

Judicial Administration

Chapter Summary

The field of judicial administration is new to the study of public administration. Although this field of theory and practice can be traced as far back as biblical times, it was as recently as 1973 that the judicial administrative field began to emerge in Canada. Specifically, Baar and Greene speculate that the first foray into this field was initiated by the Report on the Administration of Ontario Courts, published in 1973, and *Judicial Administration in Canada* by Judge Perry Millar and Professor Carl Baar, published in 1981. In Canada, the terms “judicial administration” and “court administration” have been used interchangeably to define and encapsulate this field and its importance to managing public sector initiatives.

The field of judicial administration is a provincial and territorial responsibility as outlined in the *Constitution Act 1867*. However, as noted by the authors there are four unique aspects to consider in the field of court administration that must be examined. First to consider is the responsibility of the courts, which is divided between both federal and provincial authorities, as judges are appointed and their salaries are paid by the federal government. Second, criminal law is under the jurisdiction of the federal government, as outlined in the Criminal Code of Canada. Third, the federal government is responsible for the administration of specialized courts that are established by federal statute, such as the Supreme Court of Canada. Fourth, federal institutions have developed in recent decades to support the common efforts of provincial judiciaries.

Some additional aspects related to court administration are also examined, such as the judicial hierarchy and judicial independence as found within Canada's legal system. However, under the topic of cash flow management the authors propagate that the court is responsible for all aspects of a case, from its initial filing to its disposition, regardless of its outcome. This discussion leads the authors to delineate on the concept of judicial independence in understanding how courts are administered. This aspect of independence is crucial, for it establishes the judiciary as a distinct public institution in Canada. Although the authors suggest this independence can constrict the

management of courts as well as pose a challenge for court administrators, it is an important condition for the performance of an independent court system.

Lastly, the authors discuss the reorientation of court administration through alternative dispute resolution (ADR) mechanisms. In their discussion, they define ADR as any dispute resolution procedure that occurs outside of the regular courtroom procedures, usually with the support of the traditional judiciary, but in recent years, some court administration has also extended to restorative justice models.

Annotated Weblinks:

- 1) <http://www.justice.gc.ca/eng/csj-sjc/just/07.html>

This site by the federal Department of Justice in Canada outlines the judicial structure of the court process in Canada including how the courts are organized and a pictorial representation of Canada's court system.

- 2) <https://www.scc-csc.ca/about-apos/administration-eng.aspx>

An examination of the Supreme Court of Canada offers an understanding of the role that this court performs, as well as including the registry process and the administrative aspects related to the Supreme Court.

- 3) <http://www.justice.gc.ca/eng/rp-pr/csj-sjc/dprs-sprd/dr-rd/index.html>

The federal Department of Justice outlines in this site the aspect of resolving disputes, specifically exploring concepts of conflict, dispute resolution, negotiation, mediation, and arbitration options for dispute resolution.