

Clerks in the Civil Justice Process

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Published research on the legal process for the most part neglects the strategic importance of trial clerks in courtroom workgroups. Using a questionnaire survey, this study examines the duties and perceptions of clerks in civil courts in two states. Differences in work styles are related to differential modes of selection: appointment in Tennessee and election in Mississippi. Tennessee clerks follow a bureaucratic model while those in Mississippi follow a more political one. These differences may influence in large measure the kind and degree of outputs in the respective justice processes.

Clerks of trial courts of general jurisdiction are strategic yet often overlooked actors in the American legal process. They perform varied administrative and even judicial functions that are essential to the operation of local government. As members of the courtroom workgroup (Eisenstein and Jacob 1977), clerks not only contribute to the administration of courts but also may influence judicial and executive decision makers. Statutes and custom dictate that they interact with a wide range of individuals and groups within and outside the legal system. To a real extent clerks help shape public perceptions of, and community norms for, the legal environment.

Despite their arguable importance, court clerks occupy positions of low visibility and command little scholarly interest. With rare exception (Berkson and Hays 1976; Gertz 1977; Berkson, Carbon, and Hays 1977; Metzger and Conley 1981), the relevant literature ignores them. Local government texts and public law studies concentrate instead on politicians, judges, and lawyers. Even the research on courtroom workgroups underemphasizes the role of clerks (Eisenstein and Jacob 1977; Boswell and Fairchild 1982; Jacob 1984; Glick 1988). Predictably, the theoretical and analytical frameworks for the study of these officeholders are woefully underdeveloped.

We believe that clerks merit more careful and systematic inquiry. To that end, we offer a comparative study of clerks of chancery in Tennessee and Mississippi. While this case study addresses several issues, our principal inquiry focuses on the relationship between modes of selection and workstyles. Differences in characteristics, perceptions, and attitudes, we hypothesize, stem largely from dissimilar recruitment techniques, namely appointment in Tennessee and election in Mississippi.

We confine our analysis to the civil justice process for three basic reasons. First, civil courts and processes, long understudied, recently have attracted growing attention from legal scholars. Second, civil subject matter itself offers a more holistic framework for the study of the varied duties of clerks. Civil courts

nationwide perform certain common functions: among others, processing property transactions, settling damage claims, and regulating human relationships (such as in the appointment of guardians). Because clerks usually enjoy broad administrative and sometimes discretionary authority over these kinds of transactions and relationships, it seemed an appropriate point of departure. Third, the civil duties of clerks impact more upon county governance (e.g., taxes, estates, work with boards of supervisors) than do their criminal responsibilities.

Beyond the obvious geographic convenience, we chose the states of Tennessee and Mississippi for three reasons: court organizational similarity; dissimilar recruitment methods; and functional compatibility of clerks. Unlike most states that operate only one trial court of general jurisdiction, Tennessee and Mississippi maintain multiple ones. Jurisdiction is allocated more or less along the lines of criminal and civil subject matter. The number of chancery districts is almost identical with 21 in Tennessee and 20 in Mississippi. In each state, the chancery clerkship (in Tennessee, a “clerk and master” post) is a constitutional office with at least one clerk assigned per county. Ninety-nine clerks serve in Tennessee and 82 in Mississippi. Importantly, the method of selection differs. Tennessee chancellors appoint their clerks for six-year terms. On the other hand, Mississippi chancery clerks, like most other officials in the state, are elected by partisan ballot and serve four-year terms. In each state, the clerk may stand for reappointment or reelection.

Chancery court clerks in Mississippi and Tennessee perform an array of quite similar, but not completely identical, statutory duties. Using the model devised by Thompson (1967), as applied by Gertz (1977), these may include both technical and boundary-spanning functions, ones that are related to the management of chancery courts and others that are not. Table 1 offers a simplistic framework for the analysis of these duties.

As the name implies, all clerks perform routine, clerical tasks. As chief administrators, Mississippi and Tennessee clerks coordinate the activities and services of their offices. They file cases and set up civil dockets, assignments that permit at least limited discretion. As custodians, clerks in these states keep, among other records, case data, account ledgers, minute books, survey information, and tax and construction liens. This virtual information monopoly enhances their advisory and communications roles with chancellors, attorneys, and court patrons. For cases filed, they issue notice and subpoena *duces tecum* to, and collect court costs from, litigants. For these and other tasks, clerks in both states receive fees set by statutory schedule in addition to their base salaries. Unlike most states, Tennessee and especially Mississippi have resisted modernization efforts to supplant fee-based officials (Winkle 1982).

Chancery clerks also exercise some authority as independent decision makers. Because Tennessee clerks are designated masters in chancery, basically a judicial post, we would expect expanded discretion for them. Yet, clerks from both states may issue warrants, appoint guardians, and conduct special hearings

-- the latter for probate matters, exceptions to bills, lunacy proceedings, or contests over the validity of bond proposals. Mississippi law, moreover, permits clerks to perform other judicial acts subject to the approval of the chancellor. For clerkships in both states, the combination of executive and judicial functions raises intriguing questions about separation of powers, a circumstance not uncommon for local officeholders.

Table 1. Selected Relevant Duties of Chancery Clerks

<i>Mississippi</i>	<i>Tennessee</i>
<i>Court Administrative Duties</i>	
Keep Record	Keep Records
Schedule Cases	Schedule Cases
Keep Dockets	Keep Dockets
Keep Minute Books	Keep Minute Books
Issue Notice	Issue Notice
Assist Chancellor	Assist Chancellor
Collect Court Costs	Collect Court Costs
<i>Court Judicial Duties</i>	
Conduct Hearings	Conduct Hearings
Issue Warrants	Issue Warrants
Appoint Guardians	Appoint Guardians
Approve Bonds of Officials	Grant Pro Confesso Decrees
<i>Non-Court Duties</i>	
Collect Taxes and Child Support	Collect Taxes and Child Support
Serve as Auditor	Serve as Auditor
Conduct Tax Sales	Conduct Tax Sales
Serve as Treasurer for County	Invest Funds for Minors
Serve as Clerk of Board of Supervisors	
Serve as Purchase Clerk	

As county officials, clerks perform wide-ranging tasks that are unrelated to the operation of chancery courts. As Table 1 shows, the more salient noncourt duties are essentially financial and clerical. For the most part, they permit clerks to interact with county officials, public offices and agencies, and discrete populations. Some, but not all, of these functions are discretionary.

It should be noted that here, perhaps more than in the preceding categories, there are significant differences between states. Mississippi clerks are visible and powerful agents of county government because of their roles as auditor, treasurer, and clerk for the Board of Supervisors. While their Tennessee counterparts perform somewhat similar tasks, they do not enjoy corresponding notoriety. All

in all, these varied administrative and judicial duties underscore the important role that chancery clerks play in court management and local government.

We hypothesize that differences in recruitment methods will have a measurable impact on objective characteristics of clerks, the relative importance that they attribute to various duties, their role perceptions, and the quality of their relationships with other legal and political actors. While there is a high degree of similarity in duties, we expect that Mississippi clerks could be characterized as *politicos* while their Tennessee counterparts could be more aptly described as *bureaucrats*.

A Weberian framework underlies these expectations. In his classic description of bureaucracy, Max Weber examines the elements of salary, discretion, and specialization. Bureaucrats are officials who receive fixed salaries, do not look upon their offices as means for profit, do not own the means of administration, and perform highly specialized tasks. Salaried, circumscribed, and specialized Tennessee clerks approximate the Weberian model more nearly than ones in Mississippi. The latter still operate solely under a fee system, enjoy discretion over financial matters, and perform a wide array of nonlegal duties.

Methodology

For our investigation, we developed a 24-item questionnaire that sought certain demographic, cognitive, and attitudinal data from the clerks in the two states. We mailed the questionnaire to each of the 82 clerks in Mississippi and the 99 clerks in Tennessee. Three weeks later, we sent a reminder along with another questionnaire to those who had not replied. This technique resulted in a 73 percent overall return rate (77 percent in Mississippi and 71 percent in Tennessee) with 131 usable returns.

Characteristics of Clerks

Generally speaking, we know little about clerks as individuals and about the environment in which they work. As far as chancery court clerks in Mississippi and Tennessee are concerned, Table 2 attempts to remedy that deficiency by providing several discrete bits of information. First, we highlight the personal characteristics of clerks as well as dimensions of their work setting. Second, we utilize, where possible, a zero-order gamma statistic to compare the interstate differences between those personal and environmental features. Of paramount concern here is whether or not differences between selection modes are reflected in the type of person chosen to hold the office and in the office environment. Third, the partial gamma amplifies the relationships when control is introduced for the population of the county in which the court sits. We chose county population as the control variable over other possible ones (e.g., assessed valuation or office

budget) for two reasons. First, all the logical and possible control variables were intercorrelated to the point of multicollinearity. Second, county population had the least number of missing values.

If our proposition is that the mode of selection affects chancery clerk style, we would expect to distinguish the two sets of clerks on the following grounds.

1. Because a bureaucratic system views an administrative position as a vocation, we would expect longer tenure among Tennessee clerks.
2. Because a bureaucratic system values objective and meritorious appointment, we would expect Tennessee clerks to have more formal education.
3. Because of that same rationale, we would expect Tennessee clerks to have more relevant prior work experience.
4. Because a bureaucratic system values expertise, we would expect Tennessee clerks to attend more in-service training sessions.

Table 2 presents the results of the analysis both without and with a control for population. Our first expectation is confirmed because Tennessee clerks do serve longer in office than their Mississippi counterparts. The first-order gamma indicates a moderate direct covariation between appointment mode and longevity. The second expectation is strongly confirmed (first-order gamma = $-.47$) because almost twice as many Tennessee clerks reported highly relevant or relevant prior experience. This finding also supports the imputation of a bureaucratic style to Tennessee clerks for two other reasons. First, it adds further support to the initial assumption that those clerks are engaged in a vocation. Second, it illustrates the related “promote from within” ethos common to most bureaucracies.

The third expectation on formal education, however, fails to materialize, as the first-order gamma of -0.52 indicates. Mississippi clerks are more highly educated than their Tennessee peers. Two explanations of this anomaly arise. First, it is quite possible, and we believe probable, that no anomaly exists. Allocating jobs on the basis of merit means that the potential occupants of those positions must be qualified, but not overqualified. The data reveal that Tennessee clerks indeed meet threshold requirements because almost all have high school diplomas and close to half show some college work. Second, the relevant prior experience of Tennessee clerks discloses the job-relevance of their training.

Data weakly bear out the fourth expectation, namely that Tennessee clerks would exhibit a higher degree of the norm of expertise as evidenced by attendance at in-service programs. The first-order gamma of $+0.16$ is in the appropriate direction. The tendency of Tennessee clerks to attend more seminars may be explained because either more sessions are available there than in Mississippi or bureaucratization in Tennessee persuades non-elected clerks to seek advanced training.

Table 2. Comparison of Objective Characteristics Between Elected and Nonelected Chancery Court Clerks

Characteristic	Mode of Selection		Zero-Order Gamma ^a	First-Order Gamma ^a
	Elected (Mississippi)	Nonelected (Tennessee)		
Terms of Service				
One or Less	41.3%	25.4%	+0.23	+0.25
Two to Five	49.2	65.7		
Five or More	9.5	9.0		
(Total)	100.0 (n = 63)	100.1 ^c (n = 67)		
Relevance of Previous Occupation				
Highly Relevant	16.1%	31.3%	-0.47	-0.47
Relevant	17.7	35.8		
Not Directly Relevant	66.1	32.8		
(Total)	99.9 ^c (n = 62)	99.9 ^c (n = 67)		
Education				
LT High School	3.2%	4.5%	-0.40	-0.52
High School	15.9	31.3		
Some College	31.7	46.3		
College Degree	30.2	3.0		
Graduate /Law Degree	19.0	14.9		
(Total)	100.0 (n = 63)	100.1 ^c (n = 67)		
Attendance at In-service Training Sessions in Last 3 years				
None	3.6%	6.7%	+0.10	+0.16
One to Ten	83.9	76.7		
More than Ten	12.5	16.7		
(Total)	100.0 (n = 56)	100.1 ^c (n = 60)		

^aAll relationships are significant at $p < .05$ as determined by a X^2 test

^bThe first-order control is for population.

^cDoes not equal 100.0% due to rounding.

In sum, with the possible exception of formal education, Tennessee clerks exhibit more characteristics of a bureaucratic nature than do their Mississippi counterparts. To be of real interest, however, these work styles must have identifiable impact. The remainder of this paper examines possible impacts in the following areas: time spent on various duties; the perceived relative importance of those duties; role perceptions; and, the quality of relationships with other actors.

Duties: Investments of Time and Perceptions of Importance

If our characterization of Mississippi clerks as less bureaucratic than clerks in Tennessee is correct, our expectation is that the former will spend more time on duties outside the technical core of the organization. And, as the Thompson (1967) rationale may suggest, they will consider those duties (i.e., extra-legal tasks) more important than will those in Tennessee. Table 3 reports responses on duties by state.

Table 3. Five Duties Most Frequently Ranked as Important and Time-Consuming

Duties	Mode of Selection			
	Elected (Mississippi)	Nonelected (Tennessee)	Elected (Mississippi)	Nonelected (Tennessee)
	<i>Importance Ranking</i>		<i>Time-Consuming Ranking</i>	
<i>Keeping Records</i>	1	1	1	1
<i>Deeds, Titles</i>	2.5		2	
<i>Board of Supervisors</i>	2.5		3	
<i>Issuing Warrants</i>	4			
<i>Helping Attorneys</i>	5	4	4.5	4
<i>Tax Matters</i>		2	4.5	2
<i>Scheduling Cases</i>		3		3
<i>Advising Chancellor</i>		5		
<i>Investing Funds</i>				5

Mississippi and Tennessee clerks agree that keeping court records is the most important job. Also, helping attorneys ranked as one of the five most important duties in each state. Beyond these, no other duties were similarly ranked by clerks of both states. Not only is record-keeping the most important duty, it takes the most time as well. Clerks in both states, moreover, reported that helping attorneys and dealing with delinquent taxes demanded much of their time.

What is significant here, however, is the difference in the character of the duties considered important and time-consuming by clerks in the two states. Even though the statutory responsibilities are similar, the perceptions differ. In the rankings of duties by importance, we find that those from Mississippi include two

nonjudicial duties within the top five (deeds and titles, board of supervisors), while Tennessee clerks report only one nonjudicial duty (tax matters) in their list. The same pattern is found in the time rankings. Mississippi clerks include three nonjudicial duties (deeds and titles, Board of Supervisors, and tax matters) while Tennessee clerks list only one (tax matters). The evidence points, albeit somewhat tentatively, to the conclusion that Tennessee clerks are more involved in technical core activities and consider those activities more important. Thus, it seems that the more bureaucratic character of the Tennessee clerks is reflected in the performance of their duties. Likewise, the political nature of the Mississippi clerks results in their placing more emphasis on boundary-spanning functions, where they enjoy the discretion of the politico.

In order to lend more weight to that conclusion, we performed factor analyses of the importance and time rankings (Table 4). If our supposition that Tennessee clerks are more oriented to the technical core (judicial) activities of their office is correct, we would expect the emergence of both a dimension that distinguishes

Table 4. Factor Loading of Importance and Time Variables

	Factor Loadings	
	Importance Factor 1	Time Factor 1
<i>JUDICIAL DUTIES (Technical Core)</i>		
<i>Appointing Guardians</i>	+0.79591	+0.72107
<i>Hearing Exceptions</i>	+0.72950	+0.72250
<i>Pro Confesso Decrees</i>	+0.80747	+0.55474
<i>Lobbying Supervisors for Office Funds/Support</i>	+0.69035	+0.65072
<i>Investing Incompetents' Funds</i>	+0.55166	+0.60501
<i>Claims Against Estates</i>	+0.62359	+0.52319
<i>Advising Chancellor</i>	+0.61647	+0.48988
<i>Helping Attorneys</i>	+0.42647	+0.44789
<i>Recording Wills</i>	+0.50717	+0.37377
<i>Issuing Warrants</i>	+0.32404	+0.33325
<i>Scheduling Cases</i>	+0.41941	+0.23275
<i>Collecting/Disbursing Child Support</i>	+0.21510	+0.02538
<i>Keeping Records</i>	+0.19293	-0.04662
<i>NONJUDICIAL DUTIES (Boundary-Spanning)</i>		
<i>Tax-Related Duties</i>	+0.26334	+0.30226
<i>Deeds and Titles</i>	+0.13144	-0.08293
<i>Work with County Supervisors</i>	+0.09517	-0.04307
<i>County Finances</i>	-0.01037	-0.13379
<i>Work with Public</i>	-0.00896	-0.15116
<i>OTHER</i>	+0.27526	+0.16339

Note: The importance factor (*eigenvalue* = 4.34) explained 22.9% of the variance and the time factor (*eigenvalue* = 3.33) explained 17.5% of the variance.

judicial from nonjudicial duties and a finding that the factor score for Tennessee clerks reflects placement at the judicial end of that dimension.

The importance rankings produced five factors having *eigenvalues* above 1.0; six factors met that criterion for the time consumption rankings. We selected, however, only the first of those factors within both areas of interest for two reasons. First, the initial factor exhibited the characteristics of interest. Second, it was impossible to attribute meaning to the second and subsequent factors.

Attributing meaning to any factor is always subjective. However, Table 4 suggests that the first factor for both importance and time consumption rankings underscores the emphasis clerks place on judicial and nonjudicial duties. For example, the two highest loadings for the importance factor are the issuance of *pro confesso* decrees and the appointment of guardians, tasks that are judicial in nature. The lowest scores appear for public relations duties and work with county finances, ones that fall outside the judicial realm. Similar loadings are found for the time dimension.

Table 5 reports, by state, the factor scores recorded in categories ranging from nonjudicial to judicial. The Tau_c statistic indicates a moderately significant relationship between being a Tennessee clerk and attributing importance to judicial

Table 5. Factor Score Differences by State

Type of Duty	Mode of Selection		Tau_c
	Elected (Mississippi)	Nonelected (Tennessee)	
Importance Factor 1			
Nonjudicial	74.6%	42.6%	+0.26 ($p < .05$)
Somewhat Nonjudicial	9.5	39.7	
Somewhat Judicial	4.8	13.2	
Judicial	11.1	4.4	
(Total)	100.0 (n = 63)	99.9* (n = 68)	
Time Factor 1			
Nonjudicial	81.0%	71.1%	+0.08 ($p > .05$)
Somewhat Nonjudicial	11.1	19.1	
Somewhat Judicial	3.2	7.4	
Judicial	4.8	2.9	
(Total)	100.1* (n = 63)	100.1* (n = 68)	

*Does not equal 100.0% due to rounding.

duties; however, the clerks of the two states cannot be distinguished significantly in terms of the time devoted to either type of duty (although the relationship is in the proper direction). The observation that style manifests itself in the perceived importance of duties is reinforced, although the evidence that these perceptions make any difference in the actual time devoted to judicial and nonjudicial duties remains much more tenuous. Yet perhaps that conclusion is entirely predictable. Either style, bureaucratic or politico, should manifest itself primarily in the perception of the relative importance of duties; the actual demands of the job, however, should dictate the allocation of time.

Role Perceptions

In order to evaluate the role perceptions of the clerks, we asked two questions. First, we asked the locus of primary loyalty, the chancellor or others (e.g., litigants or attorneys). We expected Tennessee clerks to name their chancellors, and thereby operationalize the hierarchical nature of a bureaucracy more so than those from Mississippi. This expectation seems further reasonable because Tennessee clerks literally owe their positions to the judges. Second, we asked clerks if they perceived themselves as administrators, chancellor's assistants, public servants, or legal officials. Here we expected Tennessee respondents, who also bear the title of "master," to favor the roles of chancellor's assistant and legal official. While Mississippi clerks may also serve as masters, we expected self-portrayals as public servants elected to administer a department of government.

Our first expectation failed to materialize. Our analysis indicated no difference between clerks of the two states in terms of the direction of their loyalty ($\chi^2 = .2$ with 1 d.f., $p > .05$). It should be noted, however, that more than 70 percent of the clerks from both states identified their primary allegiance to the chancellor. A possible explanation is that Mississippi clerks, while elected independently of their chancellors, would find their chances of reelection reduced if the chancellor chose to criticize their loyalty and performance. Our second hypothesis is fully supported, as Table 6 indicates. As expected, Mississippi clerks saw themselves more as administrators and public servants while those from Ten-

Table 6. Perceived Role by State

Perceived Role	Elected (Mississippi)	Nonelected (Tennessee)	Total
Administrator	34.3%	22.5%	27.6%
Public Servant	59.7	36.0	46.1
Chancellor's Assistant	1.5	29.2	17.3
Legal Official	4.5	12.4	8.9
(Total)	100.0 (n = 67)	100.1* (n = 89)	99.9*

*Does not equal 100.0% due to rounding.

Table 7. Elected and Nonelected Clerks' Relationships with Other Actors

<i>Quality of Relationships by Method of Selection</i>	<i>Type of Actors</i>								
	Chancellors	Attorneys	Litigants	Court Administrators	Employees	Police	Board of Supervisors	Media	General Public
Elected (MS)									
<i>Very Good</i>	96.8%	85.7%	77.4%	100.0%	88.3%	82.5%	77.0%	50.8%	85.2%
<i>Good</i>	3.2	14.3	22.6	0.0	11.1	15.9	21.3	45.8	14.8
<i>Not So Good</i>	0.0	0.0	0.0	0.0	0.0	0.0	1.6	3.4	0.0
<i>Poor</i>	0.0	0.0	0.0	0.0	0.0	1.6	0.0	0.0	0.0
(Total)	100.0 (n=63)	100.0 (n=63)	100.0 (n=62)	100.0 (n=62)	100.0 (n=60)	100.0 (n=63)	99.9 ^b (n=61)	100.0 (n=59)	100.0 (n=61)
Nonelected (TN)									
<i>Very Good</i>	95.5%	94.0%	77.6%	100.0%	91.4%	86.6%	52.3%	57.6%	70.1%
<i>Good</i>	4.5	6.0	22.4	0.0	8.6	13.4	38.5	40.9	29.9
<i>Not So Good</i>	0.0	0.0	0.0	0.0	0.0	0.0	7.7	1.5	0.0
<i>Poor</i>	0.0	0.0	0.0	0.0	0.0	0.0	1.5	0.0	0.0
(Total)	100.0 (n=67)	100.0 (n=67)	100.0 (n=67)	100.0 (n=67)	100.0 (n=58)	100.0 (n=67)	100.0 (n=65)	100.0 (n=66)	100.0 (n=67)
Gamma									
<i>Zero-Order</i>	+0.18	-0.44	NS ^c	NS ^c	-0.17	-0.16	-0.44	-0.14	+0.42
<i>First-Order^a</i>	+0.03	-0.57	NS ^c	NS ^c	-0.14	-0.34	-0.57	-0.21	+0.20

^aThe control is for years of service.

^bDoes not equal 100.0% due to rounding.

^c Not Significant.

nessee readily embraced the roles of chancellor's assistant and legal officers. Thus, the self-perceptions reveal Tennessee clerks as subordinates in a hierarchy and the Mississippi clerks as somewhat independent and discretionary political actors.

Work Relationships

The question that we now address is really the crux of our investigation. So far, we have introduced evidence that points to a difference in style between a bureaucratic office in Tennessee and a Mississippi office that is elective, and less bureaucratized. For this distinction to be relevant, it should be reflected in work relationships. We asked clerks to rate the quality of those relationships shared both within and without the technical core of the organization.

Tennessee clerks, we thought, should enjoy better relationships with chancellors due to both the appointive process and the hierarchy norm of bureaucracy. On the other hand, we expected Mississippi clerks, with their own independent political base, to be just that -- more independent. The results in Table 7 confirm neither hypothesis. Clerks in Mississippi reported slightly better relationships with chancellors, although the relationship diminishes with the introduction of years of service.

One likely explanation reinforces the notion that Mississippi clerks define themselves as political creatures, and Tennessee clerks as bureaucrats. Because both the Mississippi chancellors and clerks are elected officials, they are political peers not subject to the bureaucratic superior-subordinate relationship that faces the Tennessee clerks. In short, Mississippi clerks are less threatened by their chancellors.

Next, we anticipated Tennessee clerks to have better working relationships with attorneys, litigants, court administrators, and employees, due in large measure to their technical core functions. Those expectations materialized with regard to attorneys and employees, both with and without control for years of service. It is worth noting, however, that clerks from both states enjoy mostly pleasant relationships with these groups. Mississippi clerks, after all, must fill the ballot box and deter potential challengers that would likely come from these very groups.

We also projected Tennessee clerks to have more positive interactions with local law enforcement agencies, both because of the core nature of law enforcement activities (e.g., serving warrants), and because Mississippi clerks claim a political base independent of that of the elected county sheriffs. The data confirm the hypothesis. The first-order control, which doubles the strength of the relationship, indicates that our rationale is correct. As Mississippi clerks gain an incumbency advantage, their relationship with elected law enforcement comparatively deteriorates.

We expected the Mississippi clerks to enjoy better relations with the Boards of Supervisors because of their statutory responsibilities to the Boards and because the Boards are noncore organizations. Furthermore, we expected the quality of that relationship to decline as clerks gained tenure and confidence in their reelection. Both hypotheses were confirmed.

We thought that the media would find elected clerks fairer game than their appointed counterparts. Consequently, Mississippi clerks should have more difficulties with members of the print and broadcast media. Our findings also confirm that expectation. Comparatively speaking, and as one might expect, incumbency and its infusion of electoral confidence seems to worsen that relationship.

Finally, due to the elective nature of the Mississippi position and the noncore nature of the general public for the Tennessee clerks, we thought that Mississippi clerks would interact better with the general public than those from Tennessee. The strong first-order gamma confirms that hypothesis, although the comparison weakens by 50 percent as the confidence gained by incumbency comes into play.

The selection process used in the two states, it seems, effectively conditions the comparative quality of relationships. Only the relationships with chancellors contradict this finding. (Perhaps the latter working relationship is so central to the responsibilities of the clerks that it may prove to be impervious to the otherwise logical effects of the manner of selection.)

Conclusion

Our research on clerks had two basic purposes, descriptive and analytical. First, to fill the void on these civil servants, we collected survey data from officeholders in Tennessee and Mississippi. We found a relatively high degree of similarity in the characteristics of clerks, the perceived importance of their duties, the time spent on various duties, their role perceptions, and the quality of working relationships in the two states. Second, we sought to determine if variations in that homogeneity could be attributed to different work modes influenced by different selection modes. Our evidence confirms that Mississippi clerks can best be characterized as *politicos* and those from Tennessee as *bureaucrats*. Given the similarity of their statutory duties, we attribute the difference between the clerks of the two states to differing modes of selection.

Such differences in operating style can impact on the administration of the office and, consequently, on the outcome of disputes handled by the clerks. Eisenstein and Jacob (1977) stress the impact of the courtroom workgroup on the nature of justice system outputs. Those outputs result from the interaction of the various actors in the justice process. Like Gertz (1977), we believe that the nature of such interaction will be affected by differences in the character of one of the key actors in the process, the clerk. Because of the different nature of the interaction, different outputs will appear.

Here, for example, we would expect a higher degree of individualization of legal decisions in Mississippi due to the finding that the clerks of that state see themselves as politicians. The fact that the Mississippi clerks are elected by partisan ballot simply reinforces that expectation. On the other hand, the bureaucratic nature of Tennessee clerks would seem to point to a routinized decision-making norm in that state. In short, Mississippi chancery courts would seem to be ripe for a more particularized form of justice while the comparable Tennessee courts would stress a more uniform application of legal precepts and practices.

In the future, the clerk must be more fully appreciated as an important member of the courtroom workgroup. Clerks of criminal and mixed-jurisdiction courts likewise should be included as a part of any future research agenda on the trial process.

REFERENCES

- Berkson, Larry C., and Steven Hays. 1976. The Forgotten Politicians: Court Clerks. *University of Miami Law Review* 30: 499-517.
- Berkson, Larry C., Steven Hays, and Susan Carbon. 1977. *Managing the State Courts*. St. Paul, MN: West.
- Boswell, Robert B., and Erica Fairchild. 1982. Legal Values, Administrative Values, and Political Realities: The Trial-Court Administrator in Local Judicial Districts. In Philip Dubois, ed., *The Politics of Judicial Reform*. Lexington, MA: Lexington Press.
- Eisenstein, James, and Herbert Jacob. 1977. *Felony Justice: An Organizational Analysis of Criminal Courts*. Boston: Little, Brown.
- Gertz, Marc G. 1977. Influences in Court Systems: The Clerk as Interface. *The Justice System Journal* 3: 30-37.
- Glick, Henry R. 1988. *Courts, Politics, and Justice*, 2d ed. New York: McGraw-Hill.
- Jacob, Herbert. 1984. *Justice in America*, 4th ed. Boston: Little, Brown.
- Metzger, Paul S., and Shelia M. Conley. 1981. Relationship of the County Clerk to the Circuit Court. *Michigan Bar Journal* 11: 849-852.
- Thompson, Joel A. 1967. *Organizations in Action*. New York: McGraw-Hill.
- Winkle, John W. III. 1982. Judicial Planning and the Politics of Nonrenewal. In Philip Dubois, ed., *The Politics of Judicial Reform*. Lexington, MA: Lexington Press.