A RESOURCE GUIDE
TO OKLAHOMA COURTS

THE LEAGUE OF WOMEN VOTERS OF OKLAHOMA
CITIZEN EDUCATION FUND
1994

Publication Funded By

STATE JUSTICE INSTITUTE
Arlington, Virginia

and

PHILLIPS PETROLEUM COMPANY
Bartlesville, Oklahoma
ACKNOWLEDGMENTS

A RESOURCE GUIDE TO OKLAHOMA COURTS was compiled and written by members of the League of Women Voters of Oklahoma (LWVOK) Citizen Education Fund Judicial Study Committee.

### Judicial Study Committee

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nancy Dodson, Chair</td>
<td></td>
</tr>
<tr>
<td>M. E. Arnold, Jr.</td>
<td></td>
</tr>
<tr>
<td>Suzanne Broadbent</td>
<td></td>
</tr>
<tr>
<td>Ruth Parker</td>
<td></td>
</tr>
<tr>
<td>Maria Protti</td>
<td></td>
</tr>
<tr>
<td>Susan Spencer</td>
<td></td>
</tr>
<tr>
<td>Vicky Wilcoxen</td>
<td></td>
</tr>
<tr>
<td>Lisa Wilson</td>
<td></td>
</tr>
<tr>
<td>Special Judge Jaqueline Duncan</td>
<td></td>
</tr>
<tr>
<td>James East</td>
<td></td>
</tr>
<tr>
<td>District Judge Eugene H. Mathews</td>
<td></td>
</tr>
<tr>
<td>C. Joe Williams</td>
<td></td>
</tr>
</tbody>
</table>

### Citizen Education Fund Trustees

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patricia Acebo, Chair</td>
<td></td>
</tr>
<tr>
<td>Kathy Hinkle</td>
<td></td>
</tr>
<tr>
<td>Jean McMahon</td>
<td></td>
</tr>
<tr>
<td>June Mustari</td>
<td></td>
</tr>
<tr>
<td>Vicky Wilcoxen</td>
<td></td>
</tr>
<tr>
<td>Carol Wofford</td>
<td></td>
</tr>
</tbody>
</table>

### Editors

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nancy Dodson</td>
<td></td>
</tr>
<tr>
<td>Maria Protti</td>
<td></td>
</tr>
</tbody>
</table>

### Format/Graphics

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kimberly Everett</td>
<td></td>
</tr>
</tbody>
</table>

The League of Women Voters of Oklahoma appreciates the contributions of the following persons:

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marian P. Opala, Justice</td>
<td>Oklahoma Supreme Court</td>
</tr>
<tr>
<td>Howard W. Conyers, Administrative Director of the Courts</td>
<td></td>
</tr>
<tr>
<td>Hannah Atkins, former Secretary of State of Oklahoma</td>
<td></td>
</tr>
<tr>
<td>Council on Judicial Complaints</td>
<td></td>
</tr>
<tr>
<td>Jerry McComb, Chairman</td>
<td></td>
</tr>
<tr>
<td>Julie L. Rorie, General Counsel</td>
<td></td>
</tr>
<tr>
<td>Paul Vassar, Legal Counsel</td>
<td></td>
</tr>
<tr>
<td>Don Austin, former Tulsa County Court Clerk</td>
<td></td>
</tr>
</tbody>
</table>

# TABLE OF CONTENTS

Acknowledgments .................................................. ii
List of Tables ..................................................... vii
List of Figures ..................................................... viii
Foreword ........................................................... ix

CHAPTER I. WHAT CAN CITIZENS DO ABOUT JUSTICE? ............ 1

CHAPTER II. SOME PRELIMINARIES ................................. 6
   A. Introduction ................................................ 6
   C. What Do Courts Do? ......................................... 7
   D. What Is Jurisdiction? ....................................... 9
   E. What Does A Judge Do? ..................................... 10
      1. A Trial Judge's Log .................................. 10
      2. A Justice's Appellate Work ......................... 18
   F. Oklahoma Law .............................................. 20
      1. Criminal Law .......................................... 20
      2. Civil Law .............................................. 22
      3. Administrative Law ................................... 22

CHAPTER III. THE OKLAHOMA JUDICIAL SYSTEM ................. 26
   A. How Are Oklahoma State Courts Organized? ................ 27
   B. What Is the Structure and Jurisdiction of Oklahoma State Courts? 27
      1. Courts of Limited Jurisdiction ....................... 28
         a. Overview ........................................... 28
         b. Municipal Criminal Courts Not Of Record and Of Record .......... 29
         c. Workers' Compensation Court .................... 30
2. Courts of General Jurisdiction
   a. Overview .......................... 34
   b. Oklahoma District Courts ........ 34
   c. District Court Judicial Districts .. 36

3. Courts of Appellate Jurisdiction
   a. Overview .......................... 38
   b. Intermediate Appellate Court--
      Oklahoma Court of Appeals ........ 39
   c. Courts of Last Resort .............. 41
      i. Oklahoma Court of Criminal Appeals 41
      ii. Oklahoma Supreme Court .......... 44

C. What Are the State Judicial Positions in Oklahoma? .......................... 46

1. Municipal Criminal Courts
   a. Not of Record ...................... 46
   b. Of Record .......................... 47

2. Worker's Compensation Court ........................................... 47
3. Court of Tax Review .................................................. 49
4. Court on the Judiciary ................................................. 50
5. District Courts .......................................................... 51
6. Overview of Appellate Judicial Positions ...................... 59
7. Intermediate Appellate Court--
      Oklahoma Court of Appeals ........ 62
8. Court of Criminal Appeals ..................... 63
9. Supreme Court .......................... 64

D. Oklahoma Tribal Courts ................................................. 66
1. Judicial Power, Access to Courts, and Jurisdiction .................. 66
2. Tribal Law ............................................................. 67
3. Tribal Court Cases and Decisions .................................. 69

CHAPTER IV. COURT STRUCTURE AND COURT CASES .......................... 79
A. Overview ............................................................. 79
B. Civil Cases .......................................................... 80
C. Criminal Cases ....................................................... 85

CHAPTER V. STATE COURT ADMINISTRATION ............................... 89
A. Overview ............................................................. 89
B. What Are the Administrative Powers? ............................... 90

CHAPTER VI. WHAT ARE THE CURRENT ISSUES IN THE OKLAHOMA COURTS?

A. How Are the Courts Funded? 108
   1. What Are the Funding Sources? 108
   2. Court Costs--How Does Oklahoma Compare with Other States? 118
      a. Funding and Fee-Setting Authority 119
      b. Civil Court Filing Fees and Surcharges 119
      c. Criminal Court Fees, Costs, and Surcharges 121
      d. Management of Court-Generated Monies 123
   3. Proposed Funding System 123

B. What Are the Major Judiciary Issues? 126
   1. How Are Justices and Judges Selected? 126
      a. Merit Selection and Retention 126
         i. Overview 126
         ii. Judicial Nominating Commission 127
      b. Elections 129
         i. Overview 129
         ii. Election Under the Voting Rights Act 130
      c. Mandatory Retirement 132
   2. How Is Judicial Conduct Monitored? 134
      a. Overview 134
      b. Complaints of Conduct 137
      c. Investigation of Complaints of Conduct and Trial by the Court on the Judiciary 139
         i. Investigatory Power 140
         ii. Trial by the Court on the Judiciary 143
   a. Voter Education for Judicial Elections ...................................................................... 145
   b. Voter Information Proposals ..................................................................................... 147
      i. Media coverage ......................................................................................................... 147
      ii. Publications by the state court system .................................................................. 148
      iii. Meet the Candidate/Voter Pamphlets ................................................................. 148
   c. Evaluation of Judges ................................................................................................. 150


5. Is There Gender Bias in the Courts? ......................................................................... 159

CHAPTER VII. COMMENTARY

Comments of Howard W. Conyers, Administrative Director of the Courts, to the Judicial Study Committee .................................................. 169

NOTES .................................................................................................................................. 176

APPENDICES

A. What Are the Qualifications for Judicial Office?

B. How Do You Become a Judge?
   - An Application for Oklahoma Judicial Vacancy

C. Who Nominates State Judiciary?
   - Present Members of the Oklahoma Judicial Nominating Commission

D. How Do You Make a Judicial Complaint?
   - Rules of the Council on Judicial Complaints for Form and Its Receipt


**LIST OF TABLES**

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1</td>
<td>Cases Filed for Oklahoma County, 1970-1991 by Docket or Type</td>
<td>16</td>
</tr>
<tr>
<td>Table 2</td>
<td>Judicial Compensation for State Courts of Limited Jurisdiction</td>
<td>49</td>
</tr>
<tr>
<td>Table 3</td>
<td>Judicial Compensation for State Courts of General Jurisdiction</td>
<td>56</td>
</tr>
<tr>
<td>Table 4</td>
<td>State Compensation for State Court Personnel</td>
<td>58</td>
</tr>
<tr>
<td>Table 5</td>
<td>Judicial Compensation for Appellate Courts</td>
<td>60</td>
</tr>
<tr>
<td>Table 6</td>
<td>FY-93 State Court System Expenditures</td>
<td>113</td>
</tr>
<tr>
<td>Table 7</td>
<td>FY-93 Direct Expenditures From Local Court Funds</td>
<td>114</td>
</tr>
<tr>
<td>Table 8</td>
<td>FY-93 Ranking of Counties by Contributions to State Judicial Fund</td>
<td>115</td>
</tr>
<tr>
<td>Table 9</td>
<td>Statewide Cost of Legal Representation for Indigents</td>
<td>175</td>
</tr>
</tbody>
</table>
LIST OF FIGURES

Figure 1. Oklahoma State Courts 1907-1969 .... 72
Figure 2. Map of State Judicial System, Organizational Chart 1994 .... 73
Figure 3. Map of State District Court Judicial Districts .... 74
Figure 4. Map of State Court of Appeals Judicial Districts .... 75
Figure 5. Civil Appellate Jurisdiction in Oklahoma State Courts .... 76
Figure 6. Map of State Court of Criminal Appeals Judicial Districts .... 77
Figure 7. Map of State Supreme Court Judicial Districts .... 78
Figure 8. Administrative (Non-Adjudicative) Functions of the Oklahoma Supreme Court .... 106
Figure 9. Map of State Judicial Administrative Districts .... 107
Figure 10. Funding for the State of Oklahoma Court System .... 165
Figure 11. FY-93 Statewide Appropriations for Oklahoma State Courts .... 166
Figure 12. Oklahoma Supreme Court Appropriation History .... 167
Figure 13. Oklahoma District Courts Appropriation History .... 168
Courts are places where lawsuits are filed, attorneys argue, jury trials are heard, judges determine judgments and orders, damages are awarded and sentencing occurs. Unfortunately, this is our common knowledge about our third branch of government. We are awed and somewhat intimidated by our perception of the courts and are frequently cynical about the "justice" of court results.

In the 1950s, the League of Women Voters of Oklahoma (LWVOK) studied the Oklahoma state court structure because it was archaic and hard for voters to understand. Judicial quality was limited by who won a partisan election. In the early 1960s, three Oklahoma Supreme Court justices were charged with corruption or tax evasion. Some of their bribery practices had existed for twenty years. In 1965, the legislature proposed a Court on the Judiciary to try judicial officers for removal from office for misconduct or retirement from office for health or mental reasons. In 1966, under a statewide referendum initiated by petition, the electorate amended the state constitution to create the Court on the Judiciary.

In 1967, the legislature proposed repeal of Article VII of the Oklahoma Constitution in order to reorganize and modernize the state court structure. Appellate judiciary would be chosen by merit selection and retained by a vote of the electorate. All elections for the judiciary would be nonpartisan. The Oklahoma electorate supported the referendum in the summer of 1967, and the changes in state court structure became effective in January, 1969.
All of the changes were essentially what the LWVOK had recommended in the 1950s.

In 1991, the LWVOK voted at state convention to examine the Oklahoma state court structure and jurisdiction again. What had occurred in the 22 years since court reorganization? As most citizens, our study committee members were not well informed on the state court system. Reforms were being touted for judicial redistricting, judicial selection, retention elections, judicial compensation, and court funding. We asked other citizens—a district judge, a special judge, a state member of the NAACP, and an associate editor of an urban daily newspaper—to join us in studying the issues of concern.

The best decision the study committee members made was to study the structure and jurisdictions of the state courts before determining major issues. The members then voted on what issues to investigate, chose research assignments and worked singly or with a small group to collect material. In our enthusiasm for the project, we decided that other Oklahomans would also like to know what we were learning. A RESOURCE GUIDE TO OKLAHOMA COURTS is the work product of the materials we collected, organized and studied about Oklahoma courts over a year and a half. Our observations are probably those that other citizens would make. The information we used is what any citizen would find if seeking answers to questions about the state courts.

It is important that Oklahomans recognize that we have two court systems which occupy the same geographic space—Indian tribal courts and the Oklahoma state courts. Indian tribal courts, with the exception of those of the Five Civilized Tribes in Indian Territory, ceased to function under the congressional Dawes Act of 1887. The Five Civilized Tribes' courts were abolished under the Curtis Act of 1898. In 1936 when Congress belatedly allowed Oklahoma tribes to reorganize under the Oklahoma Indian Welfare Act (OIWA), Oklahoma tribes, if they chose to do so, could receive
rights of inherent sovereign powers and rights to tribal courts. Regrettably, the GUIDE provides a limited amount of information on tribal courts since our charge was to examine the state court system.

The state court system was created as the third branch of Oklahoma government by the delegates to the Oklahoma constitutional convention prior to statehood in 1907. The provisions in the Oklahoma Constitution Article VII - The Judicial Department - were written with greater direction than provisions for the other two branches, primarily because the delegates wished to prevent the future legislature from defining the judiciary.

Our study findings are printed in a separate paper. Our conclusions about this mystical third branch of our state government include the following:

• The role of our state courts is to administer the law of Oklahoma's constitution, statutes, the common law, ordinances, and regulations. **Courts do not administer justice; they administer the law.** Citizens must realize this fact more than any other to understand what it is that courts do.

• Oklahoma's state court structure is more modern than many states. Oklahoma resolved many of the problems that state courts face in the 1990s with our court reforms of the 1960s. The Oklahoma court structure and jurisdictions are simple, unified into one system, and centralized under the administrative authority of the Oklahoma Supreme Court--a very desirable state court model. One disadvantage is that the legislature has not granted the Supreme Court enforcement powers to carry out its authority.
• State funding of the state courts is the biggest problem in the administration of Oklahoma's court system.

• Although Oklahomans like to elect their local state judges, merit selection for appellate judicial offices has improved the quality of the Oklahoma judiciary. The League of Women Voters of Oklahoma believes merit selection should extend to all state judicial offices.

• The public needs more information about the performance of the appellate justices and judges we retain by ballot.

• Complaints filed with the Council on Judicial Complaints about judicial conduct should be reported publicly with objective data in a manner that protects the privacy of investigation but informs the public more clearly on the outcome of complaints.

• Alternative dispute resolution (ADR) methods, such as Oklahoma's Early Settlement mediation programs, should be expanded in the state courts.

• The constitution of the United States protects the rights of indigent defendants. It is imperative that Oklahoma address state indigent appeals and delays in a manner that is above constitutional reproach.

• State courts should be held accountable for biases--gender or racial--which appear anywhere in the court system.

• Finally, citizens should not be put off by the aura of the courts. The public needs to watch our third branch of government and its use of government power. And
citizens should be thinking now about how we want our courts to administer the law in the future. Another study in 35 years will find Oklahoma courts very different than the state court system of the 1990s.
CHAPTER I

WHAT CAN CITIZENS DO ABOUT JUSTICE?

Citizens believe that what happens in our courts maintains justice in our society. How justice occurs amid the structure, jurisdictions and internal administration of courts as described in this GUIDE requires citizens to assume that the administration of law and the processes used--legal and administrative--are grounded in society's ideas of rights, fairness and equality. Yet when decisions seem unfair or unjust, what can citizens do?

The first step for citizens, without knowing the law, is to educate themselves that courts do not create or administer justice. Judges administer and uphold our constitutions and the law. Knowing and understanding this gives the public a better awareness of what courts, justices and judges do.

Judicial outcome may be legally valid but not fair. When this occurs, what can citizens do? The court system also provides several reliefs. Everyone in Oklahoma is entitled to one appeal on the law and, in limited instances, this may include both the law and the facts. Administrative decisions or orders of the state may be taken to the courts for judicial review. If no adequate remedy exists under the law, equity, that is, fairness or justness, independent of the body of law may be sought by a citizen claiming
a right. Equity cases seeking equal and impartial justice follow a set of complex rules and regulations. The Oklahoma constitution gives the supreme court jurisdiction of equity cases. Some forms of appeal are, in fact, equity appeals. Oklahoma statutes mandate access to post-conviction reviews by the district courts when certain convicted felons' appeals to the court of criminal appeals are not taken or are ineffectual.

Citizens know that judicial interpretation of the law raises issues of fairness. When common law—a body of traditional English rules and principles of action relating to the government and the security of person and property—is used in Oklahoma civil cases at the district court level, a decision of the judge should be based on how the common law has developed in preceding cases, and not on what the judge says the common law means. Judicial interpretation of law created by statute or ordinance and administrative regulations is appropriate when based on the legislative history and intent of the legislature when the law was enacted, rather than the common law rules used by courts which relate to the meaning of words and construction used in the statute.¹

In Oklahoma, citizens can lobby state legislators to repeal and amend existing statutes or establish new laws in response to the voters' concern over an unreasonable court result or a law viewed as unfair. Citizens can initiate petitions for a new or revised constitutional amendment or law to be placed on the state ballot for the vote of the electorate. Conversely, Oklahoma citizens recently petitioned the state supreme court to rule on an initiative petition before it was voted on by the electorate because these citizens considered its contents unconstitutional under United States' law. The Oklahoma supreme court concurred.

An old democratic idea resurfaced in the 1970s, that is, that public officials must be held accountable for their power. For the courts, concern centered on the accountability of court officials
and personnel to specific groups of the public. The public responsibility of the courts is fragmented throughout a very complex system. Since the courts must be independent—a frequent disclaimer for accountability—and general principles and standards for accountability of particular courts simply do not exist, the questions then become:

- Who, of all the individuals and groups involved in the courts, must be responsible and for what?
- What standards or criteria should be used for evaluation of responsibility?
- Who should be ultimately responsible for the performance of a court system?²

Several methods have arisen to make courts more accountable to the public: new methods for judicial selection and retention, judicial discipline and removal, evaluation by bar associations, and the court observer movement.³ Oklahoma has kept pace with all of these. The judicial selection process was modernized prior to the 1970s, with judicial merit selection and nonpartisan retention elections created in the court reforms of the 1960s; an entity for hearings of judicial misconduct was also created at that time; a public body to investigate the public's complaints of the judiciary was created in the early 1970s; local county bar associations conduct forums and polls on judicial candidates; and several Oklahoma communities have court-watch programs for judicial performance in local courtrooms.

Oklahoma's state courts do not have a specific program to evaluate the individual performance of the judiciary. State courts that use judicial evaluation programs do so for the purpose of self-improvement of the judiciary within the court system. In some states, judicial evaluations are published as public information.

before elections. In Oklahoma, the lack of objective information on the appellate candidates on the state judicial retention ballot is the most frequent complaint of voters asking for voter information at the time of state general elections.

The process of achieving principled accountability in state courts takes time. Oklahoma's electorate must continue to work for thoughtful methods that are balanced and satisfactory for measuring the state courts' use of government power.

Citizens can take primary steps by demanding that basic information on the third branch of state government be provided and readily available to the public, taking advantage of any opportunity to learn more about our courts, and sitting on the courthouse steps until necessary changes occur.

The purpose of this GUIDE is two fold: first, to explain the state court system of Oklahoma and to describe current state court issues, and second to provide a source for information not readily available to the general public. Technical and legal terms are used sparingly or are restated so that the GUIDE may be readily understood by all without a glossary.

The material is organized in chapters which include basic definitions and answers to citizens' first questions about courts and the judiciary (Chapter II); how Oklahoma courts are organized, the structure and jurisdictions of the state court system, the judicial positions in Oklahoma state courts, and a description of Indian tribal courts in Oklahoma (all in Chapter III); the relationship of court structure and court cases (Chapter IV); state court administration (Chapter V); and current issues in Oklahoma's courts (Chapter VI). Commentary of the state administrative director of the courts follows. Appendices include the qualifications for judicial offices, a copy of the form for application for appointed judicial office, the Oklahoma Judicial
Nominating Commission members, and the rules for the complaint form from citizens to the Council on Judicial Complaints.
CHAPTER II
SOME PRELIMINARIES

A. Introduction
Opinions on the efficiency and effectiveness of Oklahoma's judicial system differ. For example, James J. Lawler and Robert L. Spurrier, Jr. wrote in Oklahoma Politics and Policies: Governing the Sooner State (1991), that Oklahoma courts have become model and professional after the court reforms which occurred in the 1960s, and rank above average on national scales which measure state court modernization. In contrast, Marian P. Opala, Justice of the Oklahoma Supreme Court, characterizes our state court system as one in which judges are salaried by the state, courts are maintained by the counties, and funding comes from the users— a first-generation, post-medieval system. Opala claims that changes are needed in all state courts, but the question continues to be "to what?"
B. What is Judicial Power?

Judicial power is the authority exercised by the department of government charged with declaring what the law is. Each state constitution gives the immediate right of judicial power in a state and declares where it shall be retained. This vests the power with that governmental body. Article IV of the Oklahoma constitution provides for the Judicial Department and Article VII vests judicial powers of the state in the various state courts. Judicial power in Oklahoma is also vested in the senate when it sits as a court of impeachment and the state boards, agencies and commissions created by the constitution or established by statute which have the authority to issue a decree or render a decision on proceedings.

C. What Do Courts Do?

The government guarantees the right to be heard when it guarantees its citizens the right to obtain justice. Courts are the place government provides for such hearings. The United States has two primary court systems for doing this: the federal and the state courts. Courts uphold constitutions, treaties, and other laws; their judicial function is to administer the law. By applying the law to controversies brought before them, the courts resolve the legal aspects of a dispute, act, or issue. Disputes are settled judicially (adjudicated) in a procedure such as a trial, a hearing, or an intervention of the court requiring performance of a specific act. Courts may invalidate legislative statutes and orders of the executive, and issue writs to force public officials to carry out the requirements of their oaths of office.7

Judges swear to uphold the constitution and other laws. They do not swear "to do justice." Their role is to "pierce the language of the law" by using what the law says, what has developed in past cases and what the constitution or a statute states. In the United States, the federal or state judicial branch of government has the power to determine (interpret) what the United

States or a state constitution means. That opinion may change the meaning of a constitutional provision or ultimately change the constitution, invalidate existing legislation or lead to new legislation.

Where no adequate remedy exists under the law, fairness (equity) independent of the body of law may be sought by the citizen claiming a right. Cases in equity follow a set of complex rules and processes, and states utilize a variety of ways to administer such cases. However, a specific court usually is given exclusive authority (jurisdiction) for equity cases. In Oklahoma, the state constitution gives the supreme court jurisdiction of equity cases.

All courts have duties and powers that are not adjudicatory but legislative and executive. Courts adopt their own rules to conduct their procedures. In Oklahoma, supreme court rules have the effect of statutes. The judicial branch of government may be vested with an executive power to appoint or remove public officials. In Oklahoma, for example, both the chief justice of the supreme court and the presiding judge of the court of criminal appeals appoint one member of the state pardon and parole board. The supreme court or district court in Oklahoma may try a local or state officer who is charged with misconduct by the state attorney general. State courts carry out a number of duties which law requires them to administer much as an executive agency would. Courts administer the estates of the deceased; and appoint guardians for the protection of the property and affairs of minors, the insane and incompetent. Finally, courts must internally manage their own physical space, personnel, specific services and money.

Citizens of any state also have access to federal courts. Citizens use federal courts in controversies with citizens of different states (diversity) and to litigate federal questions and statutes. Certain other cases also fall under federal judicial
power under Article III, Section 2, of the United States Constitution. A federal court must have jurisdiction over the parties and the subject matter in such actions. The ability to sue over a federal issue, that is, a dispute with the United States government or under the United States constitution or law, depends on federal law and concepts of due process. The federal courts in Oklahoma are not discussed in this GUIDE.

D. What is Jurisdiction?

The term "jurisdiction" refers to two things: court level (legal jurisdiction) and a type of case (subject-matter jurisdiction). Legal jurisdiction determines in which court a citizen shall be heard. The phrase refers to the authority and power conferred on a court by constitution and law to hear and determine causes between parties and carry the court's judgment into effect. The three basic levels of legal jurisdiction in state courts are limited, general, and appellate jurisdictions.

Subject-matter jurisdiction refers to the nature of the dispute, that is, the particular type of case to be heard in a court. If a court has jurisdiction limited to criminal cases, for example, it cannot hear a civil case. Subject-matter jurisdiction of state courts is generally controlled by state statute.

In Oklahoma, the legal jurisdiction of state courts is granted by the state constitution or established by subsequent legislation. For example, in 1967, the judicial article of the Oklahoma Constitution was repealed by a vote of the electorate. The new Article VII restructured the state court system, reorganizing the courts in three levels of jurisdiction, with grants of limited, general and appellate jurisdiction given to these courts. Intermediate appeals courts were not created at that time, but provision was made in the event they were. In 1968, the legislature did create a single, intermediate court of appeals and
granted it appellate jurisdiction over those civil cases assigned to it by the supreme court.

E. What Does A Judge Do?

The job of a judge is to make decisions. The powers and duties of judges in Oklahoma are assigned by the state constitution and subsequent legislation. It is important to know what a general jurisdiction or Oklahoma district court judge does if one is to understand the timing, activities and complexities of the flow of litigation in the state trial courts. Since every citizen has a right to one appeal in the state courts, it is equally important to know what appellate judges and justices do in reaching appellate decisions.

A trial court judge makes decisions in a series of structured steps so a case proceeds to a final disposition. A work log of the civil and criminal dockets of an Oklahoma urban district court trial judge illustrates the variety of judicial determinations that a trial judge makes. In a rural county, a district court judge, elected or appointed to judicial office in that district court judicial district, and the associate district court judge for that county will hear all dockets for cases filed in the county, determine both civil and criminal cases, and hold the same miscellaneous hearings as an urban court where a number of district judges serve.

Since the nature of the work of an appellate justice or judge differs from that of a trial judge, that work is also described.

1. A Trial Judge's Log

The log which follows represents a day in the life of a district judge in a populous county in Oklahoma. As in all work, no two days are the same and, while there are indeed specific and needed procedures and patterns, there are the frequent unexpected or "surprise" matters that come before a
judge. For example, when attorneys are taking depositions, usually away from the courthouse, and a dispute arises as to the questions being asked, the attorneys occasionally need to have the dispute settled promptly by a judge. This is so because many times it is very expensive to set up the depositions, and the attorneys simply need a ruling so that the matter can be completed.

Rulings with respect to the competency of various criminal proceedings can come up quickly, and a quick judicial decision is required. Applications for writs of habeas corpus are another kind of "can't wait" matter.

It is very important that a judge control his or her docket, but it is never completely possible to do so because of important and unexpected hearings. For example, a party in a civil suit may need an order of the court to give immediate restraint to a given, anticipated action. Such unexpected hearings are difficult to manage when a judge is trying to handle a regular trial docket.

This log refers to a three or three-and-a-half-day jury trial week. A judge from time to time has before her or him, serious felony trials such as a murder trial as well as complex civil cases, any one of which could last from one week to five or six weeks. These "docket-bustin’" cases tend to play havoc with the judge’s control of the docket.

Oklahoma County uses ten jury months, i.e. there are juries on all months except for the months of July and August. During the jury months, September through June, there are three weeks of jury trials and, ordinarily, one non-jury week.

In Oklahoma County, each full district judge handles both criminal and civil dockets; in Tulsa County, the district
judges are assigned either to a criminal docket or a civil docket. There are advantages and disadvantages in both methods.

**Log-Civil Jury Trial Week**

**Monday:** Jury trials.

**Tuesday:** Jury trials.

**Wednesday:** Jury trials.

**Thursday:** Jury trial completion. Thursday afternoon formal arraignments of felony defendants followed by the hearing of a revocation docket. A revocation docket consists of hearing applications by the state, in which the state seeks to "revoke" a probationary, suspended or deferred sentence. An example for revocation would be if the defendant has obeyed the rules of probation.

**Friday:**

**A.M.:** Motion dockets. Most district judges handle their motion dockets differently, but the most important aspect of motion dockets has to do with the dispositive motions, i.e., those requests by a given party that an entire lawsuit or matter be settled simply on briefs, affidavits and pleadings. These can be thought of as mini-trials. The study required for these various motions can be considerable because much complex litigation is ruled upon in whole, or in part, based upon briefs, affidavits and pleadings. 12

**P.M.:** Review of pending matters; miscellaneous hearings; and preparation for the next week's trials.
Log-Criminal Jury Trial Week

Monday: Jury trials.

Tuesday: Jury trials.

Wednesday: Jury trials: Ordinarily there may be five to ten cases remaining for trial on Monday of each jury week. Some defendants will enter pleas of guilty. Some enter blind pleas to the court. These are pleas without any recommendation by the district attorney. There are agreements on other pleas. For example, the state and the defendant have agreed upon what the punishment should be and, if the district judges concurs, a sentence is then entered accordingly. This is a negotiated plea. One or two cases can be tried in the jury week, unless a more complex case is on the docket, e.g., drug trafficking, murder or other serious felonies.

Thursday:
A.M.: Jury trial completion.
P.M.: Again, each Thursday afternoon formal arraignments of felony defendants take place, followed by the hearing of a revocation docket. Sentencing of felony defendants. The judge ordinarily will have received a pre-sentence investigation report which she or he will have reviewed and studied. After review and hearing from the attorneys, the judge concludes the sentencing of defendants.

Friday:
P.M.: Review of pending matters; miscellaneous hearings; and preparation for the next week's trials.
Log-Miscellaneous Hearings and Matters Which District Judges Consider and Rule Upon

1. Post-conviction reviews. These are reviews mandated by our state laws, and involving proceedings by various convicted felons, when their appeal to the court of criminal appeals has, for some reason, not been taken, or has been ineffectual. If the appeal to the court of criminal appeals was aborted or was not initiated through no fault of the defendant, then the district judge may grant certain specific kinds of relief, including recommending that the defendant be permitted to initiate an appeal out of time. In Oklahoma County, each district judge gets from fifteen to twenty post-conviction reviews a year. Many are complex and require a good amount of study, review and dictation.

2. Pre-sentence investigation reports are ordered and studied, in preparation for the sentencing of defendants after they have pled guilty or after a jury has returned verdicts and recommended punishment.

3. The sentencing of defendants, as separate proceedings, can be lengthy. Defendants may put on evidence in mitigation of the particular expected sentence and the state of Oklahoma may put on evidence to enhance the punishment.

4. Consideration of potential waiver of extradition by defendants.

5. Consideration of requests for orders of extradition to another state.

List of miscellaneous matters judges may be required to consider:

- Beer License Protests
- Bingo License Protests
- Confirmations of Mortgage
- Foreclosure
- Contempt Citations
- Declaratory Judgments
- Deficiency Judgments
- Claims for Exemptions
- Executions of Property
- Forcible Entry/Detainer
- Writs of Habeas Corpus
- Majority Rights
- Name Changes
- Temporary Restraining Orders
- Prejudgment Attachment
- Temporary/Permanent Injunctions
- Replevin Orders
- Prejudgment Garnishment
- Tax Waivers
- Appointment of Receivers
- Vacations of Plat
- Issuance of Special Subpoenas

The types of cases heard in state district court are illustrated in Table 1. The numbers indicate the volume of cases by docket or type over time in Oklahoma County, the state county with the largest population.
Table 1. **CASES FILES FOR OKLAHOMA COUNTY, 1970-1991, BY DOCKET OR TYPE**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Probate</th>
<th>Juvenile</th>
<th>Alcoholic Beverage License</th>
<th>Adoptions</th>
<th>Mental Health</th>
<th>Civil</th>
<th>Felony</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>2304</td>
<td>1455</td>
<td>1309</td>
<td>628</td>
<td>---</td>
<td>3963</td>
<td>3767</td>
</tr>
<tr>
<td>1971</td>
<td>2436</td>
<td>1061</td>
<td>1402</td>
<td>639</td>
<td>---</td>
<td>4036</td>
<td>3136</td>
</tr>
<tr>
<td>1972</td>
<td>2379</td>
<td>1367</td>
<td>1499</td>
<td>586</td>
<td>---</td>
<td>3781</td>
<td>3080</td>
</tr>
<tr>
<td>1973</td>
<td>2544</td>
<td>1550</td>
<td>1548</td>
<td>617</td>
<td>---</td>
<td>4012</td>
<td>3761</td>
</tr>
<tr>
<td>1974</td>
<td>2453</td>
<td>2069</td>
<td>1622</td>
<td>629</td>
<td>---</td>
<td>4600</td>
<td>4487</td>
</tr>
<tr>
<td>1975</td>
<td>2115</td>
<td>1712</td>
<td>1184</td>
<td>559</td>
<td>---</td>
<td>4557</td>
<td>4926</td>
</tr>
<tr>
<td>1976</td>
<td>2185</td>
<td>1488</td>
<td>1925</td>
<td>595</td>
<td>---</td>
<td>4035</td>
<td>4797</td>
</tr>
<tr>
<td>1977</td>
<td>2290</td>
<td>2382</td>
<td>2062</td>
<td>646</td>
<td>---</td>
<td>3836</td>
<td>4658</td>
</tr>
<tr>
<td>1978</td>
<td>2246</td>
<td>2334</td>
<td>1988</td>
<td>598</td>
<td>---</td>
<td>3939</td>
<td>5472</td>
</tr>
<tr>
<td>1979</td>
<td>2369</td>
<td>2212</td>
<td>1974</td>
<td>664</td>
<td>---</td>
<td>5624</td>
<td>5127</td>
</tr>
<tr>
<td>1980</td>
<td>2415</td>
<td>4032</td>
<td>2010</td>
<td>603</td>
<td>---</td>
<td>6106</td>
<td>5128</td>
</tr>
<tr>
<td>1981</td>
<td>2554</td>
<td>2394</td>
<td>2068</td>
<td>614</td>
<td>---</td>
<td>6211</td>
<td>5948</td>
</tr>
<tr>
<td>1982</td>
<td>2461</td>
<td>2372</td>
<td>2194</td>
<td>637</td>
<td>238</td>
<td>7022</td>
<td>6626</td>
</tr>
<tr>
<td>1983</td>
<td>2499</td>
<td>2142</td>
<td>2246</td>
<td>548</td>
<td>259</td>
<td>8837</td>
<td>6441</td>
</tr>
<tr>
<td>1984</td>
<td>2515</td>
<td>1843</td>
<td>2328</td>
<td>555</td>
<td>899</td>
<td>10258</td>
<td>6073</td>
</tr>
<tr>
<td>1985</td>
<td>2510</td>
<td>1974</td>
<td>2214</td>
<td>513</td>
<td>1198</td>
<td>11624</td>
<td>6643</td>
</tr>
<tr>
<td>1986</td>
<td>2237</td>
<td>1864</td>
<td>2391</td>
<td>528</td>
<td>1495</td>
<td>13677</td>
<td>6967</td>
</tr>
<tr>
<td>1987</td>
<td>2244</td>
<td>2100</td>
<td>2227</td>
<td>555</td>
<td>1893</td>
<td>14719</td>
<td>7351</td>
</tr>
<tr>
<td>1988</td>
<td>2243</td>
<td>2367</td>
<td>2168</td>
<td>636</td>
<td>1743</td>
<td>12793</td>
<td>7105</td>
</tr>
<tr>
<td>1989</td>
<td>2085</td>
<td>2795</td>
<td>1973</td>
<td>493</td>
<td>1783</td>
<td>11673</td>
<td>7073</td>
</tr>
<tr>
<td>1990</td>
<td>2404</td>
<td>2894</td>
<td>1568</td>
<td>465</td>
<td>1729</td>
<td>10438</td>
<td>6789</td>
</tr>
<tr>
<td>1991</td>
<td>2462</td>
<td>3007</td>
<td>1581</td>
<td>470</td>
<td>2014</td>
<td>10055</td>
<td>7007</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Misdemeanor</th>
<th>Traffic</th>
<th>Return of Criminal Property</th>
<th>Divorce</th>
<th>Special Court ($2,500-$40,000)</th>
<th>Small Claims (under $2,500)</th>
<th>Victim Protective Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>1970</td>
<td>1437</td>
<td>13385</td>
<td>---</td>
<td>6420</td>
<td>4391</td>
<td>8164</td>
<td>---</td>
</tr>
<tr>
<td>1971</td>
<td>1545</td>
<td>11706</td>
<td>---</td>
<td>6709</td>
<td>4634</td>
<td>8308</td>
<td>---</td>
</tr>
<tr>
<td>1972</td>
<td>2478</td>
<td>11057</td>
<td>---</td>
<td>6911</td>
<td>4833</td>
<td>10049</td>
<td>---</td>
</tr>
<tr>
<td>1973</td>
<td>3100</td>
<td>8002</td>
<td>---</td>
<td>7251</td>
<td>6006</td>
<td>11247</td>
<td>---</td>
</tr>
<tr>
<td>1974</td>
<td>3838</td>
<td>7103</td>
<td>---</td>
<td>7681</td>
<td>7592</td>
<td>11755</td>
<td>---</td>
</tr>
<tr>
<td>1975</td>
<td>4105</td>
<td>10668</td>
<td>---</td>
<td>8021</td>
<td>8122</td>
<td>10853</td>
<td>---</td>
</tr>
<tr>
<td>1976</td>
<td>4177</td>
<td>11262</td>
<td>---</td>
<td>8638</td>
<td>8684</td>
<td>10346</td>
<td>---</td>
</tr>
<tr>
<td>1977</td>
<td>4200</td>
<td>9145</td>
<td>---</td>
<td>8897</td>
<td>8699</td>
<td>12000</td>
<td>---</td>
</tr>
<tr>
<td>1978</td>
<td>4301</td>
<td>10140</td>
<td>---</td>
<td>8699</td>
<td>9661</td>
<td>12719</td>
<td>---</td>
</tr>
<tr>
<td>1979</td>
<td>3623</td>
<td>9729</td>
<td>---</td>
<td>9049</td>
<td>10284</td>
<td>13861</td>
<td>---</td>
</tr>
<tr>
<td>1980</td>
<td>4155</td>
<td>9914</td>
<td>---</td>
<td>9352</td>
<td>10938</td>
<td>15912</td>
<td>---</td>
</tr>
<tr>
<td>1981</td>
<td>5239</td>
<td>12003</td>
<td>---</td>
<td>9752</td>
<td>10001</td>
<td>16518</td>
<td>---</td>
</tr>
<tr>
<td>1982</td>
<td>5761</td>
<td>11473</td>
<td>---</td>
<td>9165</td>
<td>10777</td>
<td>19663</td>
<td>---</td>
</tr>
<tr>
<td>1983</td>
<td>6317</td>
<td>16699</td>
<td>---</td>
<td>8484</td>
<td>10149</td>
<td>19857</td>
<td>---</td>
</tr>
<tr>
<td>1984</td>
<td>5764</td>
<td>16256</td>
<td>---</td>
<td>7540</td>
<td>6719</td>
<td>17317</td>
<td>1608</td>
</tr>
<tr>
<td>1985</td>
<td>4484</td>
<td>16870</td>
<td>---</td>
<td>9303</td>
<td>8812</td>
<td>22323</td>
<td>2453</td>
</tr>
<tr>
<td>1986</td>
<td>4142</td>
<td>16883</td>
<td>---</td>
<td>9540</td>
<td>10468</td>
<td>23745</td>
<td>2781</td>
</tr>
<tr>
<td>1987</td>
<td>3899</td>
<td>17862</td>
<td>---</td>
<td>8850</td>
<td>8652</td>
<td>22332</td>
<td>2484</td>
</tr>
<tr>
<td>1988</td>
<td>3309</td>
<td>15054</td>
<td>---</td>
<td>6525</td>
<td>7849</td>
<td>19021</td>
<td>2129</td>
</tr>
<tr>
<td>1989</td>
<td>3660</td>
<td>16739</td>
<td>38</td>
<td>6447</td>
<td>7116</td>
<td>19484</td>
<td>2364</td>
</tr>
<tr>
<td>1990</td>
<td>3675</td>
<td>19065</td>
<td>151</td>
<td>9466</td>
<td>7271</td>
<td>19822</td>
<td>2064</td>
</tr>
<tr>
<td>1991</td>
<td>2907</td>
<td>14498</td>
<td>---</td>
<td>7692</td>
<td>7186</td>
<td>20175</td>
<td>2448</td>
</tr>
</tbody>
</table>

--- records not previously kept

**SOURCE:** Oklahoma County - Court Clerk Office, 1991.
2. **A Justice's Appellate Work**

The work of the appellate justice or judge is quite different from that of a trial judge. Appellate justices and judges review decisions made in the trial courts. Appellate decisions are based on the law of the case and the justice or judge makes a decision after reading the trial court record of the case, considering arguments in briefs and oral argument, researching the law and discussing the case with colleagues of the court. No juries are convened and witnesses are not heard, although in Oklahoma a witness may be called in unusual circumstances. Oral arguments may be heard. In Oklahoma, the appellate judiciary makes **decisions** after reading the record, considering arguments, researching the law, and discussing the case with other justices or judges of their court.

In Oklahoma the supreme court can direct and appeal cases filed with the supreme court to an intermediate court of appeals and decide which cases the supreme court will take for review. A case to be heard on appeal by the Oklahoma supreme court is assigned by the chief justice to the individual justices on a rotating basis. If, for some reason under the state constitution or Oklahoma law, the chief justice is disqualified from making the assignment, it is made by the vice chief justice. A case coming from the court of appeals on review (certiorari) is also assigned to an individual justice on a rotating basis.

When a case is assigned, the justice and her or his legal staff research the issues of law in the case. These are found in the written arguments (briefs) the attorneys filed in the appeal of the case, any court papers filed during the trial, and the transcript record of the original trial. The arguments of the attorneys relate only to the law in the civil case in the lower court decision or a civil procedure used during that trial. If the result of a state administrative
hearing is appealed, arguments are based on administrative law relative to the order of the agency or its hearing procedure.

Appeals are rarely argued before the Oklahoma supreme court. However, in an instance where an issue is unusual or of extreme importance, the supreme court may order each party to appear to argue its case orally. The justices discuss the arguments heard and the justice assigned the case writes a proposed opinion. That justice presents the proposed opinion to the other eight justices.

In the Oklahoma supreme court, drafts of proposed opinions are considered on Thursday of each week at one of two regular weekly assemblies of all justices. These meetings, which are called conferences, are private and not subject to the Open Meetings Law of the state. The justices have about one week to study a proposed opinion. During the conference on the following Thursday, each case is called, discussed, and voted on by each justice. Since five of the nine justices must agree to decide any question, five of nine votes are needed for a majority on an opinion.

If a justice agrees with the law expressed in the opinion, she or he votes to concur. A justice may also concur specially, and this concurrence may be counted to obtain a majority. However, votes to concur-in-result or concur in judgment may not be counted toward forming a majority. If a justice disagrees with the law expressed, she or he votes a dissent.

When the court is not unanimous, justices may write dissenting opinions. Justices who concur with the majority may also write an opinion stating reasons why the law is correct. This may be in the form of concurring, concurring specially, concurring-in-result, or concurring in judgment.
An opinion adopted by the supreme court becomes legal precedent for Oklahoma and may be used in future cases in the state courts.

Opinions and orders are handed down by the Oklahoma supreme court each Tuesday and are then available to the general public in the office of the clerk of the appellate courts. Copies are mailed to the attorneys. Parties may file a petition for a rehearing if dissatisfied with the opinion, requesting the court to reexamine the law or the reasoning in the result.

The detailed research, drafting, and the study for only one opinion requires a great amount of time of each of the justices. One justice may write 20 full opinions during each court year in addition to writing dissenting or concurring opinions when the court is not unanimous. The court publishes approximately 300 decisions each year.15

F. Oklahoma Law

The individual in Oklahoma is protected and affected by many types of laws: the United States Constitution and its amendments, acts of Congress and treaties, the Oklahoma Constitution and amendments, state law and statutes, state administrative rules and regulations, and local city and town ordinances and regulations. Criminal, civil and administrative laws are described briefly.

1. Criminal Law

A criminal case is one in which the municipal or state government (the prosecutor) charges a citizen (the defendant) with violation of a public law—that is, the government claims that the citizen has committed or omitted a public act commanded by a municipal ordinance or state statute. The law sets forth the penalty (punishment) the government may use if
a citizen is proved guilty in a court with jurisdiction for criminal cases. The state has the burden of persuasion to prove **beyond a reasonable doubt** that the citizen violated the act. Criminal acts are defined as misdemeanors and felonies.

A misdemeanor offense, such as a traffic violation, is the violation of a statute or ordinance of lesser seriousness than a felony, usually punishable by fine or imprisonment other than in a penitentiary. A felony is an act such as murder, rape, arson, robbery, or larceny, more grave and serious in nature than a misdemeanor, and punishable in Oklahoma by imprisonment in a penitentiary or death.

In Oklahoma, criminal acts are defined in the state penal code, which is a complete compilation of criminal law organized in a systematic way, and published by the state legislature. Since a penal code exists, Oklahoma courts do not use **common law** to define criminal law. As stated earlier, common law is that body of traditional English rules and principles of action relating to the government and the security of person and property.

Criminal cases in Oklahoma district courts are assigned to a **criminal docket**, that is, a schedule of criminal proceedings to be tried at a specific time. These cases include felonies, such as, capital offense (**Murder 1**), driving under the influence of alcohol or drugs (**D.U.I.**) where death or maiming occurs, and the felony acts defined by statute. Misdemeanors are lesser D.U.I. charges, violations of misdemeanor statutes, and traffic cases.

Children under the age of 18 are found to be **delinquent** instead of guilty of a crime. Oklahoma state statutes define a delinquent child as any one who has violated any federal or state law or municipal ordinance. Juvenile cases are assigned
to a juvenile docket within the state district court. Under a 1992 state statute, a municipal court, if so authorized by the governing body of the municipality, may enter into an agreement with the local district court for the municipal court to assume jurisdiction of cases involving juveniles under 18 years of age who have violated municipal ordinances.

2. **Civil Law**

Civil cases are all cases which are not defined as criminal. The citizen, business, corporation, or agency (plaintiff) seeks to resolve a claim or a private or civil right against a conflicting claim of another (defendant) and files a lawsuit.

In Oklahoma, civil cases in state district courts are assigned according to separate subject-matter dockets, so that cases are tried under a specific subject of civil law. Oklahoma statutes establish and limit these dockets as civil (breach of contract, personal injury, violation of a private right, and property damage or loss), probate, juvenile and family relations (delinquency, divorce, custody, adoption and guardianship), and small claims dockets. Oklahoma has no civil code of law on these subjects, so common law is used by judges of the state district courts where no statute or precedent exists.

3. **Administrative Law**

Administrative law is public law which deals with the administrative operation assigned by the legislature to governmental bodies, usually in the executive department. Government rules and regulations are enacted by administrative agencies and have the effect of law. They are a substantial part of the law today.
Rules and regulations are intended to carry out the statutory intent of the legislature in its creation of public policy and programs. Agency officials, who are usually non-elected, are delegated power by the legislature to form, amend, and rescind rules and regulations and order them executed following a public hearing. The public must be assured that the lawmaking of administrative bodies and non-elected officials uses formal legal processes as legitimate as those of the legislature.

The processes used by non-elected officials to form and adopt law are as legitimate as those of the legislature. The procedures used to hear citizens' complaints of governmental rulemaking or the review of an administrative order also must protect the private rights of citizens from governmental lawmaking. An administrative hearing or judicial review by a court of an administrative final order are used today to replace the earlier civil suits which asked the court to enforce the common law doctrine of private rights against government power. There are five types of administrative cases: abuse of discretion in an administrative action, lack of jurisdiction, error of law, error of fact, and error of procedure.

States have enacted model Administrative Procedures Acts (APA) as standardized law which requires accountability of state administrative bodies. In Oklahoma, the Uniform Administrative Procedures Act was enacted in 1961. Under the Oklahoma statute, citizens are entitled to judicial review in a state court on any final order on individual proceedings heard in an administrative proceeding, if the order is subject to the agency. The action is for declaratory judgment by the district court and can be filed by a citizen within 30 days of a state agency order in the state district court of the citizen's county of residence or the county where the rule is
applied. Judicial review in court is subject to the Oklahoma APA procedures for filing for review, and the Oklahoma supreme court rules for judicial review.

The purpose of Oklahoma’s model APA is to provide a uniform system of statutory regulations for administrative procedures in and before approximately 140 state agencies, boards and commissions, authorities and officers of the state which the state constitution or legislature has authorized to make rules or formulate orders. Judicial appeal and review of a final order in an individual proceeding of a state agency is provided by the state constitution and statutes. The Open Meetings Act, an administrative procedure, was amended in 1988 to apply to municipalities, boards of county commissioners and all public trusts in the state of Oklahoma supported in whole or part by public funds or entrusted with expending public funds.

Each Oklahoma agency is required to comply with the definitions of the APA. Agency filing and publication of rules, agency notice and hearing requirements for individual proceedings are required. Oklahoma’s APA was revised in 1987 to provide stronger oversight and protect rights of public participation in rulemaking processes. New permanent rules, amendments, revisions or revocations must be filed with the governor for review and approval. The house and senate of the state legislature also must review and approve or disapprove any adopted rules. State agencies must publish notice of rulemaking intent to adopt new rules, amend or revoke existing rules. The text of newly approved rules must be published in the Oklahoma Register. Public participation in administrative rulemaking or revocation of rules is required. Notice must announce a 20-day comment period for public input, a scheduled public hearing, or information on how to request a hearing.
Oklahoma has not had an administrative code. In 1987, the legislature required the codification of new, amended and revoked sections, and emergency rules of all agency rule making. The rules which were filed were hieroglyphics of underscoring and deletions. The Oklahoma Department of Libraries was charged with the promulgation of a uniform numbering system, the format of standards, and procedure requirements for compilation of an Oklahoma Administrative Code (OAC). As an incentive to comply, any permanent rule of an agency not in the first compilation would be void.

The OAC process, effective in 1991, has moved slowly because no funding was provided. In 1991, an Office of Administrative Rules (OAR) was created by the legislature, to be located in the Secretary of State’s Office. The OAR maintains the official records of the state rules and in 1991 published the first official compilation of codified rules.

In 1992, the legislature funded the publication of the Administrative Code, is to be published by the fall of 1994 as a 10,000 page document. The public will then have access to a comprehensive and coherent code for reference and discovery of governmental rulemaking.
CHAPTER III
THE OKLAHOMA JUDICIAL SYSTEM

In the United States, the administration of the formal rules and sanctions of society—the law—is the function of the federal and state judicial branches of government. Some system is required to carry out this function through our courts, and so we have court structures, processes, judiciary and personnel organized to do so. Although certain characteristics of organization exist in all state courts, no two states are organized in the same way.

A. How Are Oklahoma State Courts Organized?
B. What Is the Structure and Jurisdiction of Oklahoma State Courts?
  1. Courts of Limited Jurisdiction
  2. Courts of General Jurisdiction
  3. Courts of Appellate Jurisdiction
C. What Are the State Judicial Positions?
  1. Municipal Criminal Courts Not of Record and Of Record
  2. Worker's Compensation Court
  3. Court of Tax Review
  4. Court on the Judiciary
  5. District Courts
  6. Overview of Appellate Positions
  7. Court of Appeals
  8. Court of Criminal Appeals
  9. Supreme Court
D. Oklahoma Tribal Courts
  1. Judicial Power, Access to Courts, and Jurisdiction
  2. Tribal Law
  3. Tribal Court Cases and Decisions

A. How Are Oklahoma State Courts Organized?

Figures 1 and 2 at the end of this chapter show Oklahoma court organization before court reform in the 1960s and today. In the 1940s and 1950s, many states were reorganizing and simplifying their court systems to remedy the confusion and overlapping jurisdictions created by state constitutions and statutory courts. Missouri adopted a model in the late 1940s which unified all courts within one centralized state system and provided for merit selection of the judiciary. The Oklahoma courts today favor the "Missouri Plan" reforms.

At a special election on July 11, 1967, a constitution referendum was approved by the Oklahoma electorate which repealed Article VII, the judicial article of the Constitution of Oklahoma, as ratified in 1907. The referendum proposed a constitutional amendment--the present Article VII--for the complete reorganization of the Oklahoma court system. The new judicial article was the second of two constitutional amendments in the 1960s adopted to counter an out-of-date system and judicial corruption over the years.

The 1967 amendment simplified the structure of the court system, unified the system and centralized it under the supervision and control of the supreme court. Commentators believe the current organization is a desirable result which has modernized the courts and led to the adoption of other model standards.\textsuperscript{16}

B. What Is the Structure and the Jurisdiction of Oklahoma State Courts?

Oklahoma chose three levels of legal jurisdiction when it restructured and consolidated its court system in 1961. Only six states structure their courts in the three-tier pattern of the federal courts--the trial courts of original proceedings (U.S. District Courts), intermediate appellate courts (U.S. Circuit Courts of Appeal), and the court of last resort (Supreme Court).
All other states but two use the three basic levels of court jurisdiction: limited, general, and appellate; however, each state is unique in the way it has organized its total court structure.

Oklahoma's present court structure is described here to show the structure at each legal jurisdictional level and the subject-matter jurisdiction of each court. The power of each court and some procedures are discussed briefly to illustrate the authority within each jurisdiction and how appeal from that authority may be made.

1. **Courts of Limited Jurisdiction**
   
a. **Overview**

   Oklahoma has three courts of limited jurisdiction which are specialized trial courts: 1) the municipal criminal courts, 2) workers' compensation court, and 3) the court of tax review. A fourth body, the court on the judiciary, is a specialized judicial tribunal whose sole and exclusive jurisdiction is limited to hearing complaints for the removal of judges.

   **Courts of limited jurisdiction** are the lowest level of court jurisdiction. They are primarily traffic and misdemeanor courts and comprise over three-fourths of the total number of state courts in the United States. Citizens have the greatest contact with courts of limited or specific jurisdiction and most legal actions begin and end here.

   Limited jurisdiction means the court is confined to hearing particular causes and its jurisdiction can be exercised only under limitations and circumstances prescribed by statute. These courts are authorized by statute to hear less serious criminal offenses such as misdemeanors, municipal (city) ordinance violations, and
traffic violations. Limits are set by law for the maximum fine and sentence which a court of limited jurisdiction can impose.

Courts of specific jurisdiction may be created to organize the cases of limited jurisdiction, which Oklahoma has done. When the court structure was simplified in 1967, the number of existing specialized courts was reduced by transferring their functions to the courts of general jurisdiction. Municipal courts continued in effect but were limited in subject-matter jurisdiction to traffic and criminal proceedings arising from infractions of city and town ordinances.

b. Municipal Criminal Courts - Not of Record and of Record

Municipal criminal courts in Oklahoma are trial courts created by town and cities to adjudicate local regulations and ordinances. In Oklahoma, municipal courts are "not of record" and "of record". The distinction is important. Cases in municipal courts not of record provide no court record for an appeal of the case. However, a case from these courts can be appealed to the state district court where the case proceeds as a new trial (trial de novo) on questions of fact and law. Municipal courts of record preserve the record of the case and an appeal from a court of record can be made directly to the state appellate court of criminal appeals. Facilities for all municipal courts are provided by towns and cities.

There are approximately 340 municipal criminal courts not of record in Oklahoma which have original jurisdiction to hear and determine violations of municipal regulations and ordinances where the court is
located. The two municipal criminal courts of record in Oklahoma are located in Tulsa and Oklahoma City, cities of more than 200,000 population. Courts of record also have original jurisdiction in violations of city ordinances. The maximum punishment in municipal criminal court cannot exceed a fine of $500.00 or imprisonment of 90 days or both, not to be greater than that established by state statute for the same offense.

In 1992, the state legislature extended the jurisdiction of municipal criminal courts to juvenile offenders of municipal ordinances. Juvenile offender jurisdiction is established upon authorization by the municipal governing body and an agreement with the state district court of that county.

c. Workers’ Compensation Court

The workers’ compensation court is a trial court of record with sole and exclusive jurisdiction to hear and determine claims of citizens’ employee-related injuries under the Oklahoma Workers’ Compensation Act. The court was created by statute effective in 1978 to replace the state industrial court established in 1951. The principal office of the court is in Oklahoma City in quarters assigned by the state Department of Central Services, but the court may conduct hearings in any city of the state. Hearings are held regularly in Tulsa.

The court has authority to adopt reasonable rules and regulations, including rules of procedure for the full court, after notice and public hearing. Such rules are approved or disapproved by the state supreme court. Appeal from the workers’ compensation court is to the state supreme court.
d. Court of Tax Review

The **court of tax review** hears and determines all taxpayer protests against alleged illegal tax levies on annual county budgets. The court is vested with jurisdiction to hear 1) complaints on valuation of public service corporation property by the state board of equalization, 2) complaints regarding actions of the state board of equalization in either intracounty or intercounty property value equalization, and 3) appeals of determination by the Oklahoma Tax Commission on county noncompliance with the applicable law or administrative regulations governing valuation of taxable property. The court was created by statute in 1965 and is held at the state capitol.

The court of tax review has power to administer oaths, compel attendance of witnesses and production of evidence pertinent to a complaint, including county public records to conduct its hearings. Court rules are established by the Oklahoma supreme court.

The court is conducted by 26 state district judges who hear cases in three-judge panels. The court reconvenes until all final determinations have been made on protests and levies. Appeal from the final order or decision of the court of tax review by either the county or protestant is made to the state supreme court by filing a petition of intent to appeal with the clerk of the appellate courts within 10 calendar days from the date of the final order or decision. If no appeal is made, the court's order or decision is final.

e. Court on the Judiciary

The **court on the judiciary** is a special tribunal vested with the sole and exclusive jurisdiction to hear
and determine causes for removal or compulsory retirement of justices or judges from office because of misconduct or disability. Any justice or judge is subject to removal from office or compulsory retirement by proceedings in the court.

The court on the judiciary was established by Article VII-A, an amendment to the Oklahoma constitution proposed by law in 1965, and adopted by a referendum of the electorate in 1966. The amendment was a reform of the state court system intended to control corruption in the state judiciary. When the jurisdiction of the court on the judiciary is invoked, the court is held at the state capitol.

Initially, the court on the judiciary proved useless. In the first eight years after 1965, only one grudge prosecution against a judge was completed. The several entities empowered to invoke the jurisdiction of the court were reluctant to bring charges. The council on judicial complaints was established by statute in 1974 as a public policy body to provide an investigatory body with full power to demand that proceedings be initiated with the court on the judiciary. Citizens can now file complaints with the council about conduct in the judicial department. The council on judicial complaints is discussed later.

The court is vested with full judicial power and authority including power to summon witnesses to appear and testify under oath, compel production of evidence objects, issue all judicial and remedial process and writs, provide for discovery, make rules or procedure, and grant full immunity from prosecution or punishment.
when necessary to compel testimony or production of evidential objects.

The court on the judiciary has two divisions—a trial and an appellate division, each with nine judges who choose a presiding judge for the division. The jurisdiction of the trial division may be invoked by one of five state entities or the Oklahoma bar association by resolution of the OBA house of delegates and direction of its board of governors. Each court division convenes at the call of the presiding judge or three members of the court.

The jurisdiction of the trial division is not a criminal action, so no trial by jury is provided. A full hearing is conducted and the trial division renders its judgment. Judgment can be no greater than removal from office or compulsory retirement. The respondent or prosecutor may appeal the judgment to the appellate division by filing a notice of appeal with the clerk of the appellate courts within ten days after entry of judgment.

The jurisdiction of the appellate division differs from other appellate courts. The appeal is an equity appeal in which the division may consider matters of both fact and law, hear new evidence and take additional evidence. The appellate division may affirm, reverse, or modify the decision of the trial division, or enter a new decision. Its decision is final without further appeal. Since the court on the judiciary was created in 1966, four judges have been removed from judicial office for cause and one compelled to retire. The judicial positions and method of selection for the trial and
appellate divisions are also discussed later in the GUIDE.

2. Courts of General Jurisdiction
   a. Overview

   Courts of general jurisdiction are the major trial courts in the United States. They are granted original jurisdiction to hear the origin of a party’s legal claim of right or action (a justiciable matter) and determine its outcome. Courts of general jurisdiction are not limited by authority to subject-matter jurisdiction, but will hear civil, criminal, or civil and criminal cases.

   In six states and the District of Columbia, all trials take place in general jurisdiction courts. Almost all serious criminal offenses--felonies--are tried in courts of general jurisdiction, and two-thirds of general jurisdiction courts hear lesser criminal cases. Civil actions are the lawsuits filed under state law or common law by a private citizen, corporation, business, or agency claiming a right. Civil cases, however, take up more of judges’ time than criminal cases. A court of general jurisdiction also can serve as an appeal court for a case from a court of limited jurisdiction not of record and hear that case as a new (de novo) trial. These cases are a very small part of general jurisdiction court work, however.

   b. Oklahoma District Courts

   In Oklahoma, the state district courts are the courts of general jurisdiction and the basic trial courts of the state. District court is held in each courthouse of Oklahoma’s 77 counties in facilities provided by the county.
District courts are authorized by Article VII of the state constitution as amended in 1967. Before court reorganization, a variety of courts had jurisdiction over many state actions. The state district courts became successors to these courts of various jurisdictions when all Oklahoma courts were consolidated within the unified state court system, effective in 1969. The new courts of limited jurisdiction—the municipal criminal courts not of record, the workers' compensation court and the trial division—provided settings in the form of the nonjury or bench trials of the district court. Municipal courts of record would conduct both jury and nonjury trials.

Oklahoma district courts have unlimited original jurisdiction over almost all civil cases arising under state law, and all cases with charges of violation of state criminal statutes. Rules of trial procedure are provided by the state supreme court.

Jury sessions of district courts may be held at any time upon order of the presiding judge of the judicial administrative district in which a district court is located. A session for hearing motions and objections to a plaintiff's pleading (demurrer) is required by law to be held every 30 days in an Oklahoma trial court. Appeal of a judgment order of a district court judge is to the state supreme court if a civil case, and the court of criminal appeals if a criminal case.

As stated earlier, the district courts also have the power to provide judicial review of administrative orders or decisions of state administrative bodies, hear appeals from municipal criminal courts not of record as new trials, and issue writs necessary and proper to carry out their judgment orders.
Court actions are filed in the court clerk's office located in the county courthouse. The court clerk assigns the actions to dockets, that is, the lists of causes waiting to be heard on specific subject matters. Oklahoma dockets are established by statute and limited to civil, criminal, traffic, probate, juvenile, family relations, and small claims dockets. A judge to whom a case is assigned has continuing authority over the case, including determining post-trial motions, until its final disposition or the case is removed from her or his jurisdiction by the appropriate authority.

In 1993, Oklahoma district courts had a total caseload of approximately 920,000 cases. General civil lawsuits of breach of contract, personal injury, or property loss and damage made up about 16% of the total cases. Felony cases--more serious criminal acts--were about nine percent (9%) of the total caseload. The remainder of the cases, approximately 75%, included misdemeanors--less serious criminal cases--and the remaining dockets for traffic, probate, juvenile, family relations, and small claims.17

C. District Court Judicial Districts

The most frequent practice among states in organizing courts of general jurisdiction is to divide the courts into judicial districts of one or more counties for administrative and election purposes. If states elect the judges for courts of general jurisdiction, the boundaries of judicial districts create the electoral districts for judicial office. Figure 3 at the end of this chapter is a map of Oklahoma State District Court Judicial Districts which illustrates the present organization of the 77 state district courts into 26 judicial districts.
In Oklahoma, **district court judicial districts** are formed with one county or up to nine contiguous counties based on population in the area. Four judicial districts are comprised of only one county. In judicial districts with populous counties, the number of judicial offices is allocated by county, or combined counties.

Since district court judicial district boundaries serve as state general electoral districts for district judges in Oklahoma, the voters within the one or more counties of a judicial district **elect at-large** from candidates for the **district judge offices** in that judicial district. An **associate district judge** is elected by county-wide voting in each of the 77 counties of Oklahoma. If a judicial district contains more than one county, a candidate for judicial office must be a legal resident of the county where that judicial office is authorized.

The Oklahoma legislature has the authority to organize the district courts into district court judicial districts, provide the number of authorized courts, and determine the number of district judges to hold judicial office in the state. The legislature relies on the annual report of the administrative director of the courts to determine the need for the number of judges for each judicial district. The annual report charts the judges currently authorized, the population served, and the number of cases filed in each judicial district. The judicial districts are then ranked by population and the number of cases filed. A state average of population served and cases filed for each judge are computed from these data, and used to compare the judicial districts and determine how effectively judicial personnel is being used to meet the demand on the courts.
In 1980, the legislature redistricted 24 district court judicial districts to create the 26 districts. In 1992, the legislature created a legislative advisory committee for the state judicial system to study and recommend, among other issues, a realignment of the current boundaries of the district court judicial districts. An advisory subcommittee recommended changes on judicial redistricting and proper allocation of judges but the legislature took no action on changing boundaries in the 1994 session.

The 1993 legislature addressed the issue of the election of minority district judges in at-large judicial elections, and provided for "safe" election districts for judicial office within Tulsa and Oklahoma counties where minorities are geographically concentrated. This arrangement is discussed later in the GUIDE.

Article VII of the Oklahoma Constitution, as amended, provides that district court judicial districts be combined into regional zones of judicial administrative districts. The legislature created nine such districts in 1968. Judicial administrative districts are discussed in Chapter V on state court administration.

3. Courts of Appellate Jurisdiction
a. Overview

Oklahoma has three courts of appellate jurisdiction which are structured in two tiers: an intermediate appellate court of appeals and two courts of last resort, the Oklahoma court of criminal appeals, and the Oklahoma supreme court. Oklahoma is one of two states with two courts of last resort.
Courts of appellate jurisdiction are the highest level of the state judicial system and include intermediate appellate courts and courts of last resort. Appellate courts do not create a cause of action but have the power and authority to rehear the decision of a lower court. They are empowered to reverse a lower court judgment and control and direct any subsequent action of the lower court. It is important to understand that the appeal for review of a lower court decision is never based on disputed facts of a case. An appeal is limited to a paper review of the law developed in the trial case and proceedings.

Over three-fourths of the states have established intermediate appellate courts. Their jurisdiction over types of cases may be limited by state constitution or statute or the discretion of the court of last resort. Intermediate appellate courts, as in courts of general jurisdiction, spend more time on civil than criminal cases. Some time is spent on original proceedings such as writs, which command actions sought by appellants.

The court of last resort is usually named the supreme court. Its jurisdiction is granted by the state constitution and includes final appeals from either courts of general jurisdiction or intermediate appeals courts. A supreme court also has jurisdiction over so-called state issues. The state constitution or law may also expressly grant the supreme court rulemaking powers and administrative authority over parts or all of the state courts.

b. Intermediate Appellate Court--Oklahoma Court of Appeals
Oklahoma has only one intermediate appellate court—the Oklahoma court of appeals. Its jurisdiction is limited by statute to civil appeals only which are filed with the supreme court and then assigned by the supreme court to the intermediate appellate court. Only two other states have limited the jurisdiction of their intermediate appeals court in this manner. A second Oklahoma intermediate appellate court for criminal appeals has been recommended in the past. Present thought is that one is needed to handle the backlog of criminal appeals.

The Oklahoma court of appeals did not exist until 1968. Article VII of the Oklahoma constitution adopted in 1967, however, provided for jurisdiction to extend to "all appellate courts," and in the following year the state legislature created the court of appeals, to be effective in 1970.

The court of appeals is divided into two sections, each representing three of the United States congressional districts in Oklahoma illustrated in Figure 4, a map of the state court of appeals judicial districts. Each section now has two divisions, forming four permanent divisions of the court. Two of the divisions are located in Tulsa and two in Oklahoma City in facilities provided by the state.

The state supreme court assigns the civil appeal cases to be heard to one of the four permanent divisions of the court of appeals. The supreme court also prescribes the rules for procedures and practice of the court of appeals and may order the recall of a case back to the supreme court. The court of appeals has jurisdiction to issue writs of habeas corpus, mandamus,
quo warranto, certiorari, prohibition or any other process necessary in any case assigned to the court.

The cases referred to the Oklahoma court of appeals are decided by the majority of a three-judge panel. After considering the law of the case, the judges make a disposition with a written opinion in a form prescribed by the supreme court. The decision of the panel is final if no other judicial action arises. An opinion of the court of appeals is not binding as law nor can it be cited as precedent until approved by a majority of the supreme court justices for publication.

A final decision of the Oklahoma court of appeals is not directly appealable to the Oklahoma supreme court except by a petition for certiorari, that is, upon petition a majority of the supreme court justices vote to have the case record sent up for further review. If certiorari (cert) is granted, the case is considered as if it had never gone to the court of appeals. If the state supreme court reviews a case from the court of appeals, it may affirm, modify, or make changes in the court of appeals' opinion. If the supreme court denies the petition for review, the case is final unless a federal question exists in the case and the party chooses to appeal to the United States appellate courts.

c. Courts of Last Resort

i. Oklahoma Court of Criminal Appeals

Oklahoma has two specialized courts of last resort: one for civil appeals and one for criminal appeals. Texas and Oklahoma are the only states that have structured courts of last resort in this manner. The Oklahoma court of criminal appeals is not only the court of last resort for the appeal of criminal cases in
Oklahoma but it is the only court for criminal appeal. The court is located in the state capitol.

A criminal court of appeals was authorized in the Oklahoma constitution in 1907, and established by the first Oklahoma legislature. The second legislature gave the court exclusive appellate jurisdiction in criminal cases. The legislature adopted the name Court of Criminal Appeals in 1959.

The Oklahoma court of criminal appeals has exclusive appellate jurisdiction, coextensive with the limits of the state, in all criminal cases appealed from the state district courts or on direct appeal from the two municipal criminal courts of record. The court and judges have the power to issue writs necessary and proper to the court. Each judge is authorized to issue writs of habeas corpus to any part of the state on petition or on behalf of any person held in actual custody. The judge may make the writ returnable before her or himself, the supreme court, the court of appeals, or before any district court in Oklahoma.

The court may prescribe and promulgate rules for governing the court as deemed necessary. It has the power, on affidavit or otherwise, to decide the matters of fact which may be necessary for the court to exercise its jurisdiction. Jury trial may be demanded in the court of criminal appeals if a person is charged with contempt of an order or mandate of that court.

The court of criminal appeals decides an appeal based on issues of law developed at the trial level. Questions of fact may be reconsidered in extraordinary circumstances. Three of the five judges constitute a
quorum and three judges are necessary to make a decision. A decision of the court is final and there is no further avenue of appeal unless the decision has held a United States' law or constitutional issue unconstitutional. In such a case, direct appeal is made to the United States supreme court through a writ of certiorari. All death penalty decisions are directly appealable to the United States supreme court.

The court of criminal appeals begins its first session following the second Monday in January, after each biennial election in the previous fall. The judges choose a presiding judge and vice-presiding judge who serve for two years.

In 1990, some 280 Oklahoma indigent prisoners filed a federal lawsuit claiming United States constitutional violations because their direct appeals of convictions in state court were taking years to be filed, heard and resolved. The prisoners claimed the Appellate Division of the Oklahoma Indigent Defense System (OIDS) took three to four years to file an appeal and the court of criminal appeals took additional time to act. In what became the Harris case, the United States 10th circuit court of appeals raised the question of systemic delay and returned the lawsuit to federal jurisdiction in Oklahoma. A three-judge panel from federal courts in Oklahoma was expected to submit its finding in the fall of 1993, but the case is still pending.

The 1993 Oklahoma legislature provided a number of statutory changes to hasten the criminal appeal process. Trial transcripts must be filed within 90 days of notice of appeal, rather than the previous 180 days. The OIDS
and the Oklahoma attorney general have 60 days to prepare
briefs after the trial transcript is filed.

The legislature also established an Emergency
Appellate Division (EAD) of the court of criminal
appeals. The EAD shall have the power to determine or
otherwise dispose of cases assigned by the court of
criminal appeals, except cases concerning convictions for
first degree murder. The chief justice of the supreme
court will appoint district, associate district and
eligible special judges as temporary judges to conduct
appeal proceedings in three-judge panels. An "emergency"
situation will exist when more than 100 regular felony
appeal cases are at issue, that is, responses from the
petitioner and the state have been filed and are pending
with the clerk of the appellate courts. The chief
justice must declare an emergency exists and the
presiding judge of the court of criminal appeals may then
request that an emergency appellate panel be activated.
The court of criminal appeals shall prescribe by rule
where each EAD panel shall sit and conduct its business
and practice before the panel. Two judges must concur in
a decision. Cases assigned to an EAD panel must be
disposed in 90 days, or returned to the court of criminal
appeals for further resolution. The court of criminal
appeals is considering adopting a rule of an 18-month
limit on how long that court will have to render its
opinion, but has not done so to date. By mid-summer of
1994, nine months after the EAD was activated, 851 of
1,584 appeals were still pending.

ii. Oklahoma Supreme Court

The Oklahoma supreme court’s judicial power is co-
extensive with the state. Its jurisdiction is for all
cases at law and in equity, except for the exclusive
appellate jurisdiction of the court of criminal appeals in criminal cases. If there is a conflict as to jurisdiction of criminal appeals, the supreme court has the determination of jurisdiction and its determination is final.

The **supreme court** also has original control over all inferior courts and all agencies, boards and commissions created by law. The court is located at the state capitol in Oklahoma City.

The supreme court and its jurisdictions are authorized by the Oklahoma constitution. Its civil appellate jurisdiction includes appeals from judicial decisions of district court civil cases and the worker's compensation court, district court judicial review of city, county and state agency administrative orders, orders of the court of tax review, and orders of administrative tribunals within state boards and commissions. Its original jurisdiction over state issues includes verifying and hearing initiative and referendum petitions to place state questions on the ballot for a vote of the electorate, and judgments on court cases involving the executive and legislative department of state government. The latter cases assure constitutional order in the governing of the state. The civil appellate jurisdiction of the Oklahoma supreme court is illustrated in Figure 5.

The supreme court has power to issue, hear, and determine remedial writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and others as provided by law. The justices decide an appeal based on the issues of law at the trial level or administrative law in the proceedings of administrative hearings. Questions of
fact are not reconsidered. Five justices must concur in a decision and the decision is final. A direct appeal may be made to the United States supreme court if the state supreme court decision holds a United States law unconstitutional.

The Oklahoma supreme court is vested with general administrative authority over all lesser courts in the state. This includes temporary assignment of any judge to a court other than that for which she or he is selected. Its administrative authority does not extend to the court on the judiciary or the state senate when it sits as a court of impeachment. The supreme court also has power to promulgate rules which have the status of statutory law. The administrative authority of the supreme court is exercised by the chief justice in accordance with supreme court rules. This authority is discussed in Chapter V, State Court Administration.

C. What Are the State Judicial Positions in Oklahoma?

There are 237 full-time judicial positions in the state district and appellate courts in Oklahoma and 382 full or part-time positions in the courts of limited jurisdiction, that is, municipal courts and the workers' compensation court.

1. Municipal Criminal Courts
   a. Not of Record

   Approximately 350 full or part-time judges serve the 340 municipal criminal courts not of record in Oklahoma. One judge and one alternate judge are authorized by state statute for each municipal criminal court not of record. In towns under 7,500 population, a judge may be a non-attorney.
A municipal judge in a court not of record is appointed for a two-year term by the mayor, with the consent of the governing body of the city or town where the court is established. Compensation is fixed by the municipal governing body.

State statute provides that the city clerk, or deputy designated by the city clerk, or the chief municipal court officer is the clerk of a municipal court not of record.

b. Of Record

One judge is authorized by statute for each municipal court of record. However, eight full-time and 14 part-time judges serve the two municipal criminal courts of record located in Tulsa and Oklahoma City. In 1993, Tulsa municipal court had three full-time and six part-time judges; Oklahoma City had five full-time and eight part-time judges.

Any municipal judge of a court of record is appointed according to the city charter by the governing body of the city to serve a two-year term. Compensation for a municipal judge is fixed by the city governing body.

State statute requires the governing body of the city to appoint a court clerk and one or two deputy clerks for municipal courts of record. The governing bodies of Tulsa and Oklahoma City have also appointed municipal court administrators to carry out the administrative duties of the courts. The administrators serve as municipal civil service employees.

2. Workers' Compensation Court
Ten judges now serve the workers' compensation court. An additional judicial position was created by the Oklahoma legislature in 1993 to help the judges in the nine existing positions handle the caseload of the court more effectively. Each judge is appointed to one of the ten designated positions and serves a six-year term. Each judge has the same power as a judge in other state courts of record.

When the workers' compensation court was established in 1978, initial appointments were made by the governor from the names of three persons nominated for each position by the judicial nominating commission. All vacancies have been filled since from the names of three persons nominated by the commission and appointed by the governor. If the term for a position has expired, the name of the incumbent, if any, is added to the three nominations. The list of nominees is submitted to the governor and the chief justice of the Oklahoma supreme court. If the governor does not make the appointment within 60 days, the chief justice shall appoint one of the nominees. The appointment is certified by the secretary of state of Oklahoma.

The governor also appoints a presiding judge of the court from among the ten judges. The presiding judge serves a two-year term, but may serve only two terms in succession.

Judicial salaries are set by appropriation statute and equal the salary of a state district judge. Judicial compensation for FY 1994-95 for the judges of the workers' compensation court is shown in Table 2 which follows.
Table 2. JUDICIAL COMPENSATION FOR STATE COURTS OF LIMITED JURISDICTION

<table>
<thead>
<tr>
<th>COURT</th>
<th>NUMBER OF JUDGES</th>
<th>SALARY (FY 1994-95)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal Criminal Courts Not Of Record</td>
<td>Full and part-time approx. 350</td>
<td>Set by Municipal Government</td>
</tr>
<tr>
<td>Of Record</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>Workers' Compensation Court</td>
<td>Ten (10)</td>
<td>By legislation: not to exceed $75,000, effective in 1995</td>
</tr>
<tr>
<td>Court of Tax Review</td>
<td>26, used in 3-judge panels</td>
<td>Necessary expenses only</td>
</tr>
<tr>
<td>Court on the Judiciary</td>
<td>Trial division- 9 Appellate division- 9</td>
<td>Necessary expenses only</td>
</tr>
</tbody>
</table>

The administrator for the workers' compensation court has substantial statutory powers and duties. The judges of the court determine the qualifications of the administrator with the approval, disapproval, or modification by the chief justice of the supreme court. The presiding judge of the workers' compensation court appoints an administrator from a list of eligible persons submitted by a five-member special workers' compensation administrator selection committee, selected according to statute. The administrator serves at the pleasure of the presiding judge and can be removed from office only by cause by the presiding judge, subject to approval of the chief justice of the supreme court.

3. Court of Tax Review

The judicial positions of the court of tax review are comprised of state district judges--one from each of the 26
district court judicial districts in Oklahoma. One judge is selected from each judicial district by the justices of the supreme court. A tax review case is heard by a panel of three judges. Each judge assigned to a panel is selected by the chief justice of the supreme court from a U.S. congressional district in Oklahoma different from the congressional district or districts where the property or the county of a case is located.

District judges receive no additional pay when hearing tax review cases, but are authorized necessary expenses. The clerk of the appellate courts serves as clerk of the court of tax review.

4. Court on the Judiciary

As stated earlier, the court on the judiciary has two divisions—a trial and an appellate division. The trial division is comprised of nine members. Eight members are district judges chosen by the secretary of state, who are senior in service and under the age of 60. The ninth member is an attorney chosen by the Oklahoma bar association board of governors. The trial division judges are standing members of the court waiting to serve if the jurisdiction of the trial division should be invoked.

The appellate division is also composed of nine members. Two members of the supreme court are chosen by that court, one member of the court of criminal appeals is selected by that court, one active member of the Oklahoma bar association is chosen by its board of governors, and five district judges senior in service and under the age of 65, are selected by the secretary of state. These judges are also standing members of that division ready to serve if appellate jurisdiction is invoked.
The judges on the court of the judiciary are paid necessary expenses. The clerk of appellate courts serves as the clerk of the court on the judiciary.

5. District Courts

There are 211 judicial positions in the Oklahoma district courts. Judges of the state district courts include the 71 district judges, 77 associate district judges—one for each county—and 63 special judges.

District judges and associate district judges exercise all jurisdiction in the district court except as otherwise provided by law. An associate judge may hear any case not assigned or assignable to him or her under local court rules if a party to an uncontested suit so requests, or parties agree in writing anytime before trial to have the case heard by the associate judge.

The jurisdiction of special judges is limited to specific actions they may hear. These actions were enlarged substantially in 1989 and include:

1) actions for recovery of money where the amount claimed and the counter claim do not exceed $10,000.00 each;
2) all uncontested matters, whether by default, argument or otherwise;
3) actions for forcible entry and wrongfully holding what belongs to another (detainer);
4) actions to recover goods taken (replevin) where the amount does not exceed $10,000.00;
5) any misdemeanor;
6) felonies involving a second and subsequent offense of driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance (Uniform Controlled/Dangerous

Substance Act) to a degree that renders the defendant incapable of safe driving or operating a motor vehicle;

7) issuing a temporary injunction or restraining order when no district or associate district judge is present in the county or when they are disqualified;

8) issuance of writs of habeas corpus;

9) performing duties of a magistrate in a criminal case;

10) any matter at any stage, intermediate or final, in a probate, divorce, domestic relations, custody or support, guardianship, mental health, juvenile, adoption, or determination of a death proceeding;

11) an appeal following an order of the Department of Public Safety revoking a person's license to drive; and,

12) other actions and proceedings, regardless of court rules, where parties agree in writing, at any time before trial, to the special judge hearing the action.

Special judges are authorized to serve as referee in any matter before the district court.

Nonattorneys may serve as special judges if no qualified licensed attorney is available. Their jurisdiction is even further limited. A nonattorney may not hear:

1) uncontested matters, whether by default, agreement or otherwise, in actions for recovery of money where judgment is sought for greater than $1,000.00;

2) actions for forcible entry and detainer if title to land or a boundary dispute is involved;

3) actions of replevin where the amount in controversy for detention of goods is over $1,000.00;

4) a misdemeanor where the action exceeds a fine of $200.00 or imprisonment in county jail for 30 days, or both, except by written consent of all parties;
5) a felony under the Uniform Controlled/Dangerous Substance Act;

6) any matter in a probate, divorce, domestic relations, custody or support, guardianship, mental health, juvenile, adoption, or determination of death proceeding; or,

7) an appeal of an order of revocation of a person's driver's license by the Department of Public Safety.

A nonattorney special judge may not issue a temporary injunction or restraining order or writs of habeas corpus. No order or judgment of a special judge is void or subject to attack as a subordinate judgment.

The 148 district court judges and associate district judges in Oklahoma are elected to four-year terms or appointed to fill vacancies of unexpired terms. There is no limit on the number of terms district and associate district court judges may serve.

The election of district and associate district judges in Oklahoma is held at the time of statewide general elections. Elections for district court judicial positions are competitive and at-large. If more than two candidates file for a judicial position, a nonpartisan primary may precede the general election.

District judges stand for election within the district court judicial district where the judicial position is located. Associate district judges are elected by county wide vote only. The ballot for the election of district and associate judges is nonpartisan and separate from other state office ballots. Voters in the counties within a district court judicial district elect by majority vote from the candidates who have filed for a specific numbered district court judicial office within that judicial district. Current
election boundaries for Oklahoma district court judges are shown in Figure 3, map of State District Court Judicial Districts, at the end of the chapter.

If a district court judge draws no opponent for his or her office at the end of a four-year term, he or she is, in effect, retained for an additional term and that office does not appear on the ballot. If a vacancy occurs in the position of district judge or associate district judge before the expiration of a term, the judicial nominating commission submits a list of three merit nominees to the governor who appoints a replacement for that position.

In 1993, the legislature passed a bill implementing the settlement of a federal lawsuit filed against the state in 1991 which challenged at-large elections of state district judges in Oklahoma. The plaintiff claimed that Oklahoma was in violation of the federal Voting Rights Act in its use of at-large elections to fill judicial offices; that at-large judicial elections in multi-county district court judicial districts and metropolitan areas diluted the voting power of minorities and made the election of minority candidates for state district judicial positions highly unlikely.

The bill which was signed into law by the governor in June 1993, at the Tulsa Greenwood Cultural Center, divides Tulsa county into five districts, and Oklahoma county into four districts, with some judges required to be residents of the district where they hold office and the rest of the judicial offices to be elected at-large. In the 1994 election, those candidates running in the geographical minority district must live there. By 1998, all candidates running for the judicial offices assigned to designated election districts must live therein. The judges in Tulsa and Oklahoma counties are allowed to plan which district court
judicial offices will be designated as a district office within the county or an at-large office in the district court judicial district.

**Special judges** are not elected but appointed by the district judges within judicial administrative districts. The number of appointed special judges is determined on the basis of one special judge for each county within a judicial administrative district with a population of at least 24,000. An additional special judge shall be appointed for each city of 50,000 in population within a judicial administrative district. If any city not a county seat has a population in excess of 35,000, one of the special judges shall be appointed from and hold court in that city. If necessary for proper administration of the courts, the chief justice of the supreme court may authorize the appointment of additional special judges not based on population. Such additional special judges are appointed after an application by a majority of the district judges of a judicial administrative district which states why an additional special judge is needed.

An appointed special judge must be a resident of the county which he or she serves. Special judges are not appointed for specific terms but serve indefinitely at the pleasure of the presiding judge of that judicial administrative district. Judicial compensation for judicial personnel in the state district courts is reported in Table 3 which follows.
Salaries for the state judiciary are funded by the state legislature. Appropriation comes from general revenue and monies derived from the state judicial fund, which will be described later. The law limits the number of judges and salary and provides for the duties and compensation of state court employees. In the 1994 legislative session, the annual budget limitations for employees of the district court jurisdiction were set at 537 full-time equivalent employees. Payroll, salaries or wages were limited to $25,400,732.00.

<table>
<thead>
<tr>
<th>STATE DISTRICT COURTS</th>
<th>NUMBER OF JUDGES</th>
<th>SALARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>District judge</td>
<td>71</td>
<td>By legislation effective in 1995; not to exceed $75,000</td>
</tr>
<tr>
<td>Associate district judge</td>
<td>15</td>
<td>Effective in 1995, in counties under 10,000; not to exceed $58,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30</td>
</tr>
<tr>
<td></td>
<td></td>
<td>32</td>
</tr>
<tr>
<td>Special judge</td>
<td>63</td>
<td>Not to exceed $57,546; beginning October 1994, not to exceed $57,746</td>
</tr>
</tbody>
</table>

A district court clerk is a county officer elected by the voters in each of the 77 counties the year of national
elections. The competitive election is partisan and may be preceded by party primary elections. The court clerk serves a four-year term, and as a county officer is salaried by the county according to state formulas for county officers.

The court clerk is responsible for maintaining all court records, assigning cases to dockets, and collecting all fees, fines and forfeitures of the district court. The court clerk in each county also serves on the governing board of "The Court Fund"--the depository of court collections in the county treasury.

Full-time and part-time court reporters, certified or licensed, are state employees. They are appointed in each judicial administrative district of the state according to the number determined by the supreme court with the aid of the administrative director of the courts. Need is based on factors of caseloads in the administrative district; the number of district, associate district and special judges in the administrative district; the number of cities and towns in the administrative district in which regular court sessions are held and the distance in road miles between each; and any other relevant factor determined by the supreme court. The supreme court may increase or decrease the number of court reporters as need arises and authorize temporary employment by the presiding judge of an administrative district if court business requires this. Salaries for court reporters are set by the legislature.

Prior to 1989, the office of county bailiff existed in the district courts of all counties over 30,000 in population. In 1989, the legislature created the office of secretary-bailiff for district and associate district judges in all counties in the state. Full-time bailiffs became secretary-bailiffs.
One secretary-bailiff may be appointed by order of the
district or associate district judge and serves at the will of
the appointing judge as an unclassified employee of the state,
exempt from the state merit system. A special judge may
appoint a secretary-bailiff with the approval of the presiding
judge. A part-time bailiff may be engaged by a judge to take
charge of a jury during a jury trial. The chief justice
approves the number and assignment of secretary-bailiffs in
all counties of the state by administrative directive.
Secretary-bailiffs are salaried by the schedule established by
the annual legislative appropriation for the district courts.
Part-time bailiffs are paid from the county fund. The
authorized compensation for state court personnel is reported
in Table 4.

Table 4. STATE COMPENSATION FOR STATE COURT PERSONNEL

<table>
<thead>
<tr>
<th>COURT PERSONNEL</th>
<th>NUMBER</th>
<th>SALARY (FY 1994-95)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>BY LEGISLATION</td>
</tr>
<tr>
<td>Certified or licensed court reporters</td>
<td>173 full-time</td>
<td>$18,036 to $26,974</td>
</tr>
<tr>
<td>Secretary-bailiffs</td>
<td>140 full-time</td>
<td>$9,851 to $16,151</td>
</tr>
<tr>
<td>District trial court administrators</td>
<td>2</td>
<td>$30,064 to $60,971</td>
</tr>
<tr>
<td>Secretary to administrative presiding judge of the</td>
<td>9</td>
<td>$10,649 to $11,827</td>
</tr>
<tr>
<td>judicial district</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Workers' compensation court administrator</td>
<td>1</td>
<td>$67,500 (90% of</td>
</tr>
<tr>
<td></td>
<td></td>
<td>district judge</td>
</tr>
<tr>
<td></td>
<td></td>
<td>salary) effective</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1995</td>
</tr>
<tr>
<td>Administrative director of the courts</td>
<td>1</td>
<td>Set by Supreme Court</td>
</tr>
</tbody>
</table>

NOTES: Includes $800.00 annual salary increase to state employees, to begin
October 1994.

Counties may provide other support personnel to the judges depending
on available funding.

Deputy court clerks are paid by the "Court Fund" of the county.
Two trial court administrators are authorized by statute to be appointed to serve in the judicial administrative districts of Oklahoma/Canadian counties and Tulsa/Pawnee counties. A trial court administrator must have statutory minimum qualifications of training and experience and is selected by the presiding judge of the administrative district in which he or she is to be employed, subject to confirmation by a majority of the district and associate district court judges in that administrative district. The court administrator serves at the pleasure of the district judges. Salary is set by the state legislature.

6. Overview of Appellate Judicial Positions

There are nine supreme court justices, five judges of the court of criminal appeals, and twelve judges of the intermediate appellate court of appeals. All appellate justices and judges serve six-year terms of office. There are no limits to the number of terms justices and judges may serve. Only supreme court judicial positions are designated as "justices." Judicial compensation for appellate court positions is shown in Table 5.
Budgetary limitations are also set by the legislature for the number and compensation of appellate court personnel. For example, in the 1994 legislative session, the annual budget limitations for the employees of the civil appellate jurisdiction—the court of appeals and the supreme court—were set at 141 full-time equivalent employees. Payroll, salaries or wages, including deferment contracts and longevity payments authorized by statute, were limited to $8,766,059.00 for these two appellate courts. The administrative director of the courts, hired to assist the chief justice of the supreme court in administration of state courts, the clerk of the appellate courts, and court referees are necessary employees who are paid from the appropriation for the supreme court and court of appeals.

Until the Oklahoma court reforms in the 1960s, the justices of the appellate supreme court and the judges of the court of criminal appeals were elected statewide by partisan ballot. Campaign practices were suspect and corrupt. The 1967 constitutional amendment, Article VII-B, provided that judicial selection of appellate judicial positions would be by appointment based on merit. Retention in an appellate position would be by a state nonpartisan ballot without an opponent at general elections, with the electorate voting "yes" or "no" on whether to retain that justice or judge in office. If a majority of the voters voted "no", a vacancy

would exist in that position and a person would be nominated to fill the vacancy. When the intermediate appellate court of appeals was created by the legislature in 1968, these judicial positions were elective on nonpartisan ballots at state general elections. In 1987, the legislature extended merit selection and retention by election to the court of appeals judicial positions.

Merit selection was created using a 13-member judicial nominating commission to nominate from applicant justices and judges on the basis of merit. The commission would provide a list of three nominees for a vacancy on the courts of last resort from which the governor would make an appointment to complete an unexpired term. At the next general election after one year in that position, the justice's or judge's name would appear on a retention ballot for the electorate to decide whether that person should be retained in judicial office. The retention ballot would also be used in the general election before the expiration of a six-year term for a justice or judge filing for an additional term. To date, no justice or judge in Oklahoma has been removed from office by the retention ballot.

Article VII-B requires the judicial nominating commission to prepare a list of three qualified persons to fill an existing judicial vacancy or one that will occur because a justice or judge has not filed for retention in judicial office. The names of the three nominees, who have agreed to serve if appointed, are submitted to the governor and the chief justice of the supreme court. The governor selects one of the names for appointment to the vacant position. Although it has never occurred, the chief justice makes the choice from the list of nominees if the governor fails to make an appointment within 60 days. The application form used for an Oklahoma judicial vacancy is printed in Appendix B.
An appellate justice or judge wishing to serve another six-year term must **file a declaration of candidacy** to succeed herself or himself. The name of the candidate is placed on a retention ballot at the state general election preceding the expiration of her or his term.

7. **Intermediate Appellate Court--Oklahoma Court of Appeals**

There are **twelve court of appeals judges who serve six-year terms**. Originally, when the legislature created the court of appeals in 1968, six judicial positions were established. In 1982, six new positions were added to the court and the original two divisions of the court were increased to four.

As stated earlier, the court of appeals today is divided into two sections. Two judges who reside in each of Oklahoma's six congressional districts serve on the court. Congressional districts 1, 2, and 3 form divisions 2 and 4 which are located in Tulsa, and congressional districts 4, 5, and 6 form divisions 1 and 3 which are located in Oklahoma City.

The expiration of the six-year terms on the court of appeals are staggered so that one judge from each of the four divisions of the court stands for retention every two years at the state general election. If a vacancy occurs on the court of appeals prior to the expiration of a term, the governor appoints a successor from the three persons nominated by the judicial nominating commission. Each nominee for a vacancy must be a resident of the congressional district which the judicial position represents. The procedures of the judicial nominating commission are discussed later under "**Current Issues in Oklahoma State Courts**."
The twelve judges in the four divisions sit in three-judge panels to hear the civil cases on appeal assigned by the supreme court. The supreme court assigns the judges to the four divisions but judges may transfer from one division to another. Each division elects a chief judge. Two of the three judges on a panel of a division must concur in any decision.

The clerk of the appellate courts serves as the clerk of the court of appeals.

8. Court of Criminal Appeals

There are five judges on the Oklahoma court of criminal appeals who serve six-year terms. In 1987, the legislature enlarged the court from the original three to five members when two of the three judges then serving differed consistently, thus leaving the third judge to determine the criminal law of the state with his concurrence or dissent. Each judge resides in one of five geographic judicial districts in the state. The 1987 redistricting statute for the court included new boundaries and staggered terms of office for the three existing judicial offices and the two new judicial offices. The governor appointed the two additional judges from merit nominations of the judicial nominating commission. The new court organization commenced in 1989. The court of criminal appeals judicial districts are shown on Figure 6 at the end of this chapter.

As stated above, appellate judges of the court of criminal appeals were elected in partisan elections from 1910 until judicial reform in the 1960's. Today, the judges are appointed and retained in office by a majority vote of the state electorate on nonpartisan retention ballots at general elections. Election occurs at the first general election after a judge has completed twelve months of service on the
court as an appointee to a vacancy. If a judge desires to remain in judicial office upon completion of that term, she or he may file for candidacy for an additional six-year term. There is no limit on the number of terms appellate judges may serve. At least one judicial office for the court of criminal appeals appears on the judicial retention every two years ballot at state general elections.

The judges on the court of criminal appeals choose a presiding and a vice-presiding judge from their members for two-year terms.

The court of criminal appeals is served by three referees who hear original proceedings and assist in drafting opinions. The clerk of the appellate courts serves as clerk of the court of criminal appeals.

Under the 1993 legislation which approved the appointment of an Emergency Appellate Division (EAD) to help the Oklahoma court of criminal appeals reduce its backlog of cases, at least 60 temporary judges - district, associate district, and eligible special judges - may be used to resolve the appeals of criminal cases assigned by the court of criminal appeals.

Sixty-four district judges as well as eight special judges from the Tulsa district court have been appointed to serve in three-judge panels to decide these appeals. The judges will not receive additional compensation for this judicial service unless it is authorized by law. They will be reimbursed for travel expenses.

2. Supreme Court

There are nine justices of the Oklahoma supreme court who also serve six-year terms. The Oklahoma Constitution created positions for five justices and provided that this number
could be changed by statute. In 1917, the state legislature increased the number of original positions on the court from five to nine and redistricted the state's supreme court judicial districts. The statute authorized the governor to appoint one justice from each of the four newly created supreme court judicial districts, each justice to initially serve a staggered term. Since the judicial nominating commission did not exist at that time, gubernatorial appointments were made to enlarge the supreme court.

A justice of the supreme court holds judicial office within one of the nine geographical judicial districts of the supreme court and is nominated to the office as a resident of that geographical district. Figure 7, State Supreme Court Judicial Districts, shows the map of these geographic boundaries.

Supreme court justices are also retained by the state electorate at general elections. At least three of the nine judicial district offices appear on the state retention ballot at each general election. If a justice has served twelve months after initial appointment by the governor, he or she may file a declaration of candidacy to remain in that office, and that name will also appear on the retention ballot to complete the term for that office.

When an appellate justice or judge does not file for candidacy, that judicial office is considered vacant and the judicial nominating commission chooses three nominees from the appropriate district for that court, one of whom is appointed by the governor. If the governor fails to appoint one of the three nominees of the judicial nominating commission within 60 days, the chief justice of the supreme court does so.
The justices choose a chief and vice-chief justice for two-year terms. Actually, in Oklahoma the chief justice office rotates from one justice to the next in order of seniority related to time served on the supreme court.

Two referees are provided by statute who act as hearing examiners in original actions. The court appoints a clerk of the appellate courts who maintains all records of the court, and an administrative director of the courts who assists the chief justice in his or her administrative duties.

The qualifications for all judicial offices in Oklahoma are presented in Appendix A.

D. Oklahoma Tribal Courts

1. Judicial Power, Access to Courts, and Jurisdiction

Oklahoma has 65 Indian tribes and over a quarter of a million Indians, the largest number in the United States. Indian tribal members in Oklahoma have access to state and federal courts, and their own tribal courts if the tribe has reorganized under the Oklahoma Indian Welfare Act (OIWA). Thirty-nine Oklahoma tribes have chosen to do so.

Judicial power for tribal courts is permitted under federal law for Oklahoma tribes, which choose to reorganize under the Oklahoma Indian Welfare Act. The Indian tribal constitution under reorganization provides the grant of judicial power in the tribe and where it shall be retained or vested.

The tribal courts have jurisdiction in Indian country, that land still held under trust by the federal government wherever it is. Indian country in Oklahoma
includes individual allotment land and land still held by the individual Indian tribes.

Tribal courts reestablished under OIWA have legal and subject-matter jurisdictions. The legal jurisdictions are general and appellate. The OIWA provides for both the tribal trial and appellate courts with civil and criminal subject-matter jurisdiction.

Disputed state and Indian jurisdiction cases are frequent. The state of Oklahoma lacks civil and criminal jurisdiction within Indian country. The federal government, not Oklahoma, has jurisdiction to prosecute crimes by or against Indians within Indian country in Oklahoma. Oklahoma tribal courts state that their primary jurisdictional problems with state courts involve taxation, the Indian Child Welfare Act (ICWA), and domestic relations. The state supreme court chief justice cites gambling and the ICWA as the most frequent jurisdictional problems for the state. 20

2. Tribal Law

Every Indian tribe with a treaty with the United States has a "trust" relationship with the federal government, and almost all of the 65 Oklahoma tribes have at least one treaty with the United States.

The General Allotment Act, or Dawes Act, of 1887, divided all Indian tribal lands into separate parcels for tribal members to farm and authorized the President to sell "surplus" lands to non-Indians. The Curtis Act of 1898 was enacted particularly for the Five Civilized Tribes in Indian Territory, whose treaties with the United States had given them their land outright rather than held in trust status. This act allotted and
restricted lands of the five tribes and abolished rights of sovereign power of tribal self-government, the tribal courts and the rights of tribes to collect taxes. The tribes were left with little Indian land, unlike tribal reservations set aside in other states and territories. Indian laws became moot without sovereignty and tribal courts.

In 1936, Congress passed the Oklahoma Indian Welfare Act (OIWA) which, like the Indian Reorganization Act (IRA) enacted in 1934 for Indian tribes outside Oklahoma, restored benefits if tribes would reorganize to develop their own institutions, form federal chartered corporations, and reassert sovereign powers of self-government. Rights would be restored to reestablished tribal courts, with civil and criminal jurisdictions.

Indian tribal sovereignty boundary lines are unlike the geographic boundaries of a state; sovereignty extends to tribal lands wherever located and tribal members wherever they are. Each tribe governs by tribal constitution and legislation, which includes ordinances, statutes, and codes. Each legislates in its own way for violations of acts committed or omitted as commanded by the tribe (criminal law), and rights against a conflicting claim of another (civil law). Some tribes have developed a criminal code. The Cherokee nation has adopted the Oklahoma penal code. Tribal courts adjudicate tribal legislation.

The tribal courts which have been reestablished under the OIWA have developed their rights over time and with difficulty. Problems in applying tribal law in Oklahoma rise most frequently over jurisdictional questions with state courts.
In 1988, a joint legislative committee on state-tribal relations was established by Oklahoma statute to oversee agreements between tribal governments and the state. The Oklahoma supreme court co-sponsors an annual sovereignty symposium with tribal government courts which presents Indian law issues to tribal and state court officials, and officials of both governments. It is well attended by Indians in the United States and from other countries. The eighth symposium will be held in 1995.

3. Tribal Court Cases and Decisions

Oklahoma Indian tribal courts are separate and distinct from the state court system. If tribes reorganize and establish tribal courts under the Oklahoma Indian Welfare Act, the courts are located in Indian country, and shall be organized in a two-tiered structure with general and appellate levels of jurisdiction. Both civil and criminal subject-matter jurisdictions are allowed. The courts adjudicate tribal law, mostly everyday issues among the tribal members. Unlike the state court system, Oklahoma tribal judiciary are all attorneys. A tribal court makes its own court rules. Tribal court is usually held in the Oklahoma town or city which is the capital of an Indian nation.

In the 19th century, the decisions of tribal courts prevailed in what is now Oklahoma. Today, tribal court judicial proceedings are not necessarily binding on another court system unless the subject matter is under a federal act which requires that the proceeding be recognized and given "full faith and credit", that is, a court gives full effect and an obligation of enforcement to another court's judgments or record. While full faith and credit may be given by an Indian tribal court in Oklahoma, it does not follow that the Oklahoma court
system will also enforce that tribal court's judgment or order.

Even when full faith and credit is given, tribal members complain that other court systems do not always recognize those tribal traditions which protect Indian rights and entitlements. One example is that under Indian tradition grandparents have the same custodial rights of children as parents.

Tribal courts have the authority to adjudicate tribal legislation. Today, as in all courts, most tribal cases are about common, everyday issues such as domestic disputes, children's welfare and the possession of pick-up trucks. It is important, however, to describe the problems of recognition of tribal decisions by the state and federal jurisdictions which occupy the same geographic space.

Comity is the mutual respect given out of courtesy to the laws and judicial decisions among the tribal, state, and federal courts. Comity is not binding; court systems choose to do so. Comity, however, differs from the effect of full faith and credit, which gives an obligation of enforcement to another court's judgments or records. The Creek Nation, for example, has legislated to establish full faith and credit for money judgments and parental rights of foreign courts. Tribes recognize the judgments of other tribes and some legislate to provide grants of reciprocity to the state jurisdiction. Many tribes recognize state court orders on bail bond, extradition, probate and parole.

The history of full faith and credit has been that judgments from tribal courts are not recognized by the
states. Oklahoma courts are not as adamant in such a stance as other states and have had an unofficial system of full faith and credit on certain types of tribal cases. Under federal law, however, the state district courts must give full faith and credit to family, juvenile, and child welfare decisions of tribal courts.

In 1992, Oklahoma legislation affirmed that the state supreme court promulgate court rules to issue standards for recognition of tribal court judgments. The Rules for District Courts of Oklahoma were amended by order of the supreme court on May 26, 1994, to do so. Under the standards, the district courts of the state shall grant full faith and credit and cause any tribal court final written judgment to be enforced where the tribal court that issued the judgment grants reciprocity to judgments of the courts of the state of Oklahoma. Problems which remain to be addressed include the promulgation of rules under tribal codes to recognize state laws by reciprocity, and the court rules made by individual district courts which put tribal judgments and orders into effect.
Figure 1.

OKLAHOMA STATE COURTS
1907-1969

CRIMINAL COURT OF APPEALS

APPELLATE COURTS

SUPREME COURT

DISTRICT COURT
Civil and Criminal Cases
Any Amount
Exclusive Divorce Cases
(25 Districts)

Concurrent Jurisdiction

COUNTY COURT
Cases - ≤ $1,000
Probate
(77 Counties)

POLICE COURT
Criminal and City Traffic Violations Municipal

JUSTICE OF THE PEACE
Civil Cases- ≤ $200 Traffic Violations cited by State Police

Appeal: Civil
Criminal
Probate

Figure 2.
OKLAHOMA STATE JUDICIAL SYSTEM
ORGANIZATIONAL CHART-1994

SUPREME COURT
9 justices
Appellate jurisdiction over all civil matters

COURT OF APPEALS
12 judges
Civil appeals assigned by the Supreme Court to one of 4 divisions

DISTRICT COURTS
71 district judges, 77 associate district judges, 63 special judges
Original jurisdiction over all justiciable matters

MUNICIPAL COURT
NOT OF RECORD (340)
Approx 350 full/part-time judges
City ordinance violations

MUNICIPAL CRIMINAL
COURT OF RECORD (2)
6 full-time, 14 part-time judges
City ordinance violations

WORKERS' COMPENSATION COURT
10 judges
Injury compensation claims

COURT OF CRIMINAL APPEALS
5 judges
Appellate jurisdiction in criminal cases

COURTS OF LAST RESORT

INTERMEDIATE APPELLATE COURT

COURTS OF GENERAL JURISDICTION

COURTS OF LIMITED JURISDICTION

Routes of Appeal: Assignment of Cases:

* The Court on the Judiciary is not shown.

Figure 3.
MAP OF STATE DISTRICT COURT
JUDICIAL DISTRICTS

Figures in parenthesis indicate 1990 official total population of Judicial Districts.

1. The counties of Beaver, Cimarron, Harper, and Texas. (29,806)
2. The counties of Beckham, Custer, Ellis, Greer, Harmon, and Roger Mills. (64,705)
3. The counties of Jackson, Kiowa, Tillman, and Washita. (61,936)
5. The counties of Comanche, Cotton, Jefferson, and Stephens. (167,446)
6. The counties of Caddo and Grady. (71,297)
7. The county of Oklahoma. (599,611)
8. The counties of Kay and Noble. (59,101)
9. The counties of Logan and Payne. (90,518)
10. The county of Osage. (41,645)
11. The counties of Nowata and Washington. (58,058)
12. The counties of Craig, Mayes, and Rogers. (102,640)
13. The counties of Delaware and Ottawa. (58,631)
14. The counties of Pawnee and Tulsa. (518,916)
15. The counties of Adair, Cherokee, Muskogee, Sequoyah, and Wagoner. (202,259)
16. The counties of Haskell, Latimer, and LeFlore. (64,543)
17. The counties of Choctaw, McCurtain, and Pushmataha. (59,732)
18. The counties of McIntosh and Pittsburg. (57,360)
19. The county of Bryan. (32,089)
20. The counties of Carter, Johnston, Love, Marshall, and Murray. (83,979)
21. The counties of Cleveland, Garvin, and McClain. (223,653)
22. The counties of Hughes, Pontotoc, and Seminole. (72,554)
23. The counties of Lincoln and Pottawatomie. (87,976)
24. The counties of Creek, Okfuskee, and Okmulgee. (108,956)
25. The counties of Atoka and Coal. (18,558)
26. The county of Canadian. (74,409)

Figure 4.

MAP OF STATE COURT OF APPEALS
JUDICIAL DISTRICTS

![Map of State Court of Appeals Judicial Districts]

<table>
<thead>
<tr>
<th>District</th>
<th>Judge</th>
<th>Counties</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Daniel J. Boudreau</td>
<td>Tulsa and Wagoner (west).</td>
</tr>
<tr>
<td></td>
<td>Jerry Goodman</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>W. Keith Rapp</td>
<td>Adair, Cherokee, Craig, Creek, Delaware, Haskell, Mayes, McIntosh, Muskogee, Nowata, Okfuskee, Okmulgee, Osage (south), Ottawa, Rogers, Sequoyah, and Wagoner (except west).</td>
</tr>
<tr>
<td></td>
<td>John Reif</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Joe C. Taylor</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Vacant, September 1, 1994</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Stewart M. Hunter</td>
<td>Canadian (far east), Kay, Logan, Noble, Oklahoma (except those areas in District 6), and Osage (north half).</td>
</tr>
<tr>
<td></td>
<td>Carl B. Jones</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Carol M. Hansen</td>
<td></td>
</tr>
</tbody>
</table>

**SOURCE:** Oklahoma Almanac, Department of Libraries, 1993-94. (1990 Census Congressional Districts)
Figure 5.
CIVIL APPELLATE JURISDICTION
IN OKLAHOMA STATE COURTS

Figure 6.
MAP OF STATE COURT OF CRIMINAL APPEALS JUDICIAL DISTRICTS

<table>
<thead>
<tr>
<th>District</th>
<th>Judge</th>
<th>Counties in District</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Charles S. Chapel</td>
<td>Craig, Delaware, Mayes, Nowata, Ottawa, Rogers, Tulsa, and Wagoner.</td>
</tr>
<tr>
<td>4.</td>
<td>Reta M. Strubhar</td>
<td>Canadian and Oklahoma.</td>
</tr>
</tbody>
</table>

Figure 7.
MAP OF STATE SUPREME COURT JUDICIAL DISTRICTS

<table>
<thead>
<tr>
<th>District</th>
<th>Judge</th>
<th>Counties in District</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Robert E. Lavender</td>
<td>Craig, Grant, Kay, Nowata, Osage, Ottawa, Pawnee, Rogers, and Washington.</td>
</tr>
<tr>
<td>6.</td>
<td>Robert D. Simms</td>
<td>Tulsa.</td>
</tr>
<tr>
<td>7.</td>
<td>Hardy Summers</td>
<td>Adair, Cherokee, Creek, Delaware, Mayes, Muskogee, Okmulgee, and Wagoner.</td>
</tr>
</tbody>
</table>

A. Overview

Before any court can decide a case, it must have jurisdiction over the parties and the subject matter, that is, the type of case. All citizens have access to both federal and state courts. Federal judicial power extends to questions arising under the federal constitution, statutes, and treaties. Its judicial power also extends to disputes between citizens of different states, which is called diversity jurisdiction, and exclusive jurisdiction over patent and copyright cases. Federal district courts have original jurisdiction over all civil actions arising from these issues. Some special kinds of cases, such as incidents at sea and bankruptcy, are heard in federal courts. The ability to sue in federal court depends on federal law and concepts of due process. Federal cases, however, are not discussed in this GUIDE.

As stated earlier, state judicial power extends to questions arising under the state constitution and statutes. Cases filed in state district courts in the country courthouses of Oklahoma are assigned to various docket, which are the lists of cases to be heard on particular subject matter. The dockets for Oklahoma state
courts are established by statute and limited to civil, criminal, traffic, probate, juvenile and family relations, and small claims.

B. Civil Cases

General civil cases are most frequently associated in the public's mind as "court cases", and the legal process for such a case is described here to illustrate how a court case is related to court structure.

In Oklahoma, general civil cases--breach of contract, property rights, personal injury, or civil and privacy rights--actually comprise only about 16% of the total annual caseload in Oklahoma district courts. About 40% of the total Oklahoma caseload of general civil cases are disposed of by the court each year. Over the past few years, 55% to 70% of the disposed general civil cases have involved an amount in controversy over $10,000.00. Disposition of the cases occurs in a number of ways. Approximately 40% of these cases are dismissed or settled; a little over 40% are determined by court order; about 18% are decided by a non-jury or bench trial (a trial by a judge); and, a little over one percent (1%) are decided by jury trial. The general civil caseload in 1992-93 was 149,153.24 The judge always presides at a trial and decides the questions of law which apply, as well as questions of fact if a jury trial is waived or not permitted in the type of case.

A general civil dispute follows a legal process which results either in a disposition of the dispute, or a final decision if the lower court's judgment is appealed. A case begins when the plaintiff--the person or party who files a complaint--files a cause of action with the court clerk's office in the courthouse of the county seat. A state district court is held in each county courthouse in the state. The clerk of the district court, an elected county officer, assigns the case to the court docket appropriate for its subject matter. In this instance, the case
would be assigned to the civil docket. The chief judge of the district court is required by statute to supervise and control this docket and all others.

The defendant—the person complained against and from whom recovery is sought—is served with court papers that she or he is being sued. A "return of process" by the defendant assures the court that the defendant knows of the suit. The defendant may contend by a certain deadline that the plaintiff’s case is inaccurate in a number of ways. If this course is followed, several different motions, or answers, can be filed with the court to dismiss the case. Throughout the legal process of a case, various special motions filed with the court are the means for a hearing and determination by the judge which will affect the proceeding.

If the defendant chooses to proceed and files a pleading; several pretrial procedures may then occur. Either party in a civil case may make a motion for judgment on the pleadings—that is, from the pleadings made no fact disputes remain, therefore, there is no reason for a trial, and the judge should decide the case now. Or the parties may choose to proceed by securing required disclosure of relevant evidence before the trial. This discovery of useful information occurs through written interrogatories and deposition (oral questioning) of potential witnesses by attorneys to help them prepare for trial. At this point, a motion for summary judgment after discovery could end a case quickly and easily without a courtroom trial. The attorney making the motion for summary judgment after discovery admits that there is an apparent dispute of fact in the party’s pleadings, but no issue of fact worthy of trial. The opponent must show specific facts that a genuine issue does exist. The time taken by the judge to hear summary judgments may require much less of the court’s time than a lengthy court trial. However, in Oklahoma,
summary judgments of district court judges are frequently overturned on appeal by the state civil appellate courts.

If the parties proceed with the case, a **pretrial conference** will occur prior to trial. The attorneys for both parties and the judge meet informally; the judge identifies the issues that remain after discovery and examines and identifies documentary evidence before trial. Some judges may encourage out-of-court settlement at this point. Many cases are settled before trial because of the likelihood of success for one party, the impact of defeat for either party, or the expense of continuing legal expenses. If a trial date has not been set, the time of trial is set at the pretrial conference.

The purpose of a trial is to resolve all remaining fact disputes. Either a judge or a jury can make these determinations. **Judge**, or **bench**, **trials** proceed without a lengthy wait and are more informal than jury trials, with the judge deciding the facts of the case. The right to a jury trial is inviolate under Oklahoma constitution except in civil cases involving less than $1,500.00, and criminal cases where punishment is a fine, unless the amount of the fine is over $1,500.00. The right to a jury trial need not be exercised, but if the defendant asserts the right in his or her pleadings, the first order of business of the trial is to select a jury.

A **jury panel** of 25 to 50 members is called by the district judge, or chief judge of the district court, in a manner prescribed by statute. **Summons** are issued by the court clerk. Any person summoned for the panel may be excused at the discretion of the court. Names of the jury panel members are drawn at random to form the jury. Each prospective juror is subject to challenge to serve on a particular jury during what is called "**voir dire,"** which is the questioning of potential jurors by the attorneys for both sides. A challenge may be either for cause or through the means of
a limited number of preemptory challenges given each side. If a civil case in Oklahoma is one in which damages asked exceed $10,000.00, 18 possible jurors are selected from the jury panel. Through voir dire, the attorney for each side strikes three potential jurors without reason, leaving a jury of 12. In all civil jury cases involving an amount in controversy less than $10,000.00, a jury of six persons is required. Twelve prospective jurors are drawn, each side may strike three, forming a jury of six.

When the number of required jurors has been chosen for the particular civil case, the jury is sworn. Both sides then present their case. Court reporters record the complete trial.

If the trial is a jury trial, the jurors accept the judge's rule of law, resolve the disputes of fact, and apply the legal rules given by the judge to the facts. The court’s charge to the jury is to direct them in their fact findings and any damages to be assessed by the action of the jury. The jury reaches a verdict based on the "preponderance of evidence" shown. Any motions made by the attorneys following the trial are made on this verdict.²⁷

If the trial is nonjury, the judge issues a decision, not at the end of the trial but sometime after so that she or he has time to consider the disputed facts and the law.

A judgment order--the judicial declaration that is the decision of the court--is the result of trial court procedure. A judgment does not literally order either party to do anything. If a jury verdict or decision favors the plaintiff, the judgment states only that the plaintiff shall recover the amount of money stated in the judgment order.

In Oklahoma, all litigants are entitled to one appeal as a right. An appeal of a case becomes permissible only when the final
judicial order has been made by the trial court. The time given in which to make an appeal is determined by statute. An appeal of a civil case in Oklahoma is filed with the supreme court in the form of a **petition of error** within 30 days of the judgment order. The appellant also files a written **appeal brief** stating all erroneous rulings of the trial judge supported by legal arguments. The **opposite party--the appellee**--files a written brief arguing the correctness of the trial judge.

An appeals court operates quite differently than a trial court. This court is interested only in reviewing the actions of the trial judge and whether the trial was conducted properly. As stated earlier, in Oklahoma, the supreme court determines which civil cases will be assigned to the **intermediate appellate court**--the court of appeals--and which cases the supreme court will hear.

In Oklahoma, cases assigned to the court of appeals are heard by a three-judge panel. The oral arguments of the opposing attorneys are based on their briefs. The time for argument is limited, the arguments of the attorneys are technical, and the judges may interrupt with frequent questions. The court "**takes the case under advisement**" to evaluate the arguments and briefs. The three members of a court of appeals panel discuss individual cases and the merits of each. Each judge indicates how he or she expects to vote. A decision is made by the members of the panel as to whether an opinion will be written or the judgment of the lower court affirmed. A vote of two of the three members of a panel is required for a decision.

Decisions of state appellate courts are not announced formally. They are given to the clerk of the appellate courts who notifies the parties and sends copies of opinions to the appropriate parties.
A decision of the Oklahoma court of appeals is not appealable if the supreme court justices vote not to review the decision. A petition for a writ of certiorari for the supreme court to review the opinion of the court of appeals may be filed, reviewed by a supreme court referee, and submitted to an assigned individual supreme court justice for review. That justice may make a recommendation and the supreme court at its discretion may grant or deny the petition for the writ of certiorari. A majority vote of the justices is required to decide any question before the court. If certiorari, or cert, is denied, the opinion of the court of appeals is final without further review.

If review is granted, the case is considered as if it had never gone to the court of appeals. The justice to whom the petition was assigned prepares a proposed opinion on the issues of law. Each justice of the supreme court studies and considers the proposed opinion before casting a concurring or dissenting vote on the law expressed in the opinion. The opinion of the supreme court may modify, affirm, or change the opinion of the court of appeals. No further appeal exists at the state level. If the opinion is based on the Oklahoma constitution and provides greater rights than those of the United States constitution, it may not be overturned by the United States supreme court on review. If a decision of either the Oklahoma supreme court or the Oklahoma court of criminal appeals, the state's courts of last resort, holds that United States law is unconstitutional, direct appeal is made to the United States supreme court.

C. Criminal Cases

Criminal cases are citations or charges brought by a municipality or the state which allege a person—the defendant—has violated a municipal ordinance or a state criminal statute. Municipal courts hear the civil violations and crimes defined by cities and towns. State charges of violations are filed by the state through the office of the district attorney, who is an
Oklahoma state officer elected for four years. A district attorney serves all counties within a given district. There are 27 such districts in Oklahoma, but these districts do not share the boundaries of the district court judicial districts.

Oklahoma statutes define a **felony** as a crime which is, or may be punishable with death, or by imprisonment. Every other crime is a **misdemeanor**. A **felonious act**, such as use of a dangerous weapon or assault and battery with intent to commit felony, is punishable by a $1,000.00 fine, or the penitentiary not exceeding two years, or both. A misdemeanor is punishable by imprisonment in the county jail not exceeding one year, a fine of $500.00, or both.

In Oklahoma, the act of **homicide**—that is, **death of another**—is classified as first and second degree murder with intent, first and second degree manslaughter without intent, justifiable homicide, and excusable or accidental homicide.

Oklahoma courts use a reporting system which lists felony criminal cases as **Murder 1**, which is killing with forethought a capital offense punishable by death, life without parole, or life; **D.U.I.**, which is driving under the influence of alcohol or drugs where maiming and death occurs; and **other**. **Other** includes the homicide cases in the first and second degree, of second degree murder with intent, manslaughter without intent, and justifiable and excusable homicides. Serious person crimes, kidnapping, robbery with and without a weapon, burglary, arson, child abuse, bigamy, rape, assault, larceny, bribery, embezzlement, forgery, property offenses, and drug sale and possession are listed as **other**.

Misdemeanors are reported as **D.U.I.**, all crimes not a felony, and state traffic violations.
In 1993, approximately 52% of the total caseload in the Oklahoma courts was criminal cases. Of the 477,250 cases, 62%, or 296,783, were traffic misdemeanors, the most frequent court case in the United States, and 180,467, or 38%, were felony and misdemeanors other than traffic. About 49% of all of these cases was disposed during 1993. Forty percent (40%) of the caseload for felony and misdemeanors other than traffic was disposed; 67% by guilty pleas of felony and misdemeanor defendants, 30% by dismissal; and almost 3% by trial. Five hundred sixty-six (566), or 3.5%, of the felony defendants had a jury trial, but only 0.3% of the misdemeanants other than traffic had a jury trial.29

In 1993, Oklahoma district courts conducted 1,058 felony trials and 928 misdemeanor trials other than traffic by either a nonjury trial by a judge or a jury trial. The office of the district attorney is responsible for the state’s case to show from evidence that "beyond a reasonable doubt" the defendant is guilty of the crime as charged. The defendant may have an attorney or if the defendant is indigent the attorney may be a public defender provided by the state. The office of a municipal or county indigent defender has the duty to represent anyone charged with a violation punishable by incarceration who appears for preliminary hearing or arraignment without the aid of legal counsel, who desires counsel, but has been unable to obtain it. In 1993, the Oklahoma court of criminal appeals established qualification rules for determining when a defendant in a criminal case is entitled to representation by a court-appointed attorney.

The choice of jurors is important in a criminal trial because of attitudes jurors may hold on crime; therefore, the preemptory challenges of prospective jurors by the attorneys is probably more important than in civil cases. In Oklahoma, the state constitution requires that twelve jurors serve in a felony trial. Twelve jurors serve in a criminal trial. All other jury criminal cases require a jury of six persons. The outcome of a trial can be either that

the jurors do agree on the verdict or a reasonable probability exists that the jurors won't agree. If the latter occurs, the judge excuses the jury and a new trial will take place.

In Oklahoma--one of few states--the jury deciding the verdict may convict and assess punishment, and shall do so upon request of the defendant. The death sentence is determined by the verdict jury in capital cases (murder) and punishment is assessed in noncapital felony cases. The entire jury must agree on the verdict in capital cases. Where imprisonment for a crime is more than six months, the entire jury must agree on the verdict. In other cases, the jury may be non-unanimous. Three-fourths of the jury must concur, with those concurring signing the verdict.

If the jury reaches a verdict, the case may be appealed after the court judgment and sentencing. The Oklahoma court of criminal appeals has exclusive jurisdiction of criminal appeal cases. The defendant has ten days to notify the court of intent to appeal. Because of the constitutional issue of delay in filing indigent appeals, the 1993 legislature provided that in all misdemeanor and felony cases, the defendant has 90 days from the date of the pronouncement of the judgment and sentence to file the petition in error and records of the case for appeal. The Oklahoma Appellate Indigent Defender Division (CAIDS) is responsible for filing the appeals of indigent defendants if the defendant was not represented at trial by the county public defender, or if a conflict of interest exists in the county public defender office making the appeal.

The court of criminal appeals hears cases on appeal. Three of the five judges must concur, and the opinion of the court is final. A United States constitutional issue stated in the case allows for a petition for a writ of certiorari to the United States supreme court.
CHAPTER V

STATE COURT ADMINISTRATION

A. Overview

Court administration is the organization provided by state constitutions, statutes, and rulemaking to carry out the internal judicial business of a court system outside the courtroom. Modern court administration occurs in three overlapping areas: unification of state judiciaries, statewide financing of all courts, and developing the state court personnel system.  

The state of Oklahoma has a unified court system; that is, a simple, hierarchical structure and central administration, a fairly common pattern for state courts. However, Oklahoma’s state court system is more centralized than two-thirds of the other states. The organizational structure to be administered is well defined by the Oklahoma constitution and state statutes. The judicial department has no grant of administrative enforcement powers, however, and little muscle exists for the supreme court to carry

out its administrative duties and responsibilities. With the exception of the supreme court power to invoke the jurisdiction of the court on the judiciary, and the power of the independent council on judicial complaints to act as a grand jury on issues of judicial conduct, there is limited management of the judiciary. The state judiciary is responsible for managing its own affairs and problems of court delays, costs, poor procedures and high caseloads.

Oklahoma supreme court justice Marian P. Opala states there is a lack of support for judicial management in Oklahoma and the courts are not well managed. Management in the nine regional judicial administrative districts is almost non-existent and the presiding judges of judicial administrative districts are held captive to administrative duties during their term of office. At the district court level, the presiding judge of the district has full control and supervision of the dockets, while the county court clerk, elected in each county as an autonomous county official, is authorized with the ministerial duties of the court. Tulsa-Pawnee and Oklahoma-Canadian judicial administrative districts are managed by of state-paid trial court administrators, a more recent administrative post.32

Oklahoma is not unique in its problems of court administration. Years of uncertainty about what can be done to resolve the administrative problems of state courts has resulted in courts relying on management by the state legislatures.

B. What Are the Administrative Powers?
Administration of the judicial department of Oklahoma is vested by the state constitution--Article VII--in the supreme court, to be exercised by the chief justice in accordance with rules of the supreme court. The power includes general administrative authority over all the courts in Oklahoma, except for the senate when it sits as a court of impeachment and the court
on the judiciary. The chief justice has the power of temporary assignment of any judge to a court other than that for which he or she was selected.

Today, the procedures used to administer the Oklahoma state court system have been established by subsequent statutory provisions of the legislature, supreme court rules which are codified by law and have the effect of statutes, and the rulemaking authority provided by statute for presiding judges of the judicial administrative districts and chief judges of district court judicial districts.

In 1967, the revised Article VII of the state constitution authorized an administrative office of the courts, an administrator of the courts, and staff. The office was created by the legislature in 1968. The administrative director of the courts is appointed by the supreme court and serves at its pleasure to assist the chief justice in administrative duties, the court on the judiciary, and the judicial nominating commission.

C. What Are the Levels of Court Management?

In addition to the general administrative authority of the supreme court, four additional levels of court administration are provided by the Oklahoma constitution or state statutes:

1) the division of the state into judicial administrative districts as provided in the amended Article VII of the Oklahoma constitution; nine such districts were created by the legislature in 1968;
2) the division of the state into district court judicial districts as provided by statute in 1910, and set forth in Article VII, as amended, and redistricted by the legislature as 26 districts in 1980;
3) the state district courts held in each of the 77 counties of the state; and,
4) the courts of limited jurisdiction.

1. Oklahoma Supreme Court

The **non-adjudicative functions** of the supreme court in Oklahoma are numerous and detailed. They are depicted in Figure 8 at the end of this chapter. In addition to the administrative liaison with the executive and legislative branches of government, the supreme court is responsible for court-related entities, court personnel, and statutory administrative functions within the state court system itself. By order, it provides for the election of the presiding judges of the nine judicial administrative districts, fixes the powers of the presiding judges, and the rules for presiding judges to assign district judges who hold court outside their own district. The supreme court also provides for meetings of the **assembly of presiding judges** to discuss better and more efficient administration of the district courts judicial districts.

The supreme court determines the times and places where district court may hold court. When authorizing holding court in a city other than a county seat, the supreme court provides the times when the office of the court clerk will transact business in such cities. The supreme court adopts the rules for the assignment of district, associate district and special judges to hold court anywhere in the state, with the chief justice making such assignments.

The supreme court provides for meetings of the state judges within each judicial administrative district to coordinate work, discuss dockets and workloads, which judges are available for assignment outside their district, and any matter which will bring about better and more efficient administration of the law. In this regard, the supreme court makes the rules and orders to equalize the workload among
judges so that the courts in Oklahoma are speedy and efficient.

The supreme court also provides the rules for the minimum number of jury and nonjury terms to be held in each county in one year.

The state constitution and statutes provide for an administrative director of the courts and staff to assist the chief justice in these administrative duties. The administrative office of the courts has direct duties and responsibilities to the state court system. It serves as an analytical center for all Oklahoma courts and has three service divisions--financial, court, and legal.

In Oklahoma, the administrative office of the courts has less administrative responsibility than in states which provide statewide appropriation for most of the court budget. State appropriation in Oklahoma is limited to the judiciary budget and is filed separately from the general appropriation budget. The administrative office of the courts prepares the state-funded portion of the budget.

The administrative director of the courts is also requested by statute to submit a report each year to the legislature on the following items:

1) whether boundaries for the district court judicial districts should be changed, if so, which counties should be included in each district;

2) the number of district judges and associate district judges to be authorized for each district court judicial district;
3) whether the formula for the number of special judges allowed for each judicial administrative district should be changed;

4) the caseload pending in each district court judicial district; and,

5) the number of cases heard by each judge of the district courts during the past year.

The administrative director is required to consider the area of a district court judicial district when making recommendations. Most of this information is published each fiscal year in the form of an annual report on the Oklahoma judiciary for members of the state legislature. However, boundary changes, and the number of judicial personnel are not recommended in this annual report. A legislative advisory committee for the state judicial system, established in 1992 by the legislature, studied the need for additional judicial personnel and district court judicial district boundary changes in 1993. Its recommendations were not acted on by the 1994 legislature.

2. Judicial Administrative Districts

The legislative referendum of 1967 provided that the state be divided by statute into judicial administrative districts or zones for the regional administration of district court judicial districts. Nine judicial administrative districts were created in 1968, effective in 1969. Minor redistricting occurred in 1983 and 1992. An administrative district is comprised of one to four district court judicial districts. Figure 3, on page 74 in Chapter III, is the map of Oklahoma district court judicial districts and Figure 9 at the end of this chapter shows the boundaries of Oklahoma’s judicial administrative districts. The administrative duties within each judicial administrative district are carried out by the presiding judge.
The selection of the presiding judge in each judicial administrative district was established by order of the supreme court in 1969. A district judge is chosen presiding judge by a majority of an assembled quorum of three-fourths of the total number of district and associate district court judges in the district courts within the judicial administrative district. The selection of the presiding judge by judges on the trial court, rather than by the chief justice of the supreme court, represents a degree of autonomous administration at the regional and local court levels. There are no statutory limits on the service of presiding judges.

The presiding judge is subject only to the rules, orders and directives of the supreme court or the chief justice. He or she has the general administrative authority and supervision over all courts, judicial personnel, and court officials of the district court judicial districts within the judicial administrative district. Only upon the request of a district judge and showing of cause, the presiding judge has the authority to make temporary intradistrict assignments of any judge or court official to serve within the judicial administrative district other than that for which the judge or court official was selected or originally assigned.

The presiding judge also designates one district court judge to serve as chief judge of each district court judicial district within the administrative district. If there is only one district court judge in a judicial district, the presiding judge of the administrative district designates that person as chief judge. If there is more than one resident district judge within a district court judicial district, the presiding judge designates or prescribes by rule how one district judge shall serve as chief judge. A chief judge serves at the pleasure of the presiding judge of the administrative district.

Special judges within a judicial administrative district, although appointed by district court judges, also serve at the pleasure of the presiding judge of the administrative district.

Presiding judges may adopt rules and issue orders and directives to create a more efficient and speedy administration of the law within the judicial administrative district. All judges and court officials shall comply with the rules, orders and directives of the presiding judge of the judicial administrative district. Any noncompliance is reported to the chief justice. All appointments and rules of the presiding judge are filed with the court clerk of each affected district court within the judicial administrative district. Rules are published in the Oklahoma bar journal under the direction of the chief justice. Any data and reports requested of judicial personnel by the presiding judge or the supreme court are submitted to the presiding judge of the judicial administrative district.

In 1980, trial court administrators were authorized by statute to help the presiding judges of the urban Oklahoma/Canadian and Tulsa/Pawnee judicial administrative districts with their administrative duties. The trial court administrator, in each of these judicial administrative districts, is selected by the presiding judge and subject to confirmation by a majority of the district and associate district court judges in the judicial administrative district. The trial court administrator serves at the pleasure of a majority of the district and associate district judges in the judicial administrative district.

3. District Court Judicial Districts

Administrative duties and responsibilities also exist at the level of the district court judicial districts.
Management at this level varies widely because district court judicial districts differ in the number of counties served, population within the counties, and geographic distances. The amount of court activity and type of caseload also differs because of commercial activity, highways, and the location of government installations and institutions. Urban settings generate a larger district court caseload than rural counties. Figures 3 on page 74 illustrates the district court judicial districts in Oklahoma.

District court judicial districts are subject to the administrative authority of the supreme court, the presiding judge of the judicial administrative district in which a district court judicial district is located, and rules on administration of the courts adopted by the supreme court and codified as law.

The chief judge of the district court judicial district designated by the presiding judge of the administrative district is in charge of the one or more district courts within that judicial district. In 15 of the 26 judicial districts, only one district judge serves the county or counties in those judicial districts: that judge is also the chief judge of the courts of the judicial district.

The chief judge has plenary control and supervision of the courts docket and is vested with power to prescribe by rules and directives the cases to be assigned to the judicial personnel within the district court judicial district. The chief judge must adopt rules consistent with the rules of the supreme court and the presiding judge of the judicial administrative district. At least 20 copies of the rules of a chief judge must be transmitted to the administrative director of the courts. Any instance of noncompliance with court rules, orders or directives by associate district
judges, special judges, or court officials is reported by the chief judge of a district court judicial district to the presiding judge of that judicial administrative district, who forwards complaints of noncompliance to the chief justice of the supreme court.

A chief judge of a district court judicial district can also adopt practices for the assignment of judges and the transfer of cases within the judicial district to facilitate case disposition, including temporary assignment of an associate district judge or a special judge of another court within the judicial district, with the prior consent of the presiding judge of the judicial administrative district. However, any district judge may sit on the district court of any county located in the district court judicial district without assignment by a chief judge, and one judge within a district court judicial district may transfer a case to another judge within the judicial district who has consented to the transfer.

4. District Courts

The business of district courts is to dispose of cases filed. Many court services are provided at the district court level and many court system problems originate here.

Trial courts control the litigation process. In Oklahoma, over 9,900 attorneys residing in the state are licensed to practice in the state courts. The state pays the salaries of 211 district court judicial officers, 173 full-time licensed or certified court reporters, 140 full-time secretary-bailiffs, and two trial court administrators. The state provides district attorneys, defense attorneys for the indigent, probation officers, social workers, and counselors for juvenile justice, staff for mental competency hearings, victim restitution, and dispute resolution programs. Counties
pay for the court facilities, the court clerks elected as county officials, deputy clerks, and the court clerk office staff in the 77 district courts.

The district court judge is accountable to the public for managing the affairs of the court. If a district court of a county has more than one resident judge, the presiding judge of the judicial administrative district shall designate a district judge to serve at the pleasure of the presiding judge as "chief judge" of that court or may prescribe by rule how the district judges shall rotate in serving as chief judge. The term "chief judge" is also used to designate the district judge responsible for all the courts within a district court judicial district. These two positions are distinct although the same term is used.

The district court judge or chief judge has full control and supervision of that court's docket and is also vested with power to prescribe rules and directions on how cases shall be assigned. Cases filed in district court are assigned to the several dockets by the court clerk under the direction and supervision of the district or chief district judge. The court clerk is statutorily responsible for keeping all dockets and records.

The district or chief judge has administrative and budget drafting duties; handles grand juries and duties related to trial jurors; hears motions to disqualify other judges from specific cases; and serves as a go-between for other district court judges in the court in dealing with state court officials.

Traditionally, trial court administration has centered on court structure and processes. A more recent emphasis is on trial court performance for the judges and court personnel;
that is, a self-regulation which provides accountability for the court's use of public resources. Standards which have been developed provide guiding principles for measurement in five areas: access to justice; expedition and timeliness; equality, fairness, and integrity; independence and accountability; and public trust and confidence. These standards are presently being used by trial court leaders in a number of states to test them for their utility and practicality with the hope that acceptable performance standards will be institutionalized in all states.

5. **Courts of Limited Jurisdiction**
   a. **Municipal Criminal Courts**

   Judges in municipal criminal courts not of record in cities and towns of less than 200,000 may prescribe rules consistent with state statutes for proper conduct of the business of the municipal court. The duties of the clerk of the court are to assist the judge in recording proceedings; preparation of writs, processes, or other papers; and, to administer oaths. The clerk is responsible for entry in dockets of all pleadings, processes, and proceedings, such clerical duties as the judge directs, and the receipt and delivery of all fines, forfeitures and fees to the municipal treasurer.

   In the two municipal criminal courts of record in cities over 200,000, the judge has the power to administer oaths, keep and preserve records of the courts, and certify transcripts and other records. He or she possesses such other general powers as possessed by the district court judge. The judge of the court of record approves all bonds to which people charged or convicted may be admitted, and decides and fixes the amount. The responsibility of the clerk of the court of record is to keep and preserve records, keep a docket,
collect and receive all fines, costs, bond forfeitures, and accounts for the monies to the city governing board. The clerk has the duty to certify and authenticate all transcripts, cases, and other records. In Tulsa and Oklahoma City, the municipal court administrators also utilize Total Quality Management (TQM) training and management methods to carry out court administrative duties.\textsuperscript{33}

b. Workers' Compensation Court

The powers and duties of the administrator of the workers' compensation court are extensive and specified by statute. A five member special workers' compensation administrator selection committee, a court-related entity, is selected according to statute and submits a list of persons eligible to be administrator according to the qualifications determined by the judges of the workers' compensation court. The presiding judge of the court appoints the administrator from the list submitted by the committee. The administrator serves at the pleasure of the presiding judge.

The administrator promulgates rules and regulations subject to the approval of the presiding judge of the court, carries out the duties and responsibilities of the court authorized by law and those prescribed by the presiding judge. He or she organizes, directs, and develops the administrative work of the court including docketing, clerical, technical and financial work, and such other duties as any judge may require.

The administrator hears and approves settlements pursuant to direction of the judges of the court, reviews and approves "own-risk" applications and group self-insurance association applications, monitors the
insurance providers, hears and determines claims concerning disputed medical bills, and adopts the rules and regulations which require all insurance companies, the state insurance fund, and every self-insurer authorized to transact workers' compensation to report statistical experience to the administrator. A report of findings from the data is provided to the pro tempore of the senate and the speaker of the house of the state legislature, the governor, and the advisory council on workers' compensation.

The administrator of the workers' compensation court can be removed from office only on cause by the presiding judge, subject to the approval of the chief justice of the supreme court.

The salary of the administrator of the workers' compensation court is 90% of the salary of the judges of the court.

c. Court of Tax Review

The judges of the court of tax review prescribe the procedures for hearing properly filed protests against alleged illegal levies as shown on annual budgets filed by the counties with the state auditor and inspector. The clerk of the appellate courts is the clerk of the court of tax review.

d. Court on the Judiciary

The jurisdiction of the court on the judiciary is invoked by petition, as described later in the GUIDE. The administrative director of the office of the courts assists the court on the judiciary and the clerk of the appellate courts serves as clerk of the court on the judiciary.
D. Auxiliary Bodies

1. Judicial Council of Oklahoma

The judicial council of Oklahoma is an ex-officio agency created by order of the supreme court in 1934. Its functions include 1) aiding the supreme court in the formulation of its legislative program, 2) assisting the supreme court in its constitutional function to administer the courts, 3) proposing areas of need for use of the judicial rulemaking power, 4) recommending measures for simplifying the administration of the judicial process in civil and criminal trial and appellate levels, and 5) assisting the supreme court in its relations with the Oklahoma bar association (OBA), board of bar examiners and the law schools of the state.

The twenty plus members include the chief justice of the supreme court, the presiding judge of the court of criminal appeals, the governor, attorney general, the presiding judge of the workers' compensation court and deans of law schools in Oklahoma. These officials may designate persons in their departments to serve in their place. Additional members include three district judges and two associate district judges, the chairmen of the judiciary committees of the state senate and house of representatives, the administrative director of the courts, representatives of the district attorneys association, and three members designated by the OBA board of governors.

2. Judicial Conference of Oklahoma

The judicial conference of Oklahoma is an organization of active and retired members of the state judiciary. The original constitution which created the judicial conference was adopted in 1927, and amended in 1971. In 1987, the supreme court found that the order creating the Oklahoma judicial conference should be amended to provide retroactively for the confirmation of procedural requirements and status of...
the conference. Its officers serve one year terms and include two judges who serve as delegates of the OBA and two as delegates of the American bar association.

The purpose of the judicial conference is to provide continuing education and training to its members, assist the legislature on matters which affect the trial courts, and foster communication among all levels of the state judiciary. Membership is voluntary and not all members of the judiciary choose to belong.

The conference has three active committees—legislative, program and education, and a "judges helping judges" committee. Its members meet biannually for the purpose of education programs and to carry out administrative responsibilities. The administrative director of the courts assists the conference in its administrative affairs.

3. Assembly of Presiding Judges

The assembly of presiding judges was created by the order of the supreme court in 1969. The chief justice may convene the nine presiding judges of the state judicial administrative districts to discuss methods for improving the administration of the law or to adopt rules for the administration of the judicial administrative districts.34

4. Oklahoma Center for Criminal Justice

In 1971, the legislature created the Oklahoma center for criminal justice to undertake specific projects which may be assigned to it. The center collects and analyzes data on all state crime and conducts regional seminars for municipal judges. It has drafted uniform jury instructions for adoption in criminal cases and originated the research which led to the proposed public defender system for Oklahoma. The center is funded through grants from the Oklahoma Crime Commission.35

5. Court-Related Entities

Oklahoma state boards relevant to the court system include the Dispute Resolution Advisory Board for court early settlement programs and the boards for the Group Self-Insurance Association Guaranty Fund and Individual Self-Insured Guaranty Fund relative to workers' compensation-employer insurance. The Advisory Council for Workers' Compensation and the State Foster Care Review Advisory Board function as advisory bodies to the courts.36
ADMINISTRATIVE (NON-ADJUDICATIVE) FUNCTIONS OF THE OKLAHOMA SUPREME COURT

SUPREME COURT
Administrative Director of the Courts

COURT OF CRIMINAL APPEALS
COURT OF APPEALS
DISTRICT COURT
WORKERS' COMP. COURT
COURT OF TAX REVIEW
MUNICIPAL COURTS
ADMINISTRATIVE AND STATISTICAL DUTIES

COURT REPORTERS
State Board of Examiners of Official Shorthand Reporters

COURT CLERKS
Recordkeeping and Administrative Control

COURT-RELATED

Library Fund
Continuing Judicial Education Program
Oklahoma Judicial Conference
Legal Internship Program

COURT OF APPEALS

Governor's Office
Board of Affairs
Judicial Retirement
State Auditor
Secretary of State

EXECUTIVE Liaison

Attorney General
Oklahoma Crime Commission
Department of Public Safety
Department of Human Resources
Budget Office

Legislative Liaison

President Pro Tempore Senate
Speaker House
Other Committees and Assignments
Appropriations Committee

Senate House Interim

Judiciary Committee

Council on Judicial Complaints

Court on the Judiciary
Art. VII 6, Okl. Con.

Figure 9.
MAP OF STATE JUDICIAL ADMINISTRATIVE DISTRICTS

Judicial Administrative District       Judicial District(s)
Northeast                              10, 11, 12, 13
Southeast                              16, 17, 19, 25
Oklahoma-Canadian                     7, 26
Northwest-Panhandle                    1, 2, 4
South Central                          20, 21, 22
Tulsa-Pawnee                           14
East Central                           15, 18, 24
North Central                          8, 9, 23
Southwest                              3, 5, 6


CHAPTER VI
WHAT ARE THE CURRENT ISSUES
IN THE OKLAHOMA COURTS?

A. How Are the Courts Funded?

1. What Are the Funding Sources?

The primary source of court funding in Oklahoma is the monies generated by the fines, fees, costs, and forfeitures collected in each state district court in the 77 counties. These gross receipts pay for a local court's expenses and other statutory withholdings. At the end of the state fiscal year, all excess receipts in a county's "Court Fund" after expenses are transmitted to the clerk of the supreme court (the clerk of the appellate courts) as a contribution of court-generated monies and are deposited in a state judicial fund (SJF).

The SJF was created in 1968 as a continuing fund not subject to state fiscal year limitation. The fund serves as a depository for a number of monies including the contributions transferred from the county court funds. The clerk of the supreme court also makes direct deposit to the fund of supreme court filing fees and miscellaneous fees, court of criminal appeals filing fees, and court reporters’ license fees. The excess of 25% of the income of each county law library fund during each fiscal year is paid annually to the SJF by August 1. The monies in the SJF are designated to meet certain expenses of the state courts outside of legislative appropriation. These expenses include paying for a local district court jury trial when a district court is insolvent, changes of venue in criminal cases, indigent murder attorney fees, expert witness fees, expenses of the council on judicial complaints, the expenses of the state board of examiners of court reporters, and refunds to bondsmen. Any excess in the SJF after these expenses goes to the general revenue fund and is available for state appropriation by the legislature as court-generated funds and, except for statutory expenditures in the supreme court, are spent for district court expenses. Figure 10 provides a schematic of this process.

The secondary source of court funding is from the annual statewide appropriation made by the legislature for all government services. The appropriation for the supreme court comes from the general revenue fund (taxes), some monies from the workers’ compensation fund, and other state treasury funds. The appropriation for the district courts is approximately 60% state-generated and 40% court-generated monies. All the monies from the SJF not obligated as statutory expenditures of the supreme court are available for appropriation to the state district court expenses. The court
of criminal appeals is funded entirely by state-generated funds.

Total appropriations for the supreme court and the district courts continue to rise, although the rate of increase has slowed for the district courts. The proportion of funding from state-generated funds and court-related funds has shifted over the years. For example, in the early 1980's, the supreme court was funded almost 100% from general tax revenue. In fiscal year 1993 (FY-93), 34% of the supreme court appropriation was from general revenue, and a small amount from the workers' compensation fund and other state treasury funds. The pattern for district courts differs. In 1981, 70% of the state appropriation was from the general fund (tax revenue); in FY-93, the amount of appropriation made from this source was 60%.

Figure 11 indicates the total appropriation for statewide governmental services for FY-93. The courts received 0.90% of the total legislative appropriation of $3.657 billion, or $32,787,953. That court appropriation is then presented showing the proportionate dollar allocation of state-generated and court-generated funds for the district courts, supreme court, and the court of criminal appeals. The total state appropriation for FY-95 is $34,166,791; $8,766,059 for civil appellate and $25,400,732 for the district courts.

The sources of appropriation funds for the supreme court and district courts have changed over the last ten years. An increased appropriation from state funds for the supreme court and district courts is due in large part to the fact that state-generated funds pay for 98% of all state court salaries. Since FY-87, state appropriation to the supreme court has increased 31%; 34% to the district courts. In FY-93, 56.5% of
the court appropriation came from state-generated funds. Bar graphs in Figures 12 and 13 illustrate the shift from FY-87 to FY-93 in the sources of appropriation funds.

Oklahoma has two court budgets. One is for the civil appellate expenditures - the supreme court and courts of appeal personnel and operations. The second budget is for the district courts, and is about three times that of the civil appellate budget.

Table 6 which follows lists Oklahoma court expenditures for FY-93, and distinguishes the expenditures by the source of funding.

Table 7 shows the total direct expenditures in FY-93 made by the 77 district courts using local court funds. These are the monies generated by fines, fees, costs, and forfeitures which are deposited in local county court funds. These expenditures included county-level personnel, general operating expenses, trial expenses such as fees to provide attorneys, witnesses and physicians, jurors’ expenses, court reporter record transcripts, and county law literary expenses.

In FY-93, over $900,000 was paid directly to the counties, according to statute, from the local court funds for a charge of compensation for the loss of revenue which all counties incurred when justice-of-the-peace courts were abolished in 1969. The charge is computed as a fraction of local court revenues received after general expenses were paid for either fiscal year 1965-1966 or 1966-1967. The legislature recently changed the fraction from 1/12 to 1/24 of either amount.

To provide for the on-going operations for each district court, 20% of the amount of a court’s expenses for each
quarter is retained by the county court clerk, but is treated as an item of receipt to the county's court fund during that quarter. When a district court has paid its expenses for a fiscal year from the fines, fees and forfeitures collected, the balance is remitted to the supreme court for deposit in the SJF. The amount transferred will equal the amount of gross receipts for the past fiscal year less the amount of expenses and the four quarterly transfers remitted for the state judicial retirement fund during that fiscal year.

Table 8 is a ranked list of the dollar contributions made to the SJF in FY-93 by each county court fund after local court expenses were paid. Tulsa county pays more money into the state judicial fund than other counties and in FY-93 contributed almost four times the amount paid by Oklahoma county which had more cases filed. Tulsa county has an aggressive system for collecting court fees, fines, and forfeitures, while Oklahoma county has a large court budget.
Table 6. FY-93 STATE COURT SYSTEM EXPENDITURES

<table>
<thead>
<tr>
<th>Expenditures From State Generated Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SUPREME COURT</strong></td>
</tr>
<tr>
<td>Supreme Court Personnel and Operations</td>
</tr>
<tr>
<td>Court on the Judiciary</td>
</tr>
<tr>
<td>Foster Care Review Board</td>
</tr>
<tr>
<td>Judicial Nominating Commission</td>
</tr>
<tr>
<td>Court of Appeals Personnel and Operations</td>
</tr>
<tr>
<td><strong>DISTRICT COURT</strong></td>
</tr>
<tr>
<td>District Court Personnel and Operations</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenditures From Court Generated Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SUPREME COURT</strong></td>
</tr>
<tr>
<td>Supreme Court Personnel and Operations</td>
</tr>
<tr>
<td>Statutory Judicial Fund Expenditures</td>
</tr>
<tr>
<td>Court of Appeals Personnel and Operations</td>
</tr>
<tr>
<td><strong>DISTRICT COURT</strong></td>
</tr>
<tr>
<td>District Court Personnel and Operations</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DIRECT COUNTY EXPENDITURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>District courts incur expenses and contribute excess receipts over disbursements, less 20%, to the State Judicial Fund.</td>
</tr>
</tbody>
</table>

| TOTAL | $54,777,087 |

<table>
<thead>
<tr>
<th>COLLECTIONS AT COUNTY LEVEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fines, Fees and Forfeitures</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STATE JUDICIAL RETIREMENT SYSTEMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ten Percent of amount collected by District Courts goes to retirement fund to pay the state's share of retirement costs.</td>
</tr>
</tbody>
</table>

Except for statutory expenditures in the supreme court, all Judicial Fund monies are spent for district court expenses.

Table 7. **FY-93 DIRECT EXPENDITURES FROM LOCAL COURT FUNDS**

<table>
<thead>
<tr>
<th>County-Level Expenditures</th>
<th>Amount</th>
<th>Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full-time Bailiffs</td>
<td>$0</td>
<td></td>
</tr>
<tr>
<td>Part-time Bailiffs</td>
<td>159,716</td>
<td></td>
</tr>
<tr>
<td>Per Diem Court Reporters</td>
<td>86,528</td>
<td></td>
</tr>
<tr>
<td>Part-time Court Clerk</td>
<td>4,523,488</td>
<td></td>
</tr>
<tr>
<td>General Operating</td>
<td>5,210,508</td>
<td>22.11</td>
</tr>
<tr>
<td>Utilities</td>
<td>1,070,351</td>
<td>4.54</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>126,594</td>
<td>0.54</td>
</tr>
<tr>
<td>Attorney Fees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trial Court</td>
<td>1,152,438</td>
<td></td>
</tr>
<tr>
<td>Appeals</td>
<td>2,299</td>
<td></td>
</tr>
<tr>
<td>Mental Health</td>
<td>5,370</td>
<td></td>
</tr>
<tr>
<td>Public Defender</td>
<td>3,202,145</td>
<td></td>
</tr>
<tr>
<td>Guardianships</td>
<td>778</td>
<td></td>
</tr>
<tr>
<td>Witness Fees</td>
<td>92,808</td>
<td>0.39</td>
</tr>
<tr>
<td>Physician Fees</td>
<td>109,358</td>
<td>0.46</td>
</tr>
<tr>
<td>Jurors</td>
<td>2,152,172</td>
<td>9.13</td>
</tr>
<tr>
<td>Court Reporter Transcripts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Preliminary and Trial</td>
<td>405,437</td>
<td>3.34</td>
</tr>
<tr>
<td>Appeals</td>
<td>380,777</td>
<td></td>
</tr>
<tr>
<td>Law Library</td>
<td>370,509</td>
<td>1.57</td>
</tr>
<tr>
<td>County General Fund**</td>
<td>911,678</td>
<td>3.87</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$19,962,954</td>
<td>84.70</td>
</tr>
</tbody>
</table>

**Payments to State**

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
<th>Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judicial Retirement Fund</td>
<td>$3,386,407</td>
<td>14.37</td>
</tr>
<tr>
<td>Indigent Defense</td>
<td>220,020</td>
<td>0.93</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$3,606,427</td>
<td>15.30</td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong></td>
<td>$23,569,381</td>
<td>100.00</td>
</tr>
</tbody>
</table>

* An additional $23.1 million in state appropriated funds were paid to judicial employees (judges, court reporters and bailiffs) in the counties.

** Payments directly to Counties for loss of revenue incurred when Justice of Peace Courts were abolished in 1969.

<table>
<thead>
<tr>
<th>Rank</th>
<th>County</th>
<th>Total Contribution (in $)</th>
<th>Contribution per case (in $)</th>
<th>Rank</th>
<th>County</th>
<th>Total Contribution (in $)</th>
<th>Contribution per case (in $)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Tulsa</td>
<td>2,498,019</td>
<td>38.93</td>
<td>40</td>
<td>Bryan</td>
<td>53,797</td>
<td>8.59</td>
</tr>
<tr>
<td>2</td>
<td>Cleveland</td>
<td>809,124</td>
<td>47.45</td>
<td>41</td>
<td>Marshall</td>
<td>50,210</td>
<td>24.88</td>
</tr>
<tr>
<td>3</td>
<td>Oklahoma</td>
<td>654,393</td>
<td>8.12</td>
<td>42</td>
<td>Garvin</td>
<td>48,206</td>
<td>14.26</td>
</tr>
<tr>
<td>4</td>
<td>Comanche</td>
<td>517,184</td>
<td>36.08</td>
<td>43</td>
<td>Jackson</td>
<td>42,499</td>
<td>10.81</td>
</tr>
<tr>
<td>5</td>
<td>Payne</td>
<td>427,591</td>
<td>41.77</td>
<td>44</td>
<td>Tillman</td>
<td>49,816</td>
<td>22.47</td>
</tr>
<tr>
<td>6</td>
<td>Stephens</td>
<td>426,549</td>
<td>100.51</td>
<td>45</td>
<td>Love</td>
<td>39,137</td>
<td>20.34</td>
</tr>
<tr>
<td>7</td>
<td>Ottawa</td>
<td>245,269</td>
<td>35.76</td>
<td>46</td>
<td>Latimer</td>
<td>37,751</td>
<td>23.57</td>
</tr>
<tr>
<td>8</td>
<td>Grady</td>
<td>185,987</td>
<td>25.65</td>
<td>47</td>
<td>Seminole</td>
<td>37,006</td>
<td>8.15</td>
</tr>
<tr>
<td>9</td>
<td>Muskogee</td>
<td>171,709</td>
<td>17.00</td>
<td>48</td>
<td>Blaine</td>
<td>35,423</td>
<td>14.69</td>
</tr>
<tr>
<td>10</td>
<td>Garfield</td>
<td>170,242</td>
<td>21.94</td>
<td>49</td>
<td>Coal</td>
<td>35,092</td>
<td>13.64</td>
</tr>
<tr>
<td>11</td>
<td>Canadian</td>
<td>162,192</td>
<td>19.74</td>
<td>50</td>
<td>Beckham</td>
<td>35,003</td>
<td>11.11</td>
</tr>
<tr>
<td>12</td>
<td>Wagoner</td>
<td>159,876</td>
<td>17.98</td>
<td>51</td>
<td>Pawnee</td>
<td>34,665</td>
<td>10.61</td>
</tr>
<tr>
<td>13</td>
<td>Pottawatomie</td>
<td>156,141</td>
<td>18.98</td>
<td>52</td>
<td>Roger Mills</td>
<td>33,023</td>
<td>34.76</td>
</tr>
<tr>
<td>14</td>
<td>Woodward</td>
<td>153,891</td>
<td>41.56</td>
<td>53</td>
<td>Okfuskee</td>
<td>32,635</td>
<td>13.12</td>
</tr>
<tr>
<td>15</td>
<td>Carter</td>
<td>143,725</td>
<td>24.04</td>
<td>54</td>
<td>Harper</td>
<td>30,797</td>
<td>17.51</td>
</tr>
<tr>
<td>16</td>
<td>Creek</td>
<td>135,010</td>
<td>18.19</td>
<td>55</td>
<td>Osage</td>
<td>30,554</td>
<td>6.05</td>
</tr>
<tr>
<td>17</td>
<td>Craig</td>
<td>131,800</td>
<td>35.64</td>
<td>56</td>
<td>Dewey</td>
<td>39,496</td>
<td>20.86</td>
</tr>
<tr>
<td>18</td>
<td>Texas</td>
<td>130,487</td>
<td>33.47</td>
<td>57</td>
<td>Hughes</td>
<td>27,354</td>
<td>14.42</td>
</tr>
<tr>
<td>19</td>
<td>Rogers</td>
<td>124,001</td>
<td>13.86</td>
<td>58</td>
<td>Kiowa</td>
<td>27,329</td>
<td>18.80</td>
</tr>
<tr>
<td>20</td>
<td>Caddo</td>
<td>121,446</td>
<td>25.83</td>
<td>59</td>
<td>Greer</td>
<td>26,420</td>
<td>18.75</td>
</tr>
<tr>
<td>21</td>
<td>LePlore</td>
<td>118,539</td>
<td>19.42</td>
<td>60</td>
<td>Kingfisher</td>
<td>25,106</td>
<td>14.16</td>
</tr>
<tr>
<td>22</td>
<td>Custer</td>
<td>116,825</td>
<td>23.70</td>
<td>61</td>
<td>Murray</td>
<td>22,042</td>
<td>8.67</td>
</tr>
<tr>
<td>23</td>
<td>McClain</td>
<td>108,655</td>
<td>29.89</td>
<td>62</td>
<td>Alfalfa</td>
<td>20,772</td>
<td>13.77</td>
</tr>
<tr>
<td>24</td>
<td>Washita</td>
<td>103,301</td>
<td>36.50</td>
<td>63</td>
<td>Woods</td>
<td>20,038</td>
<td>16.78</td>
</tr>
<tr>
<td>25</td>
<td>Washington</td>
<td>96,234</td>
<td>21.62</td>
<td>64</td>
<td>Grant</td>
<td>19,592</td>
<td>22.44</td>
</tr>
<tr>
<td>26</td>
<td>Delaware</td>
<td>94,475</td>
<td>20.20</td>
<td>65</td>
<td>Pushmataha</td>
<td>18,240</td>
<td>8.35</td>
</tr>
<tr>
<td>27</td>
<td>McCurtain</td>
<td>93,089</td>
<td>16.73</td>
<td>66</td>
<td>Ellis</td>
<td>17,553</td>
<td>31.97</td>
</tr>
<tr>
<td>28</td>
<td>Pontotoc</td>
<td>87,380</td>
<td>21.27</td>
<td>67</td>
<td>Cherokee</td>
<td>17,079</td>
<td>3.04</td>
</tr>
<tr>
<td>29</td>
<td>Pittsburg</td>
<td>83,450</td>
<td>10.91</td>
<td>68</td>
<td>Nowata</td>
<td>12,664</td>
<td>8.46</td>
</tr>
<tr>
<td>30</td>
<td>Lincoln</td>
<td>81,153</td>
<td>18.97</td>
<td>69</td>
<td>Harmon</td>
<td>11,232</td>
<td>23.16</td>
</tr>
<tr>
<td>31</td>
<td>Logan</td>
<td>78,672</td>
<td>18.23</td>
<td>70</td>
<td>Atoka</td>
<td>10,536</td>
<td>3.79</td>
</tr>
<tr>
<td>32</td>
<td>Adair</td>
<td>47,761</td>
<td>26.27</td>
<td>71</td>
<td>Haskell</td>
<td>10,056</td>
<td>6.59</td>
</tr>
<tr>
<td>33</td>
<td>Sequoyah</td>
<td>72,169</td>
<td>16.47</td>
<td>72</td>
<td>Kay</td>
<td>9,647</td>
<td>1.77</td>
</tr>
<tr>
<td>34</td>
<td>Okmulgee</td>
<td>65,565</td>
<td>13.79</td>
<td>73</td>
<td>Noble</td>
<td>9,461</td>
<td>3.68</td>
</tr>
<tr>
<td>35</td>
<td>Jefferson</td>
<td>64,752</td>
<td>56.70</td>
<td>74</td>
<td>McIntosh</td>
<td>7,936</td>
<td>2.79</td>
</tr>
<tr>
<td>36</td>
<td>Major</td>
<td>64,328</td>
<td>32.36</td>
<td>75</td>
<td>Cimarron</td>
<td>6,192</td>
<td>6.02</td>
</tr>
<tr>
<td>37</td>
<td>Cotton</td>
<td>62,658</td>
<td>33.80</td>
<td>76</td>
<td>Choctaw</td>
<td>-0-</td>
<td>-0-</td>
</tr>
<tr>
<td>38</td>
<td>Beaver</td>
<td>62,493</td>
<td>39.08</td>
<td>77</td>
<td>Johnston</td>
<td>-0-</td>
<td>-0-</td>
</tr>
<tr>
<td>39</td>
<td>Mayes</td>
<td>59,824</td>
<td>10.76</td>
<td></td>
<td></td>
<td>TOTAL</td>
<td>$10,077,114</td>
</tr>
</tbody>
</table>

**Source:**
Court funding in Oklahoma is not without its critics. In September, 1990, the president of the Oklahoma bar association (OBA) established a special ad hoc committee to make an in-depth study and report on the overall funding of the judiciary in Oklahoma. The ad hoc committee reduced its consideration of judicial funding to five areas of concern:

1. judicial compensation funding and a judicial compensation commission,

2. the Indigent Defense System of Oklahoma, including funding,

3. the use of court generated funds and court funding in general,

4. court personnel and funding including personnel and equipment, and,

5. the number and allocation of judicial manpower.41

The seventeen member committee stated in its report that the method of funding the judicial system, as well as the judicial system itself, had not been changed since the reforms of 1968. The committee members unanimously agreed that the current system of funding courts based on the ability to collect fines, fees and forfeitures at the local level restricts the ability of the Oklahoma judicial system to modernize court management and provide effective and responsive methods of court operation.

The committee unanimously agreed that adequate funding must come from the state general fund based on need. Its recommendations for substantial change included:

1. Total state funding of the state courts system, including the office of the court clerk in the 77 counties, be phased in over an appropriate period of time, but should be fully implemented by July, 1995.

2. All existing court and judicial income generating funds, county and state, be merged and consolidated into the state's general fund, to be used for the benefit of the state judicial system.

3. The annual payments into county general funds by local court funds, to compensate for the loss of pre-1969 justice of the peace revenues, be discontinued and the funds remitted to the state general fund together with other court fund collections.

4. All court funds be consolidated into a state judicial fund with funds collected through the county court clerk offices to be deposited to the state general fund through an accounting system supervised by the administrative office of the courts. This system would provide that contributions to the state judicial retirement fund be deducted and deposited to that fund in accordance with statutory procedure. In turn, the legislature would appropriate an annual sum to the supreme court for allocation to the supreme court, court of appeals and district courts to operate those various courts.

5. A separate fund be created which will not be subject to fiscal year limitations from which the supreme court would be authorized to expend funds to individual district courts on an emergency basis for jury trial expenses of unforeseen funding requirements to ensure the continued operation of the court system.
6. The judicial retirement system continues to receive funding at the current level to ensure present statutory benefits are actuarially protected.

7. The state should assume ongoing maintenance and utility expenses incurred by the local judicial system.

8. District attorneys should pay witness fees and expenses for witnesses testifying on behalf of the state from funds separately appropriated to their own accounts, rather than from court funds or judicial accounts.

9. The cost of court-appointed attorneys, witness fees and expenses for indigent defendants be funded and paid as a function of the executive branch of government.\(^4^2\)

The committee's recommendations were submitted to the annual meeting of the OBA house of delegates in November, 1991, as OBA Resolutions for the 1992 OBA legislative program.

One criticism of the suggested reforms comes from court clerks who fear that becoming a state employee would eventually lead to their appointment rather than election by county voters. Court clerks claim that such appointment would remove the control and oversight that an elected official provides the local electorate; that court clerks elected at the county level serve as independent watchdogs of the court and judiciary. As a state employee, court clerks would tend to go along with the system.\(^4^3\)

2. **Court Costs--How Does Oklahoma Compare with Other States?**

The court fines, fees, and forfeitures paid by parties to a civil suit or the defendant in a criminal action are the revenue base for court-generated funding. In 1983, the National Conference of State Court Administrators established

a committee to examine state court filing fees, costs and surcharges. The committee was assigned two basic tasks: first, to collect and analyze data from all states on current court costs attached to the use of the state courts and subsequent court funding procedures; and second, to propose standards that could be adopted on a national basis relating to these costs. To accomplish the first task and assist it in the second, the committee developed a questionnaire for state courts on the collection of fees, miscellaneous charges and surcharges used by the courts in each state. The responses were used in preparation of the final report of the committee which was adopted by the national conference in 1986.

The findings on the fee setting authority and funding, civil filing fees and surcharges, criminal court costs, management of court generated monies, and, specifically, how Oklahoma compares with other states is informative. The report is limited to information collected during the years 1983-1986. The data on civil filing fee and surcharges were updated in September, 1991.44

a. Funding and Fee Setting Authority

At the time of the survey, forty-seven percent of the states and territories responding to the questionnaires received greater than 60% of their court funding from the state. Thirty-six percent, which included Oklahoma at that time, received 30% or less of their court funding from state funds. The legislature had the authority for setting civil and criminal court fees in a majority of the states reporting.

b. Civil Court Filing Fees and Surcharges

The most common methods used in calculating civil filing fees are flat-fee systems and itemized or step-fee systems. In a flat-fee system, fees are itemized for
each of the different court transactions and totaled for a single filing, or flat fee. A step-fee fee system is a charge computed for each separate paper processed or function performed by the court. The majority of the states and territories use a uniform statewide filing fee schedule. In Oklahoma, the state legislature sets the fees using the simple or flat fee method of computation and the filing fee schedule is uniform statewide.

Civil filing fees in Oklahoma effective July 1, 1993, are $200.00 for filing in the Oklahoma supreme court (the average or mean fee in state courts reporting in 1991 was $94.76); a $100.00 filing fee for the intermediate appellate court (the average or mean fee is $104.73); $62.00 in the courts of general jurisdiction for civil actions (the average or mean fee is $61.03); and $35.00 for an affidavit for recovery in small claims.

Sixty-two percent of the states have not authorized and do not assess surcharges on civil filing fees. Oklahoma added a $2.00 filing surcharge for civil actions in 1993. For the states that do impose surcharges, at least 66 different surcharges were reported. Surcharge amounts are either assessed as a flat amount or as a proportion of any fines, costs, or monetary forfeiture. Law libraries, indigent defense systems, and domestic violence programs are the most frequent recipients of surcharge revenues.

All or a portion of filing fee revenues tend to be transferred to state general funds. In 51% of the responding states, including Oklahoma, some county or local entity also receives a portion of these revenues. In Oklahoma, for fiscal year 1984, for example, the total civil filing fee revenue was $24 million. Ten percent,
or $2,400,000.00, was transferred to the state judicial retirement fund by statute. The remainder after court expenses of $17,280,000.00 was contributed to the state judicial fund in the amount of $4,320,000.00. For fiscal year 1984, total criminal filing fee revenue was $8 million; $800,000 was transferred to the state judicial retirement fund, $5,760,000 was expended in local court operations, and the remaining $1,440,000 was contributed to the state judicial fund.

c. Criminal Court Fees, Costs, and Surcharges

Eighty-three percent of the responding states including Oklahoma are authorized to assess fees or miscellaneous charges in criminal court. Sixty-eight percent of the responding states do so uniformly statewide.

Felony court fees to be paid by defendants are assessed in 42 states. Paper processing fees and witness related expenses are $20.00 or less. At least 40 states assess misdemeanor court costs, most frequently imposing fees for paper-processing activities, witness-related expenses, and per misdemeanor conviction per defendant. Seventy-seven percent of the misdemeanor court fees reported are $30.00 or less. In Oklahoma, costs in criminal actions in district court, effective in 1993, are as follows:45

<p>| Felony, per conviction per defendant | $ 93.00 |
| Felony, DUI (driving under the influence of drugs or alcohol, per conviction, per defendant) | $ 73.00 |
| Sheriff’s fee for service or attempted service of all writs, warrants, orders, notices, etc. (or mileage if greater) | $ 20.00 |
| Court reporter (if used) | $ 20.00 |
| Jury trial | $ 50.00 |</p>
<table>
<thead>
<tr>
<th>Service Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preparing and transmitting record on appeal</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Misdemeanor conviction, per conviction per defendant</td>
<td>$ 73.00</td>
</tr>
<tr>
<td>Misdemeanor DUI, per conviction per defendant</td>
<td>$173.00</td>
</tr>
<tr>
<td>Traffic speeding at least one mile per hour, not more than 10 miles per hour over limit, per conviction per defendant</td>
<td>$ 57.00</td>
</tr>
<tr>
<td>All other traffic, per conviction per defendant, except improperly transporting child and failure to wear seat belt properly ($15.00)</td>
<td>$ 73.00</td>
</tr>
<tr>
<td>Request for jury trial</td>
<td>$ 30.00</td>
</tr>
<tr>
<td>Preparing and transmitting record on appeal</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Licensing applications</td>
<td>$ 62.00</td>
</tr>
<tr>
<td>Specific applications</td>
<td>$10-50.00</td>
</tr>
</tbody>
</table>

Fees for municipal courts of record in Oklahoma are set by the city councils of Tulsa and Oklahoma City. For example, Tulsa collects $20.00 on warrants for arrest status, arraignment costs of $20.00, nonjury trial costs of $30.00, and additional fees for court reporter services, dismissals, hearings, requests for a jury, and pre-sentence interviews.

Criminal surcharges are authorized in 60% of the states. The majority of surcharges are imposed on felony, misdemeanor or traffic convictions. Half of all surcharge amounts are $10.00 or less with all of the larger amounts (over $100.00) charged for felony and DUI convictions. Revenues generated through criminal surcharges are often dedicated to victim-witness programs. In contrast to civil fees and surcharges, criminal court fees and charge revenues tend to be transferred to state, county and city recipients.
In Oklahoma, criminal surcharges are authorized by the legislature and the revenues generated are directed to the victim compensation fund. In 1993, a $3.00 surcharge was added to the costs for Oklahoma felony, felony DUI and misdemeanor, and misdemeanor DUI convictions to be deposited to the credit of the county law library.

d. Management of Court-Generated Monies

Most states report that the courts are responsible for managing and disbursing court-generated revenues. Statewide uniform accounting systems are in use in 68% of the responding states. In most cases, either a state accounting agency, a court-related entity, or both are responsible for putting the uniform system in operation. The majority of states authorize the deposit of some or all court-generated funds into interest-bearing accounts. Court costs, fines, trust and escrow monies are most commonly deposited in such accounts.

In Oklahoma, the individual courts are responsible statutorily for management and disbursement of fees, costs, fines and forfeitures. A uniform statewide accounting system for the courts is in place with the state auditor and inspector. Oklahoma courts are authorized to deposit court funds in interest-bearing accounts.

3. Proposed Funding System

The recommendation of the OBA and others is to move toward a funding system based totally on state legislative appropriations. Present funding for the Oklahoma court system is complex, inadequate, and perhaps unconstitutional. A number of inconsistencies exist. For example, why should under-funded district courts be subsidized by the
contributions of urban district courts with greater collections, and why should local court funds continue to pay monies to county general funds to compensate for loss of revenue to the counties because justice-of-the-peace courts were abolished in the 1960s?

The advantages of state appropriation appear to be the equity and efficiency that results. Resistance is political. Legislatures traditionally are not generous with funding for the courts. Fines and fees paid by those who use the courts are more acceptable to the general public than being taxed, especially if the public perceives that alleged criminals are not punished. A system totally funded by state appropriations reduces the vigilance of individual district courts in their collections of fees and forfeitures. The passage of State Question 640 in Oklahoma may hinder a transition to state court funding since increased appropriations would require additional tax revenue and a vote of the electorate.

The proposed changes in court funding address only part of the problem. A number of other changes could be explored for reduced expenditures and increased revenue in the state courts.

1. Caseload and Manpower: Caseload has an effect on funding. Expenses accelerate where caseloads increase and additional judicial personnel is required. While the Oklahoma court administrative system provides for reassignment of judges, all judges would be better used if the state workload were more equally distributed among the judicial districts. The legislature needs to authorize new judges using a consistent formula based on caseload volume and the time required to hear the types and number of cases in court caseloads.
2. Consolidation of functions: Consolidation of collections and general administrative tasks within district court judicial districts or a judicial administrative district could improve court efficiencies. Attempts to consolidate administrative functions usually are met with political barriers.50

3. Alternative forms of mediation/arbitration in civil actions before litigation: Oklahoma courts provide dispute mediation services--an alternative dispute resolution (ADR) program. Mediation services called early settlement programs began in 1985 across the state, and provide the public greater access to the courts. The services are an effective, fair and inexpensive method for resolving adversarial disputes. Participation is voluntary. The disadvantages of dispute resolution services relates to the loss of individual rights such as a civil trial and appeal which court action protects.51

4. Limit forms of litigation: The reform of private injury tort law could reduce extensive trial litigation by putting caps on some civil judgments and requiring penalty payments or higher court charges to individuals who file cases shown to be frivolous. The limitation of discovery in civil cases would reduce court time.

5. Court charges: Convicted criminals could pay a larger share of what it costs the court to handle the case. Fees charged to participants in civil cases could be increased. Administrative costs could be reduced with a single fee for civil suit fillings. Recording of duplicate information for each court contact in a civil case could be eliminated. Collection procedures could be improved.52

6. Preventive measures: In the broadest sense, cost reduction occurs in courts when society reduces the number of
persons entering the criminal justice system with the use of social, economic and educational measures. Although felony cases do not comprise a large percentage of the total caseload in Oklahoma, increased criminal fines or community service (labor) sentences provide alternatives for convicted felons who present a minimum threat to society. Incarceration of an inmate costs the state of Oklahoma $12,000 to $15,000 a year.\textsuperscript{53}

B. What Are the Major Judiciary Issues?

1. How Are Justices and Judges Selected?
   a. Merit Selection and Retention
      i. Overview
         State judges are selected in whatever manner a state chooses. There are three basic methods:

         1) purely appointive--the governor, legislature, or a judicial commission singularly or with the others, appoints and reappoints judges;

         2) purely elective--judges are elected and reelected in competitive partisan or nonpartisan elections;

         3) merit selection--the governor appoints judges from a short list of candidates provided by a nominating commission; selected judges stand in retention elections; voters vote 'yes' or 'no' on retaining a judge in office.\textsuperscript{54}

         As described earlier, Oklahoma uses a mixed method. Merit selection is used in the three appellate courts. Nomination is by a judicial nominating commission, with selection and appointment by the governor. Appellate justices and judges are retained by ballot for six year
terms. State district court judges are elected in competitive nonpartisan elections, or appointed by merit selection to fill vacancies. Terms are for four years. Workers' compensation judges are appointed by the governor to fill vacancies, upon recommendations of the judicial nominating commission. Terms are for six years.

ii. Judicial Nominating Commission

The judicial nominating commission (JNC) was established by an Oklahoma constitutional amendment in 1967 (Article VII-B, sections 3 and 4) as part of a comprehensive state court system and judicial reform. All vacancies in the Oklahoma supreme court, the court of appeals, the workers' compensation courts, and vacancies between elections in other state judicial offices, except special judges, are filled by the governor from a list of three nominees selected by the JNC.

The JNC is composed of thirteen members selected as follows:

1. Six laypersons, one from each Oklahoma congressional district, are gubernatorial appointments. No more than three gubernatorial appointees may belong to one political party. The members serve six-year terms which are staggered so a governor does not name six appointees at one time.

2. Six, one from each congressional district, are Oklahoma bar association members, attorneys who are elected by members of the Oklahoma bar association. These members also serve staggered six-year terms.
3. One member-at-large, who must not be an attorney, is elected by the members of the JNC.

Presently, the JNC has eleven men and two women, one of whom is African-American. Current members are listed in Appendix C.

The JNC elects one of its members as chair for a one-year term. Members are not paid but their expenses are reimbursed by the state. JNC members may not hold any other public office, elected or appointed, while on the commission and may not be eligible for nomination by the JNC for a judicial office while serving on the commission or for five years after the member's term ends.

The judicial nominating procedure is as follows:

1. The governor informs the chair of the JNC of a vacancy.

2. The JNC chair publishes a "Notice of Judicial Vacancy" for three (3) weeks. The JNC may readvertise if fewer than three applications are received.

3. Applications for Oklahoma Judicial Vacancy are filed at the administrative office of the courts. Qualifications for applicants are listed in Appendix A. A copy of the application form is shown in Appendix B.

4. After the filing deadline, the administrative office of the courts mails all applications to the JNC members.
5. The JNC chair requests the **Oklahoma State Bureau of Investigation** (OSBI) to conduct background investigations on eligible applicants.

6. The JNC chair arranges for meeting dates and location. The date is determined after consulting with OSBI as to when investigatory reports will be completed.

7. The JNC meets to review applicants' files, interview applicants, and nominate three (3) qualified persons for each vacancy.

8. Each nominee's file (application and OSBI report) is submitted immediately to the governor's office.

9. The governor appoints one of the three nominees within sixty (60) days.

10. If the governor does not make an appointment within 60 days, the chief justice of the Oklahoma supreme court makes the appointment.

The law is not clear whether the governor may reject the list submitted by the JNC on grounds that none of the nominees is acceptable, or whether rejection of the list would be construed as failure to appoint, in which case the chief justice would be allowed to appoint.

b. Elections
   i. Overview

   Oklahoma citizens use nonpartisan elections to choose the trial judges of courts of general jurisdiction. Judicial elections are perceived as
providing accountability, but without voter information for choices, the elections are not justifiable as a democratic procedure. The judicial elective process has been challenged in a number of states because it dilutes the voting strength of minority candidates. In most cases, the judicial elections are at-large in multi-judge districts.

ii. Election Under the Voting Rights Act

The intent of the Voting Rights Act of 1965 is to enforce the 15th amendment of the Constitution of the United States ratified in 1870 which provides that the right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of race, color, or previous conditions of servitude. The Voting Rights Act was necessary to eliminate practices of continued discrimination of African-Americans seeking to vote under protection of the Civil Rights Acts of 1957, 1960, and 1964.

Section 2 of the Voting Rights Act prohibited states from imposing or applying law "to deny or abridge the right of any citizen of the United States to vote on account of race or color". The Act provided for federal judicial relief and applied to state and local elections as well as the federal elections protected by the Civil Rights Acts. Congress extended the Act in 1970 and 1975.

In the court cases which followed, plaintiffs of any voting minority had to prove discriminatory intent in a voting practice to establish a violation of the Act. In 1982, Congress again extended the Act and amended section 2 to make clear that proof of discriminatory intent was not required of the plaintiff.
In June, 1991, in *Chisom v. Roemer*, the United States Supreme Court held that state judicial elections are included within section 2 of the Voting Rights Act, as amended. The Supreme Court reversed a judgment of the United States Court of Appeals for the 5th Circuit on county-wide judicial elections in Texas and sent the case back to that court to be reevaluated in light of the Voting Rights Act.\(^6\)

In the Oklahoma lawsuit, *Robinson v. Oklahoma*, the plaintiffs alleged that Oklahoma's judicial elections for district and associate judges are at-large "winner take all" elections within counties where a political majority of 50% plus one of the voters can control all of the elected judicial offices. Racial bloc voting in these counties, that is, the white majority out-voting African-Americans, dilutes the voting strength of African-Americans where they are a minority of the electorate, and results in the inability of African-Americans to elect candidates of their choice.

Only one of the 71 district judges in Oklahoma is an African-American. He serves in Oklahoma county, was appointed and has been reelected a number of times. No other African-American has been appointed to district court judgeship when they have applied. None of the associate district judges in the state are African-Americans. Three of the 63 special district judges who serve by appointment are African-American. Two serve in Oklahoma county, one in Tulsa county.

To remedy the dilution of minority votes, some states have subdivided a district into a single judge or a smaller multi-judge district where a minority group is in the majority.\(^5\) In 1993, the state of Oklahoma used...
the method of sub-dividing to resolve a federal lawsuit under the Voting Rights Act on behalf of African-American voters. The state legislature divided Tulsa and Oklahoma counties into five and four electoral divisions, respectively. The boundaries of at least one of the judicial electoral divisions correspond with the concentration of African-American population in that county. The remainder of the judicial offices will be elected at-large within the district court judicial district. This system will be used for the first time in the 1994 judicial elections for district court judges.

A settlement of the Oklahoma lawsuit was reached May 21, 1993, between the NAACP and the attorney general of Oklahoma affecting the judicial elections in Tulsa and Oklahoma counties. The agreement was implemented by statute before the end of the 1993 legislature and the first election under this agreement occurs in the 1994 judicial elections. The plan for election in these counties is discussed under chapter III, section C of the GUIDE.

c. Mandatory Retirement

"I hated like the dickens to retire. Doctors are terrorists."

William Brennan, former U.S. Supreme Court Justice, who retired on his doctor's orders

Although there are many laws regarding retirement pay, Oklahoma law has no provision for mandatory retirement of state judges because of age. Oklahomans have not determined whether the threat of deterioration, for example at age 70, is sufficiently great, or the alternative means of removal from office sufficiently

inadequate, that the state should require all judges to step aside at that age. Citizens and representatives should consider whether they want to discharge hard-working, clear-thinking judges because of age. While physical and mental capacity may diminish with age, judges who have experience in judicial decision making have a special expertise that is valuable to the judicial system. Voluntary retirement and review procedures may be sufficient to ensure that judges remain competent on the bench.

Alternatively, there is a compelling public interest in maintaining a judiciary fully capable of performing the demanding tasks of judges. Impeachment and public humiliation do not seem appropriate for resolving age issues. The election process may be inadequate because most voters never observe individual judges in action, nor read their opinions, and judges also serve longer terms than other officials.

The United States supreme court has ruled that a state mandatory retirement provision does not violate the equal protection clause of the constitution, nor does it violate the Federal Age Discrimination in Employment Act. (Gregory et al., Judges v. Ashcroft, Governor of Missouri, 111 S. Ct. 2395 (1991)). The court noted that the people of a state have the authority to determine the qualifications of their most important government officials. There was a strong dissent in the case that noted that the Federal Age Discrimination in Employment Act is applicable. A natural outcome of the dissent interpretation is that judges would be discriminated against because of age under a state mandatory retirement law.
The Oklahoma Constitution Article VII-A, Court on the Judiciary, does provide for the removal of judges from office and compulsory retirement for various causes, none of these causes based strictly on age. A judge is subject to removal from office by proceedings in the court on the judiciary. Causes for compulsory retirement do include mental or physical disability preventing the proper performance of official duty, or incompetence to perform the duties of the office.

2. How Is Judicial Conduct Monitored?
   a. Overview

   Judges are important public officials whose authority extends to every corner of society. They exercise control over a diversity of matters in both the public and private spheres. Nearly every area of life is affected by judicial decisions. In our democracy, we want judges held accountable for such governmental power.

   Because they are so important to our society, judges are expected to be competent and ethical, and possess judicial character as well as legal and practical skills. Their actions must foster respect for their decisions as well as respect for the judiciary as a whole. Because they hold positions of authority and are entrusted with a great deal of power and discretion, judges are expected to conduct themselves according to high standards of professional conduct. We expect our judges to be independent and impartial, neither favoring nor indebted to an individual or group. 57

   Judges have become increasingly informed, concerned, fair and able to make decisions because of improvements of education and the recruitment of qualified persons. Judges are also human beings entitled to live normal
lives, yet the public requires that judges' personal lives should adhere to higher standards of propriety than those acceptable for others. The public believes that their judges should inspire trust and confidence and bring honor to the judicial system.

In 1924, the American Bar Association (ABA) announced the original 36 Canons of Judicial Ethics. They were intended to be an ideal guide of behavior rather than an enforceable set of rules. However, in 1972, the ABA felt it necessary to promulgate and approve a Model Code of Judicial Conduct, composed of seven Canons, which was designed to be mandatory and enforceable, unlike the original Code.

The Code of Judicial Conduct became effective in Oklahoma January 1, 1975, and reads:

1. A Judge should uphold the integrity and independence of the judiciary;

2. A Judge should avoid impropriety and the appearance of impropriety in all his activities;

3. A judge should perform the duties of his office impartially and diligently;

4. A Judge may engage in activities to improve the law, the legal system and the administration of justice;

5. A Judge should regulate his extra-judicial activities to minimize the risk of conflict with his judicial duties;
6. A Judge should regularly file reports of compensation received for quasi-judicial and extra-judicial activities;

7. A Judge should refrain from political activity inappropriate to his judicial office.\textsuperscript{58}

The \textbf{Oklahoma Council on Judicial Complaints} is charged with enforcing standards of judicial conduct, protecting the public from judicial misconduct and disability, and protecting judges from unfounded allegations. Its work is often rehabilitative and educational as well as disciplinary.

With the exception of Hawaii, commissions or councils on judicial complaints in every state consist of some combination of judges, attorneys and citizen members. The general trend has been to increase public participation when council membership is changed.

Oklahoma has a two-tiered judicial conduct system involving two entities, the \textbf{council on judicial complaints} and the \textbf{court on the judiciary}. The council investigates the complaint and, when warranted, recommends that the matter be made the subject of proceedings in the court on the judiciary which then conducts the hearing and adjudicates the matter. Oklahoma is one of only eight states in the nation that has a two-tiered judicial conduct system.

As stated previously, the creation of the \textbf{Oklahoma court on the judiciary} was established in 1966 by amendment to the Oklahoma constitution by a vote of the state electorate. The Oklahoma council on judicial complaints was established by an act of the legislature.
in 1974 as a public policy body and to provide for independent investigation for the court on the judiciary. Rules for the council are statutory and provide the procedure for filing a complaint. Rules on the form for complaint are found in Appendix D.

b. Complaints of Conduct

The council on judicial complaints was established to afford a means for any person to make a complaint concerning the conduct of judges and have the complaint investigated in an efficient and impartial manner. The council determines after investigation whether such complaints should be made the subject of action before the court on the judiciary or be dismissed. Its role is to provide for better administration of law in Oklahoma.

The sole concern of the council is with the investigation of a judge's alleged misconduct as a result of the judge's alleged failure to comply with the standards of conduct required of him or her by law. If the council decides to investigate a complaint, it may hold a hearing at which the complainant may be expected to testify under oath. All matters before the council are secret and confidential.

State law provides types of misconduct on which complaints may be based. These include but are not limited to:

A. Gross neglect of duty;
B. Corruption in office;
C. Habitual drunkenness;
D. Commission of an offense involving moral turpitude;
E. Gross partiality;
F. Oppression;
G. Mental or physical disability which prevents the proper performance of his or her duty;
H. Acceptance of an unauthorized fee or gratuity for performing a required act;
I. Continued willful noncompliance with rules and directive of the supreme court, of the presiding judge of his or her administrative district, or of the chief judge of his or her judicial district;
J. Participation in partisan political activity, not including campaigning for her or his judicial office by attending a partisan political gathering either free or upon payment of a nominal admission fee;
K. Participation in an election campaign other than for his or her own election to a judicial office;
L. Candidacy for a nonjudicial office or another judicial office whose term will begin before his or her present term expires;
M. Candidacy by a non-elected judge for a judicial office which the incumbent seeks to retain unless he or she first resigns his or her appointment; and,
N. Publication by campaign material or speech of his or her political party affiliation.

If the complaint fits one of the above categories, or one which the complainant feels is fairly comprised in it, and the complainant desires to make a formal complaint against a judge, it should be made by requesting the complaint form from the council on judicial complaints. The complainant must include who the complaint is made against, the name, address and

phone number of the complainant and a brief chronological statement of facts. The completed and signed form is sent, with supporting documents, to the Administrative Director of the Judiciary, 1915 N. Stiles, Room 305, Oklahoma City, Oklahoma, 73105.

c. Investigation of Complaints of Conduct and Trial by the Court on the Judiciary

The council on judicial complaints is empowered to investigate all complaints made against a member of the judiciary and dismiss a complaint or recommend that the matter be made the subject of proceedings before the court on the judiciary.

The council has three (3) members, two attorneys and one non-attorney. One member is appointed by the president pro tempore of the Oklahoma senate, one by the speaker of the Oklahoma house of representatives and the president of the Oklahoma bar association. The three members serve staggered five-year terms and may succeed themselves for one term only.

The administrative director of the courts serves as the ex-officio secretary to the council, but is not a voting member of the council. The primary responsibility of the administrative director is to receive all judicial complaints and submit them to the council for its review. Each complaint received by the administrative director of the courts as secretary to the council is assigned a number, logged on the date of receipt, and placed on the agenda of the next council meeting. A secretary, hired as a state employee by the council, then receives and files all complaints, and notifies council members of
each complaint received. A copy of the complaint is sent to each council member.

A council member may be disqualified to act in a matter pending before the council for the same reasons that would disqualify a judicial officer from sitting in a matter. The council notifies the official who appoints that member. The appointing official immediately appoints a special member to sit in that particular case only.

Meetings of the council are held approximately every four to five weeks. The council spends most of its time considering and processing complaints that never reach the hearing stage. Many matters brought before the council involve court appeals outside of the council's jurisdiction. The council is not an appellate court and has no authority to change a judge's decision. Many allegations of complainants are simply unfounded. Of matters that appear to have merit, some complaints are resolved privately. The majority of complaints are dismissed without a hearing.

The complainant is notified of the council's decision as soon as possible following the meeting. The complainant is also advised that all matter before the council are secret and confidential.

i. Investigatory Power

The investigatory power of the council on judicial complaints is as broad in scope as that of a grand jury, and is not confined to an examination of the judge under investigation. However, the council serves only as an investigatory body and may not adjudicate any matter nor impose any sanction. Its power is limited to
investigating a complaint against a judge and deciding the proper disposition.

The investigation of the council may include some or all of the following actions:

1. A request that the judge respond in writing;

2. An investigation by the Oklahoma State Bureau of Investigation; and,

3. Testimony of witnesses under oath.

Without obtaining prior approval of the other members, the chairperson may direct the secretary of the council to contact an authorized agency to investigate some or all aspects of a complaint. The chairperson may request this investigation at any stage of the proceeding and report such investigations to the other council members at the next meeting of the council.

If a complaint is filed against a judge, the judge is not required to disqualify himself or herself in any matter the complainant may have pending before the judge. However, a judge who is under investigation by the council on judicial complaints may not refuse to attend a hearing before the council. He or she is not entitled to the privileges and immunities guaranteed a defendant in a criminal case. A judge does not have the right to refuse to answer questions put to him or her at the hearing before the council.

The council conducts a hearing on any portion of the complaint. At the hearing each council member shall have
the opportunity to question the witnesses and to examine
the evidence. Every witness is placed under oath by the
chairperson and required not to disclose the pending
proceedings or identity of the judge being investigated.

After the complaint has been investigated to the
extent desired by the majority of the council, a decision
as to the merits of the complaint is made by a majority
vote.

The council may dispose of the complaint by either
1) recommending to the attorney general or the chief
justice of the supreme court of Oklahoma that formal
proceedings are to be filed against the judge, or 2) dismissing the complaint.

The council may make a formal written report at the
conclusion of its investigation on the actions of a
member of the judiciary charged with misconduct. If
formal proceedings are filed following investigation, the
complainant will be required to testify under oath before
the court on the judiciary about all facts set forth in
the complaint. The secretary notifies the complainant by
mail of the council's decision. Neither a council member
nor the secretary is allowed any further communication
with any party involved in the complaint.

If the council on judicial complaints finds that a
complaint has probable facts or circumstances to support
a cause for removal, it may refer the matter to the chief
justice of the supreme court, and forward all documents
and findings with the recommendation to petition to
invoke the jurisdiction and proceedings of the trial
division of the court on the judiciary. The chief
justice has discretionary authority to file a petition to
invoke the jurisdiction of the trial division. Jurisdiction may also be invoked by a petition of five other persons or entities: the supreme court, the governor, the attorney general, the executive director of the Oklahoma bar association by resolution of the OBA house of delegates, or a resolution of the Oklahoma house of representatives of Oklahoma.

If a petition against a judicial officer for removal from office is filed, it must contain one of the grounds described by the council of judicial complaints against the judicial officer. A separate petition is filed against each judicial officer sought to be removed or retired from office. Thereafter, the matter proceeds in accordance with the applicable constitutional provisions, statutes, and rules of the court of the judiciary.

ii. Trial by the Court on the Judiciary

The court on the judiciary has two divisions—a trial and an appellate division. The trial division is comprised of nine members. Eight members are district judges chosen by the secretary of state, who are senior in service and under the age of 60. The ninth member is an attorney chosen by the Oklahoma bar association board of governors. The trial division judges are standing members of the court waiting to serve if the jurisdiction of the trial division should be invoked.

The appellate division is also composed of nine members, two members of the supreme court chosen by that court; one member of the court of criminal appeals selected by the court; one active member of the Oklahoma bar association chosen by its board of governors; and five district judges senior in service and under the age of 65 selected by the secretary of state. These judges
are also standing members of that division ready to serve if the appellate jurisdiction is invoked.

The judges on the court of the judiciary are paid necessary expenses. The clerk of the appellate courts serves as the clerk of the court on the judiciary. All proceedings and pleadings are filed with the clerk of the appellate courts.

The jurisdiction of the trial division is not a criminal action, so no trial by jury is provided. A hearing before the trial division is set not less than 60 days after notice of filing the petition is made. The trial division chooses a prosecutor from names selected by the board of governors of the OBA from active members of the bar. The trial division is vested with full judicial power and authority to summon witnesses to appear and testify under oath, compel production of evidence objects, issue all judicial and remedial process and writs, provide for discovery, make rules of procedures and grant full immunity from prosecution or punishment in compelling testimony or production of evidence. A hearing is conducted and the trial division renders its judgment, which can be no greater than removal from office or compulsory retirement.

Either the respondent or prosecutor may appeal the judgment to the appellate division. The appellate division conducts an equity appeal in which it may consider matters of both fact and law, hear new evidence or take evidence. The division affirms, reverses, or modifies the decision of the trial division, or enters a new decision. The decision of the appellate division is final without further appeal.
3. Is Voter Education and Judicial Evaluation Adequate?
   a. Voter Education for Judicial Elections

   Publicizing the judicial system and what justices and judges do is essential for responsible informed voting in judicial elections. Voters have the responsibility to retain or elect good judges who will maintain the integrity of the judicial system and its independence. Voters must know how the state judicial system is structured and works, what makes a good judge, the methods used to select judges, and how judicial candidates differ from other political candidates.59

   **Voter participation** in judicial elections lags behind legislative and executive races in all states in large part because the electorate is uninformed about candidates to be retained or elected to a position. Campaign issues are nonexistent or poorly addressed in judicial elections because incumbent judges or new candidates cannot campaign with a political platform as those running for other elected offices do. Voters are not exposed to the judicial candidate because interpretations of the code of judicial conduct prohibit campaign speech other than a candidate stating his or her qualifications for office and willingness to do a good job.

   Since voters have little or no access to information in making judicial choices, their decisions are affected by the candidate already in office, name familiarity, newspaper or bar endorsements, ethnic name identity, placement on the ballot, and gender. In Oklahoma, though judicial elections are nonpartisan, party affiliation can matter in the sense that a partisan governor has made the initial appointment of an incumbent justice or judge at
the appellate level, or filled a vacancy of the district court.

In most states, media coverage is the source of **voter information** for judicial elections. The media becomes extremely important when voters have few sources for accurate and balanced information in judicial elections. Reporters can create problem areas, however, in asking improper questions of judges, reporting judicial decisions without analysis of why the decision is sound, slanted or unsound, and writing stories of court cases to create sensational press coverage.⁶⁰

In Oklahoma, where **judicial performance** is not monitored, voters must rely almost entirely on the media for information on judicial candidates and elections. However, information is limited and rarely mentions the operation of the state court system, what duties particular judicial positions carry, or the quality of the candidates. Newspaper editors do provide reasoned support or endorse particular judicial candidates.

The subcommittee for selection methods for court-related officials of the legislative advisory committee for the Oklahoma judicial system stated in its report for the 1994 legislature that there should be a better system for informing the public on the judiciary appearing on ballots for retention or election. The subcommittee recommended in its report, January 1994, that a separate committee or commission should study the procedures for such a process, and recommended the study be done in conjunction with the League of Women Voters of Oklahoma because of its interest in informing the voters. No action was taken by the legislature.
b. Voter Information Proposals

A number of voter education and information methods which are economical and relevant are available for improving the election of quality judiciary. In Oklahoma, these include:

i. Media coverage

More inclusive media coverage of the operation of the courts which is well reported by press, print, air and electronic mediums. Proposals include:

1. A speakers' bureau, using participants from media outlets and the Oklahoma judicial conference, to offer presentations to aspiring journalists enrolled at state colleges and universities. Along this same line, professors should be encouraged to include judicial reporting as part of their reporting curriculum.

2. The Oklahoma bar association should expend its current single media award--increased public awareness about the legal profession--to include awards for outstanding judicial reporting by a television station, radio or newspaper. Alternatively, the Oklahoma judicial conference is a potential sponsor of awards, with a panel of judges and journalists as judges.

3. The League of Women Voters and other interest groups should contact each media outlet in the state following July filings to encourage reporting on judicial races. Reporting should publicize information from the Code on Judicial Conduct and the Council on Judicial Complaints about the legal restraints a judicial candidate faces in making campaign comments.
4. A bench/media seminar should occur at the Oklahoma judicial conference. There is currently a bench/bar seminar at the annual Oklahoma bar association meeting of the house of delegates.

   ii. Publications by the State Court System

   Any publication by the state court system should be made known and disseminated as widely as tax dollars permit. Invaluable sources of information for the public now include:

   1. **State of Oklahoma, The Judiciary Annual Report** and the companion **Statistical Appendix** published each fiscal year by the Oklahoma office of central services and compiled by the administrative office of the courts for the legislature and the public.

   2. The recent brochure, **The Supreme Court of the State of Oklahoma**, is published by the Oklahoma supreme court and describes the state court structure, what the supreme court does, how cases are brought to the court and disposed by the court, the supreme court staff, and the present judiciary of the court.

   Additionally, the municipal court of Tulsa plans to design and distribute a hand-out flyer which provides information on the court for persons attending the court.

   iii. Meet the Candidate/Voter Pamphlets

   Voters do not know the judiciary nor whether new candidates will be good justices or judges. Even with the limitations of the Code of Judicial Conduct on judicial campaigning, candidates can have public exposure. Proposals include:
1. Have local interest groups in the state or media outlets prepare "meet the candidate" forums on district and associate district judges.

2. Work with public television for forums on the judicial system and the retention ballot as the ballot applies to supreme court justices, the court of criminal appeals judges and court of appeals judges. Distinguish the court of criminal appeals judges because their responsibilities differ greatly from the other appeal courts. Public television would be helpful during an off-election year in providing education on how the state court system works.

3. Some states provide voter information in a mail-out to all registered voters on the qualifications for office and the candidates filing. The cost is underwritten by an increase in the filing fee. The pamphlets are similar to the voter information sheets which the League of Women Voters distributes in Oklahoma. In 1992, the LWVOK listed state judicial election candidates for the first time.

State and non-profit groups formed for this specific purpose could provide voter pamphlets for judicial elections to include information on election conduct under the code of judicial conduct, biographic information on each candidate, a brief statement by the candidate, and an explanation of the job. A district court judge race in a rural community where people probably know the candidates may not require a mail pamphlet.

iv. Monitoring Judicial Performance
Several states which have merit selection for the judiciary require evaluation of judicial performance. The American Bar Association (ABA) has developed standards for judicial administration of such evaluations at the trial court level. \(^6\) Judicial performance is usually monitored within the judiciary using standard measures of objective criteria. The results are often publicized. The members of the LWVOK has taken an official position that judicial performance should be evaluated in Oklahoma courts. Oklahoma court administration appears to favor some form of judicial evaluation within the administration of the courts.

c. Evaluation of Judges

Citizens want a strong, fair and ethical judiciary and some knowledge that Oklahoma's judiciary meets such criteria. How can a voter not trained in the law decide whether a judicial candidate is qualified, especially when it is unethical as well as impossible for a candidate to say how he or she might rule in a specific type of case? It is difficult if not impossible to make a fair voting decision because so little information is available.

Bar polls, that is, polls among attorneys who practice in trial and appellate jurisdictions are one measure for evaluating judges. However, voters not trained in law cannot determine whether such polls measure judicial independence, impartiality, and knowledge of administration of the law. The OBA has never conducted a bar poll on the state appellate judiciary for the retention ballot. In fact, rating appellate judges is difficult because appellate decisions are formed by group decisions of the members of the
court. This differs from the independent work of trial judges.

Some bar associations do judicial evaluation of judges up for retention. Judges are asked to do self-assessments on their character and judicial skills and identify those persons who have had significant professional experience with them. Bar members are asked to assess candidates on the same character traits and judicial skills, and the bar contacts persons who have dealt with the judges. The bar then conducts an in-depth interview with each incumbent, reviewing any weaknesses indicated in the collection of information. Any new information from that judge is reported to association members. The association then makes a deliberate public recommendation on each retention candidate.62

The ABA believes judicial performance evaluation programs should be established and vested in the state supreme courts. The primary purpose of the programs is self-improvement of performance of individual judges, with the implication that the judiciary as a whole will improve. Other purposes include effective assignment and use of judges, improved content of judicial education programs, and retention or continuation of good judges in office. The ABA has promulgated evaluation guidelines which include administration, evaluation criteria, methodology, and use and dissemination of evaluations.63

The states which have established a state judicial evaluation program--Alaska, Arizona, Colorado, Connecticut, Illinois, Courts of the Navajo Nation, New Jersey, Utah--have used the supreme court, councils, or local commissions to conduct evaluations. In some states, narrative profiles are provided judges prior to
the time to file to stand for retention and their profiles are published prior to the election.

Evaluation programs provide relevant information otherwise unavailable to the electorate, as well as providing judges information for their own self-improvement. Including lay persons in evaluation bodies not only makes the judicial system more accountable, but eliminates the need for voters to rely on information from special interest groups. However, the evaluation process is time consuming, can be costly, and requires considerable time and effort to educate the public and the judges to its use.64

In Oklahoma, three possible bodies might be used for judicial performance evaluation.

1) The existing state council on judicial complaints as an independent public investigatory body may be best prepared to give fair evaluation of judicial performance based on objective criteria. Council investigations are not made public unless there is sufficient evidence to seek a trial with the court on the judiciary for removal or compulsory retirement of a judge. The council could be given broad disciplinary discretion for improvement of judicial job performance not related to misconduct.

2) The creation of a state judicial evaluation entity vested in the supreme court. This is probably the most effective way for evaluation to be done within the judiciary but it requires a chief justice sympathetic with the need. Evaluators in such programs are usually court

administrative staff but membership of the evaluating body should include attorneys and lay persons familiar with court administration. Job performance information is usually obtained through standard questionnaire instruments given the judges, jurors, witnesses, court employees, and litigants. Performance measures are objective and reasonable. A review of public records and workload reports as well as personal interviews may be collected. The judge is given the evaluation results. Meetings with other judges are used for his or her self-improvement. The evaluators publicize their findings, sometimes giving the information to judges 30 days before election filing for the judges' consideration on whether to file.

A bill to create an Oklahoma judicial performance commission was introduced in the 1990 legislature. It was opposed by the OBA.

3) The creation of an evaluation panel by the OBA. A panel of attorneys would conduct polls of bar association members, but include others within the court system for its responses--law officers, pardon and parole officers, jury members and trial participants. Rather than an endorsement of candidates for election, the panel's role would be a continuing standardized monitoring of the work of justices and judges.

4. Why Is Caseload Distribution Important?

In Oklahoma Politics and Policies, James L. Lawler and Robert L. Spurrier, Jr. state that the overload on the state court system is the major challenge of the Oklahoma courts...
today. When ranking all state courts, the amount of litigation in Oklahoma courts is in the top 20%. While the increase in litigation in Oklahoma reflects a national trend in the state and federal courts, the increase in Oklahoma in the 1980s was a result of the decline of the state's oil industry, its foreclosures and debt enforcement. By the 1990s, however, the number of cases filed in Oklahoma state courts had declined and the percentage of cases disposed each year had increased.

The creation of new judgeships and the realignment and elimination of existing judicial positions are methods used to manage the shifting distribution of a state court's caseload. These are complex and difficult decisions which the three branches of state government reach jointly.

The equitable distribution of judicial resources is difficult and requires determining the need for new judges, and whether existing judicial boundaries should be realigned or judicial personnel reallocated. While more resources may be needed in a judicial administrative district one year because of the number of cases filed, judicial assignments may be a sufficient method to meet the need which may diminish in the years that follow.

This discussion is limited to Oklahoma's trial courts. The traditional response to a court backlog of cases is the reassignment of the judges within a judicial administrative district by the presiding judge of that administrative district. The judges within a district court judicial district may be transferred to cases within the judicial district to create a faster court and handle backlog. The chief judge of a district court may develop practices in the assignment and transfer of cases which facilitate speedy trials and disposition of cases. Where population growth
occurs within a judicial administrative district, additional special judges can be allowed by the chief justice and appointed within an administrative district to handle those cases within the statutory jurisdictional limits for special judges.

Caseflow management and reduction in delay in trial courts can create faster courts which have a substantial effect on the overload within a district court. This requires close administration and cooperation of the county court clerk and the chief judge of a district court, and professional trial court administrators can help develop better managed courts.

When the trial process, especially for tort and criminal cases, is more efficient, trial capacity is enlarged without adding new judges and resources. Faster courts, however, do not clearly correlate with whether the court is large or small, with the population of the jurisdiction, the composition of the caseload, per judge caseloads, or the percent of cases that proceed to jury trials.67

The judicial department of Oklahoma is statutorily responsible for an annual report to the state legislature on the need to realign district court judicial boundaries and authorize new judgeships relative to growth and shifting in the trial courts' caseload. As stated in Chapter V, State Court Administration, the administrative director of the courts is requested to provide the state legislature with a report on:

1) whether boundaries of district court judicial districts should be changed and, if so, which counties should be included in each district,
2) the number of district judges and associate district judges that should be authorized for each judicial district,

3) whether to change the formula for special judges to be allowed each judicial administrative district,

4) the caseload pending in each district court judicial district, and,

5) the number of cases heard on their merits by each judge of the district court in the past year.

The administrative director also must consider the area involved in district court judicial districts and travel distances between county courthouses in assessing changes within a district court judicial district.

The legislature introduces the political and budgetary factors. A new judicial position also means the added expenditure for court personnel, courtroom space and equipment. Could the expense be avoided if the judges worked harder or the caseload were better managed? Is judicial leadership assessing need correctly? Are adequate standards being used to determine whether a position is or is not necessary?68

In 1982, the Oklahoma supreme court recommended realignment of district court judicial district boundaries to spread the workload of trial courts. As late as 1985, the legislature attempted to make changes for redistricting, and legislative bills continue to be introduced, but changes have not occurred since 1980. Changing district court judicial districts is resisted by court, local and county interests much like school consolidation. The subcommittee for reorganization, redistricting, and proper allocation of
judicial personnel of the legislative advisory committee for the state judicial system recommended realignment affecting seven district court judicial districts in its final report of January 1994. The subcommittee members recommended the reapportionment of district court judicial districts at least every ten years based on a formula for weighting types of cases by time required of the judiciary. Specific criteria would guide the legislative reapportionment of judicial resources in the state.69

Oklahoma courts could probably assess need more wisely. Oklahoma, presently, uses raw court data to report workload distribution, showing the same facts that most states use, that is, 1) total case filings, 2) caseload, 3) total case dispositions, 4) total population of an judicial administrative district, and, 5) populations served per judge in the judicial district.

A district court judge's caseload depends on the particular court district, whether the judge has a docket assignment, the number of cases filed in a docket, the types of cases (a civil action such as a tort-auto or probate or a felony crime), the type of proceeding, and whether a jury trial is used. The time required of a judge varies by type of case. The time required in each step of the proceedings of a case differ by type of case. Routine cases of traffic misdemeanors do not require the proceedings and amount of court time that complex civil tort and criminal trials do.

The number of court cases filed do relate directly to urban population centers. Oklahoma-Canadian and Tulsa-Pawnee district court judicial districts report the highest number of cases filed in 1993, 80,618 and 67,408, respectively. Each of these district court judicial districts has more than twice to nine times the number of judges authorized in the other 24
judicial districts. But district court judicial districts which have the least number of case filings are not all low population judicial districts. The presence or absence of state institutions, interstate highways, and industry in localities affect the number of case filings, as do the age and income of the population.

National guidelines exist for assessing the need for judicial resources. An analysis of need should assess the additional judicial hours available to adjudicate cases if a new position is created, or estimate the impact on the time required for disposition of cases, or address the ability of a court to assure firm trial dates. A new position may enable a new procedure to be initiated to dispose of cases.

The Task Force on Principles for Assessing the Adequacy of Judicial Resources recommends three specific factors for assessing judicial need. The three best factors are:

1) case filings, weighted for the demands made by different types of cases. A felony trial, for example, requires more court resources than a traffic misdemeanor; and,

2) active pending cases, rather than total pending cases. A court procedural review of pending civil cases which are already in the judges’ control but have been settled or abandoned provides a more realistic figure of active cases requiring judicial resources.

3) the number of jury trials as a percentage of total dispositions. Jury trials are the cases most demanding of a court’s time and represent about 10% of case dispositions nationally. A large number of jury trials requires more of a court’s resources. It is of interest that in Oklahoma jury trials comprised less than one percent of the total
dispositions of all civil and criminal cases during a fiscal year.

Some reasonable efforts should be made to report judicial workload as a measure of the mix of cases filed in a court, weighted by the judge-time required for various case types. This, indeed, was the recommendation of the subcommittee studying allocation of judicial personnel and judicial redistricting in Oklahoma. Some states also collect additional data on the time spent on each processing step of preliminary hearing, entering of criminal plea, hearing on a motion, the trial conference, and trial for each type of case. This is done to indicate that time spent in one procedural step may reduce time in another part of the case proceedings. The use of weighted caseload measures becomes more relevant and feasible as courts use more computer-based court management technology.73

5. Is There Gender Bias in the Courts?

Oklahoma has not undertaken an official effort to sensitize judges and attorneys to gender bias and the serious effects of what was once acceptable behavior in the courtroom and professional environment. However, judges, attorneys, juries and court personnel surveyed in other states concur that inappropriate forms of address, sexist jokes and verbal and non-verbal signs of disrespect for female attorneys, litigants, jurors, court personnel and witnesses do diminish with formal and informal education activities.

Gender bias is the predisposition or tendency to think about or behave toward people on the basis of sex, rather than individual characteristics. It relies on myths and stereotypical thinking about men and women. It manifests itself in the courtroom environment in both obvious and subtle ways. Most females perceive women as being treated
differently in the courtroom environment solely because of their sex, whereas most males do not have this perception of courtroom bias against women.

Female gender biased behavior is related to:

1. the treatment of female judges, attorneys and litigants in the courtroom in ways which are derogatory or overly solicitous,

2. unequal treatment of men and women as participants in the courts, and,

3. the effects pre-conceived biases about women have on court cases and the persons involved.

Gender bias is reported as an issue of pressing concern for women who spend a considerable amount of time in the courtroom and professional setting. Research findings indicate the need to study gender issues in the legal system. Inappropriate assumptions about gender have raised questions since the early 1980s of the effects of gender bias throughout the legal system.

A judge is regarded with honor and respect in our society, and is perceived as performing the duties of judicial office impartially and diligently, as stated in Canon 3 of the Model of Judicial Conduct. But a judge will not intervene in bias situations when he or she fails to perceive a behavior as bias nor recognize that personal biases are affecting judicial decisions and creating inequalities before the law.74

In August, 1988, the Conference of Chief Justices and the Conference of State Court Administrators called for the creation of task forces in every state to assess and address
gender bias, ethnic, and cultural concerns. Statewide task forces began to assess the existence of gender bias and its effects on court decisions. By May, 1992, thirty-three states, the District of Columbia and Puerto Rico, had formed gender bias task forces or exploration committees to examine the issue. Sixteen states' reports are similar in that all states' findings support the existence of bias. Most studies conclude that more than statements of generalization are needed. Each state must identify specific problems within the courts of that state through its own study and address those problems.

The state task forces have addressed every possible issue of gender bias in the legal system. The findings of the task forces would indicate that women are denied equal justice whether they are litigants, attorneys or court employees. Judges, attorneys, litigants and court personnel surveyed reported that gender bias is a pervasive societal problem which does exist in the court system. Dealing with the issue in the courts is a delicate task, especially in small communities where men and women appear before the same judge frequently.

Some states have implemented study recommendations made by their task forces. Material has been published and distributed to raise judicial awareness of how to eliminate gender bias. The majority of states that do not have a task force studying gender bias in the courts have citizen groups which lobby the legislature and the court system to establish and fund a task force or committee for eliminating bias.

Judicial, legal, and attorney and citizen education on gender bias are essential to change. The National Judicial Education Program provides recommendations for judges, such as the correct form of address in the courtroom, to ensure
equality. The Women Judges' Fund for Justice has published a training manual for promoting gender fairness through judicial education. Some law schools integrate gender bias issues into the curriculum, try to eliminate bias within the school setting, and examine course materials for bias.

Women have made impressive strides within the legal profession. As recently as 25 years ago women comprised only 4% of the nation's law students. Today the percentage is over 40% and rising. The number of women in the judiciary is very low despite the experience-level qualified women have now reached. Women are not advancing in the legal profession itself. The powerful and prestigious positions in the field are held disproportionately by men, while women over-represent state and local government legal positions. In law schools, women hold over 50% of the clinical teaching and 70% of the legal writing positions. As recently as 1986, women comprised only 11% of the tenured professors.75

The first woman admitted to the bar in Oklahoma Territory was Minerva Elliott in 1893. In 1902, the state's first husband-wife law firm was established, and in 1913 the Oklahoma bar association admitted the first female member. By 1921, Oklahoma had 34 female attorneys. In 1946, the first female county bar association president was elected. In 1982, Governor Nigh appointed Alma Wilson, the first women to sit on the Oklahoma supreme court. Using name identification only to determine the gender of trial judges, seven, or 10%, of the 71 state district judges are women; eight, or 10%, of the 77 associate district judges are women; and 10, or about 16%, of Oklahoma's special judges are women. Oklahoma's first female federal district judge, the Honorable Robin Cauthron, was appointed as recently as 1989. In 1994, Vicky Miles-LaGrange was appointed district attorney for the federal Western district of Oklahoma, the first African-American women to be
appointed to that federal office. In 1993, Governor David Walters appointed Reta M. Strubhar as judge to the Oklahoma court of criminal appeals, making her the first woman in state history to be named to that appellate court of last resort. No woman has yet served on Oklahoma’s court on the judiciary or council on judicial complaints. Female judges and attorneys in Oklahoma have been exposed to the same situations as those in other states. The stiffest campaign opposition for female judges comes from male attorneys. Many women applying for work in law firms know they are not viewed as being on a serious career track.

Oklahoma is slow to recognize gender issues. The 19th amendment of the U.S. Constitution giving women the right to vote was ratified in 1920, but the proposal to amend Oklahoma’s constitution was not introduced until 1923. From 1928 to 1942, the LWVOK worked for passage of an amendment to the state constitution to permit women in Oklahoma to hold major political office. The amendment was not voted on by the electorate until 1935, when it was rejected, and again in 1940! The state question was passed in 1942 by 2 to 1, in large part because of the efforts of the LWVOK. Oklahoma was the last state in the United States granting women the right to hold major state political office.

In 1936, the questions of jury duty for women first appeared on the study program of the League of Women Voters of Oklahoma. Sixteen years later, on July 1, 1952, voters supported an Oklahoma referendum which provided women the right to serve on all juries. In 1993, after a two-year study of the state judicial system and a statewide consensus on the findings, the members of the LWVOK voted at their state convention to take an official position opposing gender bias in the Oklahoma courts.

In May 1994, a number of Oklahoma women's organizations, some upon resolution at their annual meetings, submitted a letter to the chief justice of the supreme court requesting that the topic of gender fairness be part of the curriculum for judicial training in Oklahoma, and that three women, to include a woman of color, be included on the curriculum planning committee. The chief justice referred the request to the Nigh Institute in Edmond, Oklahoma, which is developing an in-state judicial training program for new judiciary, and the chair of the Judicial Conference Curriculum Committee responsible for structuring the curriculum for judicial training.
Figure 10.
FUNDING FOR THE STATE OF OKLAHOMA COURT SYSTEM

LEGISLATIVE APPROPRIATIONS
1. Supreme Court
   Supreme Court Personnel
   Supreme court Operating Expenses
   Court on the Judiciary
   Foster Care Review Board
   Judicial Nominating Commission
   Court of Appeals

2. District Court
   Judges' Salaries
   Court Reporters' Salaries
   Travel for Judges and Court Reporters
   Secretaries for Presiding Judges

General Revenue and Other Treasury Funds Available
State Treasury

Excess in SJF after these expenditures

District Court collects fees; incurs expenses (within budget) resulting in an excess of receipts over disbursements.

Each quarter, 10% in local court fund, excess receipts over expenses, fund interest, less 20% of expenses, are transmitted to clerk of supreme court as court contribution to state judicial fund

At fiscal year-end, district court contributions are collected by administrative office of the courts and placed in clearing account awaiting audit by the State Auditor and Inspector

THE STATE JUDICIAL FUND
Income sources to the State Judicial Fund:
1. Contributions from Court Funds
2. Transfers from Law Libraries
3. Supreme Court Filing and Miscellaneous Fees
4. Court of Criminal Appeals Filing Fees
5. Court Reporters' License Fees

State Judicial Fund Expenditures
Requiring No Legislative Appropriations:
1. Jury Trials (where local court insolvent)
2. Criminal Change of Venue
3. Attorney Fees for Indigent Defendants Charged with First Degree Murder
4. Expenses of Council on Judicial Complaints
5. Expenses of State Board of Examiners of Official Shorthand Reporters

Upon completion of the audit by State Auditor and Inspector and payment of refund, if any, district court contributions are deposited in the State Judicial Fund and Judicial Retirement Fund.

State Judicial Retirement System:
Ten percent (10%) of amount collected by District Courts goes to Retirement System to pay the State's share of retirement costs.

Figure 11.
FY-93 STATEWIDE APPROPRIATIONS FOR OKLAHOMA STATE COURTS

TOTAL STATEWIDE APPROPRIATION: \$3,657,078,874

GOVERNMENTAL SERVICES SHARE:

<table>
<thead>
<tr>
<th>Governmental Service</th>
<th>Appropriation</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Courts</td>
<td>32,787,953</td>
<td>0.90</td>
</tr>
<tr>
<td>Legal Services</td>
<td>36,570,788</td>
<td>1.00</td>
</tr>
<tr>
<td>Education</td>
<td>1,941,908,800</td>
<td>53.10</td>
</tr>
<tr>
<td>General Government</td>
<td>255,995,510</td>
<td>7.00</td>
</tr>
<tr>
<td>Health and Social Services</td>
<td>914,269,700</td>
<td>25.00</td>
</tr>
<tr>
<td>Transportation</td>
<td>219,424,720</td>
<td>6.00</td>
</tr>
<tr>
<td>Public Safety</td>
<td>255,555,200</td>
<td>7.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>3,657,078,874</strong></td>
<td><strong>100.00</strong></td>
</tr>
</tbody>
</table>

State Court Generated Funds: District Courts $14,143,609, Supreme Court $2,598,626, Court of Criminal Appeals $1,805,759.
Court Generated Funds: District Courts $9,274,500, Supreme Court $4,965,459, Court of Criminal Appeals $0.

**TOTAL** $18,547,994 Court Funds, $14,239,959 State Funds, **$32,787,953** Total Funds.

Figure 12.
OKLAHOMA SUPREME COURT
APPROPRIATION HISTORY

TOTAL FISCAL YEAR APPROPRIATION

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Total Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY-87</td>
<td>$5,209,469</td>
</tr>
<tr>
<td>FY-88</td>
<td>$5,730,290</td>
</tr>
<tr>
<td>FY-89</td>
<td>$6,443,962</td>
</tr>
<tr>
<td>FY-90</td>
<td>$6,769,050</td>
</tr>
<tr>
<td>FY-91</td>
<td>$6,866,233</td>
</tr>
<tr>
<td>FY-92</td>
<td>$7,272,631</td>
</tr>
<tr>
<td>FY-93</td>
<td>$7,564,085</td>
</tr>
</tbody>
</table>


Figure 13.
OKLAHOMA DISTRICT COURTS
APPROPRIATION HISTORY

![Bar chart showing total fiscal year appropriation for FY-87 to FY-93.]

**TOTAL FISCAL YEAR APPROPRIATION**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY-87</td>
<td>$15,515,646</td>
</tr>
<tr>
<td>FY-88</td>
<td>$16,374,776</td>
</tr>
<tr>
<td>FY-89</td>
<td>$18,072,296</td>
</tr>
<tr>
<td>FY-90</td>
<td>$20,229,710</td>
</tr>
<tr>
<td>FY-91</td>
<td>$21,979,994</td>
</tr>
<tr>
<td>FY-92</td>
<td>$23,054,748</td>
</tr>
<tr>
<td>FY-93</td>
<td>$23,418,109</td>
</tr>
</tbody>
</table>

**SOURCE:**

LWVOK: Would you track the monies in the courts?

Conyers: First, there are two court budgets. One is the supreme court budget which is funded basically with state-appropriated dollars.

The second budget is for the state district courts. This budget has two funding sources: 1) court generated monies from fines, forfeitures and court fees and 2) legislative appropriated dollars (from the State Judicial Fund, general revenue tax dollars, and other funds).

District court-generated monies are retained by the clerk of the county court. Each district court submits a yearly budget for its local operation (showing expected revenues from court generated monies and expenditures). Expenditures proposed for furniture, equipment, renovation, part-time employees, etc., must, by statute, be approved by the supreme court chief justice. The district court
clerk files a quarterly report with the administrative office of the courts listing local disbursements and the revenues deposited in the local court fund. Ten percent (10%) of the amount collected in the local court fund is transmitted to the clerk of the supreme court. Any receipts over quarterly expenses and the interest earned on the local court fund are also transmitted after retention of 20% of the sum of the quarter’s expenses. These monies become court contributions and are deposited in the State Judicial Fund which pays for specific services not available for other district courts which have not generated sufficient funds for their operation. (At the end of the fiscal year any excess receipts over disbursements are transferred to an administrative office of the courts clearing account and after audit are placed in the State Judicial Fund for appropriation by the legislature to the district courts.) The state pays the salaries and travel expenses of district court judges, and the salaries of court reporters and secretary-bailiffs from appropriation funds.

In the past, indigent defense was paid in the county to the public defender as part of the district court budget. Monies came from the district court revenues. The State Judicial Fund provided monies for capital indigent defense (Murder 1). In 1991, however, the legislature created a state Capital Litigation Division to represent all indigent defendants charged with murder [except in counties over 200,000 with an office of county indigent defense], unless the prosecutor agrees not to seek the death penalty. In 1992, the present Oklahoma Indigent Defense System was created. Each county court clerk transmits quarterly a percentage of collections (12%) in the local court funds to the supreme court for deposit in the Indigent Defense System Revolving Fund. Table 9 which follows this Commentary shows the statewide cost of legal representation for indigents in Oklahoma. The decline in the total from 1992 to 1993 is attributed to the costs of representation for Murder 1 cases paid by the supreme court and trial costs paid from
local court funds which are now budgeted for the Capital Litigation Division of the Oklahoma Indigent Defense System.

An example of funding flow: Total collections by the state trial courts are $40 million. After local court expenditures, $9.5 million excess is available to be paid to the State Judicial Fund, $9 million of which then goes to the general revenue fund after statutory expenditures are made by the supreme court.

Rules for local court fund budgets are statutorily prescribed (1977, 1980). There is no change from the former court clerk's budget which was used. A committee of a district judge and an associate district judge, both of whom reside in that county, and the court clerk meet as the governing board of the county "Court Fund" to consider the budget for the next fiscal year. Under the direction and approval of the district court judge-member of this local governing board, the proposed budget is submitted to the administrative director of the courts for approval by the chief justice. Budget data for the five major counties are on the state's mainframe computer.

The court clerks are county employees. Court deputy clerks can be paid from the local court fund or by the individual county. Expenditure for part-time employees requires, by statute, the approval of the chief justice. Part-time is defined as 37 1/2 hours a week. Local courts need to ask the administrative director of the courts if any dollar change needs to be made in their budgets.

Some of the county district courts are very poor. (For example, the Choctaw and Johnston county district courts contributed $0 in court-generated funds to the State Judicial Fund in FY-93. Tulsa and Cleveland counties paid the largest contributions to the State Judicial Fund in FY-93.) All district courts are self-sustained in addition to any contributions paid.

A Resource Guide to Oklahoma Courts. (LWVOK 1994.)
Contribution amounts also depend on court collection rates. Reasons for high collections in Tulsa and Oklahoma County district court includes:

1. The criminal docket is a source of money. Tulsa County is proud of its aggressive record for collecting criminal fines;

2. Where a district court presiding judge retains that position, such as Judge Hopper in Tulsa, management is better than in judicial districts where the chief judge changes every year;

3. Trial court administrators are located in Tulsa and Oklahoma counties; the continuity of an administrator helps.

LWVOK: Ideally, we should be assuring equal justice across the state. How is this possible if the courts regard crime dockets as a source of revenue and certain courts pride themselves on collections?

Conyers: Prior to 1969, justice-of-the-peace minor courts provided revenue for county general funds. (Local court funds still pay into county general funds as recompense for loss of those revenues to the counties). We are moving away from user-generated fees. It would be better if the legislature appropriated all funds for the courts. We really need appropriated funds in contrast to the use of highway patrol citations, for example, to fund the court system. Now, for example, 98% of judicial office and court personnel salaries are paid by the state. Fifteen million more dollars are needed for pay raises and new employees. The question becomes how many dollars can you come up with in contributions? in tax dollars?

County district courts are requesting dollars from the supreme court just to hold jury trials because they are not getting anticipated revenue. Each district court can keep 20% of its
court-generated funds, but must send the remainder of its revenues each year to the state administrative office. Noble County, for example, supports the court on traffic citations from I-35, but all rural counties don't have such a source of revenue.

The chief justice is the chief administrative officer of the courts, but his or her powers are limited. There are no standards for district court judges to meet. The chief justice provides no check on performance. Judges are independently elected, and there are no state court administrative controls for performance. The budget process can effect change and wrestle with problems for more effectiveness in the courts, but most of the fiscal procedure is mandatory by statute.

Future court changes will occur in automation for purposes of cost avoidance, which will mean 250 fewer employees in court clerk's offices. There will be more state control as a result of this uniformity and more state approval over dollars spent and choices made.

County government conflict exists. Counties are worried about change and state consolidation. The Oklahoma bar association's (OBA) concern for making the court clerk a state employee threatens court clerks who worry about the office becoming appointive, not elective. The OBA recommendation is that state funding of the courts would include the present office of court clerk, but that position may change.

The power of the court clerk? Her or his power usually depends on her or his personality. The clerk provides oversight of the judges' management, which is helpful since there is nothing statutory about judicial management. In fact, the clerk is usually the source if some irregularity is reported to the administrator of the courts of the chief justice. If a problem arises within a local district court, the preferred action is that the problem be
resolved within the court itself and not by the state administrative system. Hiring for the court is done by the court clerk. Oklahoma County district court, for example, has 105-110 employees. The court clerk hires the deputy clerk assigned to the judge, which can lead to conflict. Employment provides high patronage, but there seems to be no problem of conflict. There is no evaluation of deputy clerks.

Judicial campaigns don't present many problems. The Judicial Code controls the judge, family and immediate staff in campaign practices and questions of breach of ethics. Judicial candidates can have no political events nor speak publicly at party functions. Court clerks and deputies are under the same general campaign restrictions which apply to county employees in any campaign.

The administrative office of the courts serves 211 judges, 120 legislators, and 77 court clerks.

LWVOK: What is an example of a state-funded system?

Conyers: There are states which fund the court system totally by appropriation. Most are small and in the East; for example, the state of Delaware which has three counties. In Kansas, all collection fees go straight to the state. The counties pay the judges' salaries, but the use of local court funds for salaries can result in salary changes. For example, in 1990, Kansas judges took a 5% cut in salary as a result of loss in local court revenue.
<table>
<thead>
<tr>
<th>STATEWIDE COST OF LEGAL REPRESENTATION FOR INDIGENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FISCAL YEAR 1990</strong></td>
</tr>
<tr>
<td>State Judicial Fund (Murder 1)</td>
</tr>
<tr>
<td>Local Court Funds</td>
</tr>
<tr>
<td><strong>Trial</strong></td>
</tr>
<tr>
<td><strong>Appeal</strong></td>
</tr>
<tr>
<td><strong>Mental Health</strong></td>
</tr>
<tr>
<td><strong>Public Defender Programs</strong></td>
</tr>
<tr>
<td><strong>TOTAL FOR FY-90</strong></td>
</tr>
<tr>
<td><strong>FISCAL YEAR 1991</strong></td>
</tr>
<tr>
<td>State Judicial Fund (Murder 1)</td>
</tr>
<tr>
<td>Local Court Funds</td>
</tr>
<tr>
<td><strong>Trial</strong></td>
</tr>
<tr>
<td><strong>Appeal</strong></td>
</tr>
<tr>
<td><strong>Mental Health</strong></td>
</tr>
<tr>
<td><strong>Public Defender Programs</strong></td>
</tr>
<tr>
<td><strong>TOTAL FOR FY-91</strong></td>
</tr>
<tr>
<td><strong>FISCAL YEAR 1992</strong></td>
</tr>
<tr>
<td>State Judicial Fund (Murder 1)</td>
</tr>
<tr>
<td>Local Court Funds</td>
</tr>
<tr>
<td><strong>Trial</strong></td>
</tr>
<tr>
<td><strong>Appeal</strong></td>
</tr>
<tr>
<td><strong>Mental Health</strong></td>
</tr>
<tr>
<td><strong>Public Defender Programs</strong></td>
</tr>
<tr>
<td><strong>TOTAL FOR FY-92</strong></td>
</tr>
<tr>
<td><strong>FISCAL YEAR 1993</strong></td>
</tr>
<tr>
<td>State Judicial Fund (Murder 1)</td>
</tr>
<tr>
<td>Local Court Funds</td>
</tr>
<tr>
<td><strong>Trial</strong></td>
</tr>
<tr>
<td><strong>Appeal</strong></td>
</tr>
<tr>
<td><strong>Mental Health</strong></td>
</tr>
<tr>
<td><strong>Public Defender Programs</strong></td>
</tr>
<tr>
<td><strong>TOTAL FOR FY-93</strong></td>
</tr>
</tbody>
</table>

NOTES

1. See James C. Thomas, Statutory Construction: When Legislation is Viewed as a Legal Institution, Harvard Journal on Legislation 191-221, 1968. Professor Thomas contends that over-emphasis on the common-law rules of legislation construction for interpreting statutes expands judicial power into lawmaking. That power belongs to the legislative branch. Statutory interpretation by the courts should be reserved to "what is the meaning of the statute?" Judicial consideration which is limited to the legislative history of the statute, its purpose, why and how the statute was enacted preserves the intent of the legislation the institutional separation of powers, and the integrity of the legislative process.


3. Id. at 4-7.


6. Marian P. Opala, Justice, Oklahoma Supreme Court, comments to the judicial study committee of the League of Women Voters of Oklahoma, Oklahoma City, OK, November 23, 1991.


8. Id. at 78.

9. There are three United States federal district courts in Oklahoma, the Eastern District in Muskogee, the Western District in Oklahoma City, and the Northern District in Tulsa.
Fourteen United States district court judges serve the three districts.

10. See Oklahoma Constitution Article VII, and Oklahoma Statutes, Title 20.


13. Supreme Court of the State of Oklahoma, Oklahoma Office of Central Services 5, 1992. At Monday conferences, the supreme court considers petitions for certiorari (review); bar disciplinary matters; and matters of original jurisdiction, that is, application for extraordinary relief.

14. Id. Wednesday is one of two "circulation days" in the supreme court. On that day, all justices receive the matter for the Thursday conference of the following week.

15. Id. at 1; also see Opala, supra note 6.

16. Lawler and Spurrier, supra note 5, at 118.


18. At-large judicial elections in Tulsa and Oklahoma counties were modified under the settlement agreement of Robinson v. State of Oklahoma in 1993: subsequent legislation to provide opportunity for the election of minority judges was passed following settlement.

19. Some commentators indicate that the geographical boundaries for the nine supreme court judicial districts for the Oklahoma supreme court limit the number of highly qualified nominees for that court. State court judges and attorneys with extensive experience tend to live in urban areas. Interview with Dean Robert Henry, Oklahoma City University Law School, October 20, 1992.

20. Jurisdiction disputes are most frequent for tribes in Oklahoma, Arizona, Michigan, North Carolina, and Wisconsin.


25. Franklin, supra note 12, at 36-40. A motion to dismiss because of technicalities might show the wrong person has been served, service of court papers was incorrect, or the time when such an action could be filed has expired (statute of limitations). The latter technicality ends the plaintiff’s case. A motion to dismiss for failure to state a claim--a "demurrer"--is a common way for courts to decide legal questions. Here, the defendant will assume all the facts alleged by the plaintiff are correct, but the complaint does not show the defendant has done anything for which the law holds her or him accountable. The plaintiff has "failed to state a claim for which relief can be granted". The judge then decides the questions and, if the judge agrees, dismisses the case to avoid the time and effort of a trial.

Or, the defendant may file an "answer" which disputes the alleged facts. The answer may be a general denial of the allegations, specific denial of certain allegations, or it may allege new facts as an "affirmative defense". If any of these answers are accurate, the plaintiff is barred from recovery in the case. Lastly, the defendant may contend only that damages claimed by the plaintiff are too high, but admits that the defendant must pay something.
26. Id. at 153-155.

27. After the jury has heard the plaintiff's case, the defendant's attorney may make a motion for a **directed verdict**. The assumption is that no jury could reasonably believe that the plaintiff has met his or her burden of proof for a civil case, a preponderance of evidence. Before the jury hears the defendant's case, the judge may direct the jury in its verdict.

Two types of post-trial motions may be filed by the losing party attacking the verdict. A "**motion for judgment notwithstanding the verdict**" (judgment n.o.v.) contends the jury has reached an impossible result, and moves that the judge rule that the party making the motion is entitled to win the case. The motion is essentially a delayed motion for a **directed verdict**.

The second type of motion by the losing party asks for a new trial, which the judge might order based on a number of factors.

28. See The Supreme Court of the State of Oklahoma, supra note 13, at 5.


32. See Opala, supra note 6.

33. See Anne Thompson, Total Quality Management: A Court Application, Court Executive Development Program, Phase III, May, 1993, for a discussion of effective management of municipal courts.


37. Court expenses allowed by statute are limited to the following: principal and interest on bonds prior to January 1, 1968; compensation of bailiffs and part-time help; jurors’ fees and mileage, and overnight housing and food expense if jurors are kept together, as set out by statute; witness fees and mileage for witnesses commanded to appear in court by the defense as set forth by statute, except expert witnesses for county indigent defense who are paid a reasonable service fee; office supplies, record books, postage and printing; furniture, fixtures and equipment; renovating, remodeling and maintenance of court rooms, judges’ chambers, clerk’s offices, judicial robes; compensation for attorney services provided under the Oklahoma Guardianship Act; transcripts ordered by the court; utilities for the part of the county courthouse occupied by the court; cost of publication notice in proceedings brought by the state, termination of juvenile and parental rights; interpreter fees and other expenses expressly authorized by statute.

38. Comments of Howard W. Conyers, Administrative Director of the Courts, meeting with the judicial study committee of the League of Women Voters of Oklahoma, Oklahoma City, Oklahoma, October 19, 1991; also see State of Oklahoma. The Judiciary. Annual Report FY-93, supra note 17, at 32, and Annual Report FY-90 at 44.


41. Final Report, Overall Funding of the Judiciary, Oklahoma bar association Ad Hoc Committee, April, 1991. The issue relating to funding of Defense Services for Indigents was addressed by

42. Id.
43. Interview with Don Austin, Tulsa County Court Clerk, March 1992.


46. At the district court level, each county court clerk deposits all fines, fees, costs and forfeitures in a fund designated as "The Court Fund" in the county treasury. "The Court Fund" is used to defray the expenses of holding court within that county. The county treasurer acts as an agent of the state in handling these monies and his or her bond covers the obligations relevant to "The Court Fund." The fund is governed by a board comprised of a district judge, an associate district judge and the county's court clerk. If the judicial district has more than one district judge, the district judge residing in the county serves on "The Court Fund" governing board. If there are several district judges, all the judges of the judicial district shall select one for the governing board. If there are several associate district judges, all shall select one for the governing board. The district judge on the governing board must approve all claims for payment of expenses, and either the associate district judge or the local court clerk of the board must also approve. The chief justice of the supreme court must approve expenditures of compensation of bailiffs and part-time help, furniture, fixtures and equipment and renovating, remodeling and maintenance of space related to court function. Surplus funds in the court fund must be used first for furniture, equipment, fixtures, remodeling, renovating, and maintenance.

To offset loss of receipts to the county from abolishing county justice-of-the-peace courts in the court reforms of the 1960s, each county court clerk must transfer from the court fund to the county general fund an amount equal to 1/24 of the fines, fees, and forfeitures received by that court for either the fiscal year of 1965-1966 or 1966-1967 for the operation of the courts within the county, less salaries, justice of the peace expenses, and other general expenses at that time. Many recommendations have been made that this arrangement be discontinued, and the 1993 legislature did reduce the amount to be paid from 1/12 to 1/24 of the earlier court receipts.


50. Austin, supra note 43.


52. Austin, supra note 43.


57. McFadden, supra note 55, at 7-8.
60. Id. at 11-12.
63. See Standards of Judicial Administration, Judicial Evaluation Programs, supra note 61, at 72-74.

73. Id. Assessing the Need for Judicial Resources, at 26-27; also id. Standards of Judicial Administration- Relating to Trial Courts Vol II, on Case Management at 79-84.


75. Id.
APPENDICES

A. What Are the Qualifications For Judicial Office?

B. How Do You Become A Judge?
   - An Application For Oklahoma Judicial Vacancy

C. Who Nominates State Judiciary?
   - Present Members of the Oklahoma Judicial Nominating Commission

D. How Do You Make A Judicial Complaint?
   - Rules of the Council On Judicial Complaints
   - For Form and Its Receipt
APPENDIX A

WHAT ARE THE QUALIFICATIONS FOR JUDICIAL OFFICE?
# QUALIFICATIONS FOR JUDICIAL OFFICE STATE OF OKLAHOMA

<table>
<thead>
<tr>
<th>COURT</th>
<th>POSITION</th>
<th>HOW SELECTED</th>
<th>QUALIFICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Municipal</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not of Record (full and part-time)</td>
<td>approx. 350</td>
<td>Appointed by mayor with consent of the governing board of city or town for two-year term.</td>
<td>a. shall be licensed to practice in Oklahoma; except in any city of less than 7,500 where nonattorney may serve; b. shall be a resident of the city or maintain a residence therein.</td>
</tr>
<tr>
<td>Of Record (full-time part-time)</td>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>14</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Workers' Compensation Court</strong></td>
<td>10</td>
<td>Appointed by governor from three merit selections of the Judicial Nominating Commission in addition to the name of the incumbent if any for six-year term.</td>
<td>a. shall be licensed to practice law in Oklahoma for a period not less than five years prior to appointment; b. shall be eligible for reappointment.</td>
</tr>
<tr>
<td><strong>Court of Tax Review</strong></td>
<td>26, in 3-judge panels</td>
<td>Chosen by supreme court justices.</td>
<td>District court judge from one of the 26 district court judicial districts.</td>
</tr>
<tr>
<td><strong>Court on the Judiciary (Trial Division)</strong></td>
<td>8</td>
<td>Chosen by the Secretary of State.</td>
<td>a. shall be district court judges senior in service; b. under 60 years of age; c. no two from the same supreme court judicial district.</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>Chosen by the Oklahoma bar association board of governors.</td>
<td>a. active member of the Oklahoma bar association.</td>
</tr>
<tr>
<td><strong>Court on the Judiciary (Appellate position)</strong></td>
<td>5</td>
<td>Chosen by the Secretary of State. Judges of the Oklahoma Court of Criminal Appeals. Justice of the Oklahoma Supreme Court.</td>
<td>a. shall be district court judges senior in service; b. under 65 years of age; c. no two from the same supreme court judicial district.</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Chosen by the Oklahoma bar association board of governors.</td>
<td>a. active member of the Oklahoma bar association.</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SOURCE:** Oklahoma Statutes, Title 20; Constitution of Oklahoma, ARTICLE VII-A.
(Qualifications for Judicial Office, State of Oklahoma, continued.)

<table>
<thead>
<tr>
<th>COURT</th>
<th>POSITION</th>
<th>HOW SELECTED</th>
<th>QUALIFICATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>District</td>
<td>District Judge</td>
<td>71; one in each county</td>
<td><strong>Elected in nonpartisan election or Appointed by the governor to fill a vacancy from three merit selections of the Judicial Nominating Commission.</strong></td>
</tr>
<tr>
<td>Special</td>
<td>Judge</td>
<td>63, where needed</td>
<td><strong>Appointed only, by district court judges within the judicial administrative district or by the chief justice of the supreme court at the request of a majority of district judges in administrative district, with reason. Serves at pleasure of district judges.</strong></td>
</tr>
</tbody>
</table>

Qualifications are the same whether elected or appointed. Prior to election or appointment:

a. shall have a minimum of four years of experience as a licensed practicing attorney or as a judge of a court of record, or both, in the state of Oklahoma;
b. be a qualified elector of the respective congressional district which the position represents for at least six months prior to election;
c. have any additional qualifications prescribed.

SOURCE: Oklahoma Statutes, Title 20; Constitution of Oklahoma, ARTICLE VII-§8.

### Qualifications for Judicial Office, State of Oklahoma, continued.

<table>
<thead>
<tr>
<th>COURT</th>
<th>POSITION</th>
<th>HOW SELECTED</th>
<th>QUALIFICATIONS</th>
</tr>
</thead>
</table>
| Court of Appeals        | 12       | Appointed only, by the governor to fill vacancy from three merit selections of the Judicial Nominating Commission. **Retention** election for additional six-year term at first general election after one year of service. | Prior to selection:  
  a. shall have a minimum of four years of experience as a licensed practicing attorney or as a judge of a court of record, or both, within the state of Oklahoma;  
  b. be a qualified elector of the respective congressional district which the position represents for at least six months prior to selection;  
  c. have any additional qualifications prescribed by law. |
| Court of Criminal Appeals | 5        | Appointed only, by the governor to fill a vacancy from three merit selections of the Judicial Nominating Commission. **Retention** election for additional six-year term after first general election after one year of service. | a. Shall be at least 30 years of age;  
  b. be a licensed practicing attorney for five years prior to selection;  
  c. be a qualified elector in his or her court of criminal appeals' district for at least one year immediately prior to selection; and,  
  d. shall continue to be a licensed attorney while in office. |
| Supreme Court          | 9        | Appointed only, by the governor to fill a vacancy from three merit selections of the Judicial Nominating Commission. **Retention** election for additional six-year term at first general election after one year of service. | a. Shall be at least 30 years of age;  
  b. be a licensed practicing attorney for five years prior to selection;  
  c. be a qualified elector in his or her supreme court district at least one year prior to selection; and,  
  d. continue to be a licensed attorney while in office. |

**SOURCE:**  
Oklahoma Statutes, Title 20; Constitution of Oklahoma, ARTICLE VIII-§2, 3.
APPENDIX B

HOW DO YOU BECOME A JUDGE?
OKLAHOMA JUDICIAL NOMINATING COMMISSION

INSTRUCTIONS AND INFORMATION FOR SUBMISSION OF JUDGESHIP APPLICATION

1. Type all information required by the application. Attach photo to all copies of application. Submit an original and (14) copies of your application. DO NOT RETYPE THE APPLICATION FORM.

2. Pages (11) through (16) of the original only should have an original signature and original notary public seal. Copies of these pages should be attached to additional (14) copies of application.

3. Submit your application stapled. DO NOT BIND IN A PERMANENT MANNER.

4. Limit letters of recommendations to (10) or less. These letters are to be mailed directly to the Commission members. Letters of recommendation are not to be sent to the Administrative Office of the Courts for distribution.

5. If you need additional space, please attach addendum pages directly behind that question to which you are responding. DO NOT ATTACH ADDENDUM PAGES TO THE BACK OF THE APPLICATION.

6. If you are married, list your spouse's social security number on page 2, number 9.

7. Page (16) is for presently serving judges only.

8. Your response to question #46, page 7, is voluntary. However, if you choose to submit writing samples, briefs, petitions, or legal articles, do not attach them to your application and submit only one (1) copy. Writing samples submitted, will not be returned to applicants.

9. PERSONAL CONTACTS BY APPLICANTS TO THE NOMINATING COMMISSION MEMBERS ARE DISCOURAGED. QUESTIONS REGARDING ADMINISTRATIVE MATTERS MAY BE DIRECTED TO JUANITA MAYFIELD-HOLLEY, ADMINISTRATIVE OFFICE OF THE COURTS, (405) 521-2450.

10. The Commission may readvertise for a judicial vacancy if fewer than three (3) applications are received for a judicial position.

11. All applications must be submitted to the Administrative Office of the Courts no later than 5:00 P.M. on the published closing date or postmarked no later than midnight of the published closing date. (There will be no exceptions to this requirement.)

12. Applications should be submitted in a sealed envelope marked "Confidential" and can be mailed or hand delivered to:

   Administrative Office of the Courts
   Oklahoma Judicial Nominating Commission
   1915 N. Stiles, Suite 305
   Oklahoma City, OK 73105
   (405) 521-2450
   Attn: Juanita Mayfield-Holley
OKLAHOMA JUDICIAL NOMINATING COMMISSION

Application For Oklahoma Judicial Vacancy

Name
Judicial Position
Judicial District County
Date

APPLICATION FOR OKLAHOMA JUDICIAL VACANCY

Failure to Answer Accurately Any of the Questions Contained in This Application May Result in Rejection of the Application. Please Attach Additional Sheets If Necessary.

Application for Vacancy In ____________________ Judicial Position.

GENERAL INFORMATION

1. Full Name:_____________________________________________________
   All Other Names Which You Have Used: ________________________________

2. Social Security Number:__________________________________________
   Driver's License Number: __________________________________________

3. Date of Birth:___________________________________________________

4. Place of Birth:___________________________________________________

5. Date of Admission to Practice of Law in Oklahoma:___________________

6. Are You a United States Citizen:___________________________________
   If Naturalized, Please State Date and Place of Naturalization: ___________

7. Residence Address:_______________________________________________
   Phone Number: ___________________________________________________
   Length of Residence in Oklahoma: ____________________________________
   If you are applying for a vacancy on the Supreme Court or on the Court of Criminal Appeals, Please specify your length of residence in the District: ________________________________

8. Business Address:_______________________________________________
   Phone Number: ___________________________________________________
9. Spouse's Full Name: 
   (Include Maiden Name where appropriate.)
   Spouse's Occupation: 

10. Children's Names and Dates of Birth:
    

11. Military Service:
    Service Branch Dates 
    Type of Discharge: 
    If a Reserve or National Guard Member, Please Give Service Branch, Unit and Rank:

12. List Your Place of Residence by City and State Listing Approximate Dates of Residence for the Past Ten Years
    

**EDUCATION**

13. List All School and Colleges Which You Have Attended. Include Preparatory, College and Law. If You Withdrawed From School Prior to Graduation, Please State Reason for Withdrawal:
    School/College Dates Degree Year 
    

14. Have You Complied With the Applicable State Requirements for Mandatory Continuing Legal Education During Your Career as an Attorney?
    ______ Yes ______ No

**HEALTH**

15. Describe Your Present State of Health:
    

---

16. Do You Have Any Physical, Mental or Emotional Disabilities Which Could Restrict Your Ability to Serve as a Judge:

If Yes, Please Explain:

________________________________________________________________________
                                                                                           
________________________________________________________________________

17. During the Past Ten (10) Years, Have You Undergone Treatment by a Psychiatrist or Any Treatment for an Emotional or Mental Condition or illness, Addiction to Drugs or Addiction to Alcohol?

If Yes, Explain and Identify Your Attending Physician, the Name(s) of Any Hospital or Institution to Which You Were Admitted and the Date(s) of Your Hospitalization:

________________________________________________________________________
                                                                                           
________________________________________________________________________

18. Have You Been Hospitalized for a Serious Physical Illness During the Past Five Years? If Yes, Please Explain and Identify Your Attending Physician. The Name(s) of Any Hospital to Which You Were Admitted and the Date(s) of Your Hospitalization:

________________________________________________________________________
                                                                                           
________________________________________________________________________

19. Are You Presently Receiving Treatment for a Physical, Mental or Emotional Illness?

________________________________________________________________________
                                                                                           
________________________________________________________________________

LEGAL PROFESSION

20. List All Courts, Administrative Bodies and Commissions in Which You are Admitted to Practice, Include Dates of Admission.

<table>
<thead>
<tr>
<th>Court</th>
<th>Date of Admission</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

21. Provide the Name of All Law Firms, Governmental Agencies or Private Business Organizations in Which You Have Been Employed, or Any Other Types of Legal Practice in Which You Have Been Engaged. List Dates of Employment and Addresses.

<table>
<thead>
<tr>
<th>Position</th>
<th>Address</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

22. Provide the Names, Addresses and Dates of Employment of All Employers Outside the Legal Profession by Whom You Were Employed During the Past Five (5) Years. Please State Your Position.

<table>
<thead>
<tr>
<th>Employer</th>
<th>Address</th>
<th>Position</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

23. If Your Employment Was Terminated or You Were Asked to Resign From Any of the Previously Listed Employment, Please State the Employment and the Reason for Your Termination or Resignation.

<table>
<thead>
<tr>
<th>Employment</th>
<th>Reason for Termination or Resignation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Year</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

25. Summarize Your Courtroom Experience for the Past Five (5) Years.

<table>
<thead>
<tr>
<th>Year</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

What Percentage of Your Practice Has Been Devoted To:
Active Civil Litigation?
Active Criminal Litigation?
Other:
Number of Criminal Cases Tried to Verdict:
Number of Civil Cases Tried to Verdict:

26. Provide the Names of Three (3) Judges Before Whom You Have Tried Cases.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

27. Provide the Names of Three (3) Attorneys Against Whom You Have Tried Cases.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
28. List the Names of Professional Organizations or Societies to Which You Belong.

________________________________________________________________________

________________________________________________________________________

29. Have Disciplinary Proceedings Been Commenced Against You by Any Bar Association During Your Practice? (Do Not Disclose the Mere Filing of a Complaint Which Did Not Result In the Institution of Proceedings.)

Are Any Proceedings Now Pending? __________________________________________________________________________

If Yes, Name the Bar Association, Describe the Nature of the Proceedings and Provide the Results:

________________________________________________________________________

________________________________________________________________________

30. Have You Ever Been Cited or Sanctioned for a Breach of Ethics or Unprofessional Conduct by Any Court or Administrative Agency? __________________________________________________________________________

If yes, Please Describe:

________________________________________________________________________

________________________________________________________________________

31. Have You Ever Been Sued by a Client? __________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

PRIOR JUDICIAL EXPERIENCE

32. List All Judicial Positions For Which You Have Applied in the Past (10) Years.

Position County Date

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

33. List All Judicial Offices Which You Have Held, the Office and the Dates of Service:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
34. List All Quasi-Judicial Service:
Name of Agency/Position | Type of Cases | No. of Cases Heard

35. Have You Ever Been a Candidate for, or Held Public Office (Unless Previously Stated in Judicial Experience)?

36. List All Business Affiliations and Occupations in Which You are Engaged Outside of the Legal Profession:

37. Have You Been Involved as a Litigant in Any Civil Litigation Within the Past Ten (10) Years?
   If Yes, Provide Specifics, Including the Court, Case Number and Your Role in the Proceedings:

38. Have You Ever Been Charged With or Convicted for Any Misdemeanor or Felony Offense, Excluding Minor Traffic Violations:
   If Yes, State Offense, Court, Case Number and Resolution:

39. Have You Timely Filed Federal and State Tax Returns

40. Do You Have Tax Liens or Claims Outstanding?
41. Have You, During the Past Ten (10) Years, Been in Default on Any Loan or Have You Allowed Debts to Become Past Due? If So, Please Explain:

SUPPLEMENTAL INFORMATION

42. List Any Honors, Prizes or Awards Which You Have Received:

43. List Any Legal Books or Articles Which You Have Published:

44. List Any Accomplishments Which Reflect on Your Ability to Serve as a Judge:

45. List Your Hobbies and Vocational Interests:

46. Please Attach:
   A. A Copy of a Brief Prepared Substantially by Yourself and Filed.
   B. Any Legal Articles Written by You Which are Pertinent to Your Qualifications to Serve as a Judge.

47. List Any Bar Committee Work You Have Performed:

48. To Your Knowledge, Is There Any Circumstance in Your Professional or Personal Life That Creates a Substantial Question as to Your Qualifications to Serve in a Judicial Position or Might Interfere With Your Ability to Serve?
49. Do You Agree to Serve If Appointed by the Governor?

50. If You Wish, Please List Any References Below:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

51. I Have Never Been Convicted for a Felony, or Any Lesser Offense, an Element Which Involved: Dishonesty or Improper Conduct as an Attorney, Nor Have I Ever Been Disbarred, Suspended, Reprimanded, or Otherwise Subjected to Public Discipline, Nor Is There Presently Pending Against Me Any Proceedings That Might Result in Such a Conviction or in Such Discipline.

52. I am Unable to Check the Above by Reason of the Matter or Matters Concerning Which I Now Provide An Explanatory Statement. This Statement Includes the Following Details:

(A) The Court (and Judge) or Disciplinary Body, and Its Address:

(B) The Docket Number, If Any:

(C) The Criminal Charge or Disciplinary Violation Adjudged or Pending:

(D) The Criminal Sentence or Disciplinary Sanction Imposed, and/or the Present Status of Any Criminal or Disciplinary Proceedings, If Still Pending:

(E) The Date of the Adjudication or the Date of Institution of Any Pending Proceedings:

(F) The Facts Underlying the Matter, and Any Explanations You Wish to Provide to the Board:
53. Why are You Seeking This Position:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
In Making and Filing This Application for Judicial Vacancy, I Authorize All Persons, Firms, Officers, Corporations, Associations, Organizations, State or Federal Agencies and Institutions including, but Not Limited to, Doctors, Hospitals, and Health Care Providers, to Furnish to the Judicial Nominating Commission or its Authorized Representative, All Relevant Documents, Records or Other Information, That May be Requested in the Investigation for This Application. I Further Agree That All Information Received by the Judicial Nominating Commission Will be Treated Confidentially by the Judicial Nominating Commission and I Specifically Waive Any Right to Review the Material Submitted to the Judicial Nominating Commission. However, I understand that, by filing This Application, my name will be included on the Judicial Nominating Commission's list of applicants, and that, after the filing deadline, said list is subject to public disclosure.

__________________________
Applicant's Signature

STATE OF OKLAHOMA, COUNTY OF ___________________________ , SS:

______________________________ , of lawful age, being

first duly sworn upon oath, deposes and says:

I am an applicant for a judicial position with the State of Oklahoma. I have read the questions in the foregoing application and questionnaire and have answered them truthfully, fully and completely. I hereby request and authorize the Oklahoma State Bureau of Investigation (OSBI) to conduct an official investigation of my personal history and background, and further request and authorize the OSBI to deliver a report of its investigation to the Judicial Nominating Commission. I hereby authorize the release of any information from the Oklahoma Bar Association or any of its committees, educational and other institutions, my references, employers, business and professional associates, including doctors who have treated me and hospitals where I have been confined, all governmental agencies and instrumentalities and all consumer reporting agencies. This release to the OSBI and to the Judicial Nominating Commission of any information, files, records and/or reports requested by the OSBI or the Commission in connection with the background investigation and processing of this application is without reservation or exception.

__________________________________________

(Applicant's Signature)

Subscribed and sworn to before me this ______ day of _________________________, 19___.

My Commission Expires: ___________________________ Notary Public

Please mail together with a recent photograph or snapshot to:

Supreme Court of Oklahoma
Administrative Office of the Courts
1915 N. Stiles, Suite 305
Oklahoma City, Oklahoma 73105
ADDENDUM TO APPLICATION FOR JUDICIAL VACANCY

OKLAHOMA STATE BUREAU OF INVESTIGATION
REQUEST FOR TAX RECORDS

Name: ____________________________________________
Address: ________________________________________
SSN: ____________________________________________
DOB: ____________________________________________

I, _____________________________________________, hereby request and direct that the
Internal Revenue Service and Oklahoma Tax Commission deliver to Agent ____________________________ of
the Oklahoma State Bureau of Investigation copies of my income tax returns and return information for the tax
period(s) of _______________________________________________________ which
were made on IRS Form ___________________________ and Oklahoma Tax Commission Form _____________________________.

(Signature)

State of Oklahoma )
) SS.
County of ____________________ )

Subscribed and sworn to before me this ______ day of ____________, 19______

Notary Public

My Commission Expires:

____________________________________

TO BE COMPLETED BY PRESENTLY SERVING JUDGES ONLY

ADDENDUM TO APPLICATION FOR JUDICIAL VACANCY

OKLAHOMA STATE BUREAU OF INVESTIGATION
REQUEST FOR RECORDS OF THE COUNCIL ON JUDICIAL COMPLAINTS
AND RELEASE FROM LIABILITY

I, ______________________________ do hereby request and direct that the Oklahoma Council on Judicial Complaints make available to ______________________________, agent of the Oklahoma State Bureau of Investigation, the number of complaints that have been filed with the Council on Judicial Complaints against me and whether those complaints are pending or closed.

I do hereby release, absolve, and forever hold harmless the Oklahoma Council on Judicial Complaints together with its agents and employees, from any and all causes of action which may accrue to me as a result of said disclosure of records.

________________________________________
(Requesting Party)

State of Oklahoma
County of ______________________________

Subscribed and sworn to before me this ______ day of ________, 19____.

________________________________________
(Notary Public)

My Commission Expires: ____________________

JNC/COCrls
12/20/89
ADDENDUM TO APPLICATION FOR JUDICIAL VACANCY

OKLAHOMA STATE BUREAU OF INVESTIGATION
REQUEST FOR EDUCATIONAL AND DISCIPLINARY RECORDS
AND RELEASE FROM LIABILITY

I, ________________________________, do hereby request and direct that ________________________________ make available to ________________________________, agent of the Oklahoma State Bureau of Investigation, all records in the possession of the ________________________________, which reflect my enrollment, attendance, disciplinary action, or any other matter pertaining to my dealings with ________________________________.

I do hereby release, absolve, and forever hold harmless ________________________________, together with its agents and employees, from any and all causes of action which may accrue to me as a result of said disclosure of records.

______________________________
(Requesting Party)

State of Oklahoma

County of ________________________________

Subscribed and sworn to before me this _______ day of ________________________________, 19______.

______________________________
(Notary Public)

My Commission Expires:

REQUEST PERTAINING TO MILITARY RECORDS

PRIVATE ACT OF 1974 COMPLIANCE INFORMATION. The following information is provided in accordance with 5 U.S.C. 552(a)(2) and access is in this form. Authority for completion of the information is 44 U.S.C. 3517, 3518, and 3519, and E.O. 11950 of November 22, 1976. Disclosure of the information is voluntary. The optional nature of the completion is to avoid the necessity furnishing the records in any agency and verifying the correctness of the requested portion of information to answer your query. Please use of the completion as accordance and authorized at 5 U.S.C. 552(a)(2)


<table>
<thead>
<tr>
<th>SECTION I - INFORMATION NEEDED TO LOCATE RECORDS (Provide as much information as possible)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. NAME USED DURING SERVICE (Last, First, and Middle)</td>
</tr>
<tr>
<td>2. SOCIAL SECURITY NO.</td>
</tr>
<tr>
<td>3. DATE OF BIRTH</td>
</tr>
<tr>
<td>4. PLACE OF BIRTH</td>
</tr>
<tr>
<td>5. ACTIVE SERVICE, PAST AND PRESENT (For all missing records state, it is important that all service or branch service are)</td>
</tr>
<tr>
<td>BRANCH OF SERVICE</td>
</tr>
<tr>
<td>(Also, name and organization, if known)</td>
</tr>
<tr>
<td>GATES OF ACTIVE SERVICE</td>
</tr>
<tr>
<td>DATE ENTERED</td>
</tr>
<tr>
<td>DATE RELEASED</td>
</tr>
<tr>
<td>6. SERVICE NUMBER DURING THIS PERIOD</td>
</tr>
<tr>
<td>7. NATIONAL GUARD MEMBERSHIP</td>
</tr>
<tr>
<td>8. STATE OR ORGANIZATION</td>
</tr>
<tr>
<td>9. STATE MEMBERSHIP</td>
</tr>
<tr>
<td>10. SERVICE NUMBER DURING THIS PERIOD</td>
</tr>
<tr>
<td>11. IS SERVICE PERSON DECEASED</td>
</tr>
<tr>
<td>12. IS MAE INDIVIDUAL A MILITARY RETIREE OR MEET REQUESTER</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SECTION II - REQUEST (Provide as much information as possible)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. EXPLAIN WHAT INFORMATION OR DOCUMENTS YOU NEED OR</td>
</tr>
<tr>
<td>CHECK ITEM 5 OR COMPLETE ITEM 6</td>
</tr>
<tr>
<td>2. IF YOU ONLY NEED A STATEMENT OF SERVICE</td>
</tr>
<tr>
<td>3. LOCATE REQUEST</td>
</tr>
<tr>
<td>REPORT OF SEPARATION YEAR-ISSUED</td>
</tr>
<tr>
<td>DISCHARGE DATE-CERTIFICATE YEAR-ISSUED</td>
</tr>
<tr>
<td>4. EXPLAIN HOW SEPARATION DOCUMENT WAS LOST</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. EXPLAIN PURPOSE FOR WHICH INFORMATION OR DOCUMENTS ARE NEEDED</th>
</tr>
</thead>
<tbody>
<tr>
<td>For use in background investigations</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8. REQUESTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. IDENTIFICATION (photo identification box)</td>
</tr>
<tr>
<td>Same person identified in Section I □</td>
</tr>
<tr>
<td>□ Surviving spouse</td>
</tr>
<tr>
<td>□ Native of the United States</td>
</tr>
<tr>
<td>□ Other (explain) Oklahoma State Bureau of Investigat</td>
</tr>
<tr>
<td>9. SIGNATURE (see instruction 3 on reverse side)</td>
</tr>
<tr>
<td>DATE OF REQUEST</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5. RELEASE AUTHORIZATION IF REQUIRED (Read instruction 3 on reverse side)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>7. PLEASE TYPE OR PRINT THE FOLLOWING COMPLETE RETURN ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name, Address, and Zip</td>
</tr>
<tr>
<td>Oklahoma State Bureau of Investigation</td>
</tr>
<tr>
<td>P.O. Box 71487</td>
</tr>
<tr>
<td>Oklahoma City, Oklahoma 73136</td>
</tr>
</tbody>
</table>

VETERAN SIGN HERE □
(The signature of the veteran is required)

(If signed by other than veteran)
ADDENDUM TO APPLICATION FOR JUDICIAL VACANCY

OKLAHOMA STATE BUREAU OF INVESTIGATION

REQUEST FOR MEDICAL RECORDS AND RELEASE OF LIABILITY

I, ___________________________, hereby request and direct that ___________________________ deliver copies of all medical records, reports, X-rays, and all other information pertaining to my medical history to ___________________________.

I hereby release, absolve, and forever hold harmless ___________________________ together with its agents and employees, for any causes of action which may accrue to me, directly or indirectly, as a result of said copying and dissemination.

________________________________________
(Requesting Party)

State of Oklahoma
County of ____________________________

Subscribed and sworn to before me this ______ day of ____________, 19____.

________________________________________
(Notary Public)

My Commission Expires:

# OKLAHOMA JUDICIAL NOMINATING COMMISSION

**OCTOBER 5, 1993**

## ATTORNEYS (Elected by Oklahoma Bar Association)

<table>
<thead>
<tr>
<th>Congressional District</th>
<th>Name</th>
<th>Telephone Number</th>
<th>Term Expires</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. 1</td>
<td>Ronald N. Ricketts, Esq.</td>
<td>918-582-9201</td>
<td>10-05-99</td>
</tr>
<tr>
<td></td>
<td>15 W. 6th, Ste. 200</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tulsa, OK 74119-5447</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. 2</td>
<td>R. Forney Sandlin, Esq.</td>
<td>918-683-5513</td>
<td>10-05-99</td>
</tr>
<tr>
<td></td>
<td>P.O. Box 1934</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Muskogee, OK 74402-1934</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. 3</td>
<td>Bob Rabon, Sr., Esq.</td>
<td>405-326-6427</td>
<td>10-05-95</td>
</tr>
<tr>
<td></td>
<td>P.O. Box 726</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hugo, OK 74743</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. 4</td>
<td>Terry W. West, Esq.</td>
<td>405-275-0040</td>
<td>10-05-95</td>
</tr>
<tr>
<td></td>
<td>Chairman</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>124 W. Highland</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Shawnee, OK 74801</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. 5</td>
<td>Jake Jones, III, Esq.</td>
<td>405-272-9700</td>
<td>10-05-97</td>
</tr>
<tr>
<td></td>
<td>2350 Liberty Tower</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>100 N. Broadway</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Oklahoma City, OK 73102</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No. 6</td>
<td>Richard L. McKnight, Esq.</td>
<td>405-233-2020</td>
<td>10-05-97</td>
</tr>
<tr>
<td></td>
<td>P.O. Box 1108</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Enid, OK 73701-1108</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## LAYMEN (Appointed by the Governor)

| No. 1                  | William D. Clark          | 918-299-1989  | (R) 10-05-96 |
|                        | 5415 E. 101st. Street    |               |            |
|                        | Tulsa, OK 74137          |               |            |
| No. 2                  | Norma Halterman          | 918-786-5374  | (R) 10-05-95 |
|                        | 10615 Lakeshore Drive    |               |            |
|                        | Grove, OK 74344          |               |            |
| No. 3                  | Harmon A. Jones          | 405-889-3115  | (D) 10-05-97 |
|                        | 115 East Court           |               |            |
|                        | Atoka, OK 74525          |               |            |

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Phone Number</th>
<th>Party</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Wanda Jo Evaige</td>
<td>405-335-5066</td>
<td>(D)</td>
<td>10-05-99</td>
</tr>
<tr>
<td>5</td>
<td>Jackie Cooper</td>
<td>405-755-3600</td>
<td>(D)</td>
<td>10-05-97</td>
</tr>
<tr>
<td>6</td>
<td>Orville A. Ritter</td>
<td>405-327-5611</td>
<td>(R)</td>
<td>10-05-99</td>
</tr>
</tbody>
</table>

**AT LARGE (Elected by Commission)**

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone Number</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeff W. Muskrat</td>
<td>918-786-7150</td>
<td>10-05-95</td>
</tr>
<tr>
<td>Route 4, Box 469</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grove, OK 74344</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**EXECUTIVE ASSISTANT**

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juanita Mayfield-Holley</td>
<td>405-521-2450</td>
</tr>
<tr>
<td>1915 North Stiles, Suite 305</td>
<td></td>
</tr>
<tr>
<td>Oklahoma City, OK 73105</td>
<td></td>
</tr>
</tbody>
</table>

1916 North Stiles, Suite 305
Oklahoma City, OK 73105
(405) 521-2450
APPENDIX D

HOW DO YOU MAKE

A JUDICIAL COMPLAINT?
RULES OF THE COUNCIL ON JUDICIAL COMPLAINTS FOR COMPLAINT FORM AND ITS RECEIPT

RULE 1.

A. All communications, including complaints shall be addressed to:

Administrative Director of the Judiciary
1 State Capitol Building
Oklahoma City, Oklahoma 73105

If a member of the Council should receive a complaint or an inquiry, he (or she) shall have no communication with the party other than referring him (or her) to the Secretary (the Administrative Director of the Courts). Only the Secretary shall be authorized to supply a prospective complainant with the approved complaint form. Neither the Secretary nor any individual Council member shall discuss with a complainant the merits of his (or her) complaint.

B. Any two (2) Council members shall constitute a quorum.

C. The Secretary shall maintain for transmittal to interested parties a supply of complaint forms and of letters containing general instructions to guide interested parties in filing a complaint. The Secretary may render general assistance to complainants desiring to fill out needed forms or to enclose supporting documents. He (or she) shall not offer any comment on the content or merits of the complaint to be filed or on file.

D. A suggested form of the complaint is as follows:

COMPLAINT

Complaint against: __________________________________________
Complaint made by: __________________________________________
Address: ____________________________________________________
Telephone: ___________________________________________________
A brief chronological statement of the facts:

VERIFICATION

State of ____________________________ )
) SS.
County of ____________________________ )

_______________________________ of lawful age, being first duly sworn, states: I have read the foregoing statement, am familiar with the contents thereof and the statements therein contained are true and correct, to the best of my knowledge and belief.

__________________________________________ (Signature)
Subscribed and sworn to before me this ___ day of ____________, 19___
__________________________________________ (Notary Public)

RULE 2. Procedure

Each complaint received by the Secretary shall be assigned a number and will be logged with the date of receipt shown. It will be placed on the agenda of the next Council meeting with a copy sent to each Council member.

Documents and enclosures shall be dated, described on a sheet of paper, and placed in the complaint file. The Secretary shall bring to each meeting the complete file of the complaints placed on the agenda. In its discretion, the Council may notify a judge of a pending complaint.

SOURCE: Oklahoma Statutes, Title 20, Ch. 22, App.1.