal with errors. I then describe how the implementation of a new case management system in December of 2015 ushered in a new set of policies, materials, and ways of talking about the process that both challenged and redefined the balance between standardization and individualization in the performance of service within Family Law.

Case Processing with Electronic Case Files

From the time electronic case files were adopted in 2011 until the implementation of a new case management system in 2015, filing case documents at one of the Clerks' Office's public filing windows involved a three-step process: (1) filing clerks received and reviewed case documents submitted by customers at the Clerks' Office, (2) data entry clerks logged the documents into the case management system and prepared them for

scanning, and (3) records specialists scanned the documents and uploaded them to their corresponding case file in the electronic case management system. The following is an overview of this three-step process based on field observations conducted in the three months preceding the new system's implementation. It highlights the Court employees charged with carrying out each step as well as the review processes undertaken to ensure file integrity and accuracy.

Filing clerks. To initiate a Family Law case or to add new documents to an existing case file, customers presented their paperwork to the Clerks' Office. After checking in with a clerk at the triage window, customers were given a ticket with a number that was used to call them to a service window once a filing clerk was ready to help them with their filing. Once called to a filing window, customers were asked to hand over their paperwork to the filing clerk and to briefly explain what services they required. While obtaining basic information about the customer's request, the filing clerk skimmed the documents presented to them in order to determine how to proceed.

If the customer requested the initiation of a new case, the filing clerk searched the case management system to ensure that a case had not been filed previously by any of its parties (petitioner or respondent). The review process took anywhere from seconds to a couple of minutes. Meanwhile, the customer was expected to stand in front of the window and to await further instruction. Because the case management system did not capture customers' unique identifying information (e.g., social security, driver's license number, birth date, etc.), only the names of the parties to the case (as provided in the filing documents) were used to perform this task. Given this limitation, clerks also engaged

customers and asked questions about their case and its history to help them determine

whether there were any existing cases related to the matter. In interviews and casual

conversations at the Clerks' Office, clerks highlighted the importance of this review step.

Ronald, a filing clerk, noted,

> I try to be careful about opening a new case. I search the system for all the names [of parties to the case], but it is difficult because, when you get a common last name like Ramirez or Smith, it's like searching for a needle in a haystack. You have to narrow down the options so that you haven't missed the case. And, you are trying to do this as quickly as possible because the customer is waiting, and you've got a long line of other customers who are waiting.

> But it is important that I do this carefully. I really don't interact with judges, and I don't want the only reason that they know my name to be a consolidation [initiated because of a filing error]. Let's just say those requests don't make [judges] happy, and I don't want to be responsible for making a judge unhappy.

As Ronald's quote suggest, a key challenge in performing standardization while providing

individual care is that both the customer and the system demanded the clerks' attention. If

a clerk failed to perform the necessary review in the system before opening a new case,

they could affect a judge's ability to access relevant case information and ultimately impact

the customer's ability to resolve their case quickly and satisfactorily.

During this review process, clerks also verified whether any other Family Law cases,

such as parentage, child custody, or domestic violence disputes, existed in the system and

required linking or special attention. Linking all related cases enabled the case file to

include key information about the family. By displaying all available information about a

family to the judge and other parties reviewing the case, properly linked cases enabled a

better understanding of the individual circumstances of the parties to the case. For

example, if a restraining order was in place and both parties to the case were present in the

Clerks' Office, a bailiff may be called to work with the parties to ensure their safety and to

abide by the protective order's conditions. The following excerpt from fieldnotes highlights

how such a scenario is handled in the Clerks' Office:

> As I'm observing Ronald wrap up a service ticket, I look out to the waiting area and
> see the bailiff walk over to one of the customers. They talk for about a minute and he
> escorts her to the one of the public computer workstations at the far end of the
> Clerks' Office. Afterwards, the bailiff walks back to the main waiting area and
> approaches the gentleman seated beside the customer with whom he'd just spoken.
> They chat briefly and the bailiff walks away. When Ronald is done helping his
> customer at the window and she walks away, I take the opportunity to ask him why
> the bailiff had stepped in. I ask him, "Was that about a restraining order?" He tells
> me that he doesn't know and sends a text message to the triage clerk to find out.
>
> When Laura (the triage clerk) responds to his message, Ronald fills me in.
>
> Ronald: Yeah, he actually had a restraining order on her. They came to file
>   [their financial] disclosures. When they checked in [at the triage desk],
>   Laura caught it (when she looked up their case file), but he (the
>   customer) said he was OK being around her. Laura called the bailiff
>   anyway, so he went over to make sure everything is OK.
>
> Me: Is [it] common for them to come in together?
>
> Ronald: Sometimes. We need to be careful when there is a restraining order
>   because they (customers) don't always tell us when there is one and
>   the other person is here. And, we don't want them to be
>   uncomfortable or for anything to break out. So, we bring in the bailiff
>   if we know about it so that someone is paying attention to it (the
>   situation).

Upon completing this initial verification step, whether a new case was created, or an

existing case was identified in the system, the clerk moved on to a more thorough review of

the customer's paperwork. First, the clerk confirmed the kind(s) of filing(s) (i.e., steps in

the process) included and verified whether the documents were completed correctly. For

example, customers filing a new case typically presented a form requesting the initiation of

a new case, and some filed a fee waiver (based on income) request. Customers with an

existing case often presented paperwork to schedule a hearing and/or mediation appointment, and they filed disclosure documents (financial information). Each document presented by the customer to the filing clerk represented a different step in the case process and required review. Before moving forward, the clerk ensured that the documents being filed were appropriate given the case type and status and that they were completed accurately.

After the initial verification and subsequent review processes were complete, the clerk turned their attention away from the case file and towards the customer. The clerk's task at this point was to either "process" (approve) the filing or to draw attention to any errors or omissions in the customers' documents that required revision. Throughout my observations at the Clerks' Office, I came to expect a transition in the clerks' attention away from the computer screen and to the customer once this review was complete and throughout the remainder of the customer interaction. When I pointed out this pattern in casual conversation with the filing clerks, Martin noted,

> I try to keep eye contact with customers [as much as possible] because I know they are [stressed], and I want to make them comfortable.

Not only did filing clerks focus their attention on customers' needs throughout most of their interaction at the window, they also tried to help them fix errors in their paperwork and to address their questions and concerns about the process. The standard policy in the Clerks' Office was to direct customers to the Self-Help Office when their filing was rejected because of errors or when they did not have the appropriate paperwork. This policy was intended to prevent service delays at the Clerks' Office and to minimize disruptions, filing clerks often erred on the side of providing individual attention over adhering to this

standard policy. They justified this stance by treating each case on an individual basis and

only fixing minor errors or keeping track of the amount of time spent on a service ticket.

The following excerpt from field observations is representative of a typical encounter

between a clerk and a customer at a filing window. It highlights the way in which clerks

worked with customers to resolve minor errors in their paperwork:

> …Martin points out a typo on the form (the spelling of the other party's last name is different between the forms) and tells the customer, "As long as we fix it here, it is no problem…" He asks the customer what the correct spelling is and then pulls out a bottle of white-out from his desk to erase the incorrectly spelled last name on the form…As he is doing this, she seems nervous. She starts fidgeting with her pen and shifting her weight. *Is she worried that he will reject her paperwork?* Once Martin completes the edits to her form, he looks up to her and says, "That is OK, we'll get through it."

> Martin asks the customer if she is aware of the fee for the response ($440). He says, "You have the option to file a fee waiver (another form) but you'll need a new ticket. We can review it here and there is a chance that we can approve it here." He pulls out the fee waiver request form from a file drawer under his desk and uses a highlighter to note the key areas that she must fill out on the form. He hands her the form and continues reviewing her paperwork. He finds other errors and missing information in her paperwork. He turns to her and says, "You are going to need to fill out a couple of other items on this form before we can file it. I am going to highlight the key areas now and you can sit down and finish it up or take it with you. You can also go down to Self-Help and they can help you to make sure that everything is in order before you come back up." Before she turns away from the window, he says, "[If you return today with the updated forms], tell the clerk at the [triage] window that I sent you back from my window to get another ticket but that you've already been through the line."

> When the customer leaves, Martin tells me, "I hate to turn them away [because] it's frustrating, but I have to be careful about taking too long with a ticket because it hurts our numbers."

As this sample interaction reveals, customers whose documents with many mistakes or

missing information were turned away, but clerks tried to correct minor errors alongside

the customer The purpose of this emphasis on quickly reviewing and revising documents at

the window was to prevent customers from having to begin the case filing process anew in

a subsequent visit to the Clerks' Office. Several clerks recognized that customers had to take a vacation day from work to file paperwork, and they wanted to make it worth their time. Like Martin, most filing clerks continually shifted between considering the individual customer's needs while being mindful of established policies and service level objectives.

If no errors were found in the customer's documents, the clerk simply received the paperwork, reviewed and stamped it as filed, and placed it in bins designated "data entry" for future processing by data entry clerks. Several bins throughout the back of the Clerks' Office were used to house these "work in progress" documents that had been received by filing clerks but had not been entered into the case management system.

Data entry clerks. Throughout the day or on the following morning, a supervisor reviewed the paperwork in the "data entry" bins and placed them into categories (types of filings), distributing the sorted piles among four data entry clerks to enter the case filing information into the case management system. Data entry clerks, like filing clerks, were part of the Case Processing team, but their jobs did not require them to interact with customers. Seated in cubicles behind the filing windows, they were charged with creating and completing "dockets" (entries) in the case management system for each filing. As part of this process, data entry clerks printed a system generated barcode for each filing. The barcodes were used to match images to their corresponding entries in electronic case files. Janet, a data entry clerk, referred to the process as "the dance". Describing the dance, she "sang" the steps she took to complete her work during one of our first meeting,

> Search for the case, search for the filing entry, create a filing entry if one wasn't created [by the filing clerk], enter filing information, print barcode, paper clip and put paperwork together in piles, face down on the desk [to be picked up by a records specialist for scanning]. Repeat the process all over again.

As Janet's process description highlighted, much like filing clerks, data entry clerks also engaged in a review process to ensure that duplicate cases were not created at the window and that related cases were properly linked to new electronic case files. Like Martin, Janet noted that consolidations were a difficult and time-sensitive process, and that she tried to prevent consolidations as much as possible. When asked to explain why these were so problematic, she provided the following example:

> I have a domestic violence case here from 2010 that has to be consolidated with a new case. The new case is a paternity case. The judge got mad when he found out, in the courtroom last week, that there was a domestic violence case [that had not been linked to the paternity case]. The judge ordered that the cases be consolidated, and I have to link the cases and to make sure that all of the images across the two cases are visible in the parent case before the next hearing…

To prevent this kind of problem, data entry clerks verified the filing clerks' work by repeating the case review process. After confirming that there was only one case in the system to which the filing belonged and that all related cases were linked, data entry clerks either created or updated the filing records. Each document filed in the case required a separate entry in the case management system. Data entry clerks also reviewed the case file to ensure no duplicate filing records were created for each document. Janet noted,

> Some things are [entered] at the front window, so we just need to review it and then print the barcode. But we have to remember to look [to verify whether an entry was already created in the system by the file clerk] or [a record for the filing] will be in there two times: one with an image and the other one without. [The supervisors generate] a monthly report [highlighting records without images] so we want to avoid that as much as possible.

This review step was undertaken before any data entry ever took place. During observations, this review often required more time to perform than the data entry task itself. Once satisfied that a new docket was required, the data entry clerk proceeded to

populate the record with descriptive information. Each filing record was populated with information about the type of image it represented, including a form number (assigned by the state's Judicial Council), information about any fees assessed for the filing, and any dependencies (for example, a request for a hearing on a dissolution case with children required a mediation appointment before the scheduled hearing date). The following excerpt from field notes describes the process and the tools used by data entry clerks to populate case filing records:

> Janet is creating an entry for a hearing request filing. She refers to a cheat sheet posted on the top corner of her computer screen for the specific order code (the action to be taken and the nature of the information to be discussed in the hearing). She tells me that the RFO (Request for Order) was filed by the petitioner, and she is requesting a modification on a child custody order.

> Janet starts flipping through each page of the filing. First, she checks to make sure that all the pages that were submitted are part of the same filing and do not require additional records. To verify this, she checks the form number on the top right corner of each page. "If the form numbers don't match," she tells me, "then I have to create separate entries in the system for each [form number]." She notes, "If there are multiple documents together after the same barcode that are different case filings, the batch will get sent back from downstairs [the Records Department] because of a missing bar code."

> Janet begins working through the paperwork so quickly that I can't keep track of what she is doing. Her fingers riffle back and forth between function keys on the top of her keyboard and the tab button on the far left. The green screen displayed on her computer monitor rapidly shifts from one window to another, and I don't have enough time to read the heading at the top of the screen before she tabs into the next screen and the heading changes.

> Like Janet, all data entry clerks used shortcut keys to quickly navigate the system,

and they rarely looked up from the document they were processing to review the information on the screen. Few drop down keys or scrolling options provided clues as to what information was required to update the record and how to populate the case file. Each of the four data entry clerks had more than five years of experience in their role. All of them

talked about how they learned short cuts from each other and had memorized many of the common data entry screens they used in their day to day work such that they could now move from one field to another without giving it a second thought. To help them along on less common filings, the clerks posted "cheat sheets" throughout their cubicles and would occasionally look up to them to complete the filing. Throughout several sessions when I shadowed data entry clerks as they performed their work, I struggled to count the number of filings they entered into the system given the speed with which they moved from one filing to the next. The only clue as to how many filings had been processed was the number of printed bar codes that appeared on the printer by the data entry clerk's desk. The four data entry clerks were responsible for entering more than half a million case filing documents into the case management system each year. The ratio of data entry clerks to case processing specialists (filing clerks and back office employees) was nearly 1 to 8. In other words, each data entry clerk was responsible for processing all of the filings received and approved by eight filing clerks each day.

Once all data entry for a batch of filings was completed, and the system generated barcodes for each of the filings appeared in the printer under the data entry clerk's desk, clerks prepared the paperwork for scanning. They collated the barcodes and filing documents such that each barcode was placed on top of its corresponding filing document. Barcodes served as the cover sheet for each document during scanning. The barcode was used by the system to match an image to its corresponding record in the electronic case file. At designated times throughout the day, a case processing employee collected all

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processed paperwork from the data entry clerks and delivered them to the Records

Department for scanning.

Records specialists. Once barcoded documents were prepared for scanning,

specialists at the Records Department were charged with completing the final step in the

electronic case filing process. Janeen, a supervisor in the Records Department, explained

that records specialists also engaged in a three-step review process to ensure that all

documents were ready for inclusion in the electronic case file. Seth, one of the records

specialists, explained the process as follows:

> I begin my work by reviewing the batch of papers and making sure that they are
> ready for the machine. Since we don't use flatbed scanners, I make sure that the
> paperwork is ready to go through the system like a copier. [For example,] I need to
> remove staples, but most filings are paper-clipped because the data entry clerks
> already know to remove staples. Once I scan the batch, I begin the verification
> process. I check the barcode page against the image and check the case number,
> filing date, and signatures [to make sure that they are legible]. I check the number of
> pages and make sure that the document is readable. I look at the backside of the
> pages to make sure they are also readable. If the documents are too light, I adjust the
> brightness and contrast [settings] to improve the [image] quality. Once I finish this
> process, another records specialist performs the same review. After two of us have
> reviewed it, the batch goes to our Quality Control specialists and they perform a
> [final] check.

After the records specialists and quality control analysts completed their three-step

process, the electronic case file became the official record. Janeen explained that, after a 30-

day waiting period (a precautionary waiting period designed to catch/fix any mistakes in

the scanning process), Records was responsible for discarding the documents. Despite the

multiple reviews that comprised the Records Department's standard procedure for

scanning case filing batches, Janeen prided herself in noting that her department was able

to process expedited document batches within 24 hours and priority and regular caseload documents within 48 hours.

Errors. Despite the relatively quick turn-around time achieved by the Records Department, the preceding two-step document review and data entry process undertaken by filing and data entry clerks often resulted in lengthy delays in the electronic file update process. Both Dianne and Tina, experienced Family Law managers, noted that fluctuations in case backlog were a key area of concern for the Court as they could easily spiral into a major problem if not monitored closely. Backlog is defined as the amount of casework (filings) that is pending review and processing, and it is measured based on the maximum number of days since filing for documents pending review.

According to Tina, an average backlog of 48-72 hours was typical, indicating the average time between document filing and "docket" creation in the electronic case management system was two to three days. Even when an acceptable average of 72 hours was maintained, this implied that the scanned image of a filing document could take as long as an entire work week to become available in the electronic case management system 3 days for review and initial input in the case management system by Case Processing and an additional two days for scanning and uploading of images by the Records Department).

In the last couple of years, with personnel changes and the increase in self-represented parties, Dianne and Tina lamented the frequency with which backlogs of two weeks or more were experienced. Such delays led to incomplete electronic case files and limited the information available to judges in the courtroom or in preparation for a hearing. Tina provided an example of how these delays affected the courtroom and her team's work,

I've got a judge, and his calendar goes only two weeks out. And he actually called me and said, "I don't understand why my documents aren't in order." And then we've got to keep an eye on them (the judge's documents) for a while to get back in his good graces (laughing).

Then this past Monday, [my courtroom manager] calls me and tells me documents aren't in for [the judge's] hearing in two days. And I am like, crap. So, we come in, and we were here until like ten o'clock at night going through thousands of documents waiting to be [scanned] and trying to narrow down the timeframe to when we thought they were file stamped in order to find the documents and pull them out for his hearing. And so, his hearing was today, and he didn't seem that unhappy with me so it's like he had all his documents there with him.

During periods when backlog ranged between two and three weeks, the ramifications were felt in the courtroom as well as in the Clerk's Office. The following interaction between Ronald and a customer at the filing window exemplifies how backlog challenged service quality:

Ronald calls the next customer to his window.

Customer: These are the originals. I need copies and I need to file it.

Ronald takes the paperwork and tells the customer that he will be back in a minute. He turns away and walks towards the copier. While Ronald is away, the customer asks if I am training and tells me that her case is taking one year and counting. When Ronald returns, she immediately turns her attention to him.

Customer: Can we please make sure that the judge gets it because last time the judge didn't have it.

Ronald: You can walk in a courtesy copy to the court [on the day of the hearing].

Customer: Then there is no time [for him] to read it before. I rather he has some time to review it before my case.

Ronald: I will file this, and it will be filed in your case and imaged.

Customer: Will it be a physical copy?

Ronald: No, it will be an electronic copy.

Customer: Will it be attached to my files?

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Ronald: It will be electronic. … I can't really tell you whether you should take a courtesy copy [to the judge] because it falls into the category of legal advice. … Our backlog is currently at about two weeks from filing.

Although Ronald attempted to address the customer's concerns by recommending that she provide a courtesy copy, the implication of the recommendation was that the Court was not functioning at its best. During periods of heavy backlog, clerks could not ensure filings would be available in the electronic case file before a scheduled hearing. Relatedly, lengthy backlogs also prevented clerks from accurately answering customers' in-person or telephonic inquiries about the status of their cases, as they too could not refer to a complete electronic file. Dianne conceded, "There are huge repercussions for our staff and the services we offer with backlog. The impact to the Court of backlog has been extremely hard throughout the last few years."

The Printer Project

In the Spring of 2014, the Court procured a suite of new software to streamline the file scanning and storage process and to accommodate its growing repository of electronic case files. In parallel with the new software implementation effort, a new business process improvement (BPI) project was launched to review the existing case filing process. Given ongoing concerns about backlog and its domino effect on all areas of the Court's services, the BPI project team focused on the redundancies created by the existing three-step process. Dianne, the former Family Law manager who oversaw the BPI team's effort, explained the resulting recommendation as a move to "cut out the middleman" in document review. The case for this process change rested on the notion that, if filing clerks were tasked with completing their own data entry, documents would make their way into

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electronic case files more quickly and become available for judges and Court employees to review more quickly. Tina, who took over as the Family Law manager shortly after the BPI project's conclusion, agreed with the recommendation. Having previously served as the deputy manager of the unit, she had experienced the frustration brewing among Case Processing supervisors and managers with the existing three-step process and the backlog it produced. She summarized the issue as follows:

> What is going on is that [the clerks] are still kind of doing this process that is so archaic and so what they are doing is that they are receiving documents and just file-stamping (she mimics a stamping motion). And then [they] shift it over here [to the data entry clerks] for them to actually print out a digitized bar code sheet in order for it to go to [scanning]. And so, we are now behind in [scanning]. So, you know, [we're trying] to open people's eyes to like, "If it is going to be quick, barcode it yourself. And we'll train [the filing clerks] so they can just to it."

Printers. At this time, filing clerks had access to only one shared printer located at the far end of the Clerks' Office. Data entry clerks, on the other hand, each had access to a personal printer to print barcodes and attach them to filing documents without leaving their desk. Printers, therefore, were a crucial tool for data entry clerks that helped them to complete the task of preparing filings for the Records Department efficiently. The management team felt that placing printers at the filing clerks' desks would make the process change they had recently proposed more feasible. Around the time these discussions were taking place, the Court received a grant to purchase new technology resources. The grant was intended to pay for new computer monitors for use in the courtrooms used by the Department of Child Support Services (DCSS). Once the monitors were purchased and excess funds were left over, the Court decided to use the funds to procure the desired printers.

With the available funds, the Court purchased five new printers, and they were placed behind the windows between clerks' workstations. Two neighboring clerks were assigned a printer to share. Placing the printers near the windows and within the clerks' workstations made it possible for them to grab barcodes at the time they were printed without having to leave their desk (or window). With only two clerks using each printer, the management team felt the task of sorting through the printed barcodes was rendered manageable.

As soon as the printers were installed in the Clerk's Office, Tina decided to put the new printers to the test. She launched a pilot study of the proposed process change. According to Tina, filing clerks were encouraged to volunteer for the pilot, but a formal policy was not implemented. By introducing the pilot on a voluntary basis, Tina hoped to limit resistance from filing clerks, many of whom expressed concern about their ability to serve their customers and process service tickets while performing their own data entry. She hoped volunteers would demonstrate how easy it was to complete data entry while helping customers at the window and then get the rest of the clerks on board. Another reason for testing the policy with a pilot study rather than a permanent policy, Tina explained, was to prevent pushback from the data entry clerks who were fearful about losing their jobs. Such anxiety among the ranks could have kicked off a union dispute, and Tina did not want to jeopardize her relationship with the clerks and the union before her team had a chance to assess whether the process change would yield positive results.

Not only was participation voluntary, but the scope of data entry performed was also left to the clerk's discretion. Jose, training specialist who worked closely with the filing clerks to devise a new workflow for the pilot, explained the process as follows:

> Participating filing clerks had to create a "docket" (filing record) [in the case management system] for every document filed [at the window]. They then had to generate the barcode and attach it to the filing document [as a cover sheet]. Instead of putting the filings with their barcodes in the data entry bins, they had to put them in piles for "Records". A records specialist would pick up the piles throughout the day.

The plan was to ensure that all documents were scanned into the system within 24-48 hours of filing. Data entry clerks were tasked with adding any remaining case information not captured by the filing clerk <u>after</u> the scanned document had been attached to the electronic case file.

Errors. When the pilot was introduced, only half of the clerks volunteered to participate. According to Jose, participating clerks struggled to complete data entry at the window while attending to customers. Adding to this problem, Jose noted, the new process led to errors and confusion resulting from incorrectly filed documents. For example, the orphan records report indicating filings/dockets without images became unmanageable. As a result, the pilot was rolled back within a couple of months of its initiation. Carla, a filing clerk who was present during the pilot study but chose not to participate, recalled, "Well, that idea was tested and filing clerks were asked to volunteer for a trial, but they ran into some roadblocks and the effort just kind of fizzled out."

Despite its abrupt end, a key lesson from the pilot was that sharing printers, albeit with only one other clerk, proved a greater challenge than managers had originally anticipated. Jose, who had worked with the clerks to devise the new workflow for the pilot,

was struck by the fact that clerks had not wanted to grab their barcodes immediately after printing them so as not to shift their focus away from customers. Instead, clerks performed minimal data entry while customers were at the window and then completed the work of logging the entry after the customer left the window and before the next service ticket was called. Even when they performed data entry during the customer interaction and generated a corresponding barcode for the document, clerks typically waited until after customers left the window to grab the barcodes and to prepare the stack for scanning by the Records Department. Therefore, barcodes regularly piled up on the printers, and when a clerk finally got around to picking up the stack, it was hard to tell which barcodes belonged to them and which ones belonged to their neighbor. Because barcodes did not contain enough identifying information to easily sort them among various cases and clerks, they were often incorrectly sorted within the document piles, making it difficult for the system to match documents with the corresponding record/docket in the electronic case file. Some documents were attached to the wrong electronic case file because of these errors.

Although the pilot had not been successful, Jose expressed optimism about the lessons he had learned from the experience and the ability to attempt the process change again once a new case management system was implemented. He noted, "Because of what we learned from this pilot, we made sure that the barcodes in the new system had more information, so it will be easier to sort out."

A New Case Management System

In the summer of 2014, only a few months after the printer project "fizzled out" and after many months of planning and negotiations with the chosen third-party vendor, the Court began working in earnest on a project to implement a new case management system. After nearly a year of conducting process reviews and gap-fit analyses to compare the new system's functionality against the existing system, the team was ready to begin a new phase of the effort. A new Case Management System (CMS) team was formed, and Dianne was chosen to lead it. The CMS team was made up of Court employees who served as subject matter experts in their respective areas and who helped the new system's vendor develop customizations to meet the Court's specific needs. The CMS team was also charged with spearheading a major business process review and improvement project, a task which included the preparation of deliverables charting current work processes (*As Is* workflows) against the new system's functionality (*To Be* workflows). The goal of the project team was to train employees on the new system's features and to explain changes to existing processes required once it was implemented. Among the process improvement initiatives considered by the team was the recommendation tested by the printer project, making filing clerks responsible for entering case filing information in into the case management system while at the service window. The effort was geared towards eliminating "the paper shuffle", promising faster access to filing documents in the case management system.

One touch document processing. Early into the implementation planning effort, the CMS team unveiled the "one touch" document processing policy, set to go into effect when the new system went live. The new process was called "one touch" because only one

set of hands within the Case Processing team (namely, the filing clerk receiving the documents from customers) would touch the document(s). Under the new policy, filing clerks would take over tasks involving basic data entry, barcoding, and transfer to the Records Department for scanning. Much like the approach used during the printer project, however, data entry clerks were not completely removed from the filing process.

To address the concerns raised by data entry clerks about their job security during the printer project pilot study, Tina and her management team assured them that "there [was] plenty of work to go around". To make this promise clear, Tina partnered with the Human Resources Department and hosted a Q&A session with the data entry clerks to address their questions about the new system and the direct impact on their work that was expected with the introduction of "one touch" policy. She recalled,

> We did a Handling Change class a couple of weeks ago and [the data entry clerks] were worried about whether they were going to get laid off and we were like, "No, we are going to find other work for you to do. We are not getting rid of your position; we are just going to give you more to do." So, now they know because we have approached them with the fact that no one is losing their jobs. We told them, "No, there is so much work, that you don't need to worry. You will still be getting data entry work plus other things."

Under the new "one touch" policy, data entry clerks' work was pushed out to the last step in the process, as they were tasked with reviewing scanned images and their corresponding case files in the case management system and performing any additional data entry required to complete and update the case files (e.g., creating new attorney records, verifying document codes, etc.). The new system's improved user interface replaced the shortcut keys and acronym-based screen names with drop down menus and more clearly labeled workflow tabs, thereby rendering the data entry clerks' specialized

skillset obsolete. Within the first year of the new system's implementation, one of the four data entry clerks was promoted to a new role within the department and no plans were made to fill her vacancy. Nevertheless, the remaining data entry clerks continued to perform an important function in the case filing process as they ensured that key case information was up to date. Under the new process, data entry clerks were tasked with conducting a more thorough review of case files than had been possible before the process change when their work preceded document scanning. They reviewed the case filing against key information in the case file (e.g., customer contact information, attorney of record information, etc.) to ensure that the system reflected the latest information. Because this review was conducted after case filings were scanned into the system, however, data entry clerks were no longer the bottleneck contributing to case filing backlog.

Managers were less forthcoming about how the filing clerks' work would change under the "one touch" policy and whether they would eventually be asked to complete all data entry tasks. Nevertheless, in the months leading up to the planned system roll out, several "all hands" meetings were held to inform all employees about the status of the implementation project. These sessions were used as an opportunity to talk about the new "one touch" policy. Monthly "lunch and learn" sessions were also hosted by the CMS team to review the old and new case filing workflows to raise awareness about and support for the planned changes. During these sessions, managers presented the "one touch" policy as a way of improving service quality Giving judges and other Court employees access to case documents more quickly, they argued, enabled them to give greater consideration for and

attention to customers' individual circumstances. Asked to share her team's main objective

for the new case management system, Tina explained:

> We believe visibility is everything and the main benefit regarding electronic case files. The sooner we can make information available to our [judges]and to Court employees, the better the quality of service that we can provide to our customers.

Tina's explanation of the "one touch" policy demonstrates an attempt to highlight the

synergy and interdependence between standardization and individualization in the

performance of service. Alongside their focus on the potential efficiency gains to be realized

under the new case management system and the "one touch" policy, Tina and her

management team emphasized the potential benefits to service quality that were possible

once the system was in place. This was a key element in gaining support from employees

and in acknowledging their commitment to service quality. By including standardization

and individualization in the discussion about the changes underway, managers created a

space for employees to reconsider their "balancing act" between these competing demands

while continuing to value their role in "saving lives" and helping customers through their

moments of hardship.

Ironically, while the management team extolled the potential efficiency gains made

possible by the "one touch" policy (i.e., enabling quick access to case information within the

case management system), they did not consider how the process would change customer

interactions. For example, although managers recognized that service time would suffer in

the early weeks of the new system's use, they attributed this slow-down to employees'

need to learn to the new system. Tina noted, "People who have been here for many years

will leave their office one day knowing their job and come in the next morning having never

performed their job as it is today." They did not consider how the increased workload from new data entry requirements and the system's demands for attention (i.e., mouse-clicks and smart labels require more engagement than green screens and shortcut keys) would alter average customer wait time and average service time at the windows. Instead, members of the management team focused on the new system's ease of use relative to the current system, while also linking the potential efficiency gains to be realized with the new system to service quality. Karen, a case processing supervisor, shared her perspective on the new system as follows,

> I think [the new system] will be so much more user friendly. I am sure you've seen people using the current system and there are screens that don't make any sense. You know, like the names of the screens are hard to remember because they don't make any sense. And you can't do anything if you don't know the names of the screens or someone has a preset menu for you or something like that. So, with the new system coming out, it is very user friendly compared to what we have now.

> And, overall, [I think the biggest benefit of the new system] would definitely be efficiency and being able to get documents in. That is a big one. Being able to get the documents that we receive into the system faster. And not just documents, but any information, faster. We'll be able to provide better service.

This lack of transparency and attention led some Case Processing employees to express concerns about the coming changes to their processes. When asked about the upcoming changes, most filing clerks expressed a mixture of optimism and trepidation concerning the new system and the "one touch" policy. John, a member of the Case Processing team since 2012 who split his time between back office case processing tasks and filing at the windows, noted,

> Well, I am glad [the old system] is going away, honestly. I mean, it has been here since before I started. And, just to navigate through it… and all of these little shortcuts [and acronyms for screen names] that we have to put in to look up certain menus. I just hate it… It took me a while just to remember the [screen names] or

whatever you want to call them. But I guess it is just old in general. It just looks old and it is slow. It isn't intuitive, and you have to think about it. So, when I heard [the new case management system] was coming on or that they were working on a new system, I was looking forward to it.

So far, with the training, to me, it has been fairly easy. [But,] I do feel it is a lot more work as far as... Like, click this and click that... I feel like they are going to want us to do more data entry work. Which, they haven't told us yet. Which they keep telling us that they haven't decided what we are going to do yet. But if they do, I think it is going to take more time at the [window]...So, I see that happening....It is going to take longer.

...Yeah, and when there are like 20-30 people waiting [in front of the Clerks' Office] at 3:30, and they are upset and tired of waiting, and we close the doors at 4 and we are supposed to be out by 5... They'll call [the back-office employees like me] and ask, "Hey, can you help out at the windows?" And that's understandable but then backlog will increase. It's like when backlog started [increasing this summer] and they kept moving [the back-office employees] to the windows to help cover [during the training sessions for the new system]. And then you are always covering. There are areas [like the window] that I guess are areas that they feel are more...have more priority...which makes sense...but then backlog starts increasing.

Despite John's concerns about an increasing workload, wait time at the windows,

and backlog, he, like many of his colleagues, hoped that the new system's user-friendly and

intuitive interface would counteract some of these challenges by making it easier to

perform their work. Echoing John's trepidation, Dianne also expressed concerns about the

proposed process changes privately, but she kept such concerns at bay in her public

presentations about the system. As the former head of Family Law, Dianne recognized the

potential challenges stemming from the proposed changes:

With [the new case management system], the idea of "one touch" was the key driver initially because, "why have three people look at [the filing document]?" We wanted to have things immediately in the system. But workload is very heavy. Serving customers is very demanding. Flow is going to change. It is something that managers need to look at. What are you going to take away from the clerks [to give them this new responsibility]?... The system has to work properly [before any calls about workload can be made] ... What happens [to our metrics about average wait time and service time] when you introduce changes [to the clerk's work] like creating the record, barcode, and batch for scanning?

In a proactive measure to address some of the potential workload challenges posed by the new system and process changes, Dianne and her team endeavored to use their experience with the printer project as a learning tool. Specifically, the team worked on a customization effort with the new system's vendor to design a new barcode layout intended to make it easier to identify and to sort barcodes and append them to their corresponding filing documents at the filing windows.

Barcodes. After the new case management system went live and the "one touch" policy was put in place, the newly customized barcodes proved a helpful tool for filing clerks. The new barcode design featured additional identifying information, including the name of the clerk who completed the filing and a short description of the document that was filed (see figure 3-1 for a comparison of the old system barcode and the new barcode). With the additional information, clerks were able to stack-up barcodes on their printers and then sort them during breaks between tickets. Additionally, bins were purchased and placed on either side of the printers at the windows to help clerks organize barcodes, and these bins were labeled with the clerks' names. When a clerk had a free moment to turn to the printer and to retrieve their barcodes, they grabbed the printed barcodes and sorted them based on the identifying information now available. They placed barcodes belonging to them on their desk and barcodes belonging to their neighbor in the corresponding bin beside the printer. By breaking up the sorting process into various steps and providing bins in which to neatly organize each other's barcodes, the process required less attention during customer interactions at the window.

Figure 3-1. Legacy System Barcode vs. New System Barcode

DMSR ID 20718454	838
CASE ID 11D001523	CASE NUMBER: TDL048348-002
DMSR TYPE FL320	EVENT CODE: L0525I
	EVENT DESCRIPTION: WARRANT - BENCH - ISSUED
Filing Date 14-OCT-15	FILING DATE: 8/29/2013
Security Level 2	USER ID: **CASE PROCESSING**
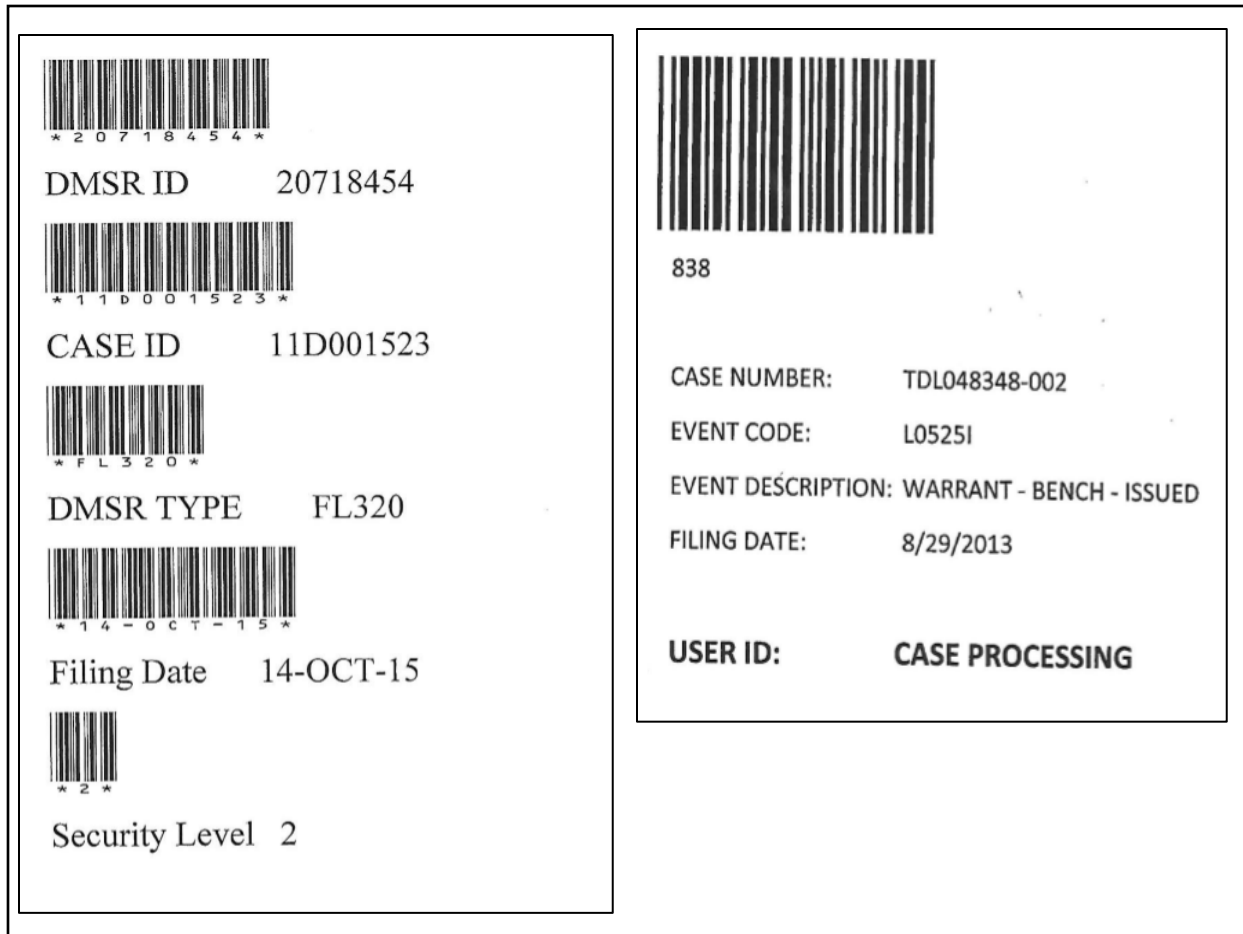
While the new barcode design made it easier for clerks to work data entry and barcode generation into their workflow at the windows, there were still some kinks to work out in the new process. The clerks' plan to use breaks and downtime between customers did not work, as the time proved insufficient to complete all required data entry and sorting tasks. Meanwhile, they faced pressure from their supervisors to minimize wait time in the Clerk's Office and to get a handle on processing time. Nevertheless, clerks strove to engage personally with customers at the window regardless of their increased workload. While clerks had embraced the view that service quality was dependent on both

individual care and efficiency, they continued to view their role as "saving lives". But, especially in the early weeks of its use, engaging the system required their full attention so they could not focus on the customer while focusing on the system. A customer interaction that I witnessed a few weeks after the new system went live highlights this point. On a busy day when customers' average wait time for service at the window averaged 70 minutes, a customer approached Martin's window and jokingly announced, "This is like waiting at the DMV." Martin shook his head and replied, "Please don't say that. I don't just push paper." A defining part of the filing clerks' work involved interacting with customers and putting them at ease, and they were not willing to forego this task and replace it with full attention to the system. Second, engaging the system invoked emotions among clerks, as they felt anxiety about making mistakes and frustration when they weren't certain about how to process a request. Roland noted, "It's easier if I just do it (perform data entry) when I am alone." As such, they had to seek out alternative ways of completing their data entry tasks while away from customers.

   Overtime. Recognizing that the new system would prove challenging for some in the beginning, overtime was budgeted throughout the early months following the implementation. Up to two hours of overtime a day were approved for each filing clerk to complete pending tasks and to help with back office work. After the first month of the system's use, most clerks seemed to be getting comfortable with the system, but many noted that only overtime was getting them through it. Ronald, a filing clerk, explained,

> I wait to do the docketing after the customer has left the window, so it doesn't break my focus… Sometimes, I stay after work or come in early to complete my data entry the next day. I can usually get it done in an hour in the morning before we open the windows.

The common practice of completing data entry after work hours or early in the morning made clerk's increased workload possible; however, managers were anxious about depending on overtime. They wondered what would happen to customer wait time, service time, and backlog once funding for overtime ran out.

Errors. Although overtime allowed filing clerks to cater to customers during the day and to deal with case files separately, it also kept clerks from fully embracing and acting on the spirit of the "one touch" policy. Beyond seeking to limit the number of hands through which a document traveled, the goal of the policy was to reduce the time required to make documents visible in the electronic file. By relying on overtime, clerks like Ronald extended the average time required to get documents from the Clerk's Office to the Records Department by up to a day. Making matters worse, if a clerk expecting to work overtime the following morning (to catch-up on data entry) called in sick, the pile of documents on their desk remain untouched for one or more days. These delays defeated the purpose of the new policy and the corresponding workflow change, as time between filing and scanning continued to exceed 24 hours.

Given these time delays from filing to digitization, if a case came before a judge and case documents had yet to make their way into the system because of data entry and scanning delays, a phone call from a judge could send the Clerk's Office into crisis mode. This potential landmine was worse than what occurred under the old system because it posed an additional complication. Under the new system, supervisors could no longer turn to the few data entry clerks or to the Records Department to quickly find the missing

documents. They were now forced to also search piles on filing clerks' desks throughout the Clerks' Office.

It is worth noting that breakdowns resulting from missing documents and delays in completing data entry were feared but seldom (if ever) materialized. With few exceptions, filing clerks were able to complete their data entry tasks during overtime either the evening following the customer interaction or first thing the following morning before the Clerk's Office opened to the public. Neither Tina nor the members of her supervisory staff were able to point to a specific incident that confirmed their fears during this time. However, the potential for such crises was enough to render the process broken, as preventing these kinds of delays was the very purpose of the "one touch" document policy.

Another concern raised by the overtime workaround was that the extra hours used to complete the day's work were not being factored into the changing (and improving) estimates regarding average customer service time at the window. Shortly before the new system went live, the estimated average service time at the Clerk's Office was 8-9 minutes. After the system's implementation, there was an expected increase in service time, resulting from clerk's struggling to figure out their work under new conditions. Damon, a Case Processing supervisor, noted,

> The biggest thing we are struggling with right now is that service time has jumped. Not dramatically, but it has jumped. [We were at the] 8-9-minute mark before, but now it's gone up to the 13-minute mark. [But I think the initial jump was related to people not knowing the system and getting used to it. They will speed up as they get used to the system.] I think it is already starting to show. I think it is a minute less. It is becoming normal now.

If filing clerks continued the practice of using overtime in order to complete their work, any analysis of the average wait time or average service time at the window would be skewed.

As the budgeted overtime hours were slated to expire at the end of the first quarter of the

year (March 2016), Tina urged her supervisors to caution against using overtime to

complete data entry and to ensure that a stable process was accepted among the clerks that

abided by regular work hours.

The New Normal

By May of 2016, roughly five months after the new system's implementation, the

Clerk's Office had settled into a new normal. Filing clerks' customary tools remained

permanent fixtures in their workspaces, (e.g., file stamps, highlighters, pens, white-out),

and the regular stamping of case documents served as white noise throughout the day. But

there were several important new additions to the regular set of tools and sounds seen and

heard throughout the day. The following excerpt from field notes captures several of these

new elements:

> Ronald calls the next customer to the window. She arrives at the window and jokingly tells him that she has been separated from her husband for 16 years, "so this is just paperwork." Ronald takes the woman's document, reviews it, and accepts the filing. He prints a bar code and leaves it at the printer while they are wrapping up their conversation.
>
> Once she leaves the window, Ronald grabs the barcode from the printer. He takes a paperclip from a large pile scattered on his desk and begins to use it to attach the barcode to the filing documents so that they can be sent to Records for scanning.
>
> The room seems louder because of the printers, and most of the printing seems related to the generation of barcodes. I look around and see new signs on the shelves that line the corridor between the filing clerks' desks and the back-office cubicles. The signs read, "No barcoded documents on this shelf ONLY PLEASE" and "Documents Ready for Imaging ONLY" on another shelf.

Despite these minor changes, the atmosphere in the Clerks' Office had returned to its pre-implementation normal, and the tension and confusion palpable in the initial weeks after the system's launch had dissipated.

The average service time at the windows in the Clerks' Office had decreased and was beginning to stabilize at approximately 10 minutes (down from 13 minutes in the initial post-implementation weeks). While there remained a significant difference in the metric as reported before and after the new system was put in place, members of the management team viewed the consistency with which the metric was being replicated as a sign that a new normal was settling in. They were beginning to accept the notion that average service time would remain greater than before the new system was put in place. Carla, a filing clerk, summed up the clerks' view of the new system and the relative success of the implementation process as follows,

> We've added steps to pretty much everything we do. But I think it is just going to be like that. If you think about it, it makes sense…But imaging [scanning] is faster. Even attorneys say that the wait [at the windows] is long but they see the difference in imaging. They used to have to wait months but now sometimes they see the image the next day.

From Carla's comment we see a shift in the definition of service as initial concerns about keeping customers waiting at the filing windows had become less significant. Court employees and customers were comfortable with the trade-off of a one-or two-minutes delay in the Clerks' Office for the availability of case filings in the system within one-or-two days of filing. As such, the metrics used to establish efficiency were changing. Whereas the backlog number (i.e., time between case filing and access in the electronic case file) had fluctuated and it had been an inconsistent measure in the past, the new policies put in place

with the introduction of new tools rendered this metric crucial to quality service. As

managers and customers attention focused their attention on the time from filing to

information access, they began to pay less attention to the metrics that had been

consistently measured in the past: wait time and service time at the window.

When asked if the changes had an impact on their interactions with customers, most

clerks said they did not think it had. Martin elaborated,

> [It's] mainly more of an impact on the wait time. I usually get [the customer's] filing
> done while at the window and then I go ahead and take care of [data entry]. [So,] the
> transition from one customer to another does take longer.

As the metrics used to assess standardization and efficiency were changing, clerks

continued to view individualization as a critical component of service quality. Although

clerks were no longer able to complete data entry after hours with overtime, they had

eased into a system that allowed them to do much of their "screen work" between

customer interactions. While the average wait time at the Clerk's Office reflected these

changes (i.e., customers were waiting longer at the Clerks' Office as clerks were taking

longer to switch from one customer to another), the service time average that was being

touted by managers failed to account for "screen time". In other words, if service time at

the window was made to include the tasks that clerks after customers left the filing

window to prepare their filings for scanning, then the new average service time estimate

would reveal more than a two minute increase from the prior average. Most clerks closed

out their service tickets as soon as their customer left the window rather than waiting until

after all the data entry and barcoding was complete. Because Case Processing supervisors

recognized that average time at the window was a difficult metric to interpret given vast

differences in the nature and complexity of each filing, little emphasis was placed on adjusting practices to ensure the metric accurately reflected service time. However, the management team realized that this flaw in their calculations could become problematic down the line. When justifying resource needs to the state, managers multiplied average service time at the window with the number of customers served each day to indicate how many filing clerks were needed at the windows. As their average did not accurately capture the time to fulfill each customers' request, management reports stood to underestimate their resource needs. Although this challenge was never articulated by supervisors or filing clerks during interviews and in casual conversation, there were some early indications that clerks' practices would need to evolve in order to address this gap. Specifically, the time and space of service were still being shaped to reflect data entry and imaging prep as part of the service encounter that was measured. Clerks had slowly begun to adjust their practices in order to begin incorporating the data entry steps into a ticket's service window.

Partitions and computer screens. Despite repeated claims that the new process had no impact on customer interactions, most clerks adjusted the way they handled customer's time at the window. Before, clerks had often allowed customers to make changes to their documents at the window or chatted with them while reviewing and stamping their documents. Now, several clerks had begun to ask customers to take a seat while they processed their paperwork. In some cases, clerks periodically closed the partition between their desk and the Clerk's Office waiting area to focus on data entry. Sam, a filing clerk, explained,

I'm waiting for them to break eye contact to do something else so that I can turn to the screen and do some data entry. Or, I ask them to take a seat and I call them back to the window when I am ready to explain everything to them. It's about shifting focus between the customer and the computer screen.

As Sam's description highlights, clerks had begun to see the service encounter as a series of interactions rather than a single episode. In so doing, they were still focusing on the customer and their individual needs while interspersing their interactions with data entry and other standardization-related tasks. Sam, like most filing clerks, used mini breaks in the rhythm of the customer interaction strategically to shift focus back and forth between the customer and her screen. The increased number of steps and activities that now required attention in the system rendered the task more challenging. The following excerpt from field observations demonstrates how clerks were challenged to shift focus between the computer screen and the customer while maintaining their engagement with the customer's needs:

Laura calls a customer to the window. He (the customer) greets her and immediately tells her that he doesn't quite know what to do with the form that he is about to file. She tells him that he has to put his name on it and to list any other related cases. He tells her that he only has this one. She tells him to take a seat and come back when he is done completing the form.

As she is waiting for him to come back, she tells me that he is filing a new case. She turns back to her computer screen and performs a handful of searches in the system for his last name and for the other party's name.

When he returns, she asks him if he is aware that there is a fee for his filing. He says he is and hands her his credit card. She creates the entry in the system and prints the barcode. As she is waiting for the barcode to print, she starts stamping the paperwork with the case number. Without looking up from what she is doing, she begins to explain what he needs to do next, but he tells her that he is confused. She stops what she is doing, looks up, and says, "Hang on, I'll explain better."

She turns around, grabs the barcode from the printer, and begins organizing the paperwork and clipping documents together. As he is waiting for her to resume the explanation, he says, "Like I said, this is my first time" and giggles nervously.

Maintaining her eyes on the paperwork she is sorting on her desk, she says, "I understand. I am sure it is very confusing. I will explain everything in a moment."

Martin and I were seated next to Laura and observing this interaction. Once the customer left the window, Martin commented on the incident at a volume that allowed Laura to hear his comments while inviting her to participate in our conversation. He noted that this was Laura's first week using the system at the windows. She had been the triage clerk after the system went live and she had been on vacation after that, "so, she is still getting used to the system." Martin was helping a customer who was a runner for a large law firm and had become friendly with the filing clerks based on her frequent visits to the justice center. The customer laughed and turned to Laura, "Yeah, I think I was your first customer yesterday, right? You were so nervous. I thought you were going to pass out."

Laura smiled and said, "Yeah, I am still getting the hang of it." She seemed uncomfortable with the conversation, looking away from Martin and the customer and choosing not to continue the conversation further. After Martin's customer had left and he had called another customer to the window, Laura turned to me and said, "Yeah, I am still getting the hang of it."

Martin's jokes and Laura's discomfort suggested that Laura had made a mistake. She had broken eye contact with her customer, and he had reacted to the change. He felt the need to tell her that this was his first time and that he didn't understand the process, showing his discomfort. She had tried to address the issue immediately, reassuring him that she would help him get through the process.

Laura's misstep and immediate correction exemplified clerks' ongoing effort to manage the tension, using micro-splits of time and space to alternate between a customer focus and a system focus throughout the service encounter. Most clerks found themselves experimenting with new approaches to the customer interaction, adjusting their non-verbal cues (eye contact), bodies, physical work spaces (partitions and screens), and tools (paper clips, printers, stamps) to break up the moments of service into customer-centered exchanges and system-oriented tasks. When I observed Laura at the filing window several weeks after this incident, she had begun asking customers to take a seat as she completed

their paperwork and that she would call them back as soon as she was done. She noted,

"This way, I focus on the system and the paperwork and I don't ignore them."

Making it count. Although clerks were adjusting to the changes and regaining their

footing in the months following the system's implementation, they were beginning to show

signs of strain. Clerks were pulled in multiple directions and stressed by the heightened

awareness to the customer and to the system that their new normal required. Although the

change was subtle, it was recognizable during field observations. There was less chatter in

the Clerks' Office as customers awaited their clerks' callback to their window and clerks

frequently closed off their partitions to attend to paperwork. Fewer smiles and less small

talk seemed to take place during their encounters with customers. For clerks who felt that

their role was about "saving lives", the new normal involved a lot of paper pushing and data

entry.

In response, supervisors attempted to increase morale and to remind employees of

their work's value. During informal chats, they emphasized how "every little act of kindness

counts, no matter how small." Furthermore, the monthly staff meeting's agenda was

amended to include time for a regular discussion addressing strategies for "staying

positive" and "mindful" about the important work performed by the Court. Two clerks were

selected to lead discussions on this agenda item. Duke, one of the two clerks, recalled the

planning and preparation work that went into leading this discussion for the first time:

> Our deputy manager who came up with the idea told us that we were free to lead
> the discussion however we wanted to. She suggested that a "feel good" video might
> help get everyone in the mood for the discussion. So, we spent some time on You
> Tube searching for a video with a random act of kindness. (*Duke searches for the
> electronic copy of the meeting agenda and clicks on the link to the video clip. The page
> pops up on his screen and we watch the video.*)

We selected this video[22] of a young boy walking home from school on a rainy day. People went about their day without noticing what was happening to him. Then, a man chatting with a store vendor noticed the boy and got him a cab to take him home.

After the video, we asked people to talk about what they had seen. It was emotional. Then, Nancy (manager) wrapped up the discussion by saying how we could be like the man who saw the kid and got him the cab. She said, "It may seem like an insignificant thing, but it makes a big difference."

In subsequent meetings, clerks talked about the value of helping customers get through the process quickly and making them feel comfortable at the window while they processed their paperwork. While clerks' reactions to these planned discussions varied, most appreciated the attempt to keep morale up. Martin noted,

Yeah, I'm not as touchy-feely, but I think talking about these kinds of things is good because it is important to have a positive attitude. It may seem like we are just entering documents into the system but [customers] rely on this to reach their goal. They want to get out of a bad situation, and the sooner we can get them through the process, the sooner they can get on with their lives.

Both managers and clerks had shifted their perspective of what quality service entailed, focusing on visibility to denote care and the "one touch" policy to denote efficiency.

Analyzing the Actions, Actors, & Errors Involved in Seeking Balance

In the original electronic case processing workflow, the primary strategy enabling balance between individualization and standardization was *separation.* Filing clerks were front-line workers who interacted with customers one-on-one, hearing their unique circumstances, helping them to convert their stories into relevant case information, and receiving the documents required to move their cases forward. It is worth noting that filing clerks engaged in some behaviors in service of standardization, as they recognized the

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[22] To view the video, access this link: https://youtu.be/2_uZ8AZfPTU.

value of efficiency and sought to prevent duplication of cases and case information and they strove to enable visibility across related cases and to all relevant case information. Nevertheless, most filing clerks viewed their role as attending to customers' unique needs ("saving lives"). Data entry clerks, on the other hand, represented the back-room workers who focused solely on creating electronic case records and ensuring they were an accurate representation of the information gathered by filing clerks. Partnered with records specialists, filing clerks and data entry clerks, and the spaces in which they performed their roles, were the key actors in brokering the balance between standardization and individualization that defined service. The filing and data entry clerks' specific roles in the performance created the separation of time and space that ensured attention to both objectives.

While this separation enabled the Court to cater to individual needs and to facilitate standard, efficient services, it required too much time and led to process errors. Electronic files often lacked visibility to recent case documents filed as far back as one to five weeks. These delays were particularly problematic when hearings or other critical case events occurred in the interim period between filing and electronic case file update. Such errors reflected breakdowns in the Court's ability to meet the efficiency demands of standardization.

To address this breakdown, managers recognized an opportunity to collapse the space and time in which case filing and data entry occurred by shifting some of the data entry tasks to be performed at the window. To aid with the adoption of this new approach, they installed printers in the filing clerks' workstations. By enrolling printers as a new tool,

the management team hoped filing clerks would be better able to switch between tasks focused on individualization and standardization more quickly. The printer project, as the effort was branded, represented the first strategic attempt at *integration*.

The printer project failed to bring about the desired process change because it lacked an appropriate combination of tools and actors to enact the new standardization and individualization frame successfully. To start, filing clerks and data entry clerks were not sufficiently *enrolled* in making the change happen. Specifically, managers did not want to raise objections from union representatives, so they did not make the project mandatory and failed to sell the clerks on their vision of why and how it would work and *defensive reactions* to the change were triggered. Data entry clerks and filing clerks who did not volunteer for the project engaged in *repression*, ignoring any potential benefits to service and favoring the status quo. As a result, backlog was not mitigated and the gap between filing and case file update remained.

Furthermore, filing clerks who participated in the project engaged in *splitting* the work into tasks performed during the customer interaction (talking to customers and reviewing their paperwork) and tasks performed during breaks and downtime (data entry and barcoding). They avoided shifting their attention away from customers because they feared a resulting breakdown in service quality. As a result, new errors were introduced. Matching barcodes to filing documents was challenging with multiple filing clerks sharing the same printer. These mismatched documents caused incomplete or incorrect updates to the electronic case record, as filings were appended to the wrong case or image uploads failed without the necessary linking information that barcodes provided. These errors

reflected breakdowns in the Court's ability to meet two critical objectives – efficiency and accuracy – that were defining characteristics of standardization. As a result, managers abandoned the printer project and clerks reverted to the original case filing workflow.

The Court's decision to implement a new case management system presented the next opportunity to test the business process improvement recommendation. Because the new project involved a completely different scale and scope of change, managers benefitted from greater time, resources, and attention in their quest to apply the knowledge gained from the printer project. First, managers increased awareness about the potential improvements to service of the workflow change by introducing the "one touch" policy as part of the new system's implementation effort. When the new system was finally rolled out, "one touch" was synonymous with both efficiency and service quality, as getting documents into the electronic case record was framed as the best way to help judges and customers achieve resolution of deeply personal family cases. To enroll all actors to the new way of framing service, managers and supervisors took time to enlist greater support from their employees by minimizing fear of the change. Specifically, they immediately worked with union representatives and spoke to the data entry clerks in order to reassure them that they would not lose their jobs. Furthermore, an information campaign was launched with the help of the new CMS team to highlight the changes in the electronic case processing workflow that would be required to make the "one touch" policy work, minimizing uncertainty about what the change would mean to filing clerk's day to day work.

Next, learning from the errors and breakdowns of the printer project, managers also chose to improve the tools available for clerks' use by customizing the new system's barcodes to provide more identifying information about the case and filing clerk, as well as the timing of the filing. Furthermore, the addition of personalized bins for each filing clerk provided a space for barcodes to await attention from the clerk. The enrollment of these new and improved barcodes and bins enabled a shift in the temporal rhythm of work, creating a new possibility for the nature of service.

The changes in technology and workflows also introduced errors related to the customer interaction, as these changes resulted in longer wait times at the Clerks' Office as well as longer service times at the window. Nevertheless, these errors were justified as either a temporary function of adjusting to change or an acceptable trade-off for the improvements in imaging speed and timely information access that ensured accurate electronic case files. The new barcodes and bins, in conjunction with the "one touch" policy, thus represented a strategic re-imagining of the time and space used to perform service through which the tension between individualization and standardization could be re-framed.

Nevertheless, the policies put in place to manage employees' anxiety and fear throughout the change gave way to a new cycle of defensive reactions. Specifically, the overtime policy allowed filing clerks to engage in *splitting,* as they avoided shifting their attention away from customers by conducting data entry tasks when the Clerks' Office was closed to the public. While this separation enabled filing clerks to maintain their primary focus on customer care, it risked a reversion to past errors, creating the opportunity for

missing documents in the case file and increasing backlog levels. The potential for such errors reflected breakdowns in the Court's ability to realize the expected efficiency gains from integration. So, the overtime policy was changed to prevent filing clerks from splitting their tasks between the Clerks' Office working hours (customer interaction) and its non-working hours (data entry), a new normal was established.

The new frame that produced a successful enactment of the integration model thereby altering the way in which service is performed. Specifically, the combination of actions, actors, and strategies that ultimately defined the new electronic case filing workflow triggered *active reactions* to the paradox. Filing clerks experimented with new behaviors and enrolled new tools to manage the tension between individualization and standardization simultaneously in each customer interaction. The use of material (partitions and computer screens) and non-verbal (eye contact) tools allowed them to create micro-splits in time and space that facilitated their engagement with the tension and allowed them to perform service as a manifestation of both competing demands.

Table 3-1 summarizes the various strategies involved in creating, upending, and repairing the balance between individualization and standardization in the case filing practice along with the actions and actors enrolled in the process. Each configuration of policies, people, and materials engaged in the enactment of a strategy (i.e., separation, integration and re-framing) triggered a variety of defensive and active reactions. The errors that resulted from these reactions, in all but the final configuration, rendered that enactment unstable while also serving as sources of information regarding new requirements to be met, ideas to consider, and obstacles to overcome.

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Table 3-1. Actions, Actors, and Errors Involved in the Process of Managing Paradox

Cycles	Actions	Actors	Reactions & Errors
Start: Case Processing with Electronic Case Files		• Filing Clerks • Data Entry Clerks • Records Specialists	**Errors:** • Too many days between filing and case file update (backlog)
#1: The Printer Project	• Optional program	• Printers	**Reaction: Regression** • Non-participating filing & data entry clerks (still performing status quo) • Participating filing clerks *avoid* shifting attention from customers **Errors:** • Mismatched barcodes & filings • Continued backlog
#2: A New Case Management System	• One Touch Document Processing	• Printers • Barcodes • Bins	**Errors: (Threat)** • Increased wait time and service time
	• Overtime		**Reaction: Splitting** • Clerks conduct data entry during overtime **Errors: (Threat)** • Wasted time searching for case documents • Continued backlog
	• No Overtime		**Reaction: Acceptance** **Errors:** • Missteps in the customer interaction
#3: The New Normal		• Partitions • Computer Screens	**Reaction: Transformation** • Micro-splits in time and space • New understanding regarding the nature of service

Performative Struggles and the Tactics of (Re)Framing

Witnessing the implementation of a new case management system in the Court over the course of eighteen months provided a valuable window into how competing demands are managed in the performance of service over time. In fact, the first orienting research question that guided this investigation asked how paradox is managed in the performance of service over time. I turned to the paradox literature to address this question, gaining from this choice a rich framework for my exploration of competing demands within the Courts and recognizing various response cycles and strategies in use by Court employees before and after the new system's implementation.

The second orientating question that guided this investigation asked how people, materials, and policies serve to stabilize and destabilize the balance between poles. To answer this question, I used a performative lens that allowed me to move beyond the realm of cognition and behavior and to consider practices with a focus on the tools used to enact service. This ontological perspective allowed me to see the use of printers, barcodes, and computer screens as more than props to promote separation or as part of acceptance strategies to facilitate integration. Instead, these tools were part of "heterogeneous configurations of actors and materials (D'Adderio & Pollock, 2014; Callon & Caliskan, 2010)" that performed the work of paradox management and repair, creating new and emerging possibilities for the future of service. This lens also afforded me the opportunity to explore the "balancing act" between standardization and individualization as one of ongoing and emerging *performative struggles*, which "take place when a multitude of intentional agents all attempt to bring into being their own strategic vision of a future

reality (Cabantous & Gond, 2011). The concept of performative struggles comports with paradox theory's view of paradox as "an ongoing process reflecting cyclical dynamics (Schad et al., 2016).

A performative perspective sheds light on the tactics used by organizational actors to (de)stabilize the existing balance between competing demands. For example, recruiting essential actors proved an important tactic in creating an environment in which the consideration of new frames became possible. Related to this tactic was the development and promotion of policies that created a new language and new ways of seeing and doing service. Another important tactic revolved around leveraging tools and their underlying capabilities. When the appropriate tools were not available to model the script for a new frame's enactment (e.g., the printer project), the frame failed to replace the status quo (regressing back to the status quo) or it kicked off a new reaction cycle in which clerks attempted to redirect attention to demands of individualization. In cases when the tools available did not completely capture the frame, they generated errors that became useful clues for enrollment in future framing attempts. Table 3- 2 provides an overview of these tactics, linking them to their origin in the management literature on performativity.

Table 3-2: The Framing Tactics Used During Performative Struggles

Tactic	Description	Examples
1. Recruit essential **actors**	"[P]erformances tend to be unsuccessful because they cannot recruit the right actors."	• Assuring **data entry clerks** and their **union representatives** that their jobs were not in jeopardy
2. Set the **policies** and **practices** of repair in logics of integration.	The "confrontation between multiple competing ordering systems (Cabantous & Gond, 2011) is better stabilized through narratives that empower both rather than favoring either.	• **One Touch Document Processing** framed the conversation around improving service quality.
3. Leverage **tools** and their underlying capabilities	Allow tools to become active participants in the "design, elaboration, experimentation, change, maintenance, extension, and operation (Callon & Caliskan, 2010, p. 23)" of the model.	• **Printers** brought barcode printing into clerks' space • **Bins** enabled temporal separation in a different scale • **Barcodes** bridged the time gap to prevent mistakes • **Partitions & computer screens** allowed micro-shifts in the customer interaction
4. Enroll **errors** in the process of repair and maintenance	Errors are enrolled in the confrontation between theories and helped shape the discussion by creating a space for negotiation between different theories and their errors (D'Addeiro & Pollok, 2014).	• **Mismatched barcodes** identified the need for a linking mechanism (new system barcodes) • **Missing documents** (threat) forced a reworking of the temporal rhythm of customer interactions (no overtime)

Learning from Errors

Learning from errors allowed each reframing attempt to reduce the space and time dimensions of the service performance, facilitating gradual integration of competing demands. This chapter began with a description of the frame characterizing service in the case filing process throughout most of the period between the adoption of electronic case files and the implementation of a new case management system. Arguably, this frame

represented the maximum acceptable separation between standardization and individualization that still managed to account for the interdependence between these competing demands. It is possible to imagine that this maximum span emerged after a series of trials that may have attempted to expand or contract these dimensions. For example, the first script for case filing may have kept computers out of the filing windows, distancing filing clerks from the steps related to search and case initiation in the case management system. However, working through the errors generated by these alternative (e.g., duplicate case records, missing links between related cases, etc.) eventually led to the stable process that characterized case filing throughout several years.

According to employees' recollections, the first break from the status quo resulted from a desire to improve efficiency by increasing the speed with which case filing documents were converted into digital images attached to electronic case files. Managers enrolled printers in order to develop a script for this new frame that altered the balance between standardization (with speed and efficiency as the primary objectives) and individualization (with customer care as the primary objective). This attempt failed, and it led to a defensive cycle where clerks reverted to their old process. However, the errors that emerged from this attempt (e.g., mismatched barcodes and case filing documents) identified a need for barcodes with more identifying information. The next framing attempt benefitted from these errors by suggesting a new set of actors for recruitment: barcodes, paperclips, data entry clerks, and the "one touch" policy. This script collapsed the time and space required for service. Although this frame's script prompted another defensive cycle, the notion that filing clerks should attend to customers and perform data entry tasks

remained part of the collective discourse and the Court's shared understanding about the nature of service. Quality service had come to depend on prompt access to case information in electronic case files. In fact, the errors that resulted from the enactment of this script were perceptual, as the set of tools needed to accomplish the script were available but clerks' focus on "saving lives" led them to engage in behavior to preserve consistency and to prevent the potential threat of breakdown. To address their response, managers eliminated the overtime policy thereby limiting the set of tools available to clerks in responding to the new frame. From these cycles and the fruits of their errors and subsequent corrections, a new normal emerged. The new normal represented the closest frame to complete integration between standardization and individualization but it still involved some degree of splitting. Clerks continued to create micro-splits in time and space (e.g., use of partitions, eye-contact, etc.) to break up the service interaction into customer-focused and file-focused intervals. Nevertheless, this evolution in the balance between standardization and individualization represented a collapse in the time and space with which the poles were performed that redefined the nature of service. Figure 3-2 provides a graphic representation of these framing and response cycles mapped alongside the duration and location of service.

Future cycles accomplishing further integration through an ever-collapsing duration and location of service are possible. For example, in the course of this study, managers considered purchasing individual scanners for the filing windows in order to review, accept, scan, and append the digital case filing into the electronic filing from the Clerks' Office filing window during a single customer interaction. Additionally, managers

continually referred to a future state in which all case filings were conducted online from the comfort of customers' homes. Furthermore, cycles may repeat and result in a regression to past understandings. For example, a loss or change in one or more of the tools enrolled in the performance, such as the replacement of the new case management system or the appointment of a new case processing supervisor focused on individualization as the main goal of service, could render the configuration of actors insufficient to enact the frame. Furthermore, new errors may emerge from the script's enactment, such as an increase in customers visiting the Clerks' Office that would challenge current wait time and service time capabilities, or training issues among filing clerks resulting in an increase in mismatched barcodes and case filings, etc.) In all cases, understanding the dynamic relationship between the social and the material aspects of the situated environment is critical to managing paradox, providing a toolkit of tactics to develop and to test new frames and providing a framework with which to understand the role of errors and defensive cycles in generating ideas to breakthrough opposition and contradiction.

Figure 3-2. Learning from Errors to Enable Integration
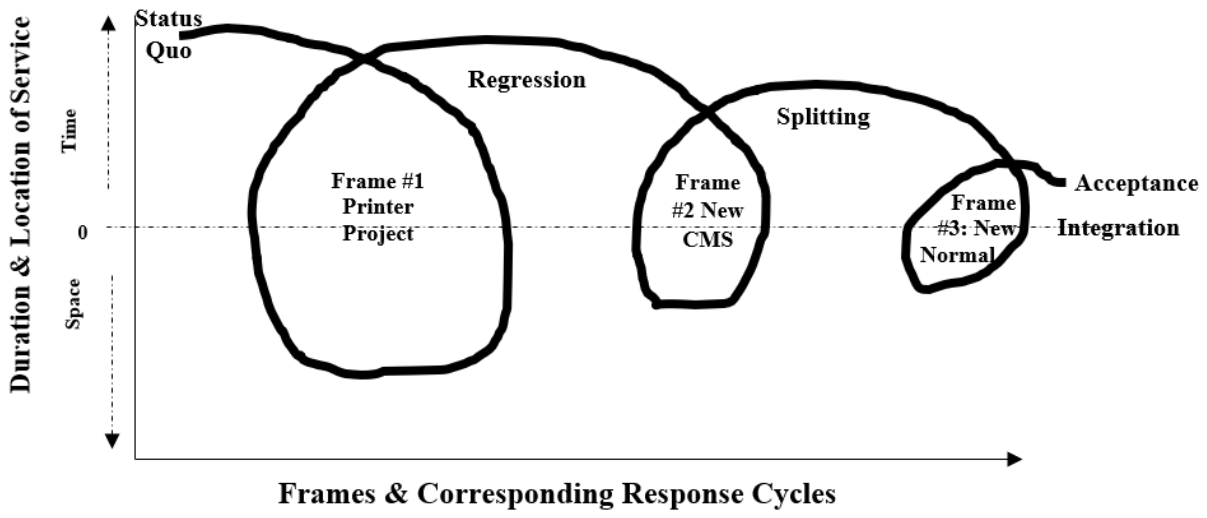
CHAPTER 4: ORGANIZING WORK
FOSTERING COLLECTIVE RESPONSIBILITY WHEN INDIVIDUALS' ACTIONS ARE VISIBILE

As the detailed review of the case filing process in Chapter 3 shows, the work of the Case Processing department and the Records department is organized by "divide and repeat." Case processing and records specialists engage in the constant review of documents - "the paper shuffle" - and each other's work. By the time a case filing is accepted and formalized into the official case record, several employees have reviewed it. Multiple employees are responsible for ensuring every case's progress through case filing, but no individual's actions can be isolated and held to account for errors of speed or accuracy. In the absence of individual accountability, a collective sense of responsibility serves as a guidepost, promoting the Court's mission to provide timely access to case information and dispute resolution.

Meanwhile, a key component of the Court's day-to-day administration across departments involves routine tracking of filings, cases, and all forms of work performed by employees. This ongoing tracking serves to ensure compliance with state guidelines regarding time to resolution and ongoing case management. It is also used to determine the allocation of state resources (i.e., more cases and filings equal more resources), as managers use work volume to justify their current resource needs and to provide a solid case for additional help when necessary. To gather such metrics on the Court's work, employees use various tools to count their work product, logging tallies of customers served, documents processed, and tasks performed. On a weekly basis, supervisors compile

individual level information to report on their team's overall output. Weekly information is ultimately transformed into monthly snapshots, quarterly reports, and annual reviews presented to members of the executive team and the state's Judicial Council. The detailed counting of employees' work has the potential to render individual performance visible, but the practice of aggregating and anonymizing "stats" serves to refocus attention to the collective effort. Managers' efforts to develop an effective and accountable workforce within a culture of shared responsibility for the Court's work constitutes an *organizing paradox*[23].

This chapter describes how the Case Processing department's and the Records department's supervisors engage in reinforcing cycles that promote collective responsibility while overlooking individual accountability[24]. After describing the two departments, explaining the nature of their work in terms of how it is measured and evaluated by supervisors, I describe how the balance between individual accountability and collective responsibility shapes employees' orientation to their work and overall performance. I also explore how the tools they use that render individuals' actions visible influence the perception of their work and shape its objectives. I chronicle the ways in which the shared sense of responsibility was challenged by the implementation of the new

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[23] Organizing paradoxes involve the systems and processes used to manage employees. Tensions "surface as complex systems create competing designs and processes to achieve a desired outcome (Smith & Lewis, 2001, p. 383-384)." For example, managers strive for efficiency in production practices while enabling flexibility to accommodate variations (Adler et al., 1999). Similarly, they seek to both empower employees and to control their output (Sundaramurthy & Lewis, 2003), and establish routines while preparing to handle change (Gittell, 2004).

[24] The accountability/responsibility paradox is based on Lindkvist and Llewellyn's (2003) proposed dichotomous framework. The authors introduce the concept of responsibility, suggesting that, compared to accountability, it connotes "more strongly the idea of morality…and is more closely linked with the exercise of discretion rather than merely the discharge of assigned duties (pp. 252-253; Llewellyn, 1998)."

case management system. Through a detailed account of the work of Case Processing and Records employees, I address two research questions: *(1) how does visibility to individual's actions affect the pursuit of collective goals?* (2) *what conditions render the relationship between visibility and collective responsibility complimentary or incompatible*?

An Organizing Paradox

Prior to the implementation of the new case management system, although most tasks performed by employees were counted and logged, it was often reported in a way that obfuscated the individuals involved. The various rounds of review that divided processes into small steps involving repetition and review of each other's work made it difficult to hold any individual accountable for a specific task or action. Furthermore, there was seldom any feedback about or pressure on individual's actions, and most discussions about performance were centered on the collective effort. This reinforcing cycle of collective responsibility, in large part, stemmed from managers' lack of agreement regarding what constituted good or bad performance at the individual level. As a result, even when the tools used, or processes performed by Court employees rendered individual actions visible, traceable, and measurable, such information was not utilized. In managing the organizing paradox, supervisors reinforced the importance of collective responsibility while downplaying the role of individual accountability.

The new case management system allowed the Court to capture more case information, increasing visibility around the Court's processes and creating new opportunities for measurement and tracking of overall productivity. The new system's features (i.e., enhanced logging, workflow automation, and filing status flags) altered the

nature and distribution of work while rendering individual actions visible to system users. For example, the system allowed users to create a "dashboard" or landing page containing links to the last 10 cases they searched and the top modules (pages) they visited to perform their work. Its *workflow automation* functionality allowed supervisors to create queues routing tasks to individuals or groups and to track pending work. Furthermore, new *docket status flags* for "events" (filings) made it possible to track employees' "work in progress" in addition to their completed tasks. Although supervisors did not announce any plans to use this information, employees reacted to the changes with trepidation and concern.

Having provided an overview of the changes introduced by the new case management and how they served to make individuals' actions visible across the organization, I turn to two illustrative cases to show how this change brought the tension between individual accountability and collective responsibility into relief independently from managers' actions. The first case involves the Case Processing department, responsible for receiving customers' documents and processing them into the official case record. The second case involves the Records and Exhibits Management department (Records), responsible for scanning case forms and overseeing the destruction of paper documents once the official digital record was created.

In both cases, I explain how the distribution and evaluation of work was organized before and after the system's implementation. I provide an analysis of the tools and metrics that served to focus employees and managers' gaze either on individual actions or the collective performance. I then compare their organizing practices and explain how the new system's increased visibility into individual actions served to alter employees' orientation

to collective goals. I conclude with attention to managers' actions and discourse, and how these either reinforced or diverted attention given to the individual and the collective.

The Case Processing Department

As detailed in Chapter 3, the Case Processing department is responsible for helping customers file their case documents. In addition to the filing clerks stationed at the Clerks' Office filing windows, back-office employees stationed at cubicles behind the filing windows process filings that are received by mail or delivered to the Clerks' Office and placed in the physical drop box located at the back corner of the office. They also answer phone calls from customers regarding the status of their case. This team of case processing specialists, along with the data entry clerks, make up the Case Processing department's workforce that is charged with filing case documents.

When a new case processing specialist joins the team, they participate in a one-week intensive training program. According to supervisors and employees alike, however, becoming knowledgeable about the different types of case filings and procedures requires six months to a year of hands on training. John[25], a case processing specialist with 7 years of experience at the Court, explained, "Once they train you, they pretty much have you go to the window and slowly rotate people out from window to [the back-office] and so forth." While familiarizing themselves with the various types of case filings, legal processing specialists refer to a shared repository of procedures and forms that serve as a guide while on the job. John highlighted,

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[25] Pseudonyms are used to protect the anonymity of study participants.

The [department's website] has all our resources. Pretty much all of the forms that we need, and procedures...basically, I think it is just a library. You need help finding something, just go there. All of the information is on there. Having all of these links here...makes it a lot easier.

To the case processing team, serving the public is not just about receiving paperwork and processing it. As the Court's mission statement highlights, the team shares the goal of helping customers reach a satisfactory resolution to their disputes [emphasis added],

> The mission of the Court is to **serve the public** by administering justice and **resolving disputes** under the law, thereby protecting the rights and liberties guaranteed by the constitution.

Serving the public, as their vision indicates, involves timely service and equal access, and the Court recognizes it must hire quality people to achieve this:

> The Court will make optimal use of its resources to **deliver timely, convenient, and equal access to justice** by attracting and retaining highly engaged, high performing and ethical employees.

As one of the supervisors highlighted, "Even the presiding judge says it isn't just about customer satisfaction, it is also about employee satisfaction."

Case Processing supervisors and managers emphasized the importance of "stats" in assessing the area's output and value. The focus on metrics trickled down to specialists' understanding of how their work was counted, even if they did not fully understand how these metrics affected their evaluation. John explained,

> Basically, everything we file, [we track]. So, petitions, responses, defaults, judgments, at issues, etc. Anything that you process in Case Processing you need to keep track [of]. Whether you filed it or returned it, you keep track of it. And every month, you have to send all of the stats to your supervisors, and I guess they compile a whole monthly thing or maybe a yearly thing and then maybe they submit it to their upper management to get an idea of how we are looking and to see how much one person is doing vs. another. I truly don't know why they are asking for it...

Specialists' lack of clarity concerning how they were evaluated stemmed from their

supervisors' and managers' ambivalence about evaluating individual performance. Damon,

a Case Processing supervisor who oversaw the scheduling and evaluation of filing clerks,

explained,

> [When it comes to our numbers and my monthly reports,] whether good or bad, [it is] hard to measure. [T]here are all kinds of variables. But, if someone is consistently taking longer with customers or not performing like the rest of the team, that is an indication of a problem.

According to supervisors, "the numbers" or stats were their primary tool for problem-

solving regarding the appropriate use and need for Court resources. Employee evaluation,

on the other hand, was based on subjective assessment built on open dialogue with

employees. In performing employee evaluations, Damon spent a good portion of his time

meeting with employees. He noted,

> A big part of my work has to do with writing evaluations. To do this, I have to be on top of how people are doing, so I have to set up regular communication with them. I have a monthly one on one meeting with each employee [to get a sense of how they are doing].

When working through departmental challenges, on the other hand, Damon and Karen

placed an emphasis on metrics, but seldom found the time to prioritize these tasks:

> We need to consider problems on a bigger scale. It has to do with stats, but we haven't started looking at this yet. We are always busy.

Although stats were considered a tool to solve problems with the Court's ability to serve

the public, they required more attention than supervisors could provide given their day to

day obligations.

Like Damon and other supervisors, most employees viewed the emphasis on

metrics as external to their individual performance. Instead, they viewed the department

wide metrics reported by the management team as a reflection of the team's collective effort. Even when they recognized that their "stats" could reflect on them, the possibility was detached from their experience within Case Processing and with their immediate supervisors. John recalled,

> During your annual review, they do tell you how many you've done [of filings], actually. I remember that. Like say, one year I did, I don't know, so many judgments... So, I guess maybe they do use [the stats] for your annual review to get an idea if you are meeting requirements. Or, I am sure they report to upper management how we are operating. But I don't know.

More often, case processing specialists viewed "stats" as an opportunity to keep customers informed and to set expectations. Specialists worked together to maintain spreadsheets about backlog and work in progress documents so that they had ready access to information when customers called or visited the Clerks' Office. They often used this information to guide customers at the end of a service interaction (by window or phone), explaining, "We are currently processing filings from ["X" days/weeks/months] back, so check back around that time from now [for the next step]."

To ensure quality service, help at windows and on the phones was an area of focus, and having access to information to calm the customers was key. Stats about the current state of backlog served as an assurance that the process was organized and under control. It also helped to set an expectation about when progress should be expected. To ensure accuracy and efficiency, case processing specialists worked together to have several "sets of eyes" reviewing case documents, processing them and giving pertinent information to customers about their status. In the absence of individual performance targets, their multi-step verification process allowed them to establish a system of shared responsibility for

their departmental goals. Specifically, case processing specialists were committed to helping customers move through the steps required to get their cases to resolution. The following is a detailed overview of the process they followed, highlighting the various rounds of reviews undertaken by Case Processing employees to ensure that customers moved their cases forward quickly and in accordance with the Court's policies.

From petition to disposition. Case processing specialists reviewed case documents submitted by customers and attorneys in person or by mail at the Clerks' Office. Every document case filing document required quality checks, consisting of numerous document review steps outlined in the previous chapter and revisited below with attention to how employees work was tracked and evaluated.

Check in. During the initial check in process, a triage clerk[26] created a service ticket for them in the *customer tracking application.* The ticket was classified according to the type of request (nature of customer filing) and included any pertinent notes about the request in the ticket's comments section. The customer tracking application's provided visibility into key metrics concerning filing clerks' work (i.e., customers served, average wait time, and average service time). Ticket information was tracked at the individual clerk level, but it was not used; instead, supervisors used the system to obtain counts and average metrics (e.g., service time at the window and wait time in the Clerks' Office). Figure 4-1 provides an example of the monthly Critical Ops reported generated by Case Processing supervisors and distributed to the management team.

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[26] Filing clerks and back office employees were routinely assigned to serve as the "triage clerk" at the front of the Clerks' Office. The triage clerk greeted customers and made sure that they had the requisite paperwork for the filing they intended to complete during their visit.

Figure 4-1. Examples of Critical Ops Monthly Report (Email)

From:
Sent:
To:
Cc:

Subject: August 2015 Critical Ops

Good afternoon everyone,

August 2015 Critical Ops have been completed for the Case Processing Unit.

Total customers served: 6,699

Average wait time: 20:03
Average service time: 10:31

Copy work total: 1,630

Overtime total: 423.22
CP Backlog specific: 302.37

Thank you,

It is worth noting that the customer tracking application system did not track any metrics regarding the triage clerk's effort (e.g., time to the triage clerk, number of customers turned away, number of customers ticketed that successfully filed their documents at the window). The triage clerk served a support function for the filing clerks by preparing customers for their interaction at the window and by alerting clerks about any special circumstances that required attention. Independent of the metrics kept by the customer tracking application, supervisors need only walk outside the Clerks' Office to see the line of customers waiting for service and to observe the waiting area inside the office to gauge the volume of customers seeking help. This quick scan of the office was enough to get a sense for how the day was progressing.

Documents that were mailed to the Clerks' Office or dropped off at the physical drop box inside the Clerks' Office were reviewed by back-office employees seated in cubicles behind the filing clerks' windows. Every morning, and periodically throughout the day, one of the case processing specialists was assigned the task of picking up the mail and emptying the drop box. The case processing specialist then sorted them into piles based on filing type and date of receipt (i.e., piles were sorted in ascending chronological order) and placed on shelves throughout the back-office and around the specialists' cubicles. Finally, the specialist logged the count of filings received in a *tracking spreadsheet* that was stored in the *department's shared repository*.

The Tracking spreadsheet or *XLS log* (as it was termed by specialists and managers) was maintained outside of the case management system to track documents by filing type that were received by mail and were awaiting review and approval. This system was used to help managers assess backlog to request additional resources in the form of overtime or temporary employees as necessary. By providing information about what was currently being processed and how many documents had been received, case processing specialists were able to placate customers' concerns about delays in case resolution.

For example, Karen, a case processing supervisor, created a backlog dashboard for the department that summarized what was currently on specialists' desks and under review. The dashboard identified the oldest receipt date of the documents that were currently being processed and summarized the average number of filings (by type) processed in the last week by case processing specialists. John described it enthusiastically,

> See, when you go into the website [with our dashboard] and you scroll down [to the bottom], it basically tells you, "As of this date, this is our backlog by this and that

type of document." So, I am assuming at some point during their day, [supervisors] will go in and update it, probably once a week, but they'll go back to the backlog and see that we are working on such and such date and put that date so that if someone at one of the windows asks how we are doing on defaults, [for example], we can say, "Oh, we are working on August 1 defaults. And they might say, "I submitted mine on August 16." So, obviously we haven't gotten to it. So, we tell them to come back later [and about how long we think it will take based on the rough average of work processed per day] … I guess the whole point of that is, you know, if someone calls, instead of coming in person and standing in line and waiting two hours to get that information, we can tell them [where they stand]. Or, the triage clerk [at check in] can pull that information and tell them, and they can go home afterwards instead of waiting two hours to be called for that simple information.

Independent of the logs and dashboard maintained by Case Processing, supervisors need only walk around the office and look at piles of paper on the shelves to gauge the extent of backlog. When the shelves were full, it was a sign of trouble.

File processing. Whether at the windows or in the back-office cubicles, a case processing specialist performed a thorough review of documents to confirm whether they had been prepared by customers satisfactorily. Each document brought before the Court represented a different step in the process and required review. Documents with mistakes or missing information were turned away or returned with a request to update the errors and, if possible, guidance on how to revise them (e.g., information provided on post it notes, markings on the page, or verbal comments during the service interaction at the window).

At the filing windows, clerks were careful about closing out service tickets in the customer tracking application as soon as the service interaction was complete. For example, if they asked a customer to revise their documents before accepting the filing, they often closed the ticket and had the triage clerk issue a new ticket when the customer was ready to re-submit. The following excerpt from field notes highlights the clerks' attention to tickets' processing time (emphasis added):

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Martin calls a ticket to the window and it is a response to a request for order. He points out a typo on the form (spelling of the last name is different on the forms) and says "As long as we fix it here, it is no problem…" He erases the writing on the form and hands it to the customer to write the correct information. He asks if she is aware of the fee for the response ($440). He says, "You have the option to file a fee waiver (another form) **but you'll need a new ticket**. We can review it here and there is a chance that we can approve it here… Just tell the gentleman at the [triage] desk that they sent you back from the window to get another ticket but that you've already been through the line."

When the customer walks away from the widow, Martin tells me, "I just couldn't accept her paperwork because she either had to pay the fee or file a waiver." He couldn't keep the ticket open long enough for her to fill out the entire form. He clarifies, "This is not considered a lost ticket, but we just close it out. We helped her, but we just weren't able to process everything." I ask what he means by "lost ticket" and he tells me, "Sometimes tickets get stuck because multiple clerks call a ticket and then the system becomes confused." The clerks are instructed to call the longest waiting ticket to help the average wait time at the Office. Martin says, "**If we lose a ticket, it affects our averages, but there is nothing I can do about it**."

At the filing windows, although clerks were aware that their actions had an impact on "the numbers", they did not connect these stats to their individual performance. As a matter of fact, prior efforts to emphasize individual performance based on these metrics were met with resistance from the clerks, who felt the increased oversight made it more difficult to juggle their demands. Carla, a filing clerk with 8 years of experience in her role, recounted a past initiative to promote the goal of a 10-minute average service time at the window,

> I remember when there was this drawing of a fishbowl posted on the bulletin board [in the back of the Clerks' Office]. It showed how many people were under 10 minutes. They were fish in the fishbowl and the fish outside [represented those over 10 minutes]. They were fish out of water. They would not call you out by name or anything. But I didn't like that…It didn't stick around for long.

In the back-office, no metrics were kept about how long it took to file each document. However, a time study had been conducted after the transition to electronic case files, and it reported on the average completion time for each task undertaken in the Clerks' Office

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and the in courtrooms by Administrative staff (see table 4-1 for a comparison of the time study estimates before and after the new system's implementation). The completion time estimates from the time study were used to calculate a time estimate for backlog that was then converted into the number of full-time employees required to catch up (i.e., process the backlog). The time study estimates, however, were not used to compare individual performance among clerks and specialists or to pinpoint potential problem areas for training opportunities.

Once approved, documents were file stamped and prepared for inclusion in the electronic case file. When a filing clerk or case processing specialist file stamped their documents and prepared them for data entry, they placed them in batches by putting a rubber band around them to note that they were processed by the same Court employee. The batch system was implemented to make it easier to track documents that "had gone missing" and were not attached to their corresponding record in the case management system. The documents remained in batches as they were processed by data entry clerks to generate barcodes and to prepare them for scanning. Tina explained,

> We finally implemented file stamp batches of who [processed] which bundle. Now, [we] can go into the case management system and see who [processed the form], and then [we] can go and look for that person's bundles [if we are tracking down a document].

At this step in the process, supervisors collected information on average service time at the window or average case processing backlog by document type, but they did not use it to evaluate individual performance. Based on the monthly reports compiled from this information, most supervisors were able to quickly articulate a variety of statistics such as, "We average 10 minutes at the service window," "It takes about 7 minutes to process a

default," or "Our backlog on judgments is about 2 weeks."   Whether these metrics were

satisfactory and the extent to which deviations posed a problem was never articulated.

Damon noted,

> [When it comes to our numbers and my monthly reports,] whether good or bad, [it is] hard to measure. [T]here are all kinds of variables. [So, I mainly look for] an indication of a problem…

Table 4-1. Time Estimates for Case Processing Tasks

Case Processing	Time to process (minutes)	
	Pre-System Implementation	Post-System Implementation
Customers	8*	20**
Straight Filings	4	
Petitions	8	
Responses	6	
Dismissals	6	
Substitutions of Attorney	3	
Hearing Documents (RFOs & Motions)	5	
Defaults	6	8
At-Issue	10	8
Memos to Set	5	6
Writs & Abstracts (Research attorneys)	15	15
Judgments	15	22
Expedited Judgments	15	17
Fee Waivers - initial	6	10
Fee Waivers - after court	15	15
Consolidations	30	30
Transfers	18	18
Adoptions/Terminations	15	15
Copy Work	5	10
Mail Sorting	1	**
Data Entry***	2	

* Max of customer-related tasks in the time-study
** Max of customer-related tasks. The average customer service time quoted among clerks and supervisors was 10 minutes.
** 2FTE spending ½ their day on this duty (~600-900 Pending documents in the data entry ***work queue*** daily)

Data entry. Data entry clerks received paperwork in piles designated "Expedites" or "Priority" that contained the batches created by case processing specialists. Their immediate goal was to quickly process expedites, as these documents involved matters soon to appear before a judge in a courtroom. Data entry clerks kept a log of the documents they processed each day by filing type, and they sent an email with their tallies to their supervisor at the end of the week. As far as the data entry clerks were concerned, however, as long as the bins labeled "Expedites" and placed on shelves in the back-office were empty, they were on track.

The data entry process provided another set of eyes to review case documents and the case file to ensure that the records were complete, consistent, and accurate in order to move the process forward. If errors were found during their review, the data entry clerk filled out a *request for correction slip* (see figure 4-2) and the documents were returned to the appropriate case processing specialist. When the request for correction slip workflow was implemented, the process called for correction slips to be given to one of the case processing supervisors for review before distribution to the clerks and specialists. Dianne, the Family Law manager at the time, noted,

> If a supervisor is handing it [back] to them, they pay more attention. I mean, mistakes happen, and I don't think we've ever been harsh about it. But, if I made a mistake, I'd want to know [so I think they feel the same way too]. It is not about hand slapping, but we need to be tracking… It's a training issue.

In practice, however, most supervisors merely passed the correction slips to clerks and case processing specialists without analyzing or addressing errors. While they recognized the value of reviewing patterns, they felt there was no time to review the correction slips and to compile information about training issues.

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Figure 4-2. Request for Correction Slip

REQUEST FOR CORRECTION

Family Law: Data Entry

Prepared by: _____

Filing Clerk: _____

Case #: _____

Date: _____

☐ Missing/invalid case #

☐ Incorrect case # (*case name/caption does not match*)

☐ Case dismissed on:

☐ Case dismissed; please close/vacate open hrg(s)

☐ Missing/illegible file stamp

☐ Filing party is not a party to case

☐ Blank/incomplete/incorrect hearing info

☐ Missing Dispo code

☐ Missing signature on FW003/Summons/File stamp

☐ Doc has two case #s; please circle the one that is to be used

☐ Missing fee waiver stamp/payment receipt

☐ No box marked

☐ Other: _____

_____

Thank you!

This sheet must remain attached to the document!

Breakdowns. The multiple review steps and the breakdown of work into small tasks that were characteristic of the "divide and repeat" approach had two key drawbacks. First, it resulted in a backlog of case filings because of the lengthy time required between the case filing and its subsequent availability in the electronic case file. Second, it limited

the number of employees with enough exposure to the overall filing process who could review judgments, the final step towards case resolution.

Many requirements must be met for a judgment to be approved. According to Sam, a case processing specialist, the Court "requires very specific wording [making] it hard for people to get it right." Most customers do not have a firm understanding of the process, so judgments often require several rounds of review before they are accepted. Judgment filings must include self-addressed envelopes so that signed copies may be mailed back to customers once processed and, more often, so that the Court may return rejected documents for further review and modification. The sheer volume of judgments reviewed throughout the year often represented three times the number of cases resolved. Exacerbating the issue was the fact that only senior case processing specialists had enough knowledge of case workflows and judgment filing requirements to review them, so the task was often under-staffed.

Judgments were often the culprit with rising backlog, as. According to Dianne, these were the backlog item that posed the most significant and ongoing concern to the Court's operations in recent years. Case Processing faced a challenge in keeping up to date on judgment filings, and they recognized that delays in judgment processing could have a major impact on the Court's daily operations. Tammy, a courtroom manager, noted,

> When attorneys find that we have backlog, they request hearings [to get the judgment in the record faster] ... [Or, a case can be called to one of the automatic calendars for resolution when a judgment is already prepared.] So, the parties may pay up to $400 [an hour] for an attorney to appear only to find that no progress can be made until something is processed ... [And when that happens,] I have my supervisors searching all day [for the judgment in the back-office]. It is ridiculous... Everything shifts to the courtroom. And, when it hits the courtroom, everything in the world is urgent because we have a judge behind it.

Because the review process for judgments was cumbersome and could vary greatly depending on the unique circumstances of each case, there were few formal policies regarding how to determine what to look for and what to flag as problematic Beyond the backlog estimate (i.e., average time between when the judgment was received by the Court and when it was processed), there was no clear guideline or metric on how to determine the efficacy of the filing process. If errors were identified in a judgment packet, the specialist sent the packet back to the customer for revision. Rejected judgments never made their way into the case management system and the paperwork that accompanied the rejected judgment was sent back to the customer for modification. If rejected, the case was effectively stuck until the customer modified the packet and resubmitted it to the Court.

To help customers modify their documents successfully, a *return sheet* was created so that specialists could provide feedback to customers about the reasons behind a judgment's rejection. The case processing specialist who reviewed the judgment packet could provide as much or as little detail as possible regarding the mistakes that required attention. Some specialists stopped reviewing the packet as soon as an error was identified. Most reviewed the entire packet and provided a list of errors requiring attention. The return sheet was included in all packets sent back to customers for revision, but copies of it were not stored in the case management system. Return sheets were provided as a courtesy to the customer, but they were not a basis for evaluation or training of case processing specialists. If a customer called to ask for clarification about the notes provided on the return sheet, the case processing specialist handling the phone call did not have a

copy of the return sheet to provide additional assistance. Furthermore, the name of the specialist who had reviewed the judgment packet was not listed on the documents, so the call could not be directed to a specialist with prior knowledge of the case.

Only information about judgments that had already been accepted was available for review in the case management system; judgments pending review were not visible. If a customer called about a backlogged judgment, the case processing specialist turned to the department website and referenced the dashboard. In it, they found the delivery date of judgments currently under review. If the customer had submitted the judgment after that date, the specialist provided an estimate regarding when the judgment would be reviewed. Otherwise, the specialist suggested that the judgment may have been rejected and required additional review and modifications. In such cases, the specialist had limited information to help the customer determine next steps. Nevertheless, they could reassure the customer that additional information concerning the review process was provided in the return sheets included in returned judgment packets.

Like other filing documents, once a judgment packet was accepted and filed, the next step in the process was to update the electronic file. This work was typically performed by a data entry clerk. Although data entry clerks effectively served as a second set of eyes reviewing the judgment packet, their review was primarily limited to these two actions. Only experienced case processing specialists had enough knowledge about the process to conduct a thorough review of documents included in the packet.

The case processing specialists' commitment to serving the public and to helping them reach case resolution quickly drove their actions to communicate about the status of

documents and to provide feedback on filing errors. As noted previously, specialists were

not evaluated based on how many reviews customers required on average to file their

judgments successfully. Furthermore, their interactions with customers on the phone and

at the filing windows regarding the status of their filings were not evaluated or made

visible to their supervisors. The following excerpt from field observations highlights the

lengths to which Sam, like many of the clerks and case processing specialists in the

department, went to help customers achieve timely access to case resolution:

> Sam skims through the judgment packet to get a sense of what it entails. "I like to get
> a feel for what it is." She finds a pink slip with her writing on it. The envelope
> including the packet reads, "Attention Sam" under the Court's address. Sam tells me
> that she had spoken to these customers before. They had called to ask when their
> judgment would be processed, and Sam had given them the option to come to the
> Court to review the packet with her in person. They had decided to take her up on
> the offer, but when Sam reviewed it at the window, she found errors and missing
> information. She had taken a piece of paper from the desk at the filing window, and
> she had written down a list of issues that they needed to tackle. She told them to
> take the packet to Self Help or to go home and review her notes and to send it back
> by mail when they were done. She told them to include the paper with her notes
> (pink slip) so that she would know that she had reviewed it and she could move it
> up in the pile.

In the final months leading up to the new system's launch, judgment backlog crept

up to a record high of three months. Sam noted, "There are separate logs when we have

such a big backlog." Maintaining additional spreadsheets had been deemed an inefficient

process that generated more work and created more layers of review. As backlog

increased, however, more detailed logging was reinstated so that specialists and managers

alike would have a place to turn to when customers demanded additional information on

their filings. Damon explained,

> When a judgment was submitted but not processed, we had to track it down to calm
> down the customer or the attorney. Courtroom clerks would send an email to the

supervisors to see if a judgment had been processed before they could take it off calendar. So, we were running around looking for documents. [We needed the logs to help us address these issues.] And, part of it was to reassure the attorney that we didn't lose it.

Specialists began compiling additional logging spreadsheets that were updated as members of their team worked their way through the judgment review process. The logging spreadsheet was updated at the time a judgment was received via mail or drop box, and tracked when judgments were under review, by whom, and whether they were accepted or rejected. At times, the notes in the spreadsheet provided some indication of whether and why a filing request had been rejected and if other actions (i.e., appearance before a judge, additional filings, etc.) were required to complete the process. Such information was only available in the spreadsheet when a specialist chose to update the notes on the document, and the degree of information made available varied by specialist and/or the extent of the review undertaken. More importantly, the logs contained the name of the specialist that was reviewing or had reviewed the judgment packet. As a result, whenever a customer called or appeared at the Clerks' Office, they were directed to the specialist with knowledge about their case and judgment. Dianne conceded that logs were inefficient, but they had to have information to share when customers called. She reiterated, "there are huge repercussions with backlog."

Process and System Enhancements. To gain visibility to documents more quickly, Family Law managers sought ways to expedite data entry in the case management system and to remove some of the redundancies that existed under a "divide and repeat" approach.

One touch document processing. To reduce backlog, a new "one touch" document processing policy was implemented that required filing clerks and case processing

specialists to complete much of their own data entry. The "one touch" policy was intended to address the goal of timely access to service (resolution), and it also served to remove some of the "sanity checks" that had been built into the system. By removing the additional reviews, it placed a spotlight on the clerk or specialist responsible for processing each document and creating its corresponding record in the electronic case file.

Additional functionality built into the new system extended the "one touch" policy from people to technology, making the new case management system a single point of entry for all case information. For example, whereas cashiering had been handled in a separate system, a new cashiering module that allowed clerks to assess fees while creating filing records within the system. Because the fees were automatically populated when the filing type (form type) was selected, all actions that were typically charged to customers were visible in the system (whether or not a customer had a fee waiver).

Barcodes. To make the "one touch" policy more feasible for clerks and case processing specialists whose attention was split in many directions, new barcodes were created for the imaging process that contained more information. A key piece of additional information was the name of the clerk or specialist who had processed the document and created the record in the case management system. Adding the clerk's or specialist's name to the barcode was intended to help collate documents and barcodes properly, and it also provided a material reminder of the link between the case file and the clerk or specialist.

Leads. Beyond addressing redundant steps and duplicate reviews, managers also sought to create more opportunities for specialists to ask questions and to learn about the case filing process. To provide more training resources while empowering "rockstar"

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employees, the management team appointed "leads" to help junior clerks and specialists

with questions about their work. Tina (FL manager), explained the initiative as follows:

> So, we have what we call lead workers, and it is not extra pay. It is completely
> voluntary. But it gives them the insights of how to be a supervisor. So, when I got
> here, they weren't doing that too much. And I was like, you don't understand how
> much they help out and they free up the trainers [from the Analyst team] who are
> being so overworked. So, you find your two shining stars who have job knowledge
> and can answer questions just like the analysts so that when the supervisors are
> gone in meetings, they can step up.

Supervisors viewed the new leads as a lifeline. Damon noted,

> The supervisors are busy, and this is the way of getting help. The leads free up a lot
> of time to do what I am supposed to be doing instead of answering procedural
> questions ... The process is viewed as an empowering thing and a way of developing
> them. Since we introduced the leads program, all but one of the leads was promoted
> out of here. Everyone who we have selected has improved greatly. Also, most people
> see the lead positions as a steppingstone, so we get good people.

They also recognized an opportunity to challenge employees to think for themselves. Karen

elaborated,

> Instead of just barking out an order, we are asking them what they think about it.
> We are turning them around and delegating things to them; partly because we are
> swamped but also to show them that this is their piece of the pie. "Look at that, you
> just needed to think out loud."

For leads, the informal position was an opportunity to shine within their

department where individual performance had not been a focal point. Before the leads

program, the way to gain a promotion was by seeking training and opportunities in other

areas. Jose's recent move to the Analyst team from the Family Law unit highlighted this

trend. He explained,

> The way to make it clear that you are interested in moving up is to take up]
> [t]raining opportunities. They don't give raises once you hit a cap so the only way to
> make more money is to move. So, you cap out at LPS and I can't go to my boss and

say, "Hey, can I have a raise?" Even if I am performing... So, by moving, I am extending the rod of pay and that will ultimately contribute to my safety net... And, you have to have a certain number of hours of training every year anyway, so it makes sense.

The informal position also helped to reinforce their commitment to the collective goal of helping customers resolve their cases. Sam shared, "My work is not just about me. [This is why] our leadership training is so valuable. My attitude is a choice."

Despite the benefits to the individual and to the overall team, leads found themselves pulled in many directions, making it difficult for them to perform the work that had rendered them "stars" in the department. John highlighted,

> Yeah, a lot of people come up to me anyways. Maybe that is why they asked me to become a lead. ... There are two other leads who were here for a while before me who I thought were pretty good and they got promoted to courtroom clerk, and I thought, "OK, I'll help out and step up" ... And, I guess that means that I am liked, which I don't mind. But it would be nice if every once in a while, I could say, "I am kind of busy."

Echoing John's concerns, some managers felt that the push towards individual attention and away from everyday work posed a risk. It kept leads, the shining stars of the department from the department's goal of serving the public. Dianne noted,

> We always want to keep employees. We recently lost some very good high-level employees to other courts. So, there has been a move to increase training and, with the younger generation, to provide greater flexibility...But, there are huge repercussions with backlog...We are making an attempt at a modern company but that is hard to do when you are a government company. We are dealing with customers and judges on the bench...These are really hard jobs. It is hard to keep employees happy [and to keep the Court running].

Post system implementation. As the "GO LIVE" date for the new system neared, signs were hung throughout the office that read, "You make a difference!", "Way to go!", "Go team!", "You got this!" On the weekend prior to the system's launch, employees were given

the opportunity to work overtime hours in order to get a head start on the week ahead and to become accustomed to doing their work in the new system. Managers bought pizza and set up tables on the courthouse's lawn to give employees the opportunity to eat lunch together alongside their supervisors and Court executives and to share their questions, concerns, and frustrations. Supervisors used the collective sense of responsibility for the Court's mission shared among their employees as a rallying call to get through the new system's growing pains. Nevertheless, several challenges emerged in the weeks after the system launched that required attention. Increased service time at the windows, mistakes in electronic case file updates, and a growing backlog pointed to breakdowns after the new system's implementation. Furthermore, employees' reaction to the new system's increased visibility into their actions seemed to upend the balance between individual accountability and collective responsibility. The following is a detailed summary of these challenges.

Increased service time. When the system launched, back-office employees were enlisted to open more filing windows in order to serve customers quickly. The challenge of adapting to the new system and the increased data entry demands, however, resulted in an increase in service time. Upon compiling the stats generated by the customer tracking application in the first quarter after the system's launch, Damon concluded,

> Service time has jumped. Not dramatically, but it has jumped. [We were at the] 8-9-minute mark before but we got up to the 13-minute mark. [But I think the initial jump] was about people not knowing the system and getting used to it. They will speed up as they get used to [the system]. I think it is already starting to show. I think it is a minute less now. It is becoming normal.

Karen, another supervisor, echoed Damon's comments,

> Time at the window used to be 9 minutes and it is now 12 minutes. We used to help an average of 7,000 people at the window per month and now we are averaging

between 5,400 and 5,800. So, they are busy, busy, busy! But volume is unbelievably consistent. We know that our busiest days are Mondays and Fridays and our busiest seasons are before the summer and holidays. So, we can move people around to accommodate it.

Although managers talked about running a new time study to document changes in the time required to process each task under the new system, there was little talk about what was desirable or appropriate. Much of the discussion among managers centered on the need to hire more employees rather than ways of making work more efficient under the new system. Concerning the level of service expected under the new system, Damon noted,

This question is above my pay grade. I don't know what we are going to do. And, there are a lot of reasons for our backlog. People in the back don't have enough time to focus on their job. They are always filling in for someone else. And, its all about budgeting…But, we are finding ways. As much as it would be nice to have more people, we are finding ways.

Mistakes. In the first few weeks after the new "one touch" policy was introduced, case processing specialists struggled to juggle their existing tasks with the additional data entry work. Because they were printing barcodes and preparing batches for the Records department, instead of their data entry counterparts who had performed this task in the past, missing barcodes or issues with batch sorting were common in the early weeks. Though they had general knowledge of the various forms that required filing throughout the life of a case, they were less familiar with the specific codes and statuses that the system required in order to recognize case milestones and to report on the nature of the Court's work properly. Clerks and case processing specialists acknowledged the change,

It did change because clerks generate the barcodes now. We find a lot of errors regarding the wrong filing date or the wrong bar code. We had a lot of rejections (initially) but it's are getting better.

Although the increase in processing and data entry errors threatened the integrity of the case files in the system, supervisors focused on the potential benefits of the new procedures and system enhancements. More importantly, they recognized that their team was adjusting to the change and would stabilize once they gained familiarity with the process. They did not track mistakes nor discipline employees because of them. Damon noted,

> [It is true that] there were many errors [in the system initially], but we can determine errors faster now [because the information is in the system almost immediately and more people see it]… Before, we had huge data entry backlog and imaging. Supervisors would run around trying to find documents. We were document diving all the time. But we don't have that problem anymore.

As Damon comment suggests, supervisors and managers felt the benefit of getting filings into the electronic case more quickly far outweighed the initial pain from processing errors. The collective goal of efficiency was met even if some individual mistakes needed a second review by employees after the fact. Consistent with this assessment, managers implemented an "Error Free Zone" policy during the first three months following the launch. Damon explained, "We are currently not tracking errors. It is still early on and errors of the sort currently occurring were expected." According to senior managers, errors would give the team an opportunity to figure out what not to do. Cindy, a senior manager, elaborated, "the goal of the policy is to let them know that we expect them to make mistakes and we won't punish them for it." Karen noted, "We want them to be the solution and not the problem."

    Increased visibility. The process- and workflow-related enhancements to increase case information access had the unanticipated effect of making employees' aware of how

their actions were tracked and made visible. The system's user logging and date stamp

features were prominently displayed as part of each record's metadata, highlighting who

had reviewed, accepted, and updated case documents. Although no new or enhanced

procedures to track user activity were planned, Court employees responded to the new

logging features with trepidation.

The following excerpt from field notes captures this unanticipated effect. Whereas

fees assessed on cases with an approved fee waiver had not been recorded in the past, the

new system made it possible to track fees regardless of the waiver status. As this service

interaction demonstrates, the fact that the user assessing fees was also tracked caught the

attention of the filing clerks:

> Laura calls a customer to her window. The customer service application identifies
> the ticket as a modification of custody. Laura reviews the paperwork and the
> electronic case file in the system. She schedules a hearing with a judge. She tells the
> customer that she is sending her directly to a courtroom. "This is an emergency
> hearing for custody," she tells me. Laura makes a copy of the request and hands it to
> the customer, as she will need to hand it to the courtroom clerk when she gets to
> there.

> Laura looks in the shared document repository for the workflow for emergency
> hearings. She wonders whether she needs to assess a court reporter fee. She tells
> the customer that she needs a minute to calculate the charge, and the customer
> informs her that she has a fee waiver. Laura confirms the waiver in the electronic
> case file, and something in the file makes her question how to proceed. She stops
> and thinks about it quickly, and ultimately decides to handle it later. Laura gives the
> customer instructions to get to the courtroom, she and doesn't charge her for the
> court reporter or for the copy work.

> Once the customer steps away from the window, Laura calls Michael (a lead clerk)
> and tells him that she needs help figuring out what to do. When she looked at the
> customer's file, she had seen that Kevin (another filing clerk) helped this customer a
> couple of weeks ago and there were $120 in fees pending from that visit.

> Michael: Yeah, it looks like they were having trouble figuring out how to cancel (waive) the fees. I see that Damon (their supervisor) edited this record… Get Kevin to waive the fees.

Laura sends Kevin a text message through their office messenger application. He is helping a customer two windows down from Laura.

> Laura: So, I just did paperwork copy and it is for a party with a fee waiver. But I noticed that she had $120 fees from another visit. When I hover over the icon for the user stamp, I saw that you created those events (records). I thought of waiving them myself but then I thought about it and decided you should do it.

While clerks and case processing specialists continued to work together to learn on the job and to troubleshoot unique requests, they were more conscious of how their actions were made visible in the new system. Failing to reverse a fee when an active waiver existed constituted a mistake. In addition to the user and time stamps displayed in the new case management system, the fact that many changes to the case file required a supervisor's approval (user profiles dictated the rights and level of access to system records that each employee was granted) rendered the mistake more likely to be discovered. It is worth noting, however, that as the requests for review and "corrections" related to filing fees and other filing tasks overwhelmed supervisors, they sought to give their leads the same system permissions that they had in order to delegate the task. In other words, supervisors had no intention of tracking or disciplining employees for their mistakes in the filing process.

Although judgment filings could also be tracked more closely in the new system, case processing specialists charged with reviewing these documents were less impacted by these changes. Because few employees performed this task, it had always been easier to

track their work. Ironically, because they were the "subject matter experts", they were more likely to pinpoint issues and to be tasked with correcting them in their capacity as leads. Therefore, increased access to information did not alter their sense of individual accountability, and it mainly resulted in service improvements to the judgment filing process. Damon explained,

> We are finding that we can now keep track of judgments that come in and docket them as received. Before, when a judgment was submitted, say three months prior, and not yet processed, we had to track it down [when a courtroom was looking for it or a customer asked about the status] …

As part of the new process, return sheets were scanned along with the judgment document. Even if a judgment was rejected, a record was created in the system and the return sheet was attached to the record. The name of the specialist who had processed and rejected the judgment was displayed on the return sheet and on the electronic record in the case management system. If a customer called to ask questions, the clerk or specialist assisting them had access to the information on the return sheet and they could also refer the call to whomever had processed the judgment.

Backlog. Within a couple of months after the launch, backlog for most filings increased as case processing specialists struggled to learn the new system. Jose cautioned, "We are now at a point where backlog is several months. [It is February, and] we are working on [backlog for some filings] from [last] September." When customers called the office to get an update on their filing, many expressed alarm upon discovering the extent of backlog. To address the growing backlog, the Court hired 8 temporary employees. Tina noted, "Eight temporary positions were approved for an 18-month period and some are already going through training."

Case processing specialists and supervisors alike were relieved to have "a new army of employees" to help with the workload; however, they were concerned about the impact on their workload from devoting time to training them. Initially, the approach taken by supervisors when training and distributing work among the temporary employees was to take "baby steps":

> [We found with the temporary employees] that less is more… We tell them that they have to be patient and that we know that we are not giving them a lot at once, but this is a way for them to get good at small things slowly.

While this approach mirrored the process used with newly hired case processing employees, it put in question how much of a relief would be possible given the temporary nature of their employment (roughly the time typically deemed necessary to gain exposure to all filing types and requests). Several of the case processing specialists, particularly the leads, expressed concerned during interviews and casual conversations about the lack of resources available to tackle the backlog in judgments. Senior managers took extra steps to address these concerns. Tina explained,

> [In addition to the 8 new people], we started training paralegals to deal with [judgment] backlog. [We set up one of the back offices as a judgments room.] We will have people doing nothing but rush judgments [in there] and they will become experts and will not rotate to other areas. [Plus,] we have five research attorneys doing default judgments…We were giving them two per day to process as they… know how to do it.

Table 4-2 provides an overview of these breakdowns along with the actions and discourse used by managers to address these concerns. These managerial actions and discourses are presented alongside the various tracking tools used within the department to keep track of the work of individuals and to report on group level metrics.

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Table 4-2: Case Processing Tools, Actions & Discourse

Visibility Tools	Actions	Breakdowns	Discourse
Pre-System Implementation			
Individual tracking: • Cust. Tracking Application • Routing Slips • Return Slips (judgments) *Aggregate tracking:* • XLS log • Dashboard • Crowd Size *(in/out of Clerks' Office)* • Bins/bookshelves *(Clerks' Office)* • Critical Ops Report *(email)*	*Training:* • Documenting procedures *Fostering Collective Responsibility:* • Divide & repeat (overlapping review)	• Backlog • Slow/insufficient employee development (knowledge base for judgment processing)	• Framing metrics around "we" and "our" instead of "you" and "them" • "It's a training issue" • "It's about empowering and not restricting"
Post-System Implementation			
Individual tracking: • Barcodes • System logging • Bins *(at windows)*	*Tracking Individual Accountability:* • One Touch Document Processing • Selecting leads • Enlisting experts for judgment backlog *Fostering Collective Responsibility:* • Implementing "Error Free Zone" • Empowering leads to answer ?s • Employing "army of temporary workers" for small tasks (divide & repeat)	• Increased service time • Mistakes • Anxiety about increased visibility • Backlog	• "Don't be the problem, be the solution"

Records and the Imaging Process

The Records and Exhibits Management Unit (REM), also referred to as Records, is responsible for maintaining all active and disposed (settled) case records across public case types (e.g., Criminal, Civil, Family Law, Probate, Small Claims, etc.). You may recall from the description of the Court's departments in Chapter 2 that Records is a shared service department with a management team that reports directly to the COO and a staff of records specialists deployed across all case types and justice centers (courts) in the county. The work performed by records specialists in Family Law makes it possible for electronic case files to serve as the Court's official record.

Members of the Records management team are typically rotated across justice centers to gain exposure to different case types and policies enforced in the county. Janeen, a Records supervisor, noted,

> Even though people are assigned to Family Law, they are all cross trained because they can be pulled to different areas based on need. So, [we] have area specialists but are then able to transfer in and out.

The goal of cross-training is to render Records' work a "shared service" allowing employees to help justice centers and different case types as needed. However, differences in context (nature of the case type), process (the procedures used, and the format of the case files maintained), and systems make it difficult to prepare specialists to serve any case type and justice center. Beyond training in the hardware (scanners) and software (content management system and file repository) used, training on the case type's workflow is minimally undertaken.

Records employees share the dual goals of making case information available quickly while ensuring its accuracy and integrity. Their mission statement, which is different from the mission statement espoused by the Court, is prominently featured on the cubicles of Records employees:

> It is the mission of the Records and Exhibits Management Unit to **provide easy access to reliable and accurate information**, while protecting the property entrusted to the [C]ourt.

Within Records, time was the key metric tracked by supervisors and employees alike, consistent with the department's mission and the specialists' shared goal of timely information access. Records specialists were tasked with making sure that bins of case documents to be scanned and digitally stored were emptied regularly and expeditiously. Susan, a records specialist with ten years of experience with the courts and one year serving as a Family Law records specialist, noted,

> …As we are working, we kind of check that nothing is pending or just sitting there (referring to the expedited bins). If we see a chance, we try to help each other that way [by making sure that the bins are empty]…[If I saw anything sitting there, especially in the expedited bin,] I'd stop and help out to get all the stuff [scanned].

Establishing quality guidelines to uphold their goal of information accuracy, on the other hand, had proven a more challenging task. Records specialists did not use the case management system to perform their work. Although their work was crucial to the maintenance of accurate electronic *case information* (i.e., digital images of case documents), the responsibility of records specialists ended at the point when paper documents were converted into digital images. In place of the case management system, Records used

DataCaps[27], a content management system with automated workflows that (1) converted images into PDF files and (2) created links between the file repository (FileNet) and electronic case files in the case management system (CMS). Figure 4-3 below provides a visual representation of the people and systems involved in the imaging procedure, and it emphasizes the points where document review and image review occur as well as where it is missing.

Figure 4-3: People and Systems Involved in the Imaginge Process
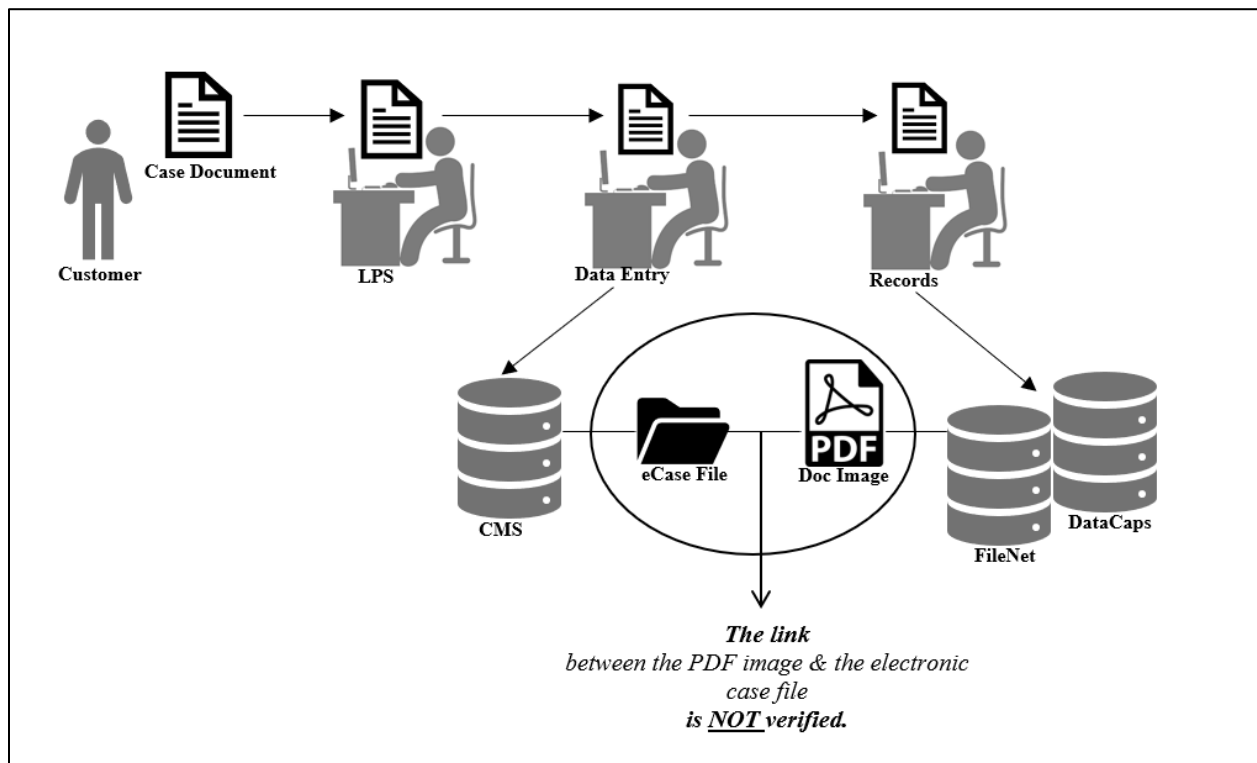
Records specialists were committed to getting documents into the repository quickly and to making the stored images as legible as possible. To ensure speed, they

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worked together to double check the bins and to make sure they were getting documents to the scanner quickly. To ensure accuracy, they worked together to have several sets of eyes comparing original documents to digital images before setting documents aside for destruction. Their multi-step verification process allowed them to work quickly and to establish a system of shared responsibility for the fulfillment of their departmental goals. The following is a detailed overview of their process, highlighting the review steps undertaken by records specialists to ensure information availability and accuracy.

From paper to digital case information. In Family Law, all case filing documents were imaged and later discarded in favor of their digital copy. Some case documents required immediate access by judges and other Court employees. To accommodate varying levels of urgency, Records specialists broke down their work based on two classifications: (1) *expedited documents* (such as domestic violence orders), which had a 1-hour turnaround timeframe, and all other (2) *priority documents*, which required a 24-hour turnaround timeframe. Records specialists rotated assignments in the "run schedule" to pick up documents from Case Processing that required imaging. The runner picked up documents from the DV desk, the data entry clerks' desks (in case they were processing rush documents), and from bins scattered throughout the Case Processing office (see figure 4-4).

Figure 4-4. REM Bins & Shelves in Case Processing
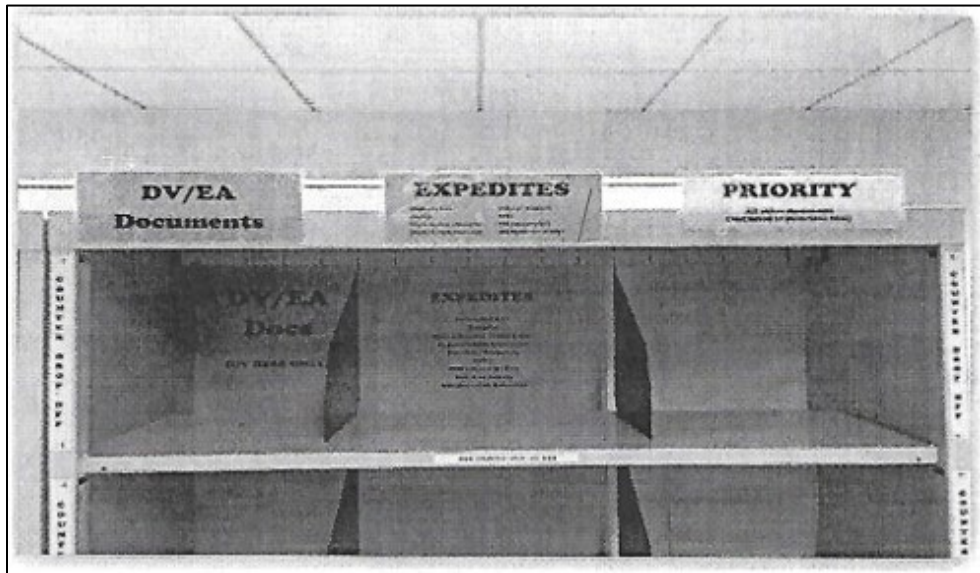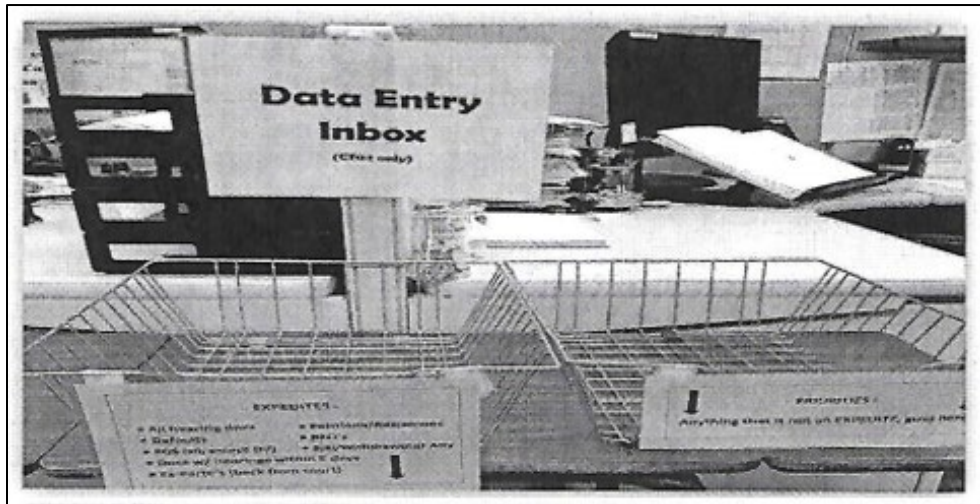
Batch verification. Once a batch of documents made its way into the hands of a records specialist, the first step was to make sure that the documents were ready to go through the industrial scanner. Paperwork was ready for scanning once all staples were removed and any paperclips pinning forms together were set aside. Each document that was file stamped by a clerk required an accompanying barcode that preceded it in the

batch. Barcodes served as the link between the digital image and the electronic case file in the case management system. If a barcode was missing, the records specialist removed it from the batch and placed a *routing slip* on it indicating that the document had not been "docketed" properly. In the last year, a routing slip was created for use during this review process so that records specialists were able to specify the errors that they identified before returning them to Case Processing (see figure 4-5). Next, the specialist reviewed the original documents for completeness, verifying whether any information was inaccurate or missing such as mismatched dates (e.g., filing date and docket date), missing signatures (e.g., CEO's signature stamp), or missing pages. If missing information, the specialist returned the batch to Case Processing for review with a routing slip.

Prior to the creation of routing slips, records specialists placed yellow post-it notes on top of case documents with their comments. The routing slip form provided a list of top errors identified during document review. It served as both a checklist for the records specialist about the review steps that they needed to undertake (e.g., missing entry in the case management system, mismatch between filing form and record type, missing file stamp, and mismatch between the file date on the document and the date on the record), and a quick reference for clerks and case processing specialists regarding the error requiring review. Once documents were corrected, they were sent back to the Records department and they were added to the bins of documents to be imaged and reviewed.

Figure 4-5. REM Imaging Routing Slip

Upload verification. After a batch was scanned, the specialist turned their attention

to the computer monitor. Using the *verification screen* on the DataCaps application, they

confirmed that the content management system had received the batch and that an

identifying number had been created for it (Batch ID). Susan noted, "I look for [the record's

status] to change from "ID pending" to a "Batch ID number." Once the batch ID was

generated, the documents in the batch were processed into separate files (PDF images).

The verification screen displayed multiple case records (one record for each barcode in the

batch). The automated workflow that created separate PDF files from document images in

the batch was time consuming and error prone (e.g. system time outs, processing errors,

etc.). As Susan and her colleagues explained, it required constant monitoring:

> I just continue hitting the refresh button on the verification screen until a batch
> number is given. Sometimes, it gets stuck and is not going [anywhere]. But, as long
> as it says, "Export Running", then you are safe. If it says, "Export Abort" or "PDF
> Abort", then there is something wrong with a document or it [the system] doesn't
> like the batch in the background. If we can't figure out the problem, we need to
> delete [the batch] and find the problem before scanning again. So, we need to keep
> checking to make sure everything goes through. It takes a lot of time.

While the records specialists spent much their day verifying batch uploads, the automated

workflow represented a black box. For this reason, troubleshooting issues usually required

specialists to scan batches anew. Susan explained,

> Sometimes, the image doesn't make it to the system. [Everything] is computerized,
> and the computer does it, but sometimes it doesn't detect it. Sometimes it just
> doesn't do it. [So, we do it again.]

Once the images were uploaded to the digital repository, the image verification

process began. The first step was to compare the barcode atop of each filing document in

the physical batch against its corresponding image. At this point, the document and image

verification steps performed during the batch review were repeated. On the barcode page,

the case number, filing date, and signatures were verified. During this process, the

specialist once again confirmed that a barcode was printed for each document in the batch.

Next, the records specialist moved on to verify the new image. With these steps, the records specialist reviewed the images thoroughly to ensure that they accurately reflected the information on the original documents. The specialist also confirmed that the number of pages in each document matched the count of pages on the bottom of the image (i.e., Page "#" of "##") and that double-sided pages had been captured. If the print on a document was faint, making it difficult to read from the image, the specialist edited the PDF document settings to adjust brightness and contrast in order to improve the image quality. If any information was not clear or appeared cut off from the image, the specialist deleted the scan and repeated these steps anew.

While the records specialist reviewed the image quality and ensured information accuracy and completeness, another step in the upload process was taking place behind the scenes. Once the images were uploaded into the digital repository as separate PDF files for each image, an automated workflow linked them to the corresponding record in an electronic case file within the case management system. This automated process took anywhere between 5 and 30 minutes depending on the size of the batch. As they worked on different batches, specialists periodically checked the *web monitor screen* to validate that the process step linking files to records in the case management system had run successfully. During this process, the records specialist never accessed the case management system. Martha, a records specialist, noted,

> This is our process all day. We scan and verify one at a time and then we keep the validation and web monitor screens open all day and look at our documents and what is in process and whether it went through.

During upload verification, records specialists were charged with watching systems and reviewing images. At no point during this process was their work verifiable. When an issue occurred within the system and a batch was not processed, the specialist simply scanned the batch anew. If the resulting image was deemed unsatisfactory, the specialist simply repeated the process again. They had little control over the system performing the steps that they were verifying, and they were not expected to do more than to scan the documents as many times as necessary until a clear image was created.

Cross verification. Another verification step was undertaken later in the day to review the scanned batches. This "sanity check" of the upload was completed by the same specialist or, more often, by another records specialist on the team. Throughout the office, there were bins labeled with the corresponding workflow step that their contents required: "Scan", "Verify", and "Error".

By breaking up the workflow, it was easier to meet the service level expectation from Family Law (i.e., 1-hour turnaround timeframe for expedites and 24-hour turnaround timeframe for priority documents). It helped specialists to work around the processing delays caused by the automated workflows that were taking place behind the scenes (loading the images, generating PDF files, and attaching them to electronic case files in the system). Because these steps were time consuming, some information was not readily available to verify until later in the process, and the multi-step verification allowed specialists to move on to the next batch if the process was held up. For example, an access flag noting the document's security level (based on information from the barcode) was not automatically populated in the system. The flag setting determined who was eligible to

access the document, whether a Court employee or member of the public requesting

documents at the Court. It took several minutes for the system to update the flag after a

PDF File was created. Martha explained,

> The security level of the document doesn't show in the system until fifteen minutes
> later. If a document is sealed and confidential, we have to make sure that it has the
> right level to it so that unauthorized people can't see it if they request it. [It can take]
> 15 minutes for the security level to come in [on the system]. Everything else is 5
> minutes. So, sometimes we don't catch it.

Jannen, elaborated,

> This is important because if someone comes to get a copy [and the security flag is
> not updated from its default "Confidential" setting], we can't give it to them because
> we have to assume it is confidential.

Specialists knew that if they were unable to verify the security level during the upload

verification step, however, another specialist would catch it during cross-verification.

While the records specialists recognized that there were several "sets of eyes" that

reviewed their work to ensure that errors were addressed, they took pride in getting it

right the first time. Susan noted, "We try to make it perfect because this makes the

verification process easier. We don't want to double the work."

    Breakdowns. Because records specialists did not verify electronic case files in the

case management system, it wasn't until a judge or Court employee tried to access case

information that missing images were detected in the case record. Because electronic case

file records without images were regularly reported, Family Law managers decided to

store original documents in the Clerks' Office six months beyond the 30-day preservation

period enforced by Records. Tina explained,

> We had an issue where scanned uploads didn't completely process and would get
> stuck [before making it to the case management system]. We didn't know why it was

happening. And since we are not able to confirm upload from imaging to the case management system through Records, we had to create a special report... So, we have a *missing images report*, and I'd say about 50 images are missing a month. What we do is we go into [the system] and we try to find out [what is happening to the file].

In these instances, Case Processing and Courtroom supervisors were tasked with reviewing the missing images report and looking for missing files. Tina elaborated,

Supervisors do it because they have access to change the record. Nobody else has access to change the record. And, we don't [have time for that]. That is why we have six months pending.

Upon researching the "missing image" error, IT analysts had discovered that, in many cases, the issue was user-created. In other words, filing clerks and case processing specialists created a record in the case management system that was missed by data entry during their review process. As a result, data entry created a duplicate record for the filing form to which the PDF image attached. In these cases, a Case Processing supervisor had to delete the record with the missing image. Alternatively, a system error prevented the image from attaching to the correct electronic case file record. In such cases, the bar code sequence was often cut off, and the image attached to a different electronic case record. These errors required the supervisor to track down the image, download it from the errant case file and delete it, and subsequently upload the image to the correct case file. Because these changes represented alterations to case file information, only supervisors (and ultimately leads) had permission to complete them based on their user profile settings in the system.

It is worth noting that the errors causing missing images in case files were not directly caused by records specialists. Instead, they were the product of data entry

mistakes within Case Processing or system generated issues. Furthermore, records

specialists were not able to correct these errors even if they caught them during the review

process, as they lacked access and rights in the case management system to accomplish this

task. Nevertheless, these issues compromised the work performed by records specialists

because they threatened the integrity of electronic case files and rendered case information

inaccurate.

Without a formal quality control procedure to ensure that the electronic case files

were accurate, Records effectively relinquished responsibility for case files to Case

Processing and could not perform their function of destroying case documents once a

formal digital record was available. Thus, the formal imaging procedure that documented

this policy read,

> Once a new month begins, boxes are sent up to Family 7th floor (Case Processing).
> Family Law retains the boxes until the [missing image report] is completed. After
> the report is completed, the boxes are disposed.

Process and system enhancements. To improve the current process. Family Law

sought to modify the steps involved in document review, placing quality control of

electronic case file under Records' purview as it currently worked in other case types with

electronic files.

Quality control. A new Quality Control (QC) step in the imaging process was

introduced three months before the new case management system was set to launch.

Janeen, a Records supervisor, and Tina, the Family Law manager, worked together to

review the imaging workflow used by records specialists and to add the new step with best

practices from Criminal Law. They decided to implement a new policy and to create a new

Quality Control group within Records. Tina explained,

> So, we've worked it out with Records… [and they asked to] hire four new people. And, I said, "Fine, then there are no more boxes coming up here." Don't be putting [documents] in boxes and bringing them to us and saying you have 30 days and so… Our thing is no more boxes come up here. [Under the new policy], they (quality control specialists) are going into the case management system and they are going to make sure that the [images] attach. Our intention is that [they will] run the missing image report the next day and address that pile that was imaged the day before. QC is truly QC again. I just don't know how QC didn't get addressed here before.

Four new quality control specialist positions were created, and two of the specialists

were assigned to Family Law on the day the new process was introduced. By then, a third

specialist had already been selected and was set to start shortly after the new system's

launch. Janeen explained,

> So, we've hired an extra team. Two [are] coming from Criminal and [they are starting immediately]. We also hired one new person [from outside who will start when the new system launches]. We still have a brand-new QC position [that will be available after the system launches.] Our plan is to have them cross train with the Clerks' Office at the windows and the back-office.

The new step was introduced as a final review after the batch, upload, and cross

verification steps, and all documents had to be verified by a member of the newly formed

QC team. The QC specialists became the last set of eyes to see a document before disposal.

Tina explained the new process as follows,

> So, our process is to send documents to imaging. They image it and send it to Quality Control and what the Quality Control is making sure is that the document is visible [in the case management system].

Because the step preceded document disposal, QC specialists were also tasked with

repeating the document reviews and verifications performed by records specialists. If a QC

specialist found an issue with image quality during their review, they were tasked with filling out a routing slip (the same ones used by records specialists) and sending the document back to them in order to work with the PDF file settings to improve the image quality or to scan it anew. If the original document was deemed errant because it was missing a file stamp or other information, the QC specialist was charged with filling out a routing slip and sending the document back to Case Processing for review. If no errors were found, the QC specialist signed off on the record and rendered the barcode and original document "OK to recycle." To begin using the QC process as quickly as possible, a check box was added to the old case management system (to be replaced) and the QC specialists used it to begin marking records "QC" certified.

     System workflow enhancements. In addition to the new resources and review steps, the impending launch of the new case management system provided an opportunity to formalize the new QC process. Like the enhancement made to the old system to indicate QC compliance, the new system also had a flag (check box) in the electronic record for the specialist to mark "QC" certified. To render it easily visible, the flag was also displayed in the *documents tab* of the case record. The documents tab contained links to all PDF files associated with the case, so it provided a quick glance of available documents and visibility to their status in the system. Next to each image that had gone through the QC process, a push pin icon was displayed. Within each record in the case file, a text box was also added where the QC specialist typed their initials and the date of their review. The purpose of implementing this feature was to signal to the Court that the record had been verified. As Janeen explained,

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We need that person to sign off. If they forget [to sign off] and the document is destroyed, it is going to look like it was never verified. So, we really want them to be careful about this.

Because of the information captured and displayed on each file record, the actions taken by individual members of the Quality Control team were made visible to management and others perusing the case file. However, the intended purpose of the flag had not been to hold the quality control specialist individually accountable for their review of the file, instead serving as a general check to indicate that a thorough review of the original document and the digital copy had been undertaken before the document's destruction. Throughout the planning and design phase, no discussions were held among Records supervisors about how to use the additional information in the system to evaluate employees' performance.

Post system implementation. Under the new QC process in the new case management system, quality control specialists replicated the cross-verification step performed by records specialists and then. turned their attention to the case management system. QC specialists validated each image within its corresponding electronic case file. They were tasked with verifying whether (1) the document's image had attached to the electronic case file, and (2) the attachment in the case management system was legible. The QC specialist began their review by counting the number of pages on the document and comparing it to the count of pages on the bottom of the image (i.e., Page "#" of "##"). Verifying the page count was important because it represented a document attribute that was added during the imaging process. As such, getting it right was critical to preserving the integrity of the scanned image, so this step was undertaken by case processing and

records specialists in the steps preceding QC. According to Sam (case processing specialist), "The page count is important for other agencies if they are providing a certified copy of the document in order to make sure there has been no tampering." QC specialists, however, were uncertain about why this step was necessary. Stacy, noted,

> You know, I questioned that too (why they count the number of pages), but I don't know why. That is what they want…I have a feeling that the supervisor who trained me didn't know the answer to my question either.

QC specialists expressed uncertainty about several of the verification steps that they carried out during their review. For example, while they were tasked with verifying that the date on the event record in the electronic case file matched the date on the document's file stamp, they were uncertain about whether this was necessary. Stacy noted, "The date only means something sometimes, but I just check to see that they match and ask [the supervisor if it is OK] when they don't." Most QC specialists cited poor image quality as the main issue they encountered during their review.

When an image was deemed unsatisfactory, the documents were sent back to records specialists for review. At this point in the process, however, images had already been reviewed and compared to the original document multiple times during the records specialists' verifications. As a result, poor image quality usually referred to an issue with the original document rather than a degradation in quality between the original document and the scanned image. In these cases, Susan and other records specialists used the flatbed scanner to create a copy of the original document at the highest resolution and contrast settings possible. After generating a new copy of the document with a satisfactory resolution and brightness, the specialist scanned the image and sent a copy to their email

account. From their computer, the specialist opened the image in Adobe Acrobat and continued to adjust the settings in order to improve the image quality further. Once satisfied with the resulting image, the specialist saved the file and accessed it in DataCaps to generate a new barcode. They reviewed the bar code to make sure that it matched the document description and the image security level. These additional steps were necessary because the records specialist was creating a new and more legible version of the original document to store in the digital repository. Susan explained,

> If I delete something, I am in big trouble because, where is the document now? [I'm loading it from my own computer]. Luckily, we have access to fix it but if we don't have the original document, we can't do anything. And, our supervisor tracks who is working on what based on the log in the system…so I have to breathe when I hit save (she laughs nervously).

Increased visibility. Both quality control specialists and records became hyper-aware of their supervisor's gaze. As Susan's comment above reveals, records specialists reacted to these changes with anxiety and trepidation, even though they were not using any new systems or procedures. The ability to see "who is working on what" referred to existing logs within DataCaps that identified who was uploading a document or batch. What made the existing user and time stamps more problematic was that records specialists were now producing work that was traceable. In the past, records specialists reviewed documents and uploaded batches; the bulk of their work consisted of deciding whether data entry clerks and case processing specialists had processed complete and accurate documents. Now, in cases where the QC specialist deemed the original document illegible, records specialists were charged with modifying the original documents to improve its legibility and clarity. They also generated a barcode for the "new and improved" original

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that they had produced. These activities heightened the possibility of making mistakes that could be attributed directly to the records specialist.

QC specialists also focused on their own performance beyond the collective task of processing documents quickly and accurately in service of the case file. Once documents were quality controlled, the QC specialist had to perform the final steps to certify their work. Each page of the original document was stamped as imaged and the document was marked with a "D" indicating that it was "ready for destruction." In the case management system, the QC specialist checked the flag and entered the comments section (textbox) for the event record and placed their initials and the date on it. From that point forward, the image's status of "QC" was visible from within the case file. Specialists were hyper aware of their individual mark on the record. Mark, a QC specialist hired when the Family Law QC team was created (before the case management system's launch), explained,

> Now we have to sign off on all of the work that we do. But, in [the old system], we couldn't cover ourselves to note that we questioned something and that it was overruled or deemed correct or whatever the scenario. Now, we can do it in [the new system], so I guess that is something.
>
> Sometimes there are really poorly imaged documents, but I am just told to let it go. If there is something I don't agree on, I say, "OK per [the Supervisor]" in the comments. I don't want the judge to get mad at me because they aren't always so nice.

As Mark's comment highlights, no mention of the impact on the electronic case file (case information) or on each other (the other QC specialists) was ever made. Instead, the emphasis was on whether they could indicate that they had performed a thorough review and someone else had overruled their objections. A factor driving this orientation towards individual accountability was that there were no clear guidelines about what made an

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image legible. Another factor involved the QC specialists lack of awareness about the

Family Law policies and procedures that would have allowed them to determine whether a

document was complete and accurate. Even the process flows that were created to explain

their work at the time the new team was established lacked specificity because they were

created to help Family Law managers understand the work of Records rather than to train

Records employees about their work. While the procedures limited the scope of the review

performed by records specialists and QC specialists to finding "missing or incorrect

barcodes and file stamps", they were asked to perform more review steps that neither they

nor their supervisors fully understand (e.g., verify whether the "dates match" and page

numbers add up).

  Backlog. Although the records specialists maintained their service level

commitments with Family Law, the new Quality Control unit carried a heavy backlog

almost immediately after it was launched. Drawing on her experience with the Criminal

Law QC team, Janeen justified the difference in processing time between quality control

specialists and records specialists,

> QC tends to backlog because we stress quality over quantity. It is about going page
> by page. It is both physical and manual. People work differently, and we are very big
> on quality. If it was just processed on the fly, what do we do?

The QC team, however, did not have specific guidelines concerning what to look for and

what to use as the threshold when rejecting documents. Members of the QC team expressed

concern about the lack of formal documentation to guide them through the process,

> It would be nice if they had a matrix or something showing what needs a stamp or
> not and so forth. We need some kind of reference.

Janeen confided, "I watch closely and look at their numbers. Some people are just too thorough." As Janeen's assessment suggested, although the new QC team was not tracked by "empty bins", emphasizing quality over quantity, the definition of quality was never made clear. As a result, their desire to highlight all conceivable issues with the document or image that compromised accuracy and integrity were often deemed excessive by supervisors, who deemed their actions too thorough, and by records specialists, who now had to alter the original documents to meet a vision of legibility and clarity that even the paper copies could not achieve.

Because Quality Control began accumulating a heavy backlog from the moment it was launched, the challenges with missing files and failed uploads continued to plague the process. Family Law's vision of a dedicated workforce able to double check the missing image report from the night before and immediately track down missing documents had not materialized. Family Law managers continued to express frustration about Records' lack of ownership over the accuracy of the electronic case file. Tina noted,

> We hired all these people for imaging, and they don't do data entry [or anything else]. They are your legal processing specialists. So, if you are [in Case Processing], you are being asked to do 10 times more work than down there, but you are at the same level.

Shortly after the new system launched, Rob, the Records supervisor assigned to Family Law, returned from his leave of absence to help with the transition. He began working closely with Family Law managers to address their concerns. As a result of their discussions, Rob agreed to take on the responsibility of reviewing the missing image report every night and making sure that upload errors were addressed. Tina commented,

The electronic report and Rob's review seem to have corrected the issue. And that is how we finally got meat behind the issue of upload to our system.

Rob's review happened independently from the quality control process, often several months before documents ever made it into the hands of a quality control specialist to review before destruction.

Lack of legitimacy. As the Records team settled into the new process and accommodated Family Law's concerns, managers talked about QC as a temporary fix. Prior to the new system's launch, the management team had arranged visits to other courts in the county and across the state who were already using the system[28]. During their visits, they found that other courts had provisioned scanners for use in the Clerks' Office and in the courtrooms. Although the CMS project team had chosen not to include scanners in their project scope, new members of the management team felt the decision had been misguided. Reporting on her observations at other courts, Tina noted,

> They are doing it at the Self-Help desk, they are doing it in the courtroom, they are doing it at the windows. Anybody that touches that one paper, it goes directly into the system. Our mouths just dropped open. Like, "Oh my God, that is what we need." And we brought it back here, but it wasn't ever…it was a decision point at the very beginning, and they said, "No, we are not going to get the scanners. They are going to be too loud and they are going to be slow." [But,] they are silent, [and] they are tremendous. It is easy…
>
> [With the scanners], we wouldn't need quality [control] because it would be happening with case processing. So, if they are at the window, they will not need to barcode because it would be happening on the spot.

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[28] The new case management system was a packaged software solution developed by a third-party vendor. Several counties in the state had procured the software and had begun to use the case management system prior to the Court's system launch. Several counties were awaiting feedback from the Court's launch to determine whether to move forward with the software purchase.

In subsequent meetings with other courts in the state and with members of the executive team, the idea of using scanners at points of service was continually challenged. Members of the management team who had been a part of the initial decision recognized that the scanners could be used for one or two page documents but they would not be a viable option for lengthy documents such as petition requests, emergency hearing requests, and other larger format documents. They were concerned about compromising time (time at the window or in the courtroom) and accuracy (reviewing lengthy documents against the document image seemed unlikely to occur at the window). Some managers cautioned, "We are not happy about the idea of scanning and QC being done by the same person."

Nevertheless, some managers remained hopeful that another alternative would become available to overcome the backlog and quality assurance issues that remained after the new QC team was introduced. Looking toward the future, Karen, one of the Case Processing supervisors, hypothesized,

> Many of these procedures will not be necessary as the Court moves more of its [filing forms] into [electronic filing]. The process started two years ago, and they don't have many forms available yet. That process is much more advanced in other case types. They currently eFile everything in Civil and Probate, but Criminal, Family Law, and Juvenile are still paper filed.

Lack of supervisory support. During much of the Records' process review effort, Bill, the supervisor assigned to Family Law, was on a leave of absence. To cover his responsibilities, Janeen, the Criminal Law Records supervisor who had worked in Family Law before joining the Records department, was asked to split her time between justice centers. During the time, Janeen visited Family Law often "because it builds morale for them to see the management team." Despite her best efforts, throughout the new process

design discussions and the subsequent formation of the QC team, Records lacked the

constant presence of a supervisor. Tina reflected,

> It is really kind of interesting because they have 4 new people and you see them
> kind of trying to find their footing because they really don't have a supervisor.

Table 4-3 provides an overview of the breakdowns that followed the new system's

implementation and the introduction of the quality control workflow. It highlights the

absence of action among supervisors to address these concerns. It also lists the rhetoric

building among Family Law managers, downplaying the department's work, as well as the

discourse among Records supervisors, lacking clarity about what was expected of quality

control specialists.

Table 4-3. Records - Tools, Actions, & Discourse of Organizing

Visibility Tools	Actions	Breakdowns	Discourse
Pre-System Implementation			
Aggregate tracking: • Bins	*Training:* • Documenting procedures	• Missing images	• "They only image"
Post-System Implementation			
Individual tracking: • System logging • Routing slips *(internal)* • System sign-off (QC) • Missing image report (QC)		• Anxiety about increased visibility • QC Backlog • Lack of confidence from Family Law • Lack of managerial support	• "We won't need QC eventually" • "Quality over quantity" AND "Some are too thorough"

Analyzing the Tools, Actions, and Discourse of Organizing

Prior to the implementation of the new case management system, both the Case Processing and Records departments were caught in *reinforcing cycles* (Sundaramurthy & Lewis, 2003) of organizing around collective responsibility. Though every document touched, and every action taken, was counted, no clear guidelines regarding individual performance expectations were communicated or enforced. The ways in which this system of organizing was carried out, however, differed between the two departments. As a result, though both experienced anxiety among employees upon introducing new ways of seeing individual actions in the system, managers' words and actions to counteract these unintended consequences differed. Managers' actions and discourse served to shape a new balance between individual accountability and collective responsibility within their departments even as their orientation to the paradox and ways of evaluating employee performance remained constant

Pre-system implementation. In both departments, supervisors were ambivalent about the best way to measure individual performance. In Case Processing, supervisors recognized the variety of unique circumstances that rendered individuals, cases, and filings different. So, they focused on meeting departmental performance goals without monitoring individual performance closely. Supervisors and employees recited "stats" concerning average wait time in the Clerks' Office, average time at the window, and average backlog by filing type to describe the performance of the department, but they did not have a language or metrics to talk about individual performance. The key tools of measurement and performance visibility reflected on the team. All managers and supervisors needed to do to

get a sense of how things were operating was to peek at the dashboard on the departmental web page or peek outside their offices and scan the bins and bookshelves scattered throughout the Clerks' Office to get a sense of backlog and potential trouble ahead.

Within Records, the work of specialists did not leave meaningful traces on the tools they used. Errors were either attributable to system issues, when a batch failed to process in the system and the documents had to be scanned anew, or to clerks and case processing specialists, who had failed to generate a barcode or to correctly file stamp a document. The only signal of the team's performance was the amount of paperwork piled up in the bins of expedited and priority documents scattered throughout their office.

Although tools like the customer ticketing system provided visibility into individual actions within Case Processing, they were only used to calculate average "stats". Metrics were framed around "we" and "our" (e.g., "our service time at the window is 10 minutes", "we average 2 weeks of backlog", etc.) instead of "you" and they" (e.g., "You average 8 minutes to process a filing whereas their average is 7 minutes."). Because the notion of good and bad performance metrics was seldom discussed, clerks had no meaningful reference point with which to compare their individual performance even as they could see it on their monitor when using the customer tracking application. The rare attempts to motivate employees to improve individual performance were met with discomfort among employees and ultimately abandoned. For example, the "fishbowl" graphic on the common bulletin board to show clerks who fell within the 10-minute service average was quickly abandoned. Not only had clerks felt demoralized by the individual attention, but

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supervisors were unable to promote adherence to a metric that they did not feel captured the individual circumstances of clerks and customer interactions.

Similarly, tools like the correction slips used by data entry clerks and the routing slips used by records specialists to reject errant work by case processing specialists, had the potential to highlight frequent errors by specialists with which to evaluate individual performance, but they were not used in this capacity. When any information was recorded or used from these slips, it was about common errors across case processing specialists that signaled training opportunities.

In Case Processing, the decision to highlight training over individual performance evaluation gave way to the creation of leads, an organizing decision that placed another layer of separation between employees and supervisors. This approach served both to give attention to an individual's performance over time, as only "star performers" in the department were approached about becoming leads, and to help employees with questions or mistakes without the pressure of drawing attention from a supervisor. While this had ramifications on the focus of the leads' attention and their ability to contribute to the collective goal of timely case resolution, it contributed to the sense of shared responsibility felt throughout the department and downplayed attention to individual mistakes or performance issues.

Within Records, the lack of managerial attention and guidance from more experienced team members worked against the department's ability to foster commitment to the shared goal of timely access to case information. Among records specialist, the guarantee of verification and "sanity checking" by other specialists helped to develop a

sense of unity even as a leader did not exist to foster it. Members of the QC team, however, were unable to capitalize on this organizing principle.

Post-system implementation. After the new system's "GO LIVE", the increased visibility of individual actions was impossible to deny or to obfuscate with aggregate calculations. Increased system logging rendered the actions of all employees visible. Among QC specialists in particular, the additional flags in the system and sign-off steps in the workflow suddenly made them accountable for all work performed by the records specialists and thus rendered the additional reviews redundant rather than an organizing tool.

With Case Processing, the increased tension between accountability and responsibility was addressed with the Error Free Zone policy, assuring clerks and case processing specialists that while their work was visible, errors were expected and need not be feared. Accompanying this action by managers, supervisors spoke of the initiative as a way of making clerks and specialists part of the solution rather than a problem, thereby redirecting attention from the individual gaffe to the collective goal.

Within Records, although less pressure was placed on employees to work quickly, emphasizing quality over quantity, the nature of quality was brought into question. While Family Law managers minimized the importance of the tasks performed by records and quality control specialists, Records supervisors were either absent and unable to reassure employees or they expressed inconsistent assessments about the nature of their work. While quality was the goal, some specialists were deemed "too thorough" in their assessment.

Visibility and collective responsibility. A key element contributing to the focus on collective goals rather than the individual performance was the sense that individual work was rendered invisible by multiple rounds of review and a lack of metrics to compare individuals. The introduction of new technology, however, lifted this thin veil. The system's advanced logging features captured both the individual reviewing the document and a timestamp of when the review took place. Furthermore, new features allowing "work in progress" documents to be tracked in the system, expanded the scope of data about the actions undertaken by individual employees. In total, these changes had an impact on employee's sense of what was being evaluated and their perception about the object of their work.

Beyond managers choices about how to distribute and evaluate work, the tools used to perform work also shaped the nature of employees' efforts. As employees' fear about whether and how they would be held accountable in the future increased, it undermined their understanding of and commitment to the shared goals and mission of their departments. By introducing the potential for individual accountability, the changes fostered a perception among employees that they were at risk, shifting their attention away from the goals of serving customers and providing timely and accurate information - to worrying about errors that may be traced to them and jeopardize their employment. Under these conditions, managers' decisions about how to organize and evaluate work were divorced from employees' perception about what was seen and thus evaluated. Nevertheless, the actions that they took around training and communication before and

after the technological change had the ability to stabilize and to recreate balance between

individual accountability and collective responsibility.

Case Processing managers' emphasis on training, for example, allowed employees to

become proficient and to gain confidence to recognize that, even when their individual

actions were visible, they reflected positively on them. Managers stressed the importance

of on the job training, appointing leads to help "on the floor" and rotating their employees

across tasks so that they gained exposure to the overall case processing workflow. They

also provided a library of procedures to serve as resources for employees. The

ambivalence about individual performance metrics gave way to dialogue and open

communication between employees and supervisors about the best way to move the

department forward and to address resource challenges without falling victim to individual

aims around self-presentation.

Within Records, on the job training was also emphasized, but there was little

communication between the Records department and Case Processing employees that

would enable ongoing exposure of records and quality control specialists to case handling.

While records specialists were trained at other justice centers and in different case types,

the diversity of systems, processes, and contexts made it difficult to use their experiences

across justice centers to gain confidence in their knowledge of the documents under their

review. The only metrics that mattered involved time: 1 hour (expedites) and 24 hours

(priority documents). When these metrics ceased to apply, as was the case among quality

control specialists, there was nothing to fill the vacuum and individual preservation

replaced the shared emphasis on timely access to information. The distance between

supervisors and employees made it difficult for the two to engage in open discussion about

performance.

While many of the actions and narratives deployed among supervisors served to

reinforce the existing cycle of collective responsibility, the introduction of new tools made

it difficult to ignore the role of individual performance. Managers sought to perpetuate the

cycle of collective responsibility in the absence of meaningful individual performance

metrics. But employees became anxious about the potential consequences of their actions

and sought to minimize their personal exposure. Their reactions to increased visibility took

their attention away from the shared goals of service quality and timely access. To return to

a balance focused on collective responsibility, conditions that bolstered employees'

confidence in their ability to perform their work were most effective, whereas a lack of

direction and managerial support proved detrimental. Similarly, agreement about the

work's complexity and value served to foster commitment, the absence of which was

exhibited in managers' derogatory assessments of the simplicity and substitutability of

quality control.

CHAPTER 5: NEGOTIATING BELONGING:
HOW COURTROOM CLERKS ENACT MULTIPLE GROUP MEMBERSHIPS

In the Court, judges rule the courtrooms, the *chiefs*[29] rule the back offices, and

courtroom clerks serve as bridges that join them together to bring cases to resolution.

While judges, chiefs, and clerks must work in concert to achieve this goal, judges and chiefs

often find themselves at odds. Judges strive to maintain professional autonomy and control

over their proceedings. Meanwhile, chiefs strive to implement best practices that promote

consistency to enable performance measurement and improvements across the Court.

Given the interdependence between judges and chiefs, the ability to advocate for their

respective interests while working towards a common goal requires negotiation. To assist

them in this effort, courtroom clerks must forge an identity that includes membership in

both groups, allowing them to reconcile the management principles and policies of the

Administration with the professional values and interests of their *courtroom family*[30]. The

clerks' struggle to enact membership in these distinct and at times conflicting groups

constitutes a *belonging paradox*[31]. Managing this paradox has direct implications on how

clerks view their place in the Court.

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[29] 'Chiefs' is an emic term used by the administrative staff to describe members of the executive team. The chiefs are the highest rung on the Administration's hierarchy. Unit managers (e.g., Family Law, Criminal Law, Juvenile, etc.) report directly to the chiefs and oversee the management team (deputy managers and supervisors) within their unit.
[30] 'Courtroom family' is an emic term used by managers and supervisors to describe the bond between the courtroom clerk, courtroom assistant, bailiff, and judge.
[31] Paradoxes of belonging emphasize competing identities within organizations (Schad et al., 2016; Albert & Whetten, 1985; Ashforth & Reingen, 2014). Multiple groups representing "structurally differentiated organizational units (Jarzabkowski, et al., 2013), diverse institutional stakeholders, special interest groups, etc. "embody different values, beliefs and identities (Lewis, 2000; Luscher & Lewis, 2008)." Tensions of unity vs. diversity and homogeneity vs. distinction (Smith & Lewis, 2011) exist within members of these different groups creating belonging paradoxes.

In this chapter, I explore how *power dynamics* among chiefs, judges, and courtroom clerks shape and are shaped by clerks' enactment of their role as members of both the Administration and their courtroom family. Despite clerks' structurally subordinate position relative to chiefs and judges, they enjoy an informal position of status and influence because of their unique access to people and information. As such, analyzing these power dynamics provides a productive lens with which to understand how clerks negotiate their role and how this in turn shapes their interactions in and out of the courtroom.

Among courtroom clerks, there is a high degree of alignment between their role(s) in the organization and their identity. Therefore, it is possible to see their story about navigating membership in multiple groups as a story about identity. Occupational scholars define identity as a combination of "who we are" and "what we do" (Nelson & Irwin, 2014; Ashcraft, 2013; Pratt, Rockmann, & Kaufmann, 2006; Barley, 1989). Because paradoxes are ever present but often latent (Lewis, 2000; Smith & Lewis, 2011), exploring the inherent tension in holding multiple group memberships invites a focus on action rather than talk. A focus on courtroom clerks' practices provides visibility into when and where work is performed, highlighting the priorities and loyalties that shape the clerk's identity and revealing they balance membership in these two groups.

In order to gain a window into these dynamics, the implementation of a new case management system serves as the basis for inquiry. Change often reinforces differences between groups and tests loyalties across the organization (Jarzabkowski et al., 2013, p. 248; Seo, Putnam, & Bartunek, 2004), thereby bringing paradoxical tensions into relief

(Lewis, 2000). Using a power lens and focusing on the events surrounding a new system's

implementation, this chapter tackles two guiding questions: (1) *how is power used to upend*

and repair the balance between competing group memberships? and (2) *whose interests are*

served by the resulting power struggles? To answer these questions, I begin by explaining

the underlying tension between chiefs and judges and chart how this tension informs the

courtroom clerks' role. To tell this story of identity through practices, I use three vignettes

showcasing the work performed by courtroom clerks in Family Law across three different

periods: (1) before the implementation of a new case management system, (2) immediately

after the system's GO LIVE, and (3) once a "new normal" set-in and clerks' established a

new way of working and belonging.

A Belonging Paradox

The Court's Administration is tasked with "serving the bench," as judges enjoy the

ultimate authority in the Court. They are also charged with implementing best practices

and policies to improve the Court's overall performance. This two-pronged mandate

requires some caution and finesse, as judges expect complete autonomy given their formal

position in the Court and their professional ethic. Stressing this point, Judge Lopez[32]

conceded, "As a judge, we want to have it our way." Although judges often partner with the

Administration to help guide and shape their efforts, they don't always see eye to eye with

new management ideas and tools. Judge Hanes explained,

> The reasons [that are given] for new approaches to [dealing with inefficiencies]
> around judicial administration [date back to the] 80s, but Family Law is different.
> You don't force people to get divorced. So, these concepts are hard to apply... This is

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[32] Pseudonyms are used to protect the anonymity of study participants.

not just about resources and formal rules and procedures. The doctrine of judicial responsibility says that judges have to take responsibility for the progress of cases. [So,] we can't simply call it management in Family Law. How do we allow our individuality and have a common system? Don't offend judges by telling them how to run their court.

Members of the Administration's management team, on the other hand, embrace the

potential that new systems and technologies afford to better serve customers. Ellen, one of

the chiefs, explained,

> Having a well-oiled system and efficient process is not forcing people to get divorced. To provide good public service with high quality and low cost is the goal, and we need to have Court control to make these things happen… Some of these [management] ideas [are about making] every action maximizing. You get to one judge, one family in a sense that you have uniformity of service.

While these different views demonstrate a break in the values upheld by the two arms of

the Court, they also highlight a battle over control. Cindy, a senior member of the

management team, summed it up as follows,

> Judges think the Administration runs the Court, and [judges] think they should. So, [t]here is a [pressure] point… [and sometimes we don't] see eye to eye. Optimally, a tight partnership [exists between us,] but the chasm expands and shrinks as changes happen periodically.

The Administration's efforts, therefore, are complicated by the need to show deference to

judges while at the same time finding a way to bridge the divide and to chart a path

forward. Managers work with judges to have "a seat at the decision-making table" and to

make their case on how to improve processes and to absorb change. Dianne, a former

Family Law manager, explained,

> Some changes don't have a connection to [Administration] but others do, [and] the judge may not have enough information about the impact to the Court's [policies]. [So,] you can't really have one person (a judge) going off and doing things rogue, because [judges] don't [always] know all of the steps.

[But,] there is little authority over judges. Statutes tell judges what to do, [not people]. So, I always tell [the judges], I know I am not always going to have a vote, but I hope that you will at least allow me to have a voice.

Courtroom clerks' role. Often, the Administration's best chance at raising their

voice comes from courtroom clerks, whose close relationship with their judges render

them a trusted source. The courtroom clerks assigned to Family Law judges are the first

line of contact with the bench and an extension of their judge's command in the courtroom.

For this reason, managers are careful to promote employees from lower classifications into

the role of courtroom clerk rather than hiring from outside. After monitoring and

identifying star performers, managers select employees who they deem capable of taking

charge of a demanding and often unpredictable environment. Not only does this practice

ensure that those chosen are capable employees, but it also gives clerks an opportunity to

work within the Administration before venturing into the courtroom. Mona, a courtroom

clerk with 24 years of experience in the courtroom, recalled,

> [You don't come to the Court as a courtroom clerk]. It really doesn't happen that way. When I came to the Court, I actually started at the bottom in the file room and then worked my way up... I [became] a courtroom clerk about two years later and I have been a clerk ever since.

A key characteristic that mangers look for when promoting employees to the role of

courtroom clerk is the ability to work independently. As Tammy, a senior manager in

charge of courtroom operations, noted,

> Clerks are independent thinkers. [They do their work] behind closed doors. It is not that they get to go rogue, but they face a lot of judges' orders that they don't see in any manual. So, they have to be independent thinkers. Family Law is not black and white... they have to logically put things together [on their own].

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The courtroom clerks' independence from the Administration serves to foster a unique

bond with their judge. Because each judge has an individual approach to managing their

courtroom, clerks must adapt to their judge's style. To aid in this process, although clerks

are promoted into their position by and report to supervisors in the Administration, judges

are allowed to choose their own clerk. Tammy explained,

> There is a clerk selection process [and] an administrative policy that says a judge can make the choice [of who will be their courtroom clerk] ... [In other courts], the clerks stay with the courtroom and [don't] move with the bench, [but our judges have more control over the process]. [In the end,] it is about procedural knowledge **and** personality fit...

In addition to having control over the selection of clerks, there is also an informal

understanding within the Administration that judges have control over their training inside

the courtroom. Tammy described the training process as follows:

> The [current training program] is a [intensive, one-week,] high-level overview [of policies and procedures]. [Courtroom clerks] get detailed case type (i.e., Family Law) training on the floor... The idea is that they know theory and then learn the nitty gritty hands on [under their judge's model].

This informal arrangement further ingrains the clerks' sense of belonging to a "courtroom

family," while creating greater distance between clerks and their supervisors. At times, this

arrangement serves as a source of frustration for managers, making it difficult for

supervisors to make course corrections and to provide additional training in Court policies

and procedures. Tammy highlighted,

> ... We have an idea of when a clerk is not learning fast enough and not picking it up, but judges don't like prompting. They don't want guidance regarding their courtroom clerk's progress...

Once trained, clerks tend to stick to their way of doing things as socialized into their judge's

courtroom culture. Mona conceded,

> I pretty much do things the way that I learned them in the beginning. I have my little
> tips and all of my little things that I do…I know what my judge likes.

Most courtroom clerks often stay with their judge throughout their career, choosing not to

seek management opportunities in order to remain with their judge. Mona explained,

> You know, the next step above clerks would be supervision and then management
> [and] I think a lot of lower title people aspire or want to be in the courtroom in the
> clerk capacity [so it would be natural to continue moving up along the chain and
> making way for new clerks]. But I love [being a clerk]. I mean, I don't have any
> desire to be any higher than where I am now. I mean, I have a great judge.

Because of the close bond between clerks and judges, supervisors recognize the need to

manage their relationships carefully. Supervisors oversee scheduling and annual reviews

for clerks and other courtroom staff, and they are the first line of problem solving and

training, but they defer to judges on most matters. For example, although clerks must

request permission from their supervisor when scheduling vacation time, training, or

downtime to complete paperwork, they first coordinate with their judge and obtain

approval before making the formal request to management. In most cases, the request is

nothing more than an administrative hurdle, as supervisors are unlikely to deny a request

already approved by a judge. In the few instances when this is not the case, a negotiation

with the clerk's judge is required. Dianne, a former Family Law manager, recalled,

> [H]aving to say no to a vacation request is hard, but I have to have a judge and I have
> to have a clerk. My goal is never to deny a request. I got to a point a few years back,
> when I had to deny this vacation request and the judge came to my office [to
> override my decision]. I told the judge that I'd be happy to grant the request if he
> was willing to take some time off and have his courtroom go dark [since he wouldn't
> have a clerk during that time]. That is the only way that I could make him
> understand.

As this predicament reveals, courtroom clerks occupy a position of influence within the

Administration, and this dynamic often overlaps with the tension between managers and

judges over control of the Court. Tammy, a courtroom manager explained,

> The Court culture is that we put courtroom clerks up on pedestals. Our judges
> expect it… They are like a little family. Those relationships are very strong. It is a
> culture on its own. And, we are here to support the bench.
>
> [When there are] power issues, [they] boil down to attitudes: the attitudes of the
> judges and clerks. Some clerks have a chip on their shoulder… They have our judges'
> ears. So, there is ***clerkitis***. You see it…So, we have to have a frank conversation with
> them [about their role]. But … the stress level is high, and the type of personality
> also plays a role. You have to have a certain level of assertiveness to be a courtroom
> clerk because it is a lot of responsibility and the workload is horrendous. So, I
> understand where the attitude comes from…

Another factor influencing managers' decision to treat clerks like special members of the

Administration is that they possess the knowledge and experience required to incorporate

procedural changes with minimal interruption to the bench. As Dianne explained,

> When there are changes in [legislative] code… sometimes it is even the managers
> asking, "How does this change?" [So, we need the staff that is doing the day to day
> work telling us what the changes mean.]

Clerks as bridges. Courtroom clerks' ability to bring the Administration's process

and technology improvements into the courtroom is best exemplified by their work on the

Electronic Case File System (ECS) project. ECS is a web-based calendar dashboard that sits

atop the Court's case management system, pulls data from case files, and displays it in ways

that are accessible and appealing to judges. It allows judges to review case documents in

the courtroom and beyond. ECS's implementation in 2013 made the switch to paperless

files possible within Family Law, even though the statutory change allowing electronic files

to become the official record had been legislated in 2009.

To create the ECS system for judges, the Administration turned to courtroom clerks

and courtroom assistants to help them understand the ways in which judges used the case

file. Dianne recalled, "The ECS project was done by clerks and assistants. They gathered

requirements and put together mockups." The courtroom clerks and assistants were

accustomed to "working the calendar" by pulling key documents that the judge typically

reviewed prior to hearings. Their direct experience with this practice helped them to set

the requirements for the new system in a way that would appeal to judges (by minimizing

the scope of change that judges would experience in their daily work).

Courtroom clerks and assistants were even more valuable in ultimately rolling out

the system without making judges feel like they were being told how to do their work.

Dianne explained,

> [Even though we used the clerks and assistants to help us understand the judges'
> needs and preferences, we still ended up with] judges wanting to have multiple
> systems. I told them; I can build you a Nordstrom but not a shopping mall full of
> boutiques. So, we tried to reign them in and to build a [solution] that had [some]
> flexibility...

The built-in flexibility, as Dianne described it, was achieved by letting the courtroom staff

absorb the bulk of the changes in order to spare their judges. Initially, Dianne recalled, "We

rolled ECS out slowly, working out the kinks along the way. [We didn't force it on the

judges.]" In some extreme cases, courtroom clerks and courtroom assistants made it

possible for judges to circumvent the system altogether without letting their choice

jeopardize the Court's move to electronic case files. Mona explained,

> There are still two or three courtrooms where the work is extensive because they
> require [paper] files. There are five who still use skinny files and some notes but not
> as extensive [as the old paper files]. In total, there are still eight or nine courtrooms

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[out of 20] still using some kind of paper file. Judges have been here a long time and they don't like change. [We make it easier for them.]

As this example reveals, clerks enact the work of bridging both during times of change (the ECS project) and in their daily work (calendar prep). The next section provides a deeper dive into the clerk's role by exploring their practices and interactions in a typical courtroom session.

The Status Quo

Dana, the courtroom clerk featured in this story, has been with the Court for 17 years, and she has worked alongside Judge Sanders throughout the last 7 of those years. On this busy Tuesday morning in September (roughly three months before the scheduled launch of a new case management system), Dana helps Judge Sanders work his way through 12 cases and an *ex parte* (emergency) request assigned by the Clerks' Office. As Dana goes about her morning in the courtroom, she works with numerous systems, tools, and people. Throughout the process, however, it is impossible to ignore her keen focus on the calendar initially and then on Judge Sanders' needs and utterances throughout the session. Thanks in part to this mix of tools and practices, while the courtroom is in session, Dana is undeniably in charge. To command the courtroom, she needs flexibility to move from one task to another. Dana's attention must remain split to accommodate the needs of her judge and the administrative demands of case processing. As the vignette reveals, both sides do not garner equal attention in the courtroom.

Vignette #1: Enacting Command and Autonomy

It is 8:50AM, and the courtroom doors opened twenty minutes ago in preparation for the day's session. Along with Dana, the courtroom assistant (Jane), the bailiff (Bill), and the

court reporter (Emily) are preparing the day's hearings. Judge Sanders is still in chambers.

Bill is working diligently to get all parties[33] checked in. He collects business cards from

attorneys[34], and he hands them to Dana. Bill uses the calendar summary packet[35] prepared by

Jane and finalized by Dana early this morning to perform check-in. Before the courtroom

doors opened, Dana had already placed two copies of the packet on her desk (one for her and

one for the judge) and she had given copies to Bill and to Jane. They will use the case listing

order (1-12) on the first sheet of the packet as shorthand to refer to the cases on the calendar.

Dana sits at her desk next to the judge's bench. Although she is not participating in the

check-in process with Bill, she is listening to the chatter. She interjects from time to time to

ask a question or to verify a name. For example, when an attorney walks up to Bill and asks a

question, Dana immediately turns towards them and asks the attorney, "What case are you

on?" Bill responds using the number on the case summary sheet as a quick reference, "It is

case #8," and Dana flips through her packet to put a checkmark next to the case. With this act,

she has turned the attorney's attention towards her and away from Bill. In response, the

attorney walks over to her to ask his original question. He tells her that his client is ready to

make an agreement and that opposing counsel has prepared a judgment[36] to file today. Dana

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[33] "Parties" is an emic term used by courtroom clerks, judges, and other members of the courtroom staff to refer to those whose cases are heard in the courtroom. It is worth noting that, whereas filing clerks and other administrative employees refer to the people they serve as "customers," highlighting the service orientation of the Court's employees, courtroom clerks use the legal terminology of the courts (e.g., parties to a case, petitioner, respondent, etc.)

[34] Please note that the terms attorney, lawyer, and counsel are used interchangeably henceforth.

[35] The calendar summary packet consists of a calendar summary sheet (an Excel spreadsheet with a tabular overview of the day's cases) and individual case summary sheets (printed screen shots of each case's registrar of events as available in ECS). Calendar summary packets are kept in the courtroom for three years, along with a printout of the related minute orders and the clerk's notes.

[36] The judgment is the final step of the case where all contested issues are resolved.

turns back to her case summary sheet, puts a checkmark next to the other party's name, and

replies, "Go through the prepared judgment with your client, mark the parts on which you

agree, and prepare a stipulation [for any pending issues]." The attorney nods and walks away.

Just like that, Dana has given him permission to walk out of the courtroom and to work on the

judgment rather than wait for the judge. Her instruction will give the attorneys a chance to

finalize the judgment today. It also means that this matter will require less of the judge's time

and attention.

Within minutes, another attorney approaches Dana to ask for a trial date. In other

words, the attorney is requesting a continuance (delay) on today's hearing until a later date.

Dana asks her for the case name and, once she tells her, Dana finds the case listed on her case

summary sheet. It is Case #4. She sees that today's hearing is a request for modification of

custody, visitation, and/or support. Dana asks the attorney for a time estimate, and she

replies, "It should be about a day. No more." Dana tells her that she will check with Judge

Sanders. She walks out of the courtroom, and when she returns a few minutes later, she

instructs the attorney, "Counsel, please pull out your calendar." Dana turns to the cabinet

behind her desk and pulls out an 8x11 bound book that serves as the long cause calendar[37].

Before looking for a date, Dana turns to her computer screen and accesses the case

management system. She looks up the electronic case file and brings it up on her screen. Dana

turns back to her paper calendar. "Counsel, is there a Thursday morning in the next month

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[37] Most courtroom clerks keep a long cause calendar in their courtroom. Judges typically schedule no more than one long cause trial per day; they allow motions and RFOs to be scheduled alongside them, but only one trial per day. Courtroom clerks and assistants use the long cause calendar to quickly ascertain which days are still available. Though ECS contains calendar information, it doesn't allow clerks to search for days without a scheduled trial.

that works best for you?" They set a date three weeks from today. Dana marks the date on the long cause calendar, notes it on her case summary sheet, and then turns back to the case management system on her computer screen. She will need to set a continuance for the case and schedule the hearing in the system, but she will do it after the morning rush. The attorney thanks her and walks out of the courtroom. Before the judge even enters the courtroom, Dana has taken one more case off calendar for the day.

As Bill works his way through check-in, Dana continues updating her calendar summary packet. She places checkmarks next to party's names as they are checked in, marks a © next to the name of each party who is represented by counsel, and staples business cards obtained from attorneys to an individual case summary sheet in her packet. Dana will use the business cards to verify whether the attorney appearing today is the attorney of record on the case. If not, she will note it on the minute order (minutes from the hearing) along with the attorney's contact information. A data entry clerk will subsequently use Dana's notes and the business cards to update the contact information in the case management system, but this will all happen a few days after today's session. As Dana makes these notes on her case summary sheet, she makes duplicate entries on a second copy of the calendar summary packet. She will hand this duplicate copy to the judge when he enters the courtroom, and he will use it to call today's cases and to get a quick snapshot of key issues.

As she gets to the individual case summary sheet for Case #10, Dana sees a note from Jane about a missing proof of service. Dana pulls out a highlighter and places a bright yellow line through Case #10 on the case summary sheet. Both parties are present, so the judge will

need to address this during the session, and the hearing will be continued to allow time for proof of service. But, for all intents and purposes, that's another case off today's calendar.

Once Bill has checked everyone in, he and Dana confer to make sure they have the same information on their summary sheets. Only one of the parties for Case #3 has checked in, so the hearing will be continued and scheduled for a later date. Dana calls the attorney who had checked-in to explain, and they set a later hearing date. Dana makes a note of the new date on her case summary sheet, but she doesn't make corresponding entries in the case management system. No time for that now. The same situation is true for Case #7 and Case #12. Not too bad; only three continuances because of no-shows. That means 21 out of 24 people made it to the courtroom today as planned.

When they are done reviewing the calendar summary sheet, Dana sends an instant message to Jane, the courtroom assistant. She asks Jane if she received any phone calls from any of the missing parties or their attorneys. Jane confirms that she received a call from the missing party on case #3 asking for a continuance earlier this morning. Dana already has this case marked with a new hearing date. She will let the other party know and send notice, but she will take care of it later or ask Jane for help. The judge hasn't walked into the courtroom yet, and they have taken half the cases off calendar for the day. Out of sight, out of mind for now. They will require some attention once the session is over. Then, she will update the case management system and trigger follow-up tasks (e.g., notifications sent to the parties about new hearing dates, phone calls, minute orders detailing the continuance and the requesting party, etc.). Today, this is just what they need. Based on the notes in the calendar summary packet, Dana knows that there is one long cause on the calendar already (Case #9), and it will

likely take up the afternoon session. Adding to the time crunch, Case #6 is trailing (pending)

from yesterday's calendar that will be wrapped up first thing in the morning. She'll need to

find a way to get through the remaining four cases on the calendar this morning somehow.

Dana calls Judge Sanders and lets him know that they are ready for him. He tells her

that he is on his way, and Dana lets Bill know that the he can call everyone to order. Bill

stands at the front of the courtroom near the judge's bench and says, "Come to order. Court is

now in session. No talking please." Dana walks up to the judge's bench and places a copy of the

calendar summary packet on top of it. She walks out into the hallway and grabs a cup of

water from the water dispenser next to the printer. She walks back into the courtroom, grabs

a napkin from her desk, and places the water cup and napkin on the judge's desk.

At 9:20AM, Judge Sanders walks into the courtroom and takes a seat at the bench. He

reviews the calendar summary packet that Dana prepared for him, and he begins a roll call of

the 6 remaining cases scheduled for the day. As he calls each case, Judge Sanders asks the

parties to provide a time estimate of how long they expect their matter will require. Most of

the cases require 30 minutes to 1 hour, but Case #9 is a trial and will require a few hours of

his time, so the judge tells the parties that it will be called in the afternoon after the lunch

break. At 9:45AM, the roll call is complete. Judge Sanders calls a short break and announces

that they will start with wrap up of testimony for Case #6 as soon as he returns. He leaves the

courtroom and returns to chambers.

At 10AM, Judge Sanders walks back into the courtroom. He looks over at the attorney

for Case #8 who has returned from reviewing the judgment with his client and is standing

next to Dana's desk. He was not present during the roll call as he was working with his client

and opposing counsel to finalize the judgment that they wish to file today. Judge Sanders

shakes his hand, and Dana tells the judge, "Your honor, he's on the case with the judgment."

Dana had moved the case off calendar because the parties were working on their final

judgment, but the attorney had just approached her to ask if they would receive the

judgement and file it today. He doesn't want to submit the judgment via drop box, hoping to

avoid backlog. Dana quickly explains the situation to Judge Sanders. They look at each other

for a moment, as if speaking in code about how to proceed. From the look on Dana's face, it

would be better to get the attorney to handle this like a drop to free up time on the schedule.

Judge Sanders shakes his head, smiles, and addresses the attorney, "Do you want a hearing

date, or do you want to wait? I know there are a lot of things you can be doing somewhere

else…" The attorney responds, "Nope. I'm all yours today." The judge laughs and walks up to

the bench to get ready for the first case of the morning. This means Dana needs to sneak in

some time for this case today; it's back on calendar.

Judge Sanders calls Case #6, and without skipping a beat, Dana calls the witness and

Bill directs her to the stand. Meanwhile, Dana pulls out two legal pads: one for herself and one

for Judge Sanders. Once the witness has taken her seat, Dana swears her in. She asks the

witness to state her name and to spell it; she writes it down on her legal pad as the witness is

spelling it out. Dana takes a seat, and the testimony begins.

During testimony, Dana checks her email and pulls up a messenger application on her

computer. She begins a chat with Jane about today's continuances. She asks her to call the

party from Case #3 and to inform her of the new hearing date. Meanwhile, the phone rings,

and Dana answers it. About 15 minutes into the testimony, the attorney walks up to the front

of the courtroom with a photograph in hand and gives it to Dana. She is still on the phone, but she turns to the attorney and says, "Yes, 24 is the next [exhibit number]." She writes "#24" on her legal pad and jots down a brief description of the photograph. Next, the attorney begins a line of questioning based on a doctor's report from a psychiatrist. As she is asking questions of the witness, the attorney hands over the report and Dana gives it to the judge. She notes "#25" on her legal pad and writes, "Doctor's report".

As the exhibits are discussed, Dana pulls up the minute order template, a Word file on her desktop, and begins typing the minutes from one of yesterday's hearings. She pulls up a different legal pad from the one she had been using earlier, and she refers to the notes on the pad to type up the minute order. As she types her notes into the electronic Word file, she crosses out the text on her legal pad. As she is typing up the minute order, she pulls up scanned documents from ECS and the case management system to confirm information from her notes before putting then on her minute order.

As testimony continues, a runner from the Clerk's Office walks into the courtroom and hands Bill a document. Bill walks over to Dana's desk and hands it to her. The document is an ex-parte (emergency) Request for Order (RFO) that was filed downstairs (in the Clerks' Office) this morning. Dana stops what she is doing in order to review the document. She looks up the case number in the case management system and checks its current status. Once she has a handle on what the request entails (modification of custody), she pulls out a set of document flags from her desk that read, "Sign here." She flips through the document and places a flag next to the areas where the judge will need to review the order carefully and then sign and

date the document if he chooses to grant the order. Once done, she sets the document aside

and goes back to working on the minute order.

Dana occasionally writes notes about the testimony and exhibits being discussed on

her legal pad. She uses yellow post it notes to set reminders about updates that she must make

to the case file. She attaches them to the individual case summary sheet in her packet. Once

she is finished typing up the minutes from yesterday's hearing, she moves on to prepare the

basic outline of the minute order for today's Case #6. She begins by making a list of exhibit

numbers on the minute order template. At this point, there are 25 exhibits and counting. Next,

she enters minutes from yesterday's portion of the hearing.

At 11:45AM, Dana walks over to the judge's bench and discreetly hands him the ex

parte order request as well as the judgment for Case #8. Judge Sanders stops the cross

examination, quickly glances at the documents, and then announces that they will break for

lunch and resume at 1:30PM. He walks up, and hovers over Dana's desk, reviewing the

judgement. Meanwhile, the attorneys on Case #2 walk up to Dana's desk and one of them asks,

"Do you think we'll get to our case today?" Dana shrugs her shoulders and asks, "Shall we just

continue it and give you back the afternoon?" The attorneys agree and Dana asks when they

want to return. She tells them to pick a Tuesday or Thursday in the next couple of months.

They settle on a date, and Dana writes it down on the calendar summary sheet. One more case

off the calendar today, but she will need to make the updates to the case management system

later.

When Dana is finished talking to the attorneys, the judge looks up at her and nods,

holding up the judgment for Case #8 for her to see; he then walks back up to the bench. Dana

motions to the attorneys for Case #8 to approach, and they hastily move forward with their

clients. Dana swears them in. The attorney who prepared the judgement asks her client a few

questions about the agreement. Once satisfied with the testimony, Judge Sanders enters the

judgment into the record noting, "Divorce is hereby granted on account of irreconcilable

differences." Dana will need to file the judgment later today and get the judge to sign the

documents so that they can be scanned into the electronic case file by a records specialist.

Judge Sanders gets up from the bench and starts walking out of the courtroom. All but

Dana walk out behind him. She stays behind for about thirty minutes to continue writing up,

organizing, and filing paperwork before heading to lunch. Half the day is gone and, although

they've only heard one case thus far, Dana already has follow-up work on 8 of the day's 12

cases. She is still waiting for the judge's decision regarding the emergency order, and she will

need to document it and create the necessary entries in the system once he has made his

decision. She'll try to get through some of it this work in the afternoon during testimony, but

there may be some left-over work to tackle tomorrow.

Commanding the courtroom. As Dana's busy morning reveals, working the case

calendar is second only to accommodating their judge among courtroom clerks' tasks. The

daily calendar reflects whether the courtroom, and its judge, run smoothly. Courtroom

clerks must "work the calendar" to make sure that they get through the cases on the

calendar in some capacity. Otherwise, cases trail to the next day and there is a domino

effect.

Beyond the day to day functioning of the courtroom, the calendar is a representation

of the judge's case inventory. It is important to note that clerks have less control over the

calendar outside of the courtroom. Filing clerks schedule hearings in the Clerks' Office and courtroom assistants prepare the daily calendar summary packets for the courtroom family's review. Once in the courtroom, however, the courtroom clerk reclaims control of the calendar. Clerks must work diligently to take cases off calendar if they are not ready for the judge's attention before the session even begins. Clerks must also determine which cases must be continued to a long cause day in order to get through as many of the less time-consuming cases on calendar that day. However, clerks must balance the need to ensure their judge's day runs smoothly with the Administration's goal of processing cases within 18 months of filing. Too many continuances render the goal unlikely, as they keep the clock running without any progress on a case. Tammy, the courtroom manager, noted,

> The number one sign of struggle is when there are calendar struggles… The goal for Family Law cases is to be converted to a disposition (resolution) in 18 months …We have case tracking [in our system]. For example, at 3 years, [the clerk needs to move cases] to the dismissal calendar if the other party has not been served. At 5 years, there is clean-up if the case hasn't moved to trial. [The courtroom clerk] needs to know what should happen.

But, as Dana's performance reveals, clerks' attention to the calendar often does not extend beyond their judge's needs and the day's timeline during the courtroom session. Many judges don't hold clerks to account for managing their inventory, and neither does the Administration. Tammy explained, "They (judges) don't want guidance regarding their courtroom clerk's progress." For the most part, supervisors don't generate reports or track metrics about judges' case inventory when assessing clerks. When they generate these reports, it is for the judges' use and to distribute inventory. Mabel, a courtroom supervisor explained,

Sometimes, judicial officers (judges) ask to run reports to compare case load across judges. I also run end of month reports with information about re-assignments and provide that information for judges' meetings. They also ask for information about next available hearing dates to get a sense of how many cases they have and how heavy their inventory is.

Although members of the Administration's management team are often invited to the meetings where this information is discussed, they do not actively participate. When there is talk about delays in case resolution, judges can push back by declaring, "I may not be as efficient, but I am more conscientious[38]."

Documenting work. While it isn't immediately clear from Dana's day, the main task on which courtroom clerks are evaluated is the timely creation of *minute orders* (minutes from the hearing). When describing their work, most clerks talked about serving their judge and then immediately listed creating minute orders as their primary task. Mona shared, "So, what I do, my job in the courtroom, is that I sit next to the judge and my minute order is basically a synopsis of what happens in the court that day."

The most important information provided in minute orders is a list of all the orders made during the day. Orders range from a decision about how much spousal support one party should provide to the issuance of a restraining order barring a party from contacting or being near another and the amount of time it is effective. According to Judicial Council guidelines, though minute orders are supposed to have a list of orders, they are not

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[38] This quote is taken from a meeting between judges and managers. In 2016, the Court engaged consultants from the National Council to help brainstorm about process improvements and ways of making the Court run more efficiently. This meeting was a debrief of the consulting engagement. During this meeting, a judge suggested establishing a judge mentor program to promote judges helping judges work more efficiently. Playing devil's advocate shortly after giving the idea, he suggested that the program might not work because judges have different views about what it means to be a good judge.

intended to serve as the formal record of orders required to move cases forward. Instead,

litigants are required to file an official record of their hearing's orders shortly after a

hearing using a standard Judicial Council form. Dianne explained,

> There is a Judicial Council form that captures [the list of orders], and this is the official form. But, 80% of our customers are self-represented and they have a problem getting the order after hearing to us. So, judges are signing minute orders. This is a survival practice.

Beyond the list of orders, there is some discretion as to how much information should be

included about the proceedings. Dianne noted,

> [In some courts,] there is very little information in the minute order. [But that is not the case in ours.] Court reporters capture the verbatim report, but we are not technically required to use a court reporter in Family Law. We probably use court reporters more often than we need to anyway, but we don't always use them. [So], the minute order is the record.

For these reasons, the minute order plays a critical role in memorializing the judge's words

and in creating a check list to execute their orders. Given their importance, minute orders

require attention during and after hearings. During a hearing, they require clerks to record

what is happening and what is said. After a hearing, they require attention to what is

written, ensuring the integrity of the information they represent. To meet these

requirements, clerks often take temporary notes during the hearing and then create the

minute order afterwards, using their notes and asking their judge to fill in blanks when

they have questions. Carissa, a courtroom clerk with 7 years of experience explained,

> You can't be embarrassed to say to the judge that you missed something [and get their input and confirmation]. [And,] if there is a court reporter, you can ask to review the record, [but] we don't want to abuse them…

Clerks relied on legal pads and Word documents to record minutes and to make notes

about the hearing currently before their judge. After consolidating the notes from their

legal pads and other documents, asking questions and confirming assumptions with their

judge and court reporter (if needed), clerks printed their minute orders and reviewed them

on paper before uploading the electronic file to the case management system. Mona

explained,

> The way the system works is that I do my entry into a word doc or legal pad first
> and then [when I have reviewed everything] I commit that and then there is an
> upload and it converts to an image of a PDF file.

Once the minute order was ready, clerks made sure that follow-up actions stemming from

the list of orders were taken.

Although clerks did not complete this multi-step minute order creation process

during the hearing, they tried to work on orders during downtime throughout the day

inside the courtroom. Dana explained,

> [I work on minute orders] in between hearings or when there is a hearing and there
> is a witness on the stand where I don't necessarily have to listen. I mean, you always
> have to have one ear open, but I am listening for key words. So, during that time,
> they might be on the stand for 20-30 minutes. And, anytime I have downtime
> between things.

This separation allowed clerks to focus on their judge's needs during hearings and to

switch gears into their administrative tasks during their judge's downtime. Finding

downtime during busy days, however, was challenging, particularly when they were

dealing with complex hearings. When they couldn't find enough downtime and became

overwhelmed, clerks had the option to work outside of the courtroom in order to focus

entirely on their administrative tasks. Mona noted,

> Sometimes you know you have one that is going to be a nightmare. You have 50
> exhibits, and sometimes you just don't have time to get in the zone and really
> concentrate on doing it and it might sit for a couple more days or something. And

they'll pull you out. I mean, if you need help, they'll try to accommodate you and give relief so that you have some time out of the courtroom to work on things.

Despite their resolve to "serve the bench" beyond all else, there were many distractions vying for clerks' time. Mona explained,

You definitely have to be able to multitask. If you can't multitask, this job is going to be very difficult for you. [The judge] is making orders while at the same time he might be calling up a previous order, or you might have to call mediation and get a mediation appointment, and you have to get an order for him to fill out and then get a signature and there are a lot of things that you are doing besides that.

To deal with the distractions in the courtroom and remain attentive to their judge's needs, clerks often separated their "courtroom" work from their "back-office" work. In addition to the minute orders, this included action items stemming from the judge's orders and requests made during the courtroom session, such as scheduling follow-up hearings on continuances, issuing notices for future hearing dates, and filing judgments and orders submitted to the judge. In some cases, clerks could rely on help from the filing clerks, sending litigants to the Clerks' Office to schedule hearings, and data entry specialists, sending filed documents to update the electronic case record before scanning. Regardless, the completed minute order was the basis from which clerks and their colleagues worked to update the case and therefore required their attention and urgency.

Supervisors monitored the timely creation of minute orders, and they held courtroom clerks to a 48-hour turnaround window. Because supervisors were responsible for scheduling clerks, they had the ability to pull a clerk out of the courtroom and allow them to sit in one of the back offices (known as Relief Clerk Offices) to catch up on their work. Mona explained,

> They run their reports and if they see that you are behind, they'll pull you out. Or if you are bombarded and like, "Oh, I need a day out," then you can request that... I mean, if you need help, they'll try to accommodate you and give relief so that you have some time out of the courtroom to work on things.

This practice served as both a carrot and a stick. By giving courtroom clerks the ability to request "relief", supervisors had a chance to show their clerks that they were looking out for them. This served as a way of reinforcing their ties as members of the Administration. However, the practice also served as a stick, reminding clerks that supervisors had the authority to dictate where and what they worked on and to hold them to account. The extent to which the practice was used varied across clerks, but most felt that taking a relief day was a sign of distress and an indication of poor performance. Like Mona, most clerks viewed their "days since relief" as a badge of honor. Mona proudly shared, "I haven't had a catch-up day in quite a while. I can't remember when."

A New Case Management System

In December of 2015, the Court prepared to implement a new case management system. According to managers, the courtroom clerks would be most impacted by the new system and the underlying workflow changes. Tina explained,

> Courtroom clerks will be heavily impacted by the new system because of their minute orders. They will be able to select from a menu that auto populates information about the case, but there is some anxiety about it...because they will be asked to create minute orders in real-time.

Previously, courtroom clerks had used the case management system in a limited capacity. From their perspective, the system primarily served as a repository of case information; most of the courtroom clerks' work was performed offline using other tools. Courtroom calendars were stored and updated in Excel spreadsheets. Minute orders were

created in Word documents that were converted into PDF files and then attached to electronic case files in the case management system. The separation between clerks' work tools and the case management system effectively clarified boundaries between the work performed by clerks as members of their "judge's family" and the work required of them as members of the Administration.

The new case management system, however, included a module geared exclusively for courtroom clerks. The module's key selling point was that it enabled the creation of real-time minute orders and limited calendar scheduling. The new system made it possible for courtroom clerks to open a minute order template during a hearing, to enter the minutes for the hearing as it was taking place (real time), and to use macros (automation) to schedule continuances, to update cases' status, and to notify relevant third parties about orders made during hearings. Although such a drastic change had not been part of the initial scope of the project before the vendor was selected, managers embraced the new features as an opportunity to make the Court's work more efficient.

Managers hoped that by using the new system's features and enabling online and real time creation of minute orders, they would improve their service offering to litigants. Capitalizing on the new system's ability to create minute orders in real time, the implementation team developed several critical custom enhancements to be completed before the system's launch. These enhancements were intended to: (1) put the Court and its customers in a position to comply with Judicial Council guidelines, and (2) introduce automated workflows that would decrease the burden of courtroom clerks created by the existing workaround.

Diane, the new system's project team manager, explained the changes as follows,

> We are incorporating the Judicial Council form into [the new system] so that the order after hearing can be automatically generated from the minute order. The idea is that it will contain findings and orders made by the judge. We can determine what goes in the order after hearing based on [system] macros. The Self-Help Center is really excited about it…The system will then send [the order after hearing] to the judge's [work] queue for his signature and all will have access to it in the case management system.

The second key difference was that the automated workflows built into the new system

(e.g., update the case file and inform other parties about orders and actions to be taken)

would only be triggered "if clerks use[d] the right language." The new workflows required

that clerks select from a dropdown of order templates that were pre-formulated and that

were tied to workflow activities. Dianne explained,

> In the new minute order [module], some information will be downloaded that would normally have gone manually, *if they use the right language*. This is a good chance to standardize. So, there will be some efficiencies and time will be managed better eventually… but *there will be a trust issue*.

The trust issue that Dianne referenced referred to both trust in the ability of the system to

do the work and trust in the ability of the managers to convince judges to use standard

language. Judges were extremely particular about the language that they used to issue

orders. Tammy shared their concern about getting over this hurdle but remained

optimistic that they might be able to ignore it:

> The problem is that some judicial officers may not like it. Family Law can be [really] specific… and there are 20 courtrooms. [Judges] want their clerks to have the ability to modify and free form the text (or keep doing what they are currently doing). [From our perspective, however,] Family Law Judges won't know the new system exists because they [will keep using] ECS.

Pre-system implementation. As the launch date neared, numerous training and

information sessions were held to familiarize employees with the changes underway. The

ramp up of training and information sessions that occurred in the last three months before

the launch date was a way to let everyone know that the system was finally coming.

    Clerks. Throughout the training period, most courtroom clerks refrained from

commenting about the new system, focusing instead on the burden imposed by the training

effort. Mabel, a courtroom supervisor, noted,

> I think most of the complaints that I have received have been [about] this training
> period now because people have been going to class and have to cover different
> [courtrooms] so that is the major complaint that I have received so far.

Despite the surge in training classes and information sessions, the new minute order

module remained a mystery. The CMS Project team was still working on testing

enhancements to the module a few weeks before the launch date, and they were unable to

show it to clerks or train them on it because it was still under development. As a result, few

were able to grasp the potential impact of the changes early on, and most clerks exhibited a

wait and see attitude. Mona, who had witnessed the introduction of the existing case

management system over a decade ago, recalled,

> I was here when [the current system] was being implemented… So, I have been
> around for a little while. It is pretty much probably what we are going through
> now…. I mean, we were coming off of minute orders on an electronic typewriter
> [when I first got here]. So, to go from that to a computer system was a big deal…And,
> well, [the current system] has been around for so long. I think we kind of just
> outgrew it and there is a shinier toy over here... And, I think in the end it will be a
> better system.

Courtroom clerks knew that the new system would change the way the created minute

orders but didn't know how:

> I don't know that [the new system] is going to make it easier. Not for me. I think
> there is going to be a definite learning curve and it is going to take a while…But, we
> are still doing training, so I don't know. My aspect as a clerk, the minute order, we
> haven't been trained on that yet, so that's a big thing coming up.

Most clerks chalked up the ultimate impact to their work to their own abilities:

> Those who struggle now are going to continue to struggle and have trouble. And you know, I see fear in their eyes (laughing). But I think we have all resolved ourselves to it. I mean, there is nothing that we can do. And, I am a pretty optimistic person and I am just kind of like, 'OK, go for it. Whatever.'

Several clerks expressed interest in some of the new system's features that would help the Court work more efficiently and provide more visibility to key case information. However, these features were not directly related to the changes in their workflows:

> I like that [the new system] has information like tabs for protective orders. That is really good because [currently] we have hearings on cases that might also be in a child support courtroom, a regular Family Law courtroom, or a DV courtroom, and not know it. With the tab [feature] you can go right to it to see if there is a protective order ... And I know that is something that has fallen through the cracks in the past. So, no more fishing around. That'll be good.

Judges. Meanwhile, judges did not expect that their work would be altered by the introduction of the new system, as ECS would not be impacted by the new system's implementation. According to Dianne, "judges only get involved if there is any effect on [them]." Nevertheless, the new system's automated workflow features relied on the use of standard language for orders, and this required judges to either change the way they issued orders or to accept differences between their language and that which was displayed in minute orders. To prevent any fallout from this change, Dianne tried to get them to buy into this new way of issuing orders by giving them a chance to define it themselves. Although

judges had not balked at the new system and the courtroom specific enhancements, they

didn't take Dianne up on the offer:

> When you ask for volunteers, you are not likely to get the right people. Or, they don't show up for meetings. They call in before and say that they are going to lunch or going golfing. And, the point of it is getting the right judge. You have to get judges that the other judges trust and respect, judges who are willing to put in the time.

Managers. The Administration's management team was nervous about the scope of

change, recognizing they would require substantive adjustments to courtroom clerks' work

processes, particularly with respect to the amount of independence they enjoyed in

performing their work. Dianne conceded, "The minute order will be the biggest change."

She explained that the new real-time minute order creation process required two key

changes in the way courtroom clerks performed their work. The first major difference was

that it removed clerks' autonomy to choose how they organized their day to day tasks.

Tammy, the courtroom manager, was wary of this change:

> People have different ways to get from A to Z... It is all about multi-tasking.... They have to do minute orders, answer phone calls, answer questions. You learn how to do all of that at the same time when you become an experienced clerk... no one can tell you how to do it.

Furthermore, managers recognized the lack of participation from judges in "setting the

right language" for the automated macros was a wild card in their planning efforts. Without

their judge's support, courtroom clerks would be unlikely (and perhaps unable) to follow

all of the new workflows that were being developed in the new system. However, managers

remained optimistic about the changes, highlighting the positive feedback they had

received about the parts of the new case management system that were included in

training:

I have received some pretty positive feedback from all of the people that have attended the training. Just that it is easy and that it looks better and is intuitive. I haven't really received any complaints or heard anything negative.

Members of the CMS Project team, however, were concerned about their inability to train courtroom clerks on the new minute order module. They were also frustrated by the Administration's lack of participation in training and GO LIVE sessions. One of the analysts on the team shared, "There were challenges with training, but some of it had to do with the time given to the project [overall] and to the project staff. [Only] managers went to meetings …"

Beyond preparations and training for the new order creation macros, there was no attention to the impact of real-time minute order creation among managers or courtroom clerks. Because courtroom clerks already created minute orders in the courtroom, albeit not in real time, the change was underestimated. Furthermore, the clerks did not get a chance to test drive the new module before the GO LIVE date.

Shortly before the planned GO LIVE date, there were already signs of trouble. The CMS Project team held a Saturday training session for clerks where they were set to reveal the new minute order module. Within the first thirty minutes of the training session, the system froze, and they were not able to get it back up and running until the following Monday when they had the vendor to correct the problem. The incident was a wake-up call for managers and clerks. As they began to fear the ramifications of the change and the potential backlash from judges if things didn't go well, managers resorted to old tricks and decided to "soften" the GO LIVE date. They allowed clerks to choose whether they felt

comfortable using the new minute order module on Day 1. Tina, the Family Law Manager, recounted, "We went live with about 70% of the courtrooms only."

Initial reactions. While the new system's launch went relatively smoothly throughout most of the Court, the courtroom staff did not fare as well. Nancy, the case processing manager, summarized the experience as follows:

> We are loving the case management module. [After some initial hurdles with training issues and system glitches], we really have no issues with the system. The staff has been really accepting of the case manager. But the minute order creation module is another story. We had a lot of problems because the system we had in place before was very basic and we were trying to put in place a system with a lot of automation.

Tina, the Family Law manager, echoed Nancy's assessment and explained some of the major issues with the minute order module:

> We didn't know what was working and what wasn't...We didn't [and still don't] know why we were getting errors. Clerks were going back to manual minutes. At times, we were even wondering, "What is the [new] workflow?" We told the clerks to use the macros instead of typing in the text, because we didn't know if the macros were even working and we didn't know which ones were supposed to generate activities to even check if they were working.

Making matters worse, the vendor's training specialists were placing the blame squarely on the clerks. The third-party vendor who had developed the system had representatives on site to help with bugs and training issues in the first couple of weeks after the system went live. According to Tina, by the second week of the launch, more than half of the representatives were asked to leave because it wasn't working. Clerks were furious.

Clerks. As managers had anticipated, and the system's failures assured, courtroom clerks were the most vocal critics in the early weeks after the system's launch. To gain insight into what was creating the most frustration, the Administration's managers

conducted a staff survey about their initial impressions of the system and the training

effort. Of the 60 staff members who completed the survey (roughly 50% of the Family Law

staff), 43 answered open ended questions. In their candid responses to the survey

questions, courtroom clerks voiced their sense of the challenges created by the new system

and communicated their frustration with the process. A key frustration voiced by several

clerks was a sense that their needs had not been considered when the new system was

designed and tested. One survey respondent opined,

> Whoever decided [the new system] was a better choice clearly was not a clerk.
> Change is hard for some, but this change was a long time overdue. However, this
> system is a poor choice. Purchasing a computer system that doesn't tailor to our
> Court's needs and making us change everything (including things that shouldn't
> have been [changed] … is a poor decision on upper management.

Some clerks felt that their position of influence had been discounted, and they had not been

allowed a voice at the table:

> [The fact that they had] employees who have NEVER worked in a courtroom, let
> alone as a clerk, in charge just dumbfounds me…[Maybe] now that so many aspects
> of the system are being affected by the failure of this program and the massive
> backlog it has created… the attitude will begin to change regarding the importance
> of the courtroom clerks…We're the ones who make it happen! Maybe what we have
> to say should be taken seriously. Maybe what we HAD to say prior to GO LIVE
> should have been taken seriously. We know it was not.

Even among those who expressed less anger and hostility about the change, it was clear

most did not understand or had not fully embraced the intended benefit of the new minute

order creation module's functionality. Some of the comments made by clerks echoed

concerns that Dianne, the CMS Project manager, had expressed even as she was the one

leading the effort to build automation into the minute order module. For example, one

survey respondent highlighted the unique nature of Family Law as a reason why the

system did not fit into their world:

> In Family Law, we have to do a lot of manual things. [It is] not like Criminal Law where every defendant has to be treated the same. In Family Law, every family is unique. We have to do things manually.

For those who tried to work with the system and adapt it to their judge's preferences, they

bumped up against system limitations:

> When I use some of the macros that have pre-populated text, they have information [that my judge doesn't say]. If you [try to] take [words] out of [the pre-populated text], [the system] will act like you [made] an error and it won't let you complete the minute order.

Both clerks who were trying to work with the system and those who were actively resisting

its use expressed a sense that the system had altered something in them and in their

environment that needed to be fixed. One respondent summarized this message as follows:

> All new things have kinks to be worked through. That's understandable. But [this is] a program that hinders even the most experienced clerks from doing their jobs, has caused a huge drop in morale [and] stressful environments within the courtroom between clerks and judges…

Judges. Despite the turmoil, the CMS Project team and the Administration's

managers had made a concerted effort to keep judges out of the crossfire. For the most

part, their efforts paid off. Dianne had assured herself and members of the management

team while they were planning and readying the system, "judges don't become involved in

change unless it impacts their courtroom." However, because ECS pulled information from

the case management system to create the calendar dashboard, minor changes in the

naming conventions used in the new system translated into changes in ECS. Tina explained,

> The new case management system uses capital letters for case names, but the old case management system only capitalized the first letter of proper names. So, the

judges were not happy. Also, in the new system, display includes the first and last name of each party, but in the old system, it is just the last name. In the courts, it is standard for case names to read: LAST NAME vs LAST NAME, so this was a problem. On the [ECS] calendar lists, we now display first and last name but sort on the last name, so it doesn't look like it is in alphabetical order.

Although the changes were minor and didn't prevent judges from performing their work, the CMS Project team and the Court's internal Information Technology (IT) team were forced to pull resources from other areas in order to address judges' concerns immediately.

Beyond the immediate "fire drill" that the judges' initial complaints caused among managers, comments from the employees' survey hinted that a bigger problem was brewing. The clerks' frustration with the system had the potential to translate into unhappy judges. Furthermore, if backlog continued growing because of the implementation, it was sure to create challenges in the courtroom. On a particularly trying day, Tammy noted,

> I got two calls today from a judge, and it wasn't even the judge's complaint. It was, "My clerk is about ready to quit. Give me some staff." And I said, "OK, you got it." And in a couple of minutes, I called him back and said they were on their way. And then the second was, "Where is my clerk?" But she had been so far behind and backlogged in her minutes that we had to give her a day to catch-up... I can't tell you how many times I have heard supervisors tell me "Oh, that judge isn't going to let you [pull their clerk out for relief]." ...

Managers. Initially, the Administration's managers were sympathetic to the challenges faced by courtroom clerks, they attributed some of the issues encountered after the implementation to their own mistakes. Cindy, a senior manager, explained,

> [Throughout the process, we] apologize if necessary and always acknowledge if things have gone wrong. For example, in [courtroom] we had a big gap. We said, "Wow, this is not what we expected." It is important that they know that they are not crazy. It is OK to change course.

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Yet, members of the CMS Project team viewed the backlash as the result of managers' initial

show of flexibility before the system launched. Dianne suggested,

> [It was not a good decision on their part] to not go with the minute order creation
> module two weeks prior to implementation and to leave it up to the clerks. It meant
> changing the entire mapping of the workflow. The macros weren't just words but
> rather initiated flags in the system. We have people changing things around that
> don't know the system. Family Law clerks were told to do what they prefer, so some
> people are using the system and using the automation while others are not. [We
> can't figure out what is a user error and what is a system bug].

With respect to the courtroom supervisors, most viewed the problems as the result of

clerks' "attitude" and reluctance to follow directions. They viewed clerks' attempts to enlist

the help of their judges to push back on the changes as an affront to their authority and to

the Administration's goals. Mabel, one of the courtroom supervisors noted,

> People need to accept the change and it is going to take teamwork. Glitches need to
> be worked out and ironed out and it is going to take time. Some clerks are doing
> better than others. [so, it isn't all about the system].

Echoing Mabel's sentiment, Tammy deemed the clerks' initial reaction as an affront to her

authority and ability as a manager:

> [They think,] "You are the boss and you should have known." But we are trying to
> focus on the big issues… And, maybe about 10% [of clerks] are just grumpy and, you
> know what they say, you have to <u>choose</u> happy.

To counter the growing tension among clerks, judges, and supervisors, senior

managers considered tactics that would break the link between the Administration and

assigned clerks (clerks who worked exclusively with judges). One of the early responses to

the clerks' actions was to completely move the minute order creation process outside of the

courtroom. Mabel explained this idea as follows:

We consider[ed] more of a train station where all orders go into [a queue] and the relief clerks would process them [using calendar summary packets and clerks' notes].

Another idea discussed among managers was to completely remove clerk assignments, creating a pool of relief clerks who could be discharged into a different courtroom every day. This model would break the link between clerks and judges, giving the Administration more control over discipline "problems". However, Tammy noted,

When a relief clerk does not get exposure to a regularly scheduled calendar, there is the perception that they are not trained and/or do not have the experience. There is a great disparity between relief and assigned clerks [in the eyes of judges].

Unsure of how to proceed initially, managers suggested that they couldn't make any decisions about how to move forward without giving the Court and the system some time to settle in and to adapt. As far as clerks were concerned, "[they got] tired of hearing, 'We're working on it'."

Adjustment. Within four months of the new system's implementation, the deluge of daily complaints and the initial chaos caused by system bugs and user errors had subsided. Courtroom clerks' vocal resistance to the new system had failed to influence managers' resolve to trudge forward with the new system and workflows. Devoid of the control they once experienced as "bosses of their courtroom family" and the autonomy that they enjoyed as "darlings" of the Administration, clerks began to feel ambivalent about their role. In the following vignette, we return to Judge Sander's courtroom and revisit Dana's morning routine. Beyond changes to Dana's work practices, there are notable changes to her demeanor in the courtroom and her interactions with the judge, attorneys, litigants,

and other Court employees. As you will see, Dana seems disconnected from both of her groups, and she feels out of control.

Vignette #2: Enacting Powerlessness

It is 9:20 and Bill (the bailiff) has completed check-in. Dana has reviewed all parties and obtained attorneys' business cards. These days, Dana still targets an average of 10-12 cases a day, but when this is not possible, she tries to set an absolute max of 15 cases. "Otherwise," she explains, "I really get behind." Today, 9 cases are listed on the calendar summary sheet, but three additional cases were handwritten by Dana this morning at the bottom of the page, bringing the total to 12. The additional cases are continuances (rescheduled hearings) that weren't set in the system. Frustrated, Dana explains, "the Clerks' Office didn't set them, so the continuances were scanned into the case management system but not set in the calendar. We don't have ["events[39]"] for them in the system." Though she places blame on the Clerks' Office for this error, setting continuances requested in the courtroom is a task for courtroom clerks and courtroom assistants these days.

The last-minute addition of three cases to the calendar is not an exception. It has become the norm. These kinds of errors have often moved the average daily case load beyond 12 since the new system "went live". Dana adds, "These are sometimes caught, but often [the parties] just come in [and we realize that we have more cases to process for the day]." Who and how are these caught? It is not clear. When this happens, Jane or Dana must quickly pull up the case in ECS (the judge's system) and print out a copy of the individual case summary

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[39] 'Events' is the label used to describe entries in the case management system that denote actions taken on the case, including the filing of a document, scheduling of a hearing request, "resulting" of a hearing (status update), etc.

sheet. There is little time to check for proof of service or to note how many times the parties

have called in a continuance. The judge will have to rely on what the parties tell him they need

rather than using Jane's or Dana's prep.

After reviewing the calendar and accounting for check-ins, Dana notes that three cases

need to be taken off calendar because one or both of the parties are not present (Cases #12,

#9, and #1). She checks with Jane (via a messenger application) to see if any phone calls have

come in from any of the absent parties, and Jane tells her that an attorney on Case #12 called

to request a continuance. Dana tells the other party on Case #12, who is in the courtroom,

about the request and asks her to work with Jane to set a new hearing date. She sends Jane a

message asking her to schedule a continuance as a" favor". Dana will have to work on the

continuances for the other two cases at some point, but there are 9 cases left on the docket

today, and she needs to get the session going.

Dana calls Judge Sanders and tells him that they are ready for him. She walks over to

the bench and places a copy of the calendar summary packet on his desk. Upon Dana's signal,

Bill stands at the front of the courtroom, and says, "Come to order. Court is now in session. No

talking please."

Judge Sanders walks into the courtroom and takes a seat. He begins roll call and asks

the parties to provide a time estimate for how long their matter will take. Dana uses the

calendar's notes section at the far right of the case summary sheet to jot down notes about

what the parties say to the judge. On two of the cases (Case #3 and #4), the parties explained

that judgments had been filed and were simply awaiting processing by the Clerks' Office. The

matters are taken off calendar. Dana notes, "This is a shame. These people either took time off

to come here today or, worse yet, they paid attorneys to show up and tell us that they've already filed judgments." On Case #7, the attorneys for both sides request a continuance as they have newly joined the case and are getting up to speed. Dana wonders why they didn't call in to request a continuance rather than coming to the courtroom. But, "they get paid by the hour, so…" We are now down to 6 cases on the docket.

Case #5 requires a Spanish interpreter and Dana had called the interpreter's office about 30 minutes ago to make the request. It is a busy day, and there are three other cases from other courtrooms already in the interpreter's queue. If it happens today at all, it will have to wait until the afternoon session. Of the remaining cases, only one (Case #2), has a time estimate exceeding one hour. Judge Sanders tells the parties on Case #2 to work with Dana to schedule a continuance so that they can devote adequate time to the matter later.

Once roll call is complete, Judge Sanders calls a recess and goes back to chambers. The attorneys for Case #2 walk over to Dana's desk and she works with them to find an alternate date for their hearing. Once they've found one, she jots it down on a post-it note and attaches it to the individual case summary sheet. As she is writing the note, a runner from the Clerks' Office walks in and hands two documents to the bailiff. Bill hands them to Dana and she begins to review them. One is an emergency request for child protection and the second is an RFO for Case #9 on today's calendar. It had been taken off calendar because no one had checked in. "Hmm, something new may have happened that was not a part of the original RFO." Dana walks out of the courtroom to give the judge the documents.

It is 10:00AM and Judge Sanders is still in chambers reviewing the cases added to the day's calendar and the emergency requests. Meanwhile, Dana is on the phone with one of her

supervisors about a missing filing document on a case not on today's calendar. Once she hangs

up, she pulls up a blank Word document and begins working on an RSVP list for a colleague's

baby shower. She reviews her emails from the past couple of days in search of responses from

other staff members. From time to time, she talks to Bill and flips through the calendar

summary sheet. At 10:15AM, the judge returns to the courtroom.

Once seated at the bench, Judge Sanders calls Case #6. He asks the petitioner to briefly

review the matter before the Court, and she tells him that she is requesting a modification to

child support. She is self-represented. The judge reviews the individual case summary in his

calendar summary packet and sees a note from Dana referencing a new expense declaration

filed today. He asks the petitioner if she has reviewed the expense declaration filed by the

respondent (also self-represented) before the hearing (though he filed the declaration, he is

not present in the courtroom). The petitioner tells Judge Sanders that she has reviewed it, but

she has a copy of it with her. Judge Sanders directs her to the pay stubs filed with the

declaration. She tells him that "there is some deception" as he is "getting paid under the

table." The judge asks if she has any evidence of her claim, and she does not. Meanwhile, Dana

is reviewing the file in ECS. After a few minutes, the Judge concludes, "The Court orders $441 a

month in child support as of March (backdated)."

Petitioner:	*Thank you, your honor. Can you revise the existing order and review the*
	new order [from today]? The last order indicates that I need to pay him,
	but that was an error.
Judge:	*Sure...I will print the order in chambers and give you a copy.*

Judge Sanders calls a break and goes back to his chambers. Dana had been listening attentively to the discussion and taking notes on her legal pad since mention of the error in the last order was made. As soon as the judge leaves the courtroom, she puts her head down and shakes it.

> *Dana:*   *I made a mistake and listed the parties incorrectly last time. I don't know what he is going to print in chambers. Does he want me to generate a minute order today? That's impossible. Maybe it will get done next Wednesday (a week from today) on my day off (a scheduled relief day).*

Dana pushes the legal pad aside as if switching gears, and she pulls up the case management system on her computer to start setting today's continuances (updating the status of the case and adding the next scheduled hearing date to the electronic case file). After a couple of minutes, she stops what she is doing.

> *Dana:*   *With [the new case management system], it takes longer because it isn't second nature to me. In [the old system], I didn't have to think about it. I've been 17 years with the Court, and I've never been this stressed. It is overwhelming. I don't have control.*

After confessing this, she sighs and immediately looks down and goes back to setting continuances, signaling that she doesn't want to elaborate. A short while later, the petitioner from the support case returns to the courtroom and asks Bill (the bailiff) if the judge has the print-out he had promised her. Bill tells her that the judge is in chambers and can't be interrupted. Dana interjects, "I'll go check in on him shortly."

Petitioner: OK, can you mail it to me?

Dana: Sure. (she opens her desk drawer and hands the petitioner an envelope

               so that she can self-address it.)

Petitioner: Thanks. Please make sure it is 'him to me' and not 'me to him' like last

               time. You know the mistake I am talking about, right? Please...

Dana nods her head, and as soon as the petitioner walks out of the courtroom, she rolls her

eyes and clips the envelope to the individual case summary sheet from the day's calendar

summary packet. With no one else within ear shot, she tells me:

Dana: I feel bad. I am very short with them. I don't have time to peek out from

               my computer. I used to interact with them more. Not anymore. I don't

               have time for that. It is the only control I have now.

       Meanwhile, an attorney for Case #9 approaches Dana and asks how things are moving

along. Dana looks at the calendar summary sheet and tells him, "It looks like you were taken

off calendar because you weren't here." He replies, "My case is set for 11AM, I am just in time,"

Dana looks at the paperwork and notices that the appointment had indeed been set for 11AM.

The calendar summary sheet doesn't list appointment times, but the new system assigns a

specific appearance time rather than just the date. Just like that, a case is added back into the

day's calendar. Dana asks for a time estimate on the case and the attorney tells her it will be

about one day.

Dana: Hmmm...

Attorney: I really want to stay here. I don't want my matter to be sent out. Who is

               on long cause?

> Dana: No one is available now.
>
> Attorney: It's not going to happen is it? I can see it on your face. Well, it might not
>
>   take more than half a day…

Dana walks up and leaves the courtroom in order to see the judge. She returns about 10

minutes later and tells the attorney, "Counsel, Judge will hear you at 1:30PM." Dana gets back

to her desk and opens a Word document to work on the minute order from the morning's first

case. The judge had promised a copy of the minute order by the end of the day. Though she is

logged into the new case management system's minute order module and has an open

window of it on her computer, she hasn't referred to it so far.

Judge Sanders returns and calls Case #10 (the next case on the calendar and one of

three added to the case summary packet this morning). An attorney appears on the

respondent's behalf. The judge asks if they are talking about the last order from 2014 (2 years

ago). The petitioner (self-represented) responds, "We've been back a few times for review

since then…", but the respondent contradicts her claim, "I don't think we have been back in

2015 or 2016." Judge Sanders refers to ECS to determine the status of the case. He isn't sure

what they are going to discuss today, so he tells the petitioner to state her request so that he

can give both parties a chance to respond. Meanwhile, Dianne is working on the RSVP list for

the baby shower, reading and responding to emails about it from her colleagues.

At 11:15AM, Judge Sanders calls a break and says he will come back in 10-15 minutes

and rule on this matter. He returns to chambers to review the case before issuing orders.

While he is in chambers, the attorney for Case #8 walks up to Dianne and tells her that they

have a judgment to look at. Dianne tells him that the judge can look at it in the afternoon. At

11:30AM, Dianne receives a call from the judge and tells the attorneys that he will be back soon to rule. She asks if they want to set up. Shortly after they have set-up, Judge Sanders returns to issue order. He tells both parties that the minute order will be mailed later and asks Dana to give them envelopes. These need to be self-addressed by the petitioner and the respondent. The judge calls a 1.5-hour recess for lunch.

Shortly after the lunch break, Judge Sanders enters the courtroom and sits at his bench, prepared to resume the session. He directs his attention to the attorneys from Case #8 and they are seated at the front of the Court and ready to begin. They want to get their judgment filed today.

Judge: *Ready?*

Attorney: *We are just talking here, and we are waiting for the boss.*

He motions to Dana's desk next to the bench and smiles.

Judge: *That's true. I spoke out of turn.*

He laughs, gets up from the bench and prepares to exit the courtroom.

     Yeah, [she's] the boss. I better go back to chambers and she will

     let me know when she is ready to start.

Clerks. As Dana's new morning performance reveals, a key change to the clerks' routine was the absence of practices that once rendered a chaotic environment ordered. Clerks were falling behind. Tina noted,

There will need to be a time study when everybody gets settled because everything has changed. There is a lot of overtime. It is court ordered that minutes over three

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days old are considered back logged. We have a huge backlog for orders and

judgments after hearings. It is out of control.

In addition to changing practices, a change in the rhythm and flow of the courtroom session

was evident. Everything was taking longer, and tensions were rising. The situation was not

sustainable and required a change in course.

While clerks already split their focus across many different tasks before the new

system's launch, their attention became even more fractured. Not only were they <u>not</u>

following the new policies and procedures to complete minute orders in real time, they

were now tackling less work in the courtroom. Dana had not only resisted the new real-

time minute order creation process, but she was hardly using the new case management

system in the courtroom at all. While Judge Sanders was inside the courtroom, Dana never

pulled up the new minute order module and rarely accessed the new case management

system's main module. She continued to use other tools to support the judge's needs, taking

notes on legal pads during hearings and reviewing the paper copies of the day's calendar

and case summaries. A more troubling development, she seldom found time to follow-up

on her notes during brief respites as she once had. Although Dana was one of the more

seasoned clerks in the Court and had once completed her work on time, she had begun

falling behind on minute orders and asking for relief days. She wasn't the only one in this

predicament; according to Tammy, "even those who normally did not need catch up time

now needed it plus overtime."

The combination of delays (inability to finish the work within guidelines) and lack of

focus (inability to focus on key tasks) inevitably resulted in more mistakes. As cases were

added to the calendar minutes before the morning session during check-in (because they had not been updated properly in the system) judges had to spend more time in chambers reviewing documents they would have otherwise reviewed beforehand.

Clerks found themselves making mistakes and losing control of their calendar, and they began to lose confidence in their ability to perform their job. As Dana confided, seasoned clerks had started to feel like they didn't know how to do their job. This sentiment, in turn, affected their interactions with others. For example, Dana had become acutely aware of other's mistakes and annoyed by their requests. Clerks were not processing judgments fast enough. Attorneys were wasting their client's money. Litigants were asking too many questions and pointing out her mistakes.

Not only were their interactions with others outside of their courtroom affected, but several "courtroom family relationships" had begun to show signs of strain. Friction between clerks and assistants emerged as they tried to deflect blame and shield themselves from the new demands of the system. Judges' demands, which in the past could never be too big or small, now became excessive and an afront to their sense of control.

Judges. Once the unintended changes to the judges' ECS system were addressed, judges kept their distance from the turmoil caused by the new system's implementation. As long as it didn't affect them, they didn't feel the need to get involved. While most recognized the additional pressure on their clerks, most clerks had stopped enlisting their judge's help in fighting the changes. Clerks and judges realized that small changes might be possible, but the system was not going away. Furthermore, there were fewer opportunities for judges and clerks to communicate between courtroom hearings. While clerks were

trying to catch up on their work, judges were also busy reviewing documents in chambers (for cases left off calendar and added back on the morning of the hearing). While the relationships within the courtroom were suffering from the change, the Administration's management had made a concerted effort to be even more responsive to judges' needs than they were under normal circumstances. Fearful that judges would take their clerks' side and demand changes, managers attempted to appease judges by highlighting the benefits of the new system (e.g., availability of real time minute orders to share with litigants) and catering to their needs (e.g., sending additional resources when asked and checking on their case documents before large calendar days).

Managers. As backlog continued increasing, managers could no longer push back on clerks and relegate their concerns to "a bad attitude" or "*clerkitis*". Managers feared a new wave of complaints from judges was on the horizon, as courtroom clerks continued to request relief days to catch-up on work at an alarming rate. Dianne highlighted,

> From their bench, business hasn't changed, but judges hear it from clerks about the troubles with minute orders. We don't want it to bubble to our benches because we don't want them dictating our business. So, we need to be supportive of the change but also an advocate for our staff.

Furthermore, managers recognized that the situation would become unmanageable once overtime funds were no longer available. Tammy began to wonder, "What's our Plan B?" Managers began to revisit their approach to handling courtroom clerks' concerns, and they decided to alter their course. Walking back their initial defensive tactics, managers moved towards a strategy of trying to understand where the clerks were coming from so that they could appease and engage them in the effort. Three overarching issues were raised that provided some material with which managers could begin to outline their Plan B.

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First, managers realized that their enthusiasm concerning real-time minute orders and automation through macros had failed to give enough consideration to the current minute order creation practice from the clerks' perspective. Tammy conceded,

> We wanted to have things immediately in the system. But, [it is true that] you don't have the same orders in every case. We are not like Civil or Criminal, and we don't use the same language for all orders. We don't have a standard minute order. If we were truly going to get away from that, we should have redesigned the minute order and we needed to tell our clerks.

> [And, the reality is that] we have a text-oriented staff. And, there is still no visibility to what the electronic workflows are. The thing is that we have some awesome features and we are trying to tie the two together. But, people don't understand what generates an activity and what doesn't, so we need a simplified understanding of what the workflow actually is. We need clarity about, 'If you do A, then B, C, and D happen.' [so that they can appreciate the potential benefit.]

In some cases, managers began to question whether the new features were even useful. As the backlog for minute orders continued to grow, for example, some questioned if it was wise to create the expectation that minute orders would be available for litigants to take home with them after their hearing:

> [The new system] allows copies of the minute orders to be given to parties (order after hearing). But, …the last thing we want is for judges to be asking for minute orders to be prepared in the courtroom.

Next, managers were swayed by clerks' concerns about the reliability of the order macros and automated workflows within the system. Given all of the system bugs discovered the weeks after the system went live and the lack of regular and direct contact from the system's vendor, clerks' reservations seemed reasonable. This realization helped managers

to shift their perspective on the clerks' motivation to resist using the macros from one of

rebellion to one of mindful concern for their work. Dianne explained,

> They (the clerks) don't trust the system. Sometimes things work [in the system] and
>
> sometimes they don't. [Clerks] are going to [take responsibility] and make sure
>
> everything is done. These optional [verification] practices complicate the process
>
> and take time.

As they evaluated the feedback from clerks, they recognized the growing perception among

them that they had lost control over their work and their independence. This was the third

major issue that required immediate attention. In regular staff meetings with courtroom

clerks, Tina and her management team obtained feedback from the clerks about the lack of

visibility and access to information that had rendered them powerless. Tina reflected,

> It became clear to me in [these] meetings, that historically we have always had a
> system where we had control of our own technology so if an issue came up, it could
> easily be changed or fixed. But now, we are dealing with a nationwide system that
> impacts various courts and we are competing with the other courts for development
> time and resources.
> So, clerks report issues and we put them on a list but can't give them a guarantee
> that we will get to them.

A New Normal

After six months of resistance and adjustments to the new system's demands, the

morning's courtroom session had begun to show signs of the old order. Most courtroom

clerks had regained their sense of control over the courtroom. Their *active* and *passive*

resistance was met with responses from management that both reiterated the

Administration's authority and their shared values of order and efficiency. Some clerks had

even gained a higher profile within the Administration, as they began to serve as team

leads and peer trainers. In the next vignette, we meet one of these new courtroom stars. Carissa, the courtroom clerk featured in this story, has been with the Court for 7 years. Not only is she in command of the courtroom, but she is also binding together the interests of the Administration with those of her courtroom family. As you will see, Carissa's focus on her judge is no less intense than Dana's had been before the implementation. Unlike Dana in the initial months after the system's launch, however, Carissa sees the ways in which the Administration's demands help her serve her judge better, and she commandeers their policies and processes to keep the session under control.

Vignette #3: (Re) Enacting Command with Full Engagement

At 8:30AM, the courtroom's doors open, and the bailiff is ready for check-in. There are four people in the courtroom, the clerk (Carissa), the courtroom assistant (Anne), the bailiff (Dan) and the court reporter (Rebecca). There is a small table near the wall between the judge's chambers and the bench, and on it are a bowl of candy and a bowl of potpourri along with a small coffee machine, cups, and an assortment of creamers and sweeteners. These are for the courtroom family, and Carissa often refills the candy bowl or brings in cookies for them to share in the morning or the afternoon slump.

Carissa is already "working the calendar." There are 9 matters on the docket today. Carissa distributes the calendar summary packet to Dan and Anne, and she gives me a copy. She also places two copies on her desk – one for her and one for Judge Grey. Of the 9 matters on calendar, one has already been continued over the phone. Anne, the courtroom assistant, took the call early this morning and made the updates to the calendar summary packet before Carissa printed copies. Carissa starts closing out the continuance right away, noting,

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"Starting quickly gives me a chance to find out if there are any glitches or bugs in the system that I need to worry about for the day."

By 8:50AM, Dan is near done with check-in and the session is ready to begin. Anne turns to Carissa and asks, "Do you want me to call the judge?" Carissa responds, "No, not yet." She begins taping the business cards that she collected from the attorneys at check-in to the individual case summary sheets in her packet. When she has organized the business cards and sorted through her calendar summary packet, Carissa turns to Anne and asks, "All set, Anne?" Anne nods her head affirmatively. Carissa then turns to the courtroom and asks, "All set?" She directs the attorneys and parties for Case #2 (as listed on the calendar summary packet) to come forward and to set-up. Once they have done so, she repeats, "All set?" Everyone smiles and nods. Carissa picks up the telephone and calls Judge Grey. She tells him, "All set your honor. Whenever you are ready."

As we are waiting for the judge, Carissa reviews her notes in her summary sheets and makes duplicate entries in the copy she has prepared for Judge Grey. Before he enters the courtroom, she slips the packet onto his desk. A couple of people trickle in, and Dan checks them in. One of them, an attorney, asks for priority. Dan turns to Carissa and repeats the attorney's request. Without looking up, Carissa responds, loud enough for both the bailiff and the attorney to hear, "Judge doesn't do that."

At 9AM, Judge Grey walks in, and Dan calls everyone to attention, "Court is in order. No talking and no cell phones." The judge sits at his bench, turns to his computer screen, and pulls up ECS. He turns to the courtroom and begins the first round. He calls the first case on the day's calendar and Carissa tells him, "No check in, your honor." The judge calls Case #2, and

the parties are already set-up at the tables before the bench and ready to start. The first

hearing of the day begins. As the judge is confirming the parties' names, Dan hands Carissa a

note letting her know that Case #3 requires a Spanish interpreter. She calls the office and

inquires as to when a Spanish interpreter will be available.

Meanwhile, the judge asks the petitioner on Case #2 to explain their order request. The

petitioner (father) explains that he is requesting an order to have his daughter move to

Memphis to be with him full time. Judge Grey asks how old the child is, and the petitioner tells

him that she is 14. The judge says, "At 14, your daughter should be able to articulate her

opinions and the Court should entertain them. No disrespect to either of you. I want her to

meet with Family Court Services (FCS)." He turns to Carissa and says, "Can we get a date for

that?" She quickly responds, "Yes, your honor." As soon as the judge had mentioned FCS,

Carissa had opened her desk drawer and pulled out a form to document the order. As she is

filling it out, she calls FCS to schedule an appointment. Before issuing the order, Judge Grey

reiterates, "At 14, the law requires me to hear from the child. This matter is continued until

June 15. You are ordered not to interfere. Do you understand?" The parties respond, "Yes, your

honor." Meanwhile, Carissa obtains an appointment with FCS and notes the date on the form.

She attaches it to the case summary sheet to file later and informs the judge. He turns to the

parties and asks, "Do you waive notice?" They do, and he tells them that he will see them next

month.

Judge Grey calls Case #3 and Carissa says, "Your honor, if I may interrupt. We are

waiting for the interpreter." The judge tells the parties to take a seat. He moves on to Case #4.

The respondent tells the judge, "Your honor, our attorneys are consulting with each other

outside." He moves on to Case #5. Only one of the parties is present, and the judge determines that the other party had not been served properly. He sees that there is another hearing request on calendar for the coming Friday, so he tells the petitioner and his attorney, "For judicial economy, shall we trail both matters?" The petitioner and his attorney agree, and the judge continues both matters until June 8th to give ample time for proper service. Carissa notes the continuance on her summary sheet and uses a highlighter to highlight the scheduled hearing on Friday. It will have to be continued also.

Judge Grey calls Case #6. The attorney for the petitioner says, "Good morning your honor." The respondent is not present. The Judge notes, "I will be hearing testimony on this. I'll get back to it on second call." The judge calls Case #7. According to the case summary sheet, the matter before the Court is a post-judgment (the divorce has already been granted and orders regarding custody, visitation, and support have been made) request by the respondent for a modification of spousal support. The Attorney for the petitioner introduces himself and the judge asks him about service. The respondent, who is representing himself, notes, "The previous attorney on record was served. I was advised by Self Help that she had not released her previous attorney." The judge replies, "I don't know what you were advised, but post-judgment you must serve the petitioner and not the attorney. So, service is defective, and the matter is continued until June 8th to allow proper service." As the judge is talking to the parties, Carissa is working on the continuances from the previous case. When she hears the judge talk about (proof of) service, she looks up from her computer screen and grabs the case summary packet. As soon as the judge mentions it, she writes down the new hearing date on

the individual case summary sheet. She pulls out a form from her desk and hands it to the respondent as he walks by her desk. It is a referral to Self Help.

It is 9:45AM and Judge Grey calls Case #8. The parties walk up to the tables before the bench and set-up. The petitioner has an attorney and the respondent is self-represented. The judge asks, "Have you been to mediation? I see you have a minor child who is eight. Are you interested in reaching an agreement that isn't 'I raise your son'? I am guessing that neither of you wants your son raised by a cold and distant judge. So, you have two options: (1) go to mediation and arrive at an agreement between father and mother or (2) I can do it for you." He turns to Carissa who is already on the phone with FCS requesting an appointment, and says, "Let's send them down to mediation. I'll put this on second call."

Having gone through all 8 eight cases on the calendar today (Case #9 had been continued before the session started), Judge Grey begins a second round through the docket. He calls Case #1 again, and the parties are still not present. Judge Grey notes, "This matter was set for 8:45AM and it is almost 10AM. This matter is now off calendar." Carissa makes a note on the calendar summary packet. Judge Grey calls Case #3. Carissa tells him that they are still waiting for the interpreter, so the judge moves on to Case #4. One of the attorneys responds to the judge's call, "Your honor, the other attorney is conferring with their client on the offer." Judge Grey responds, "No problem. Just let us know when you are ready." Meanwhile, Dan hands Carissa a judgement from the attorney who has just slipped into the as the judge was speaking to opposing counsel. Carissa takes it and grabs a pad of post-it notes to mark specific sections of the document and to indicate where to sign.

Judge Grey moves on, "There was a case I was going to hear testimony on..." Carissa

reviews her notes on the calendar summary packet; she turns to him and says, "It was Case

#6, your honor." Dan directs the petitioner to the stand and Carissa swears him in for

testimony. The respondent is still not present. She is self-represented.

Although the petitioner is sitting at the witness stand, his attorney asks Judge Grey to

take judicial notice of a prepared declaration. He hands a copy to Carissa, and she marks it on

her legal pad (exhibit #1) before giving the document to the judge. Judge Grey quickly scans

the document; meanwhile, Carissa begins working on the minute orders for the two cases that

were continued on account of defective service.

Judge:	*Declaration isn't generally something I would take judicial notice of (he turns to the petitioner). If you were to give testimony today, would it be consistent with what is in the declaration?*
Petitioner:	*Yes.*
Judge:	*What order specifically are you asking me to make today?*
Attorney:	*I believe the father would like a child support order from the mother and sole legal and physical custody.*
Judge:	*There is no order request regarding child support, correct?*
Attorney:	*If ordered, we want the date effectuated to be retroactive to January of this year. And we want visitation to require 72-hour notice.*

Judge:	Well, the other party is not here, and I am trying to make orders without information.
Attorney:	Your honor, the mother showed up unannounced this weekend…
Judge:	Is the request [for child support] included in the RFO?
Attorney:	No.
Judge:	Not granted.
	Other orders are granted.

Judge Grey calls a short recess and heads back to chambers.

During the break, Anne comes by and tells Carissa that the respondent (mother) on the last case (Case #6) had just called in to say that she was in the emergency room. Carissa responds, "It's done. She can contact opposing counsel. It's done and there is nothing we can do." A few minutes later, Anne sends Carissa an instant message asking, "What was the order anyway? I wasn't listening for the orders" Carissa responds, "Sole legal and physical custody were awarded to the father with a 72-hour advance notice for visitation requests." Anne thanks Carissa and tells her that she is going to go the restroom, "I'll be right back." Carissa turns away from her computer screen to briefly summarizes the situation, "The dad asked for custody and the mom lost it, so I want to be really careful about this one. I'll work the minute order in Word, paste it into the text box [in the minute order module] when I am ready, and then review it very carefully when we are not in session."

Meanwhile an attorney on Case #4 approaches the other party (self-represented) who is waiting for an interpreter. He asks, "Why do you need an interpreter? You speak English." Dan (the bailiff) looks over at Carissa and says, "If she needs it…" Carissa immediately steps in

and tells the attorney, "She's had an interpreter before. Judge is aware of it, so you have to wait. Sorry. We are not high priority because this is not a DV matter, [so the interpreter will get to us when they can]."

Two attorneys walk into the courtroom and hand Dan a document. He gives it to Carissa, and she sees that it is another emergency RFO for custody and visitation. Carissa walks out of the courtroom to hand the judge the order in his chambers. One of the attorneys says, "This is a well-oiled machine by all appearances." A few minutes later, Carissa and Judge Grey come back into the courtroom and the judge asks the attorneys on the emergency request to come forward. They quickly set-up. As soon as they have settled in, the judge begins.

> *Judge:*   *Let me tell you what I do on ex parte applications like this. I don't engage in discussion. Emergencies don't happen every day. Before reaching for ex parte applications, you have to think, "Are the pipes bursting?" On most matters [since I have been here], the pipes are not bursting; they are not even bulging.*
>
> *So, please inform your colleagues about Judge Grey's view on this. I have a dim view on ex-partes. They require the other party [and everyone in the courtroom] to drop everything and to appear or respond to something that doesn't really need to happen as an emergency. If you file an ex parte that is not an ex parte and the other side requests something, it will be granted.*

After reprimanding the attorneys, Judge Grey gets up from the bench and returns to chambers in order to review the request. While the judge is in chambers, Dan hands Carissa another emergency order that was sent down from the Clerks' Office while the judge was on the bench.

An interpreter walks in and tells Carissa that she is working on a hearing in the courtroom next door but will be available for the next 10 minutes. The court is not back in session yet. Anne goes to the judge's chambers to inform him of the interpreter's availability and he decides to come back in to hear the matter. The bailiff calls the session back to order, the judge walks back up to the bench, and he calls Case #3. The petitioner is requesting an order for child custody and support. The judge notes that there is already a Department of Child Support Services (DCSS) case on this and that he can't make an order regarding support. The attorney for the respondent interjects to let him know that the parties are still living together (potentially rendering a custody decision less time sensitive). The judge decides to continue the matter until May 20th. By then, he suggests, it will be good to know what the child support order is. The petitioner asks if he can make an order for temporary child support until then. The judge tells her that he can't give orders on an existing DCSS case. Carissa notes the discussion and the continuance on the individual case summary sheet.

As the judge discussed Case #3 with the parties, the attorneys who had delivered the emergency RFO come by and ask Carissa if they will be able to pick up a signed copy today.

Carissa:	*Oh, this is just going to be a drop; he won't be able to get to it today. There is no guarantee on approval.*
Attorney:	*But the judge said he would sign it today.*
Carissa:	*I did not hear a guarantee on signature.*

When the judge is done reviewing Case #3, Carissa hands him the second emergency order that Dan had given her earlier. The judge returns to chambers in order to review it. While she is waiting for him, Carissa receives an email from Mabel, one of the supervisors, regarding her end of month report. She has one open item on the report. The email reads, "Once again, you are AWESOME! This is the only one that showed up on your end of month report." An open event indicates a hearing that is missing a minute order or has not been "resulted" (i.e., status updated).. Carissa seems flustered, "I usually don't have any open events, so that bothers me. I am going to look into it." She starts looking through her notes as paper copies of any notes along with the print outs of thee minute orders for every hearing are kept in the courtroom by statutory requirement. She finds the hearing, looks at her notes, and then turns to her computer to find the case. After a brief review of the case documents, she says, "It looks like the minute order was filed incorrectly. If I put something in the docket and it is incorrect, we now have to get a supervisor to fix it. In the past, it was simpler."

Twenty minutes later, Judge Grey comes back with the emergency order and tells Carissa that it is granted. He orders a child custody investigation. Carissa takes it and reviews the areas that she had marked with post-it notes (declaration, notice, sign here). She file-stamps the order and hands the judge a form that he must sign for the emergency child custody hearing request. Carissa then calls FCS to ask them when they will have the report ready for the judge. They tell her it will be ready by May 11 (two weeks). She notes the date on a post-it note and attaches it to the document. She will need to schedule a hearing for a later date.

At 11AM the parties to Case #8 return from mediation and Dan tells Carissa, "Mediation says there is no agreement at this point." The judge will have to hear the case and order on custody and visitation. They set-up on the tables in front of the bench, and the bailiff calls the session back to order. The petitioner begins to state her case. She tells Judge Grey that life has drastically changed for the respondent (her ex-husband) in the last few months, as he is now living with his fiancée and her two children. She thinks this is disruptive to her child's well-being. Judge Grey stops her and tells her that the law compels him to do what is in the best interest of the child and not the parents. He tells them that he will break for lunch and come back with findings and orders. They will return in the afternoon to discuss pending matters.

The judge steps down from the bench walks over to the small table with the candy bowl and takes a piece. He comes back and whispers, "She keeps it stocked." He signals to Carissa (to make sure everything is OK) and she nods. He walks back to his chambers. Carissa stays behind catching up on email, organizing her To Do's from the morning's session, and setting herself up for the afternoon. She replies to an email from Barbara, one of the supervisors, who was inviting Carissa to a training session on filing documents in the new case management system. She writes, "Thanks, I think I'll pass on this one. I was already filing most of my documents before the new system, so I feel pretty comfortable with it so far [in the new system]." When she is done getting up to date on email, Carissa turns back to her calendar summary packet to get a sense of what's left to do. She's taken care of most of the continuances from today's calendar. Those always come first. She still needs to file the documents that were introduced during session and update the status on a couple of cases.

But they have a light afternoon ahead. The only thing left on the docket is the judge's orders on Case #8. She'll also need to check in with Judge Grey about the pending ex parte request. If they wrap up early, she'll focus on the minute order for the custody case. She'll give that one her undivided attention.

Clerks. As Carissa's story highlights, after the initial backlash from the new system's implementation and subsequent adjustments, the courtroom clerks began to settle into a new normal. While several new practices from the new system had made their way into the clerks' routine, some of the more controversial changes had been discarded. Interestingly, many of the practices that the courtroom clerks performed in the courtroom remained untouched or only slightly modified. All courtroom clerks maintained a keen focus on the day's calendar and on their judge. Most began and ended their day with their calendar summary packets and spent the bulk of the proceedings acutely aware of their judge's needs and utterances. However, the new practices that were incorporated into their morning routine made the Administration's and its new case management system's presence known inside the courtroom. Beyond a shift in work practices, the clerks' performance of old and new practices revealed an evolving sense of their interests and values. Their enactment showcased a new dynamic among clerks, judges, and the Administration.

Most courtroom clerks had figured out new ways to juggle their administrative tasks while maintaining their focus on their judge. Carissa attributed her success to her ability to constantly re-examine and to shift what she was able to accomplish during the day's session,

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I do a lot of work in [session]... I do the off calendars first and then I try to do minute orders right away; because, if we have continuances, the sooner I get the information in the system the more likely we will be to have a proper case count. This allows the assistant to handle the calendar. If I take long to do a minute order, it is harder for the courtroom assistant because continuances don't show up.

It is worth noting, however, that most of the practices Carissa attributed to her success post-implementation were practices that she and many of the clerks were already doing in the old system. Specifically, most clerks found a way to work on minute orders during hearings, albeit often working on minute orders from a previous session and simply transcribing their notes into the electronic document from their notepads and loose papers.

The key difference in practice that Carissa's day revealed was a newfound sense of urgency about what needed to be completed and when that had not existed before. For example, taking care of off calendars (i.e., updating the status of the hearing on the electronic file to note that the parties were "no shows") had not been a top priority in the past, as this action did not have any immediate downstream consequences. But, as the new system now featured prominently in her work during the session, completing this task early in the morning allowed her to make sure the system was working properly before the morning's session kicked off.

Similarly, working on minute orders during session was common before the new system's implementation. However, clerks' sense of urgency about completing minute orders on the same day as the hearing was new. After all, the 48-hour turnaround window on minute orders to which they were held to account by supervisors before the new system

was launched had not changed. Yet, managers' talk about the potential value of real-time

minute orders had left an impact on clerks' sense of priorities.

Before and after the implementation, a minute order was considered complete when

it had been reviewed, edited, and all orders and related actions described in it had been

taken. This series of tasks was time consuming and required focus when undertaken

together but could be interwoven with other higher priority tasks if broken apart. As long

as no action was taken to document the order or request, however, it was as if the hearing

had never taken place. During the implementation effort, the CMS team's attempt to

address this weakness with the creation However, clerks came to realize that the changes

were intended to help them with their heavy workload and to help keep the judges' cases

up to date. automating some of their work in order to free up their time to do other work.

Although most clerks had not adopted macros into their routine, they had come to view

their performance in the courtroom differently because of this new understanding of their

purpose. Furthermore, they were able to tie the goal of near real-time minute orders to

their sense of loyalty to their courtroom family.

Similarly, the clerks' initial resistance to the new system and workflows

transformed into thoughtful arguments and considerations that ultimately won over

managers in some cases. Whereas managers had perceived clerks' refusal to prepare real-

time minute orders and automation as an act of rebellion, they now provided explanations

for why the practice would not yield the intended results. Carissa provided several reasons

why she did not use the macros, and many clerks echoed her concerns. She noted,

> It is a lot faster to type [the order or action] than to look for [the related macro], so I
> still type my minute orders in the [Word document template [first]… and that's how

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I get my stuff done so fast…It requires less concentration [and I make fewer mistakes].

Judges. For the most part, judges had escaped the new system's implementation without experiencing many growing pains. After the initial hiccups concerning unexpected changes to the ECS system, there were no changes to the judges' tools or practices. Once clerks had figured out a way to juggle their administrative tasks so as not to take their focus away from judges, there were no major changes in the regular interactions between them. As Dianne had predicted, as soon as the changes resulting from the new system didn't affect them, judges didn't feel the need to get involved. As far as most judges were concerned, they continued to be the ultimate authority in the Court. From this regard, for most judges, the new normal was no different from the old way of doing things.

It is worth emphasizing how some of Judge Grey's practices, rendered Carissa's effort to adjust her own practices after the system's launch more successful. For example, Judge Grey's attitude towards emergency hearings and his public comments on these matters in the courtroom, encouraged a culture where parties would be less likely to file such requests haphazardly. As Carissa expressed and most courtroom clerks agreed, "The constant interruptions with ex-partes and other non-scheduled tasks can get overwhelming." Similarly, the judge's practice of asking attorneys and their clients whether they waived notice also served to lessen Carissa's workload.

Beyond practices that served to lessen her workload, some of his practices served to decrease the attention required of Carissa to address his needs and utterances. Specifically, a challenge to the clerks' ability to work on minute orders while a hearing was in session was the fear that they would miss an order. Carissa explained,

I don't have to listen as much when the judge is taking testimony. But some orders are made during testimony. I love the fact that Judge Grey waits until the end to issue his orders.

Many other clerks explained a variant of this practice among judges. Mona noted,

[We] listen for key words and style. Often a judge talks a certain way when he is about to give orders. Most judges are pretty good about saying something like, "It is so ordered," People are nice like that, they give you a heads up.

While this practice had always helped clerks to perform many tasks simultaneously while

in the courtroom, it was particularly helpful as the work that they were performing in the

new system required greater focus. Michelle explained the value of this "verbal heads up"

by noting,

Yeah, there is a lot of paying attention and concentration [required in the new system]. You have to just sit there and focus. [so when I hear the judges voice change and the standard language that he uses when issuing an order], it's like, 'Oh my goodness, I have to change the freaking gear!'

Managers. Once managers and clerks had begun to work together to understand

the major challenges in the new system, their interactions benefitted from greater trust and

empathy. As Mabel noted,

Another big part of my job, and sometimes I don't have as much time for this as I would like, is to develop the staff. This is particularly important now. I need to sit with the staff and mentor and promote them. [We are] going to need teamwork.

Whereas mention of the monthly report on delinquent minute orders had previously been

a punitive measure, it had become an opportunity to praise and to encourage clerks about

their performance. This new practice, in turn, created more opportunities for the

interaction between clerks and supervisors (i.e., the Administration) to happen during

session. The Administration was no longer out of sight and out of the mind of clerks while their judge was at the bench.

Furthermore, once managers began to talk to clerks about the new system and the challenges it posed, they began to realize that clerks' experience with the system rendered them better at explaining the issues. Tina noted,

> We have set up a Friday Show & Tell session with the court clerks. We have found that there is no better manual than [the collection of your own experience with the system]. So, the purpose of show and tell is to spread the wealth [of knowledge].. Yeah, and to commiserate.

With these experiences in mind, managers turned to the clerks to advocate for themselves in conversations with the third-party vendor as well as with other courts that were working together to troubleshoot system-related issues. As clerks demonstrated how the system worked during meetings and demonstrations, managers were able to experience the challenges that the system posed in person and face to face with their clerks. Cindy (senior manager of the Court) elaborated,

> Note how much focus this requires. In Family Law, most clerks take handwritten notes, so they are working off handwritten notes and a chronological order of what has occurred. For those of us who were once courtroom clerks, [you know where I'm going with this] … So, it makes sense to want to leave the minute order entry process for later. Real time entry becomes difficult.

These opportunities improved the relationship between clerks and managers because it bonded them in their common goal and their shared frustration. It also served to justify clerks' status within the Administration, not only because of their relationship with judges, but also because of their experience and contribution to the team.

Analyzing the Power Dynamics Involved in Negotiating Belonging

Prior to the new system's implementation, the primary strategy enabling balance between the clerks' multiple group memberships was ***separation.*** Most courtroom clerks viewed their role as attending to their judge's unique needs. The distinction between work performed inside the courtroom while in session and work performed during breaks, after hours, or in the relief clerks' office delineated separate time and space for clerks to enact their group memberships fully.

While this separation afforded clerks independence from the Administration, it also allowed the Administration to influence courtroom procedures while respecting judges' authority and autonomy. However, when a new case management system was introduced and it brought the Administration inside the courtroom, the tension between these groups and its impact on clerks' bridging role was brought into relief. Both groups required their attention in the courtroom, challenging clerks' ability to prioritize their tasks effectively. More importantly, their perceived loss of independence and status rendered the change more difficult to absorb.

To address this crisis of identity, courtroom clerks engaged in defensive reactions, actively and passively resisting the change. They responded with overemphasizing their membership in the courtroom family (*reaction formation*) and rejecting their role as members of the Administration. Whereas they once found ways to fulfill the Administration's requirements, even if not as a top priority while in the courtroom, they now refused to follow the new workflows in the system. Furthermore, they sought to enlist the help of judges to push back on the new system and to help them go away. Once the

clerks engaged in these tactics of resistance, judges were no longer able to stay out of it. They immediately exerted their power to put a halt to whatever was impacting the courtroom. In response, managers immediately appeased the concerns to keep them out of the turmoil. Furthermore, they considered ways of breaking the link between judges and clerks so that clerks would be forced to completely define their identity through their membership in the Administration.

While managers' attempts to appease the judges worked, they did not completely achieve the desired result. Clerks could no longer engage in tactics of active resistance without going against both their supervisors and their judge, and this development created a greater threat to their identity. Clerks began to engage in acts of passive resistance. No longer able to stake their claim to membership in their courtroom family, they displayed *ambivalence* about forging a balance between their competing identities*.* They became disengaged from what they were doing, whether a task for the Administration or for their judge. Mistakes became common, and overtime and relief days became the norm. Interestingly, judges did not step in to help clerks through this period of turmoil. Mistakes and absences from the courtroom hinted at a possible strain in the relationship between judges and their clerks. While it seemed like managers had thwarted the clerks' active resistance and they had kept relationships with the bench relatively intact, they realized that this predicament was not sustainable. Instead of continuing their counter-resistance effort, managers and supervisors began to adjust their approach to clerks. In so doing, they began to see the clerks' perspective and ultimately decided to roll back some of the changes introduced with the new system. The dialogue forged between clerks and supervisors

about the system and their objectives helped them to realize that some changes were not consistent with their goals.

A new normal eventually developed in relations among clerks, managers, and judges. Clerks' practices within the courtroom once again took on the characteristics of order and efficiency and they began to embrace both of their group memberships and actively managing the tension that dual membership embodied. Nevertheless, a fundamental change had taken place in relations among clerks and managers. They now partnered together to improve the new system and to align their vision regarding the systems' use and workflows with their shared values around efficiency, customer care, and case resolution. Judges also began to play a new role in this relationship, as they continued to assert their authority, but they began to take opportunities to aide clerks and managers with small changes that aligned their common interests. Recognizing clerks' growing list of demands and their need to collapse the spaces and time in which these were performed, judges worked with their clerks to allow them to split their focus while attending to their needs inside the courtroom. In the new normal, the balance between clerks' competing memberships was no longer forged through separation. Instead, it reflected a *synthesis* of the clerks' identities across both membership groups at the intersections of their interests and values. Table 5-1 provides an overview of the various response cycles representing clerks' defensive and active behaviors in the process of managing the paradox. It further details the power dynamics among clerks, managers, and judges that both spurred action and redirected efforts away from more destructive cycles.

This deep dive into clerk's actions after the new system's introduction thus reveals various cycles of defensive and active responses to paradoxical tension. Furthermore, it reveals a complex process involved in resolving this tension and negotiating belonging that extends beyond paradox theory's current understanding. Clerks' actions were driven by more than their own anxiety about change and their desire for consistency. The interplay of actions by managers, clerks, and judges in response to the change reveal shifting power dynamics that emerged as each of the groups reacted and adapted to the change. In this capacity, the new system served as a tool for circulating power across managers, judges, and clerks. Upon its introduction, it collapsed the spaces of role play and brought the Administration inside the courtroom. upending the existing order among groups. As clerks resisted the changes through active opposition and passive resistance, managers exerted their authority, counteracted clerks' measures, and ultimately sought to use the new system as an opportunity to engage clerks in dialogue about the future state. Managers' and clerks' discussions about the new functionality began to translate the system's features in terms of their shared values and objectives to assess fit. In these rounds of sensemaking and collaboration, managers decided to abandon some features while they allowed clerks to establish new ways of using others to better suit their needs within the courtroom. As clerks gained familiarity with the system, it provided a tool with which to redefine the nature and relative influence of expertise, placing a new premium on knowledge about the system. In this process, although clerks lost some of their autonomy in forging a new balance between their group identities, they were empowered to become active members of the Administration, serving as experts with the ability to advocate for changes to

improve the system. By placing a spotlight on this dynamic interplay of power relations, I shed light on the interests served in the process of negotiating belonging and harnessing the benefits of membership in both groups.

Table 5-1. The Strategies & Shifting Power Dynamics of Negotiating Belonging

| Cycle	Clerks' Paradox Management Strategies	Power Dynamics		
		Clerks	**Judges**	**Managers**
The Status Quo	Splitting	• Command the courtroom • Accommodate judges • Document the Court's work	• Assert authority • Remain neutral when not impacted	• "Serve the bench" • Grant clerks autonomy • Oversee clerks' output • Provide clerks' relief
Pre-System Implementation	Repression	• Employ a "wait and see" attitude	• Ignore call for "standard order language"	• Participate minimally in CMS • Make new functionality "optional"
Initial Reactions (GO-LIVE)	Reaction Formation *(active resistance)*	• Resist new system • Enlist help from judges	• Demand changes to ECS • Advocate for clerks	• Acknowledge mistakes but question "attitudes" • Appease judges • Consider separating judges & clerk
Adjustment	Ambivalence *(passive resistance)*	• Disengaged during courtroom session • Make mistakes • Use overtime and relief days to escape	• Remain neutral (stay out of the fray)	• Listen to the clerks' perspectives • Roll back changes that are not consistent with their shared goals
A New Normal	Synthesis	• Command the courtroom • Accommodate system & judge • Document Court's work • Advocate for system changes	• Get involved to assert authority & to align around common interests.	• Partner with clerks to improve the system • Push back when necessary, providing clear justification

CHAPTER 6: CONCLUSION

In Chapters 3-5 of this dissertation, I presented three distinct empirical stories of paradox in ongoing practice under technological change. Specifically, I described three paradoxes found in the Court: the performing paradox of standardization and individualization, the organizing paradox of individual accountability and collective responsibility, and the belonging paradox of dual membership in the Court's administration and the judge's courtroom family. A constitutive approach to understanding paradox informed this inquiry, placing practice and discourse in the spotlight, and emphasizing both current actions and historical conditions in crafting these narratives. I explored how these paradoxes were upended and the acts of repair and maintenance that ensued following the implementation of a new case management system. I explained how objects, individual perceptions, and power dynamics helped to shape these processes of disruption, repair, and maintenance, and how social and material interactions served to shape new possibilities for the nature of service in the Court.

Findings and Theoretical Contributions

Findings and theoretical contributions of this research may be similarly summarized in three distinct categories or lenses: sociomateriality, microfoundations, and power. In the following sections, I describe these findings and link them to the overarching theme of technology's role in ongoing responses to paradox. Recall from the introduction to this dissertation, Smith and Lewis' (2011) dynamic equilibrium model of organizing highlights the key insights gleamed from the paradox literature within management studies over the last three decades. Figure 6-1 below layers the key elements of the dynamic model

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with new boxes and arrows to highlight contributions to paradox theory. These new additions are explained in the discussion of findings below.

Figure 6-1. An Evolving Model of Dynamic Paradox Management
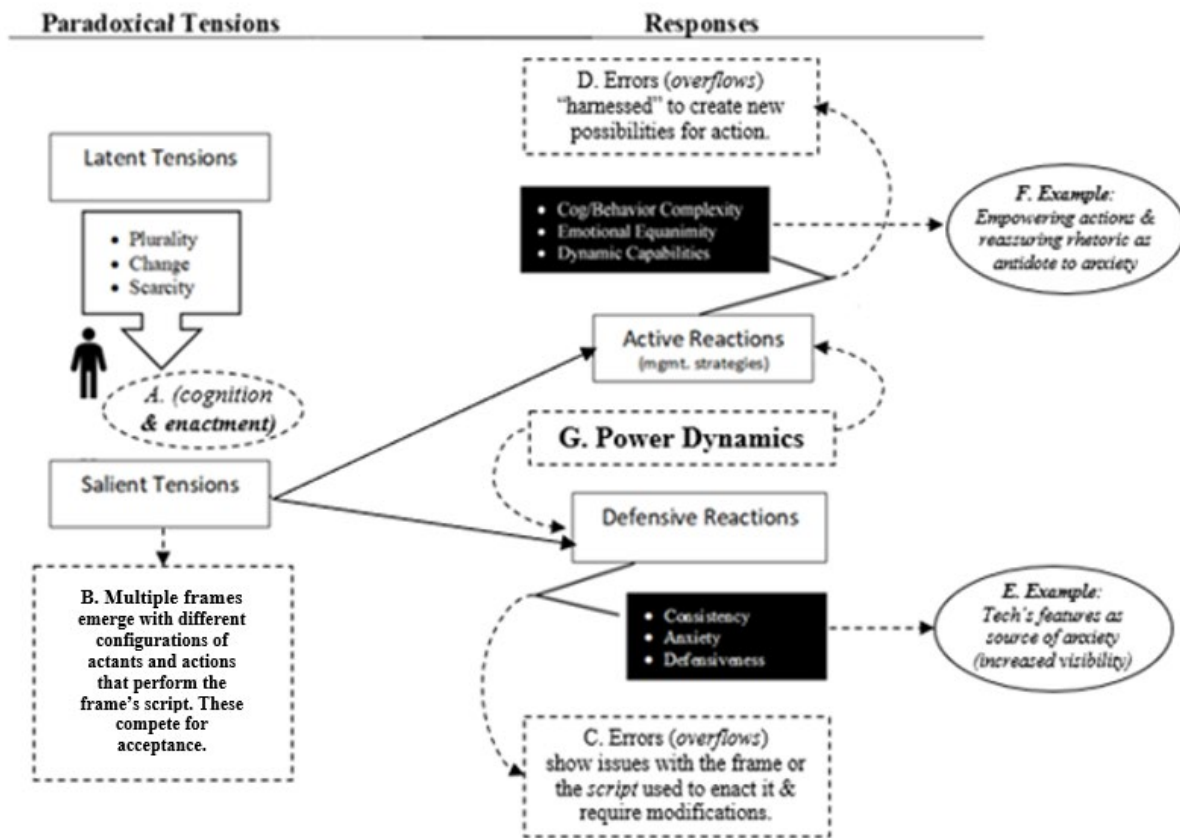
Sociomateriality. Paradox literature typically foregrounds cognition when exploring how tensions become salient (Smith & Lewis, 2011; Smith & Tushman, 2005), thus overlooking the reality of organizational life in which paradoxical tensions are performed in everyday practice. A constitutive approach, however, foregrounds discourse, social actions, and practice as central to managing paradox; it recognizes the role of objects

as "mediated in discourse and through social processes" (Putnam et al., 2016)[40]. Using a constitutive framework, I draw on a sociomaterial understanding to describe how paradoxical tensions are enacted (A) through the available configurations of social, material, and discursive elements (B) fused together (Orlikowski & Scott, 2008) to shape the possibilities for achieving balance between competing demands. In Chapter 3, I apply this flat, relational ontology to reveal how different configurations enable new scripts that enact alternate frames (Latour, 2005), and I show how the possibilities and limitations enacted by these configurations play a central role in surfacing paradox. For example, in Chapter 3, I described how the desire to integrate standardization and individualization more closely became a viable frame once the findings from the process re-engineering project and the new printers for the filing windows became available for enrollment. Before these social, material, and discursive elements were available, the balance between individualization and standardization relied on practices that (mostly) split the time and spaces of their performance even as both were deemed critical to performing service. Once available, a new configuration including a new narrative around efficiency through integration (i.e., what ultimately became the "one touch" policy) and the material feature of workspace printers was enrolled to create a new script for the performance of service. From this configuration, the possibility of an (complete) integration frame emerged.

Secondly, sociomaterial configurations and reconfigurations are constitutive of the emerging responses to paradox and corresponding shifts in its enactment. When existing

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[40] In their foundational article introducing the concept of sociomateriality, Orlikowski & Scott (2008) note the importance "of seeing how all organizational practices and relations always entail some sort of technological (or material) mediation (p. 454)."

scripts are not sufficient to enact a "both and" frame without breakdowns, resulting errors require modification (C) and often lead to a reversion to past action (i.e., previous sociomaterial configurations). For example, when printers were enrolled to allow filing clerks to complete data entry tasks while serving customers, the new script proved inadequate for a frame in which individualization and standardization could be fully integrated, as missing or incorrect barcodes threatened the integrity of the information being prepared for electronic case files. Responses to paradox thus result from both a combination of human cognition, behavior, and emotion and structural inertia, and the errors (overflows) that limit a script's viability and its underlying frame.

Thirdly, errors eventually yield modifications that create new possibilities for action, developing objects and actions that incorporate competing demands (D). In our example, once new bar codes were enrolled and a new script emerged, the frame collapsing individualization and standardization into a common space (filing window) became viable, even as clerks' defensive reactions favoring individual care (i.e., using over time to complete data entry) over standard, efficient service stalled the integration across time. Active responses to paradox thus rely on (re)configurations that collapse time and space to enable integration.

Microfoundations. The second set of findings concern the nature of individual responses to paradox and the unintended consequences of technological change. Paradox scholars recognize that individual cognition and behavior play an integral part in emerging responses to paradox. They highlight the role of anxiety in sparking defensive responses (i.e., paradoxical tensions generate anxiety and spark reactions intended to minimize

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discomfort) and the power of paradoxical thinking (i.e., some individuals develop the ability to accept and shift between opposites) in leveraging synergies between opposites (Schad et al., 2016). However, less is known about the interplay of actions and reactions to change across organizational levels that drives new response cycles. In Chapter 4, I explored the organizing paradox confronted by managers whose need to enforce individual accountability exists in tension with their drive to foster collective responsibility. I explain how Case Processing and Records managers' words and actions promoted collective goals at the expense of controlling for individual performance. Interestingly, these reinforcing cycles of organizing around collective responsibility were challenged as a result of employees' reactions to the new system's features even as managers' orientation to the paradox remained fixed. I describe how the systems used to perform work make work visible and thus serve as control mechanisms independent of manager's organizing strategies (E). This in turn has an impact on individual behavior that challenges the existing balance between goals. For example, among filing clerks and records specialists, collective goals receded into the background as they feared punishment for their actions that were now visible and trackable. A vicious cycle ensued, focused on looking out for themselves and justifying their actions rather than looking out for the customer and working together to bring cases to resolution.

A second and related finding involves the notion that multiple response cycles across organizational may co-exist and evolve in anticipation or reaction to one another. For example, Case Processing supervisors doubled down on their efforts to emphasize collective goals while downplaying individual performance, as they implemented the

"Error Free Zone" policy and stopped tracking potential training issues through the request for correction slips and the routing slips. This heightened emphasis on collective responsibility by downplaying the importance of individual accountability served to reduce dissonance and to clarify expectations, allowing the status quo to continue among case processing specialists. In isolation, this response from managers may be deemed a defensive response cycle intended to create consistency and promote the status quo. However, in relation to case processing specialists' defensive response fueled by the new system's features, managers' increased emphasis on collective goals may be deemed as a way to counteract employees' anxiety and to create a space in which visibility to individual actions did not impede or superseded attention to the shared goal of timely information access and case resolution. The lack of response from Records supervisors, on the other hand, left a vacuum for records specialists to interpret the new system's features as a legitimate source for concern.

Thirdly, a focus on contextual features and policies that underpin existing balance between poles is as important as capturing responses to paradox, as these underlying conditions help to explain different outcomes. For example, managers' actions that empower and prepare employees to deal with individual performance measures are helpful even as they seek to foster collective goals. Case Processing supervisors ensured that employees had access to documented procedures regarding how they should tackle each filing request, and these served to ground employees' sense of what was expected even as they realized that could and should work around these guidelines to help customers and each other. Furthermore, the selection of "leads" served as a way of

rewarding individual performance and setting the bar for performance expectations even as leads were positioned as a buffer between employees and supervisors (minimizing exposure to individual errors) and as a means to work together to achieve departmental goals. These actions may be viewed as a response to paradoxical tensions and they may precede any challenges to the existing order (F). For example, Records supervisors may benefit from engaging in a response cycle in which they attend to individual performance expectations while reinforcing collective goals to assuage fears about what is expected and reinforce a culture of teamwork and collective responsibility.

Power. To understand complexity and change within organizations requires attention to underlying power dynamics. The absence of power in paradox literature, however, suggests neutrality or equality among actors with competing and often contradictory interests. This study highlights how individual and organizational responses to paradox are shaped by differences in status and authority, and how these differences in turn fuel ongoing attempts to assert or resist change and opposition (G). In Chapter 5, describe the complex relationship between the Court's administration and judges, highlighting differences in their values and objectives that both create tension between them and enable the Court to serve a growing base of self-represented litigants. I explain how courtroom clerks balance their membership in the two groups despite the tension between them by claiming autonomy from the administration and accommodating judges' preferences in the courtroom. I show how the existing balance between membership in the two groups that define courtroom clerks' identity is upended by the introduction of a new case management system. This change, however, serves as more than a disruption that

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tests clerks' loyalty to each group. This study reveals how technology may serve as both a disruptor and a tool in the response cycles its introduction sparks. Chapter 5 outlines three functions that technology serves in the ensuing cycles of imposition and resistance: collapsing the spaces of role play, creating opportunities for concessions, and (re) defining expertise and its relative influence. Future research may examine how power dynamics shape the nature of responses to paradox, determining winners and losers in situations where dependencies are less pronounced or power differentials are more pronounced, and render new possibilities for both influence and synergy among competing groups.

Overarching Thoughts

This dissertation show that technological change is more than an environmental trigger that creates disruption and upends paradoxical tensions. New technology introduces new ways of interpreting tension through both the intentional pursuit of new frames and corresponding scripts for enactment (chapter 3) and through the unintended consequences of its adoption (chapter 4). Furthermore, technology serves as a tool through which different interests are contested and negotiated among organizational groups (chapter 5). These various forays into understanding paradox under technological change highlight both the impacts and the interactions between objects and actors while also moving beyond these distinctions to explore materiality as intrinsic to paradox's origin, identification, response and management.

This research also emphasizes the importance of capturing the multiplicity of tensions co-existing within organizations. While I do not specifically explore the ways in which these tensions are inter-connected and co-evolve across cycles of repair and

maintenance, it is impossible to overlook the overarching theme of service that joins these three interlocking stories about the Court's employees together. Specifically, each disruption, reaction, and new normal that emerges from these stories highlights the evolving nature of service in and outside of the courtroom. I argue that the Court's strategies to manage paradox over time shape and are shaped by the nature of services that its employees perform, the ways in which their performance is (and is not) measured and evaluated, and the social interactions that occur among those responsible for delivering service. The move to electronic case filing shifts the focus of service from the customer to the case file, challenges a shared sense of responsibility to case resolution, and surfaces new occupational identities and interests. The resulting transformation in services available to litigants echoes the transformation in the meaning of service for those charged with its provision.

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