

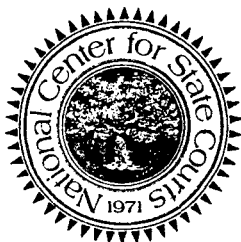
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WISCONSIN RURAL COURTS: A TECHNICAL ASSISTANCE REPORT

June 27, 1984

Samuel D. Conti, Regional Director
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June 27, 1984

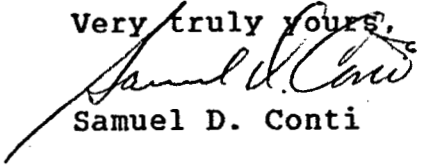
J. Denis Moran
Director of State Courts
213 N.E. State Capitol
Madison, WI 53701-1688

Dear Denis:

We are pleased to transmit to you our final technical assistance report on Wisconsin Rural Courts. We have tried in the report to address all of the issues which you, John Ferry, Maurice Geiger and I discussed at our meeting in Madison.

I hope the information and observations contained in the report are helpful to you. If we may provide any further assistance, please let me know.

Very truly yours,


Samuel D. Conti

SDC:m

WISCONSIN RURAL COURTS:
A TECHNICAL ASSISTANCE REPORT

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ATTACHMENTS

"New Hampshire Bar IOTA Tops \$100,000", New Hampshire
Law Weekly, April 4, 1984.

"Legal Research Services for Trial Court Judges," Kenneth
L. Montero

"General Jurisdiction Trial Judges Riding Circuit in State
Court Systems," David C. Steelman

Center for Jury Studies Newsletter (January 1981)

WISCONSIN RURAL COURTS
TECHNICAL ASSISTANCE REPORT

The National Center for State Courts was asked to provide the Wisconsin Director of State Courts with technical assistance on the operations of rural courts. The Director and several former and current district court administrators identified some problems faced by the rural courts of the state. These issues have been placed in larger categories for discussion within this technical assistance report as follows:

1. Caseflow management;
2. Use of judicial and court support personnel;
3. Development and acquisition of management information systems (manual and automated)
4. Relations with county funding authorities;
5. Dissemination of and compliance with policies and directives;
6. Security.

Sixty-six of the 72 counties of the state form single circuits; three circuits embrace two counties each. The circuit courts are part of ten judicial administrative districts, each headed by a chief judge appointed for a two-year term by the Supreme Court. The chief judge may be assisted by a deputy chief judge, and in multi-judge trial courts, by division presiding judges who may be

appointed to oversee jurisdictional subdivisions of the court.¹ Also assisting the chief judge of the circuit is a district court administrator. (See Wis. Stat. Sec. 757.60, et seq. and Supreme Court Rule 70.17 et seq.) Court commissioners, who must be attorneys licensed to practice in the state, shall be appointed by the circuit judges and approved by the chief judge to assist in family court, juvenile court and civil matters. (See Wis. Stat. Sections 757.68 et seq., 767.13, and 48.065.) The juvenile court commissioner is appointed by the chief judge. (See Wisc. Stat. 48.065.) Other court commissioners (commonly referred to as "judicial" court commissioners are appointed pursuant to Wisc. Stat. Sections 757.68(1) and (2).² The powers of court commissioners beyond those specifically set by statute (Wisc. Stat. 757.69(3) and (4), must be specified by order of the circuit judges and approved by the chief judge (Wisc. Stat. 757.69(1) and (2)).

1. Caseflow management. When attempting to understand the caseflow of a trial court it is necessary to determine the pace and

¹Trial court administrative power in the state may be conferred by statute and by action of local governing bodies on municipal courts. (See Article VII, Sections 2 & 14, Wisconsin Constitution and Chapters 755 and 800, Statutes). Approximately 210 municipal courts (which are not courts of record) have been established in the state. These courts, which are without equity jurisdiction, have exclusive jurisdiction over local ordinance violations. Appeals from the municipal courts are taken to the circuit court of the county. The municipal court judges, most of whom are not law-trained, are elected for two or four year terms.

²In counties of 100,000 population or more, the county board may authorize the position of full time court commissioner, who shall be appointed and supervised by the chief judge. (Wisc. Stat. 757.68(1)). In any county, the circuit judges may appoint such court commissioners as are necessary to transact the business of the court subject to certain restrictions. (Wisc. Stat. 757.68(2)).

mix of litigation. The age of pending cases, types of dispositions and the types of actions are useful toward this end. In Wisconsin the data from the existing information system has been used. The analysis set out below relies on two data sources: (1) the 1982 trial court statistics (WCIS Report #9A) and (2) the 1983 Case Management Summary (WCIS Report #10). These two reports provide only summary information. The accuracy of some of the data reported from some of the trial courts is suspect; however, for purposes of making a general comparison between rural and non-rural courts, these reports are useful as long as the conclusions drawn are tempered with a recognition of the limitations of the data.

Since the primary purpose of the analysis is to examine caseflow in rural courts a sample of twelve smaller counties was selected. The selection process was as follows: two counties each in Districts 6, 9, and 10 were chosen at random. In Districts 4, 5, 7 and 8 the largest county was selected. A county of less than 50,000 population was chosen at random in those districts where there was more than one county of less than 50,000. In Districts 2 and 3 one county was selected at random. The result was a set of sixteen (16) counties. They are listed in Table 1 by district number and estimated populations.

This comparison is admittedly based on few data, but even so some conclusions can be drawn about both relative and absolute case movement (see Table 2). That is the relative movement of cases in rural vs. non-rural courts can be measured. It is also possible to comment on absolute case movement, or how long it ought to take anywhere.

TABLE 1
POPULATION OF SELECTED WISCONSIN COUNTIES*

<u>District</u>	<u>County</u>	<u>Estimated Population</u>	<u>Type</u>
2	Kenosha	122,128	Non-rural
3	Waukesha	283,356	Non-rural
4	Winnebago	132,811	Non-rural
4	Calumet	31,915	Rural
5	Lafayette	17,894	Rural
5	Dane	330,937	Non-rural
6	Sauk	44,791	Rural
6	Clark	32,976	Rural
7	Jackson	16,881	Rural
7	LaCrosse	93,582	Non-rural
8	Brown	180,033	Non-rural
8	Door	25,525	Rural
9	Price	15,919	Rural
9	Iron	6,623	Rural
10	Dunn	35,430	Rural
10	Polk	33,672	Rural

*Department of Administration, Demographic Services Center, Official Population Estimates for 1982, January 1, 1982.

Source: State of Wisconsin Blue Book 1983-1984.

COMPARISON RURAL TO NON-RURAL (1982)

County	AGE OF DISPOSED CASES				% over 2 yrs.	AGE OF PENDING CASES				
	Jury	Court	Settled	Dismissed		URES, Etc.	Felonies	Misdemeanors	Small Claims	
Kenosha	244	210	151	438	7.3	746	869	119	163	244
Waukesha	540	245	204	273	9.9	263	710	299	378	273
Winnebago	320	159	91	220	4.5	540	714	238	452	95
Dane	496	342	167	250	6.8	323	523	357	256	290
LaCross	255	165	120	254	5.1	475	774	152	152	210
Brown	295	126	140	312	9.9	371	607	228	160	103
Non-rural Median Sample	308	188	146	264	7.05	423	712	233	209	227
Calumet	224	154	133	149	2.7	359	346	337	241	280
Lafayette	276	253	73	126	.9	715	566	237	698	397
Sauk	434	320	165	319	5.5	679	388	468	411	426
Clark	161	84	114	758	13.6	374	627	198	385	369
Jackson	256	153	97	108	4.9	931	848	776	495	1022
Door	256	177	91	247	5.2	533	677	1023	563	697
Price	535	174	90	257	3.4	400	399	327	214	939
Iron	201	45	77	393	7.1	287	331	103	174	318
Dunn	533	176	209	240	6.4	508	557	432	505	216
Polk	150	176	53	161	2.2	188	638	158	124	325
Median Rural Sample	256	175	94	244	5.05	454	562	332	398	383

State totals	336	188	142	292	6.7	492	342	398	434	332
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In comparing age of disposed cases there is no significant difference between rural and non-rural courts, with one exception. It does seem that cases "settle" faster in rural counties. In examining the age of pending cases it appears that non-rural courts have a slightly higher percent of their inventory over two years old, but that in general the rural inventory is slightly older than non-rural.

In absolute comparison several troublesome conclusions might be drawn. Perhaps the most disturbing is the age of pending criminal matters. In the rural courts, sampled pending felonies were about 330 days old and pending misdemeanors were about 400 days old. The total state "average" seems to be even worse at 398 days for felonies and 434 days for misdemeanors. The non-rural courts sampled seem to be in better shape especially on misdemeanors. These numbers are in fact inaccurate due to reporting errors. The technical assistance format does not permit detailed analysis of other than the reported data. Errors have been pointed out in the reports as a result, for example, of the failure to report a special status code (SO-4) for those cases in which a warrant is outstanding. Where the special status code is used, the report program that generates the report extracts from the calculation the period of time that the warrant was outstanding in a case.

Another matter of concern is the age of pending divorce and URESA actions, the state average being 492 days for divorce and 642 for URESA. Again, these numbers may reflect more of a data collection problem than delays in the adjudication process.

There are a few items noticed during the analysis that are mentioned here merely because they warrant further inquiry within the state court system. The following is a list of these items:

- Lafayette County has only 15 pending cases in the URESA category.
- Jackson County small claims cases have an average age of 1,022 days and felonies 776 days.
- Door County shows the average age of pending felonies as 1,023 days.
- The number of garnishments varies drastically from county to county. For example, Dane County shows 1,377 while Winnebago shows none.
- Kenosha, LaCross, Iron and Polk Counties all have acceptable ages of pending criminal cases, while the other twelve counties had significantly older inventories. Perhaps an examination of those counties will explain if the apparent differences is real or merely a reporting discrepancy.

Time and distance, particularly in a rural setting were important considerations in the ABA Action Commission to Reduce Court Costs and Delay emphasis on the use of teleconferencing.³ The use of the telephone for the purposes described by the Committee is not new - lawyers and judges in rural America have long known that a simple call could substitute the need for hours of travel. The emphasis in recent reports underscores the benefits of the telephone conference on the movement of cases. Recent Wisconsin legislation allows approval of warrant issuance by telephone. The

³See attached, American Bar Association, Action Commission to Reduce Court Cost and Delay, Telephone-Conferenced Court Hearings: A How-to Guide for Judges, Attorneys and Clerks, Chicago, 1983.

benefits of telephone messages can also be extended to call-in systems in jury management and utilization.⁴

Like their suburban and metropolitan counterparts, judges and lawyers in rural courts benefit from having firm schedules in which appearance conflicts and needless travel can be reduced.⁵ Either by teleconference or at an early appearance before the court the parties can join in a scheduling order in which agreement is reached about firm dates for upcoming events - completion of discovery, status conferences, pretrial, plea submission, and trial commencement. Not only dates but likely lengths of the prospective court appearances can be estimated for future scheduling. The scheduling order is an effort to establish early and continuous court control over the movement of all cases.⁶

A review of the statistical reports gathered by the Director of State Courts shows that some categories of cases are long delayed. Particularly difficult are those which touch on family status

⁴See attached, Center for Jury Studies, "Newsletter", Vol.3, No. 1, Jan. 1981, pp. 3-5.

⁵See, Steelman, Adams, Conti, Civil Case Scheduling in the Trumbull County (Ohio) Court of Common Pleas: Findings and Recommendations, (National Center for State Courts, North Andover, MA, 1982, pp.20-24. See also, Stott, Fetter Crites, Rural Courts: The Effect of Space and Distance on the Administration of Justice, (National Center for State Courts, Denver, CO, 1977).

⁶See, Conti, Ross, Steelman, Description and Analysis of the Passaic County (NJ) Speedy Trial Demonstration Project, Interim Report, (National Center for State Courts, North Andover, MA, 1980, pp.19-23.

divorce, support, visitation and custody cases. Means to resolve these cases more quickly, if reconciliation of the parties is not possible, can be developed. The attention which must be paid to these usually sensitive matters often consumes court time disproportionately. In divorce cases the main issue before the court may be equitable distribution of property. Properly-trained family court commissioners could serve as "settlement" commissioners (domestic relations masters) whose findings, proposed distributions and decrees would be subject to circuit court review and approval with the circuit judge entering the divorce judgment on the record.⁷ In this capacity the family court commissioners could take a more active role in pre-trials. New responsibilities in this area will be better discharged if the commissioners use scheduling orders, or where it may be more appropriate, in view of lower case volume or lack of automated case monitoring equipment, a court scheduling plan applicable to all cases of a specified type.

In defaults and uncontested cases, where jurisdiction has been established, where notice requirements have been met, and where the parties have stipulated to the main issues associated with the dissolution, it may not be necessary for the parties to appear before the court at the rendition of the judgment. Time of the litigants and of the court could be saved (fifteen minutes are estimated as needed for the proceeding) if time saving is considered more important than the policy behind requiring an appearance..

⁷See generally, National Center for State Courts, The Impact of Domestic Relations Cases on the New Hampshire Superior Court: Analysis and Recommendations, (Boston, 1974) and National Center for State Courts, Evaluation of New Hampshire's Marital Masters Program, (Boston, 1976).

Arbitration of civil disputes which has been raised as an issue might be experimented with and evaluated in larger courts.⁸ It is likely, however, that in rural courts informal paths have been explored and rejected and the parties have chosen to have formal judicial consideration of claims.

2. Use of judicial and court support personnel. The management and calendaring of cases, particularly in rural courts, is effected by problems of time, distance and familiarity among the participants in the process. Familiarity, especially where the trial bar is small, can be a cause for concern but does not necessarily imply the loss or compromise of impartiality by the court. If the judge has doubts about impartiality or the appearance of lack of impartiality, recusal (self-disqualification) (See Wis. Stat. Sec. 757.19) is the appropriate course. Counsel may also file for a substitution of the judge pursuant to statute. (See Wis. Stat. Sections 971.20 [criminal] and 801.58 [civil and family]). Substitutions of this type are common in several jurisdictions⁹ and can make scheduling

⁸See generally, Steelman, et al., A Survey of Current Options for Civil Delay Reduction: Final Report, Volume III, Pennsylvania Metropolitan Delay Project, National Center for State Courts, (North Andover, MA) 1980. See also, Steelman, "Options for Reducing Civil Volume and Delay", State Court Journal, Vol.4, No.4, (1980), p.9.

⁹See, for example, peremptory challenges in Alaska, R. Crim. P. 25 (d) (1); Arizona, R. Crim. P. 10.2 (a) & R. Civ. P. 42 (f) (1); Missouri, R. Crim. P. 32.06 (a); 32.14 (a) & R. Civ. P. 51.05 (a); Wyoming, R. Civ. P. 40.1 (b) (1) & R. Crim. P. 23 (d). Source: National Center for State Courts, "Provisions for Disqualification and Substitution of Judges", RIS 80.108, July 1, 1980. See also, Idaho, R. Civ. P. 40 (d) (1) & R. Crim. P. 25 (d).

even more difficult especially when the substitution demand is not timely. Court calendars must usually accomodate a complex interplay of schedules of judges, attorneys, parties and witnesses, among others. Whenever a change is required, adjustments in the schedules of all participants must be made. These adjustments become more difficult when the request (including a demand for substitution) is not timely. Furthermore, demands made, and granted, out-of-time can impede the duty of the court to manage caseflow effectively.¹⁰ Strict controls including denial of substitution when the demand is out of time will be necessary to avoid the use of the procedure as a delay tactic. The current practice will mean continued transfer of judges between single judge circuits. If controls are established over delayed demands for substitution the disruption of calendars can be minimized.¹¹

In addition to the problems discussed above in caseflow management, time and distance in rural courts also call for effective and economical ways to provide legal research assistance to the judges. Trial court judges benefit in the performance of their duties by having available legal researchers for issues emerging in motions, during trials and in posttrial proceedings. To provide a law clerk to each trial judge would be expensive and

¹⁰See American Bar Association, Standards Relating to Trial Courts, Standard 2.50, (1976).

¹¹See attached, Steelman, General Jurisdiction Trial Judges Riding Circuit in the State Court Systems, (A Technical Assistance Report), National Center for State Courts, North Andover, MA, 1984.

probably not justifiable on a full time basis where case volume is low. As an alternative the Director of State Courts should create a central research service staffed by a director and three to five central trial court law clerks. These clerks would be able to prepare for trial court judges, following a written or telephone request, memoranda of law on the issue. In some circumstances the central law clerk staff could provide information on key legal issues by telephone.

Besides the staff salaries the Administrative Office should provide a statewide toll-free number for inquiries from the trial courts. Memoranda on frequently encountered issues could be entered on word processors for retention, update and rapid dispatch to the courts. The program would improve research consistency and avoid repetitive research at many sites. The costs for this service would be appreciably less than the alternative of providing this much needed service at each trial court location. Central research units for trial courts have been successfully operated statewide in Virginia, Connecticut, Massachusetts and Nebraska for several years.¹²

The trial court central research unit staff could also provide services to the Director of State Courts and work as staff to rules committees. The director of the unit might be selected also to serve as chief counsel to the Director of State Courts.

¹²See attached, Kenneth Montero, Esq., Director, Legal Research, Office of the Executive Secretary, Supreme Court of Virginia, "Outline of Presentation -- Legal Research for Trial Court Judges", delivered at the 10th Annual Northeastern Regional Office Conference (National Center for State Courts, North Andover, MA), October 3-4, 1983.

3. Management information systems. The courts of Wisconsin recognize the value and importance of having timely and accurate information to help in doing their work. The introduction of improved manual case processing and records management systems with the assistance of the Administrative Office has heightened the receptivity of the courts to the better and faster information processing offered by computer systems. Unfortunately, although the costs of hardware and software continue to drop, acquisition of many of these systems continues to be viewed as too expensive for most smaller courts.

Some options to help these courts acquire much needed automated systems can be considered, however. The sharing of expense and experience which yielded very satisfactory results in Wisconsin records management efforts could form the basis for a statewide trial court automation initiative. Under the leadership of the Director of State Courts, courts with like caseloads and processing needs could cooperate to conduct requirements analyses, draft general and detailed systems designs, and secure programming assistance. Concurrently a review of hardware options including consideration of centralized and distributed information systems could be made. These alternatives along with standalone systems, networks, or continued or increased reliance on county government systems can be weighed. A jointly funded and coordinated program could be cost effective for all courts participating.

Under a mutual agreement the counties could transmit to a single authority (ideally the Administrative Office) a proportionate share

of the expected cost for the development of a uniform system designed to meet the needs of all users. This type of fund pooling requires time and coordination and must be well planned. Fund pooling would be an unlikely source of money for hardware procurement but would provide a way to assess the best and most economical hardware system for most users.

Other ways to fund an automation initiative helpful to smaller trial courts would be from interest derived from lawyers trust accounts. This funding method, developed in Florida, is now being used in about 21 other states as a source of money (in part) for court improvement efforts.¹³ Yet another avenue to be explored is the utility in smaller courts of newly developed data base systems for relatively inexpensive microcomputer systems. For example, the National Center now has a system, MACS, designed for civil processing in courts of four or fewer judges. This system which is now being tested, will be followed by criminal and traffic case systems.

Yet another method of acquiring much needed automation services for the trial courts should be considered. The Director of State Courts could seek Legislative funding for the development and implementation, initially on a pilot basis, of a model automated case management and record keeping system for use in the circuit courts. Although it is recognized that funding of trial court support services and staff is the responsibility of county government, the development of the proposed statewide model would

¹³See attached, "New Hampshire Bar IOTA Tops \$100,000.", New Hampshire Law Weekly, Vol. 10, No. 41, April 4, 1984, p. 519.

probably be less costly for the taxpayers and would reduce redundant development costs.¹⁴ Direct benefits to the state would include more uniform information, more accurate information and the ability to make the best use of existing judicial resources.

4. Relations with county funding authorities. Funding of the trial courts by a combination of state and county money has resulted in both difficulty and opportunity for the courts. The literature on the pro's and con's of state funding is large and an analysis of the arguments is beyond the scope of this type of technical assistance review. On the assumption that the counties will continue to pay most of the trial court support expenses in Wisconsin, some suggestions can be offered to maintain or improve relations between the branches of government in the counties.

The clerks of court as the initial presentors of the court budgets in the respective counties would probably benefit from a statewide training program on the construction and presentation of court budgets. The district court administrators should be available, as should staff of the Director of State Courts, to render technical assistance if the need arises. Those court personnel involved in the budget process would benefit by having a manual on uniform practices in budget (revenues and expenditures) preparation and justification. The Director of State Courts should sponsor both the development of the manual and the conduct of training sessions in its use.¹⁵

¹⁴See generally, National Center for State Courts, Master Plan for Computerization of the New Jersey Courts, Management Summary, 1982.

¹⁵See, National Center for State Courts, Massachusetts Court Budget Book, (Boston, 1976).

The presiding judge of the county or the chief judge of the circuit should be prepared to make a presentation on the budget if called upon. In any event the submission of the budget should be related to a state of the judiciary message for the county and the circuit. Putting the judicial work of the county in perspective for the funding authority in a narrative message related to the budget will help county commissioners and the public better to understand the performance, needs and plans of the courts.

5. Dissemination and compliance with policies and directives.

What may appear to be an occasional disinclination by small courts to comply with state level policies and directives applicable to them may actually be a sign that the policy information is not clearly or consistently communicated. The Director of State Courts should compile and distribute, in an updatable format, all existing policy statements and guidelines. A summary of administrative orders, directives and memoranda in furtherance of the rules and statutes should be prepared. A description of the ways in which the courts and the administrators communicate information should be part of the volume. Attached is a sample of the index to a directives compilation prepared by the Administrative Office of the New Jersey Courts and a report on administrative directives produced by the National Center for the New York Office of Court Administration.

Both this and the following technique will require sufficient staff in the office of the Director of State Courts. Development and maintenance of a compendium of directives and procedures manuals is a continuous process demanding attention to changing laws, rules,

practices and procedures. The necessary research and liaison work should be assigned to at least one staff member who might also be responsible, in part, for general education and training programs for the office.

Another technique found useful in several states is the development of a clerks procedures manual.¹⁶ Prepared in a "cook book" style the manual can serve to orient and train new staff and to be a ready reference for experienced court personnel in infrequently encountered procedures. The manual, which should be regularly updated, preferably by a clerks committee working with the staff assistance of the Director of State Courts, can also serve as a resource at training and education conferences and as a starting point for review and improvement of existing procedures. Like the automation initiative discussed above this kind of manual can be prepared by pooling funds from the counties.

6. Security.¹⁷ Some concern has been expressed about security of judges, lawyers, parties, witnesses, jurors and court support personnel and about the records in smaller courts. Although the courts deserve reasonable security protection the introduction of

¹⁶See National Center for State Courts, A Manual for Clerk's: Maine District Courts, 1975; Maine Superior Court Clerk's Manual, (2 vols.), 1975; New Hampshire Probate Court Manual, (2 vols.) 1976; Manual of Court Procedures: District Court of Vermont, 1977; Manual of Court Procedures: Superior Court of Vermont, 1977; Rhode Island District Court Operations Manual, 1977; Rhode Island Superior Court Operations Manual, 1978; New York Supreme and County Court Clerks' Manual, 1981; New York Surrogate Court Clerks' Manual, 1983; New York Family Court Clerks' Manual, 1983, (North Andover, MA).

¹⁷See, McMahon, et al., Court Security: A Manual of Guidelines and Procedures, National Sheriffs' Association, Washington, D.C., 1978.

metal detectors and other sophisticated devices in most small courts is not cost justifiable. Some improvements including the following should, however, be considered:

In all courts, attention should be given to the qualifications, capabilities and training of court security personnel whether provided by law enforcement agencies or on the court payroll.

A store of portable security apparatus should be maintained at central locations for deployment to courts where such protection might be called for.

Plans for new construction and renovation of facilities should include provisions for the security of persons and records in the courts.

A committee of judges, court personnel and other interested persons should be established to develop and periodically review physical and security conditions in the courts. Such a committee could serve as a court facilities accreditation body as was created in New Hampshire.¹⁸

¹⁸See, Report of the New Hampshire Court Accreditation Commission on the Accreditation of Court Facilities, 1973. See also, Jonathan King, et al., The Michigan Courthouse Study, Volume I, Statistical Summary and Design Guidelines, Architectural Research Laboratory, The Michigan University, Ann Arbor, MI, 1981, p.81 et seq.; New York State Court Facilities Task Force, Report and Recommendations, July, 1982, Recommendations 9 & 10, and New York State Court Facilities Task Force, Committee on Standards and Guidelines for Court Facilities, Guidelines for New York State Court Facilities, Appendix B, December 8, 1981, Guidelines VI, VIII-5, and XIII.

New Hampshire Bar IOTA Tops \$100,000

As of March 21, 1984, the New Hampshire Bar Foundation's Interest on Trust Accounts (IOTA) Program fund had received \$100,660.07 in interest payments on behalf of the more than 400 attorneys who are currently participating in this important public service program.

Through the IOTA program, which was approved by the New Hampshire Supreme Court on November 24, 1982, New Hampshire attorneys are permitted to pool their small or short term retainers or funds held in trust (which cannot feasibly be placed in individual interest-bearing accounts for the benefit of the client) in a single interest bearing account. The interest on such pooled funds is then forwarded by the banks to the New Hampshire Bar Foundation to be used specifically for programs of civil legal services for the disadvantaged and public education about the courts and legal matters.

To date, the New Hampshire Bar Foundation Board of Directors has made IOTA

grant commitments totalling \$123,300 to the following programs or organizations: Developmental Disabilities Advocacy Center (\$12,000), Franklin Pierce Family and Housing Law Clinic (\$14,000), Merrimack County Task Force Against Domestic Violence (\$13,000), NHBA Elderly Legal Services Development Program (\$20,000), NHBA Reduced Fee Lawyer Referral Service (\$20,000), New Hampshire Legal Assistance (\$23,000), New Hampshire Pro Bono Referral System (\$15,000), New Hampshire Bar Foundation (for Pro Bono rent) (\$12,000) and New Hampshire Constitution Education Corporation (\$6,000).

IOTA In 21 States

New Hampshire was the second state (after Florida--the national IOTA pioneer) to implement an Interest on Trust Accounts Program, and since this state's January 1, 1983 implementation, nineteen additional

states have either begun or gained approval for IOTA programs. Those states include Vermont, New York, Maryland, Delaware, Virginia, North Carolina, Georgia, Illinois, Minnesota, Oklahoma, South Dakota, Colorado, Idaho, Utah, Arizona, Nevada, Oregon, California and Hawaii.

The Florida and California IOTA programs have each received close to three million dollars in interest money which will be

IOTA

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**Don't Forget
Law Day
Road Race
Registration**

**Mark Your Calendar
for the Bar's
Annual Meeting
June 28, 29, 30
& July 1 at the
Mt. Washington Hotel**

1984 Pictorial Directory "Last Chance" Photo

Wednesday, Thursday and Friday, April 18, 19 and 20, respectively, are the dates for "last chance" photo sessions to be scheduled by those attorneys who failed to respond to the initial Pictorial Directory Committee request outlining plans for producing a 1984 directory.

Response thus far has been great, however, 626 attorneys, the majority of whom practice in Merrimack, Rockingham and Hillsborough counties, have not been photographed. **THE BAR NEEDS YOU!!!**

The numbers still to be photographed break down by counties as follows: Sullivan, 10; Coos, 12; Carroll, 21; Cheshire, 20; Belknap, 36; Grafton, 36; Strafford, 38; Rockingham, 98; Merrimack, 128; Hillsborough, 227.

The Committee urges attorneys who were not photographed during the recent scheduling period to simply contact MacLean-Stevens Studio, 152 North Main Street, Concord, at 225-6912. A "last chance" photo

session can be arranged easily.

Between 9:00 a.m.-12 noon and/or 1:30 p.m.-3:30 p.m. on April 18, 19 and 20 any attorney not photographed can schedule a sitting at his/her convenience at the MacLean Studio. There is NO CHARGE for the picture going into the directory. Other pictures are available through the studio.

The 1984 pictorial directory will, of course, be bigger than 1977's and promises to be just as handy for Bar members to easily and rapidly identify their colleagues.

Pictorial Directory Committee members are Chair E. Donald Dufresne of Manchester, Rita Calamari of Lancaster, John J. Coffey of Portsmouth, Bruce L. Dornier of Nashua, Robert E. Fisher of Dover, Stephen E. Gaige of Dover, Daniel F. Grossman of Hanover, Richard D. Sager of Ossipee, Laurence E. Kelly of Manchester, Thomas G. Kraeger of Newport, Janet A. O'Neill of Laconia, David S. Park of Keene, Richard L. Russman of Exeter and Jeffrey A. Zall of Nashua.

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IOTA

from page 519

devoted to legal services or other public interest projects. In January, five additional states reported their IOTA income as follows: Maryland-\$161,000; Colorado-\$36,899;

Minnesota-\$387,637; Virginia-\$26,515; and Delaware-\$35,000.

To date, then, thousands of attorneys nationwide have put otherwise idle funds to use to create over 6.7 million dollars to be used for the public good. New Hampshire

attorneys who are not yet participating in the IOTA program are encouraged to join now. For more information or for participation forms, Bar members should call IOTA Program Staff Assistant Jeannine McCoy at 224-6942.

IOTA Financial Institution Honor Roll

Appreciation is extended to the following banks for their participation in the Interest on Trust Accounts Program. Bank names are added to the honor roll as soon as they process their first interest payment to the New Hampshire Bar Foundation on behalf of an attorney-account holder.

BELKNAP COUNTY

Bank East - Meredith
Indian Head National Bank - Laconia
Laconia Federal Savings and Loan Association
Laconia Peoples Bank and Trust Company
Meredith Bank and Trust Company
Village Bank and Trust - Gilford

CARROLL COUNTY

White Mountain National Bank - North Conway

CHESHIRE COUNTY

Ashuelot National Bank - Keene
Cheshire National Bank - Keene
Indian Head National Bank - Keene

COOS COUNTY

The Berlin City Bank
Home Cooperative Bank - Berlin

GRAFTON COUNTY

Dartmouth National Bank of Hanover

Dartmouth Savings Bank - Hanover
Indian Head Bank North - Littleton

HILLSBOROUGH COUNTY

Bank East - Manchester
Bank of New Hampshire - Manchester
Bank of New Hampshire - Nashua
First National Bank of Peterborough
Indian Head National Bank - Nashua
Merchants National Bank - Manchester
Nashua Trust Company
Peterborough Savings Bank
Rockingham County Trust Company - Salem

MERRIMACK COUNTY

Bank East - Concord
Bank of New Hampshire - Concord
Indian Head National Bank - Concord
Merrimack County Savings Bank - Concord
New London Trust Company

ROCKINGHAM COUNTY

Amoskeag Savings Bank - Londonderry
Bank East - Manchester

Durham Trust Company
Portsmouth
Indian Head Bank and Trust Company
Exeter
First National Bank of Portsmouth
Indian Head Bank and Trust Company
Indian Head National Bank - Nashua
Plaistow Cooperative Bank

STRAFFORD COUNTY

Bank East - Rochester
Durham Trust Company

SULLIVAN COUNTY

City Bank and Trust - Claremont
Lake Sunapee Savings Bank - Newport
Sugar River Savings Bank - Newport

Statistics from 3/21/84

Participating Attorneys: 428

Participating Offices and Firms: 88

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Fryer, Boutin, Warhall & Solomon, P.A.

are pleased to announce that

Paula J. Hurley, Esq.

and

Stephen D. Mau, Esq.

have become associated with the firm
which is now in new offices located on

Buttrick Road at Route 102

Londonderry, NH 03053

(603) 432-9566

LEGAL RESEARCH SERVICES FOR TRIAL COURT JUDGES

I. TRADITIONAL DELIVERY SYSTEMS

- A. Law Clerk Assigned to a Judge**
- B. Law Clerk Pool for Large Urban Court**
- C. Requesting Memoranda of Law from Counsel (including amici curial briefs) or attorney friends.**
- D. Attorney General Opinions**

II. NON-TRADITIONAL DELIVERY SYSTEMS

- A. Statewide Law Clerk Pools**
 - 1. Virginia (circuit courts)**
 - 2. Connecticut (superior courts)**
 - 3. Creighton University (Nebraska courts, public defenders and prosecutors - criminal law only)**
- B. Private Research Organizations**
 - 1. Non-profit (NCSC, etc.)**
 - 2. Profit (The Research Group, etc.)**
- C. Law School Resources**
 - 1. Law Professors**
 - 2. Law Students - "clerking for credit."**
 - 3. Student research groups (Duke U., Washington & Lee U.)**

III. FACTORS IN EVALUATING EXISTING/PROPOSED LEGAL RESEARCH DELIVERY SYSTEMS

- A. Research Product**
 - 1. Quality of Research**
 - a. Depth of research**
 - b. Response time**
 - c. Written or oral report**
 - d. Copies of cited sources provided?**
 - e. Quality/quantity of resources (see below)**
 - 2. Availability of Service**
 - a. Judges**
 - (1) general jurisdiction courts**
 - (2) limited jurisdiction courts**
 - b. Clerks**
 - c. Others**

B. Research Resources

1. Personnel

a. Law students

- (1) Part-time volunteers**
- (2) Part-time for course credit**
- (3) Part-time paid**

b. Attorneys

- (1) volunteers**
- (2) part-time paid staff**
- (3) full-time paid staff**
- (4) licensed vs. unlicensed attorneys**
- (5) recent graduates vs. experienced attorneys vs. law professors**

c. Paralegals

d. Supervisors

- (1) full-time supervisor**
- (2) part-time supervisor**
- (3) no supervisor**

e. Secretarial services

- (1) legal secretary**
- (2) full-time secretary**
- (3) part-time secretary**
- (4) access to secretarial pool**

2. Research Tools

a. Library

- (1) quality of collection**
- (2) access to materials**
- (3) copying facilities**
- (4) assigned desks**
- (5) professional library staff**

b. Automated research tools

- (1) types of tools available**
 - (a) Westlaw**
 - (b) Lexis**
 - (c) other private systems**
 - (d) state-owned systems**

- (2) access to automated systems
 - (a) location of equipment
 - (b) hours when available
 - (c) billing costs (use cost/benefit ratio)
 - (3) training
 - c. Prior research efforts
 - (1) maintain files on past memos
 - (2) index memo topics in alphabetic card index using master index table
 - d. In-office library
 - (1) core materials
 - (2) research techniques materials
- 3. Work/office space
 - a. Researchers
 - (1) individual office
 - (2) common room with assigned desks/carrels
 - (3) common room with unassigned desks/carrels
 - b. Supervisors
 - c. Paralegal and secretary
- 4. Other office needs
 - a. Telephone
 - (1) WATS access
 - (2) telecopying
 - (3) data transmission via word processors
 - b. Memo production equipment
 - (1) electric typewriter
 - (2) memory typewriter
 - (3) word processor
 - c. Desks/modular work stations
 - d. Filing equipment
 - e. Dictation equipment
- 5. Private research organizations (see II.B.)

6. Funding

- a. Sources**
- b. Amount needed for differing types of services**
- c. Dependability (long-range) of amounts and sources**

IV. SELECTION OF LEGAL RESEARCH DELIVERY SYSTEM

- A. Short-range Planning**
- B. Long-range Planning**

V. MISCELLANEOUS CONSIDERATION

- A. Need to Separate Identity of Legal Research Delivery System From Identity of Appellate Courts**
- B. Ethical Matters**
 - 1. Political Activity**
 - 2. Outside Law Practice**
- C. Confidentiality of Work Product**
- D. Recruiting Personnel**
- E. Training Personnel**
 - 1. Research techniques**
 - 2. Memo drafting short-cuts**
- F. Publicity about Availability of Service**
- G. Distribution of Research Abstracts**

COURT LEGAL RESEARCH ASSISTANCE PROJECT

Research Request Form

Send form to:

Court Legal Research Assistance Project
11 South 12th Street
Richmond, Virginia 23219

Requesting Judge: _____

Telephone No. _____

Mailing Address: _____

ADD ATTACHMENTS AS NEEDED

I. Legal issues to be addressed in research memorandum

II. Pertinent facts surrounding issues

III. Research parameters, if any (50-state survey, Fourth Circuit states, additional synopsis-like treatment of new law field in addition to research on issue, etc.)

IV. Special problems or considerations

V. Research due date: _____

NOTE: Telephone research requests will be accepted Monday through Friday from 8:15 A.M. to 4:45 P.M. The information listed above will be requested by the person receiving the telephone request. Call (804) 786-3471.

Figure 1 consists of 18 small diagrams arranged in two columns of nine. The diagrams illustrate the development of a larva from an egg to a pupa. The top row shows the egg and the first few stages of larval development. The bottom row shows the later stages of larval development and the pupa. The diagrams are labeled with numbers 1 through 18.

Our File	From	Assigned to
Done Number	Date In (Judge, court, docket no.)	Date Out
	Subject Matter	

EDITOR'S CHECKLIST

☐ 1. Description of Question

Date: _____

☐ 2. Preparation of preliminary administrative forms

Date: _____

☐ 3. Initial background research

Date: _____

☐ 4. Initial conference with researcher

Date: _____

☐ 5. Preliminary research review

Date: _____

☐ 6. First interim research review

Date: _____

☐ 7. Second interim review

Date: _____

☐ 8. Final research review prior to memorandum drafting

Date: _____

☐ 9. Editing memorandum

Date: _____

☐ 10. Post-memorandum drafting review with researcher

Date: _____

☐ 11. Send memorandum back for redraft

Date: _____

☐ 12. Re-editing

Date: _____

☐ 13. Approval of final draft

Date: _____

☐ 14. Typing memorandum

Date: _____

☐ 15. Proof memorandum

Date: _____

☐ 16. Mail memorandum

Date: _____

☐ 17. Comment letter sent

Date: _____

☐ 18. Comments received

Date: _____

CASELOG

File No. _____

Judge _____

JD* _____

Telephone _____

RD* _____

Received _____ Returned _____ Typed _____

Assigned _____ Edited _____ Mailed _____

DATE	BGN/END	HRS
TOTAL		

RESEARCHER

DATE	BGN/END	HRS
TOTAL		

RESEARCHER

	EDITOR	HRS
Intake		
Logging		
B'ground		
Assig'mt		
Initial Review		
Interim Review		
Final Review		
Editing		
Typing		
Proofing		
TOTAL		

EDITOR

JD* - Judge's Due Date

RD*- Researcher's Due Date

**COURT LEGAL RESEARCH ASSISTANCE PROJECT
SPADE SHEET**

File No.: _____

Date: _____

Researcher: _____

SOURCES CHECKED

1. LEGISLATION (Federal, State, local)

2. DIGESTS (General, Decennial, State, Other)

3. ENCYCLOPEDIAS (C.J.S., Am. Jur., Other)

4. A.L.R.

5. LOOSE LEAF SERVICES (Reporters)

6. GUIDE TO LEGAL PERIODICALS (Include Articles Read)

7. TREATISES (Texts, Hornbooks, Multi-Volume, Etc.)

8. RESTATEMENTS

9. WORDS & PHRASES

10. SHEPARD'S CITATORS

All Cases Shepardized _____

11. PRIOR CASE FILES (Log No.) _____

12. OTHER

FILE NUMBER: _____ of _____ sheets

INDEX: Index the problem under the appropriate Major Headings, Subheadings, and Sub-subheadings of the Master Index; then provide a further description in a few Key Words. If none of the Subheadings available in the Master Index are appropriate, label the Subheading "Other" and proceed as usual. For example:

MH: Trade Regulation
SH: Other
SSH: Fair Trade Law
KW: Constitutional attack & 50-state survey

MH: _____ Approved _____
SH: _____ Entered _____
SSH: _____
KW: _____

MH: _____ Approved _____
SH: _____ Entered _____
SSH: _____
KW: _____

MH: _____ Approved _____
SH: _____ Entered _____
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KW: _____

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SH: _____ Entered _____
SSH: _____
KW: _____

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SSH: _____
KW: _____

☐ Continued on Reverse Side

MH: _____ Approved _____
SH: _____ Entered _____

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KW: _____

MH: _____ Approved _____
SH: _____ Entered _____

SSH: _____

KW: _____

☐ Continued on next sheet

COURT LEGAL RESEARCH ASSISTANCE PROJECT

RESEARCH MEMORANDUM

TO:

IN RE: Legal Research Request No. _____

DATE:

STATEMENT OF FACTS

ISSUES PRESENTED

- I.
- II.
- III.

SUMMARY OF DISCUSSION

- I.
- II.
- III.

DISCUSSION

- I. (Restate issue)

Discuss and analyze facts and law leading to conclusion, which should be a reprint of the summary stated earlier in the paper.

- II. Same as above.
- III. Same as above.

Name _____

I. Research techniques in general

II. Hypothetical problem (a) new area of law (b) familiar area of law

III. Explain grades, courses, extracurricular activities

IV. Work experiences

V. Personality and attitude

VI. Writing Sample

GENERAL JURISDICTION TRIAL JUDGES
RIDING CIRCUIT IN STATE COURT SYSTEMS
April 10, 1984

In the history of American courts, judges have traditionally "ridden circuit"-- that is, they have travelled from the seat of government in a colony, state or territory to hold trial or "nisi prius" sessions. Yet with the advent of modern methods of travel and communication in the twentieth century, and with the increase in demand for (and the development of effective capacity to deliver) government services outside state capitals, statewide circuit riding has become less common.

What follows is a state-by-state survey of what appear to be the current circuit-riding policies and practices for state judges of general jurisdiction trial courts. This survey has been prepared as part of a brief technical assistance response to the Honorable Edith W. Fine, Associate Justice, Trial Court of Massachusetts, Superior Court Department. It has been prepared by staff members of the Northeastern Regional Office of the National Center for State Courts, in North Andover, Massachusetts. The survey is based on information from a review of Reincke and Lichterman (eds.), The American Bench. Judges of the Nation (2d ed., 1979); information provided by the National Center for State Courts National Court Statistics Project staff, working with the Conference of State Court Administrators, in a volume entitled, State Court Organization 1980 (U.S. Department of Justice, Bureau of Justice Statistics, May 1982); and on information obtained in discussions by Northeastern Regional Office staff members with court officials in selected states.

Survey results show that the different states can be put on a continuum from those in which there is little or no circuit riding to those where there is substantial overnight travel. Over sixty percent of the states have subdivisions (i.e., regions, circuits, districts, or counties) outside of which judges are seldom assigned; but in some states (for example, North Carolina), judges ride circuit far more than do judges in other states where they are at least technically subject to statewide assignment.

Table A below presents a summary of circuit riding in the state courts of general trial jurisdiction, grouping the states according to whether judges are subject to statewide or more limited assignment, and according to the degree of travelling they must apparently do on a routine basis. The grouping and characterization of different states' assignment practices and policies has sometimes involved "judgment calls." Thus, for example, Massachusetts is listed among those states whose Superior Court justices are routinely assigned away from home overnight, because there is a policy of statewide rotation, even though an effort is made to avoid having judges assigned away from home more than two months each year. Alaska, on the other hand, is listed among states where

judges have only limited travel, because it appears that most usually sit in a single location even though they are subject to temporary assignment anywhere in the state for up to three months, or even longer with their acquiescence.

Table B presents what appear to be the judge assignment practices and policies in each of the states. For each state, there is attention to whether there are subdivisions for purposes of administration and judge assignment. Where an administrative subdivision in a state has more counties or court locations than judges, it is inferred that at least some circuit riding is necessary. Another significant factor is whether judges are popularly elected, elected by the legislature, or appointed by the governor, since the method of their selection may have a bearing on whether they have judicial authority beyond their constituency.

The reader should note that this summary can only present what appear to be the general outlines of judge assignment policy or practice in each state, from which exceptions may be found in the situations of individual judges. Thus, in a state where judges are elected and sit in each county, they may sit in other counties from time to time, either on temporary assignment or as a matter of comity. Similarly, there may be judges who sit in the same location, month after month and year after year, even though theirs is a state where statewide rotation is the general policy.

TABLE A.
SUMMARY OF ASSIGNMENT POLICIES OR PRACTICES

- I. States Where Judges are Subject to Statewide Assignment
 - A. Statewide rotation constitutionally required: South Carolina
 - B. Judges routinely assigned away from home: Massachusetts; New Hampshire; Vermont
 - C. Judge travel usually limited: Alaska; Connecticut; Delaware; Maine; New Jersey; Rhode Island

- II. States Where Judge Assignments Rotate Within Administrative Subdivisions (Region, Circuit, or District)
 - A. Assignment rotation constitutionally required: North Carolina
 - B. Fairly substantial circuit riding within subdivision*:
Alabama; Arkansas; Colorado; Georgia; Hawaii; Idaho; Iowa; Kansas; Kentucky; Michigan; Minnesota; Mississippi; Missouri; Montana; Nebraska; Nevada; North Dakota; Oklahoma; South Dakota; Tennessee; Utah; Virginia; West Virginia; Wyoming

- III. General Jurisdiction Trial Courts in Circuits, Districts or Counties, with Little or No Judge Travel
 - A. Circuits or Districts: Illinois; Pennsylvania; Texas; Wisconsin
 - B. Counties: Arizona; California; Indiana; Ohio

*"Fairly substantial circuit riding" includes states in which no less than a substantial minority of the judges must routinely travel at least part of each year from one court location to another within their respective circuits or districts.

TABLE B.
STATE-BY STATE DETAILS OF ASSIGNMENT POLICIES OR PRACTICES

<u>State</u>	<u>Assignment Policy or Practice</u>
Alabama	Circuit Court is organized into 39 circuits, each composed of from one to five counties. About half of the circuits consist of just one county. Among the remaining circuits, there are about 13 where there are fewer judges than counties, so that judges must travel among different court locations at least some of the time. Circuit Court judges are popularly elected. They seldom sit outside their respective circuits.
Alaska	Superior Court sits in four geographical districts, with from two to four court locations in each district. They are initially appointed, and then are subject to popular retention elections. They may be temporarily assigned anywhere in the state up to ninety days per year, or for longer periods with the judge's acquiescence, although they seldom sit outside their respective districts.
Arizona	Each county has a Superior Court, with sessions held at the county seat, and there is at least one judge for each county. Judges are popularly elected (except in Maricopa and Pima Counties, where they are appointed subject to popular retention votes), and they seldom sit outside their respective counties.
Arkansas	There are 22 judicial circuits, each consisting of from one to six counties, for Circuit Court and Chancery Court. Over half the circuits have only one Circuit Court judge and one chancellor serving two or more counties. so that judges and chancellors must ride circuit from county seat to county seat. Circuit Court judges and chancellors are popularly elected. They do not routinely sit outside their respective counties.
California	Each county has a Superior Court. Judges are popularly elected and they seldom sit outside their respective counties.
Colorado	There are 22 judicial districts, each composed of from one to seven counties, with a District Court in each county. Half of the districts consist of either one or two counties, and only three districts have more than four counties. Judges are initially

State

Assignment Policy or Practice

appointed, and then they stand for retention in general elections. They serve in any or all of the counties within their respective districts, as assigned by district chief judges. There are 10 districts with more counties than assigned judges, and in these districts at least some judges must travel at some of the time to sit in more than one county seat.

Connecticut

Superior Court, which became the sole trial court as of July 1978, is organized in 12 judicial districts. (Counties had earlier been abolished as units of local government.) Judges are appointed for eight-year terms. While they may technically be assigned anywhere in the state, judges generally do not sit outside their respective districts.

Delaware

Court of Chancery and Superior Court sit in each of the state's three counties. The chancellor, the vice-chancellors and the Superior Court judges are all appointed. The chancellor and the vice-chancellors sit in all three counties. Superior Court judges may be assigned to sit in any county, and it is not unusual to be reassigned from one county to another. Yet each county has a "resident" judge, and New Castle County's business calls for seven of the Court's eleven judges to sit in Wilmington.

Florida

There are 20 judicial circuits, each made up of from one to seven counties. There are five one-county circuits, and only one seven-county circuit. No circuit has fewer than three judges; and only two circuits have fewer judges than counties served, so that judges would have to travel to sit in more than one county. Circuit Court judges are popularly elected, and they do not regularly sit outside their respective circuits.

Georgia

There are 42 circuits, comprising one to eight counties each. About eight of the circuits serve just one county, and seven of these are multi-judge courts. There are about ten single-judge circuits serving two or more counties; and there are about twelve two-judge circuits serving three or more counties. Superior Court judges must therefore travel between counties in about half of the circuits. Superior Court judges are popularly elected, and they seldom sit outside their respective circuits.

State

Assignment Policy or Practice

Hawaii

The state is divided into four judicial circuits. With about thirteen judges, one circuit sits at Honolulu in Honolulu County; with two judges, another sits at three locations in Maui County; a third has two judges sitting in six locations in Hawaii County; and the fourth, with one judge, sits at Lihue in Kauai County. Circuit Court judges are appointed, and they seldom sit outside their respective circuits.

Idaho

For the District Court, the state is divided into seven districts, each serving from five to ten counties. Only one district (that including the state capital) has more judges than counties served. In the other six districts, judges must ride circuit between counties. Three districts have three judges serving five counties. District Court judges are popularly elected, and they seldom sit outside their respective districts.

Illinois

The state is divided into 21 circuits, of which only two are single-county circuits. Fifteen circuits serve from two to six counties. No circuit has fewer than seven circuit judges, and at least twelve have two or more judges for each county served. The courts sit at the county seats. Circuit judges are popularly elected, and they do not routinely sit outside their respective circuits.

Indiana

There are 88 circuits, with 83 one-county Circuit Courts and five two-county Circuit Courts. Judges sit in the county seats, except that those in two-county circuits sit in only one location. There is one elected judge for each Circuit Court, and judges seldom sit outside their respective circuits. Thirty-five counties have Superior Courts as well, each created by individual legislation and sitting at the county seat. About eighteen of these courts are one-judge courts, and another ten are two-judge courts. Superior Court judges are popularly elected in all but four counties, and they do not often sit outside their respective counties.

Iowa

For purposes of administration and ordinary judicial functions, the state's 99 counties are divided into 8 judicial districts of from 5 to 22 counties each. Each district has from 6 to 20 judges. Half the districts have fewer judges than counties served, so that judges must travel and sit in more

State

Assignment Policy or Practice

than one county. Judges, who are initially appointed and then stand for retention election, sit at county seats and other specified locations. They seldom sit outside their respective districts.

Kansas

The state is divided into 29 districts, with each district consisting of from one to seven counties. Seven districts serve just one county; seven others serve six counties each; and five serve five counties each. There are 16 districts with only one district judge (although all districts have associate judges and magistrate judges as well); and in 15 of these districts the district judge sits in two or more counties. District judges are appointed in 23 districts, and all judges throughout the state must stand for retention election. District judges do not routinely serve outside their respective districts.

Kentucky

There are 56 judicial circuits, each comprising from one to four counties. The Circuit sits in each county seat and at other designated locations. There are 21 circuits consisting of only one county, and these include all of the Commonwealth's 11 multi-judge circuits. There are 35 single-judge circuits where the judge sits in two or more counties. Circuit Court judges are popularly elected, and they do not regularly sit outside their respective circuits.

Louisiana

There are 39 judicial districts for the state's 64 parishes, with District Court sitting at each parish seat. About half the districts serve only one parish, and none has more than three parishes. There are three single-judge courts serving two or more parishes each, and there are three two-judge courts serving three parishes each: in each of these districts, judges must travel to sit in multiple locations. District Court judges are popularly elected, and they do not often sit outside their respective districts.

Maine

In 1975, four judicial regions were created for purposes of administration and venue; but the number of regions was reduced to three in about 1980, and in 1983 or 1984 regions were officially eliminated for purposes of administration and venue, in favor of statewide administration of the Superior Court under the authority of the newly-created position of Superior Court chief justice. Superior Court sits in each county seat, and venue is now set by county.

State

Assignment Policy or Practice

Superior Court justices are appointed, and they are subject to statewide assignment. But for the most part, they sit only in, or within commuting distance of, their respective resident counties, so that they do not have to travel overnight. Assignment to the more northerly counties, where sessions are not held every month, is decided by the chief justice only if agreement is not reached among the justices.

Maryland

The state is divided into eight judicial circuits, each of which contains from one to five counties. Circuit Court judges are appointed, and although they may be assigned to sit in any county within their respective circuits, they do not customarily spend a great deal of time traveling from one county to another.

Massachu-
setts

The Superior Court Department of the Trial Court sits in each shire town in the Commonwealth at least once a year and in other cities as needed, sitting year-round in such larger counties as Suffolk. The justices are appointed, and they sit in rotating circuits throughout the state as assigned by the administrative justice of the Superior Court Department. Assignments are generally made so that justices do not sit away from their respective homes for more than two months a year.

Michigan

The state is divided into 52 judicial circuits, which encompass from one to four counties each. About 30 of the circuits serve only one county, and only one serves four counties. There are about 14 single-judge Circuit Courts serving two or three counties, so that judges must travel from one county to another. Circuit Court judges are elected, and they seldom sit outside their respective circuits.

Minnesota

The state is divided into ten judicial districts. There are two districts that include only one county each-- Hennepin County (Minneapolis), with about 19 District Court judges, and Ramsey County (St. Paul), with about 12. Another district has four counties and about six judges. The remaining districts each have from 7 to 17 counties, most with two or three counties per judge, so that judges must travel from county to county within their districts. Judges are elected, and no District Court judge routinely sits outside her or his judicial district.

State

Assignment Policy or Practice

Mississippi

The state is divided into 20 districts, each with from one to eight counties, for Chancery Court. There are 6 six-county circuits, but only one circuit with more counties than that. In eight circuits, there is a single chancellor who must sit in two or more counties. Chancellors are popularly elected, and they do not commonly sit outside their respective districts. The state is divided into 20 circuits (not corresponding to the chancery districts) for Circuit Court. Three circuits have seven counties each; five have four counties each; and another five have four counties apiece. There are 12 one-judge circuits where the judge must sit in two or more counties. Like chancellors, Circuit Court judges are popularly elected, and they seldom sit outside their respective circuits.

Missouri

The state is divided into 43 circuits, each with from one to five counties. There are 8 multi-judge, one-county circuits. On the other hand, there are 22 single-judge circuits where the judge must sit in two or more counties. Circuit Court judges are elected in all but five circuits, and they seldom sit outside their respective circuits.

Montana

There are 19 judicial districts in the state, each with from one to seven counties. Only one district has seven counties, however, while 13 districts have three or fewer. There are 10 single-judge districts where the judge must sit in two or more counties. District Court judges are elected, and they do not often sit outside their respective districts.

Nebraska

There are 21 judicial districts, with from one to nine counties in each district. Eight of the districts have six or more counties each. Eleven are single-judge districts where the judge must sit in two or more counties. District Court judges are initially appointed and then must stand for retention election. They do not regularly sit outside their respective districts.

Nevada

There are nine judicial districts, six of which have one district judge; the other three districts have two, nine and twelve judges, respectively. In five of the single-judge districts, the judge must sit in

State

Assignment Policy or Practice

either two or three counties. District Court judges are popularly elected, and no District Court judge routinely sits outside her or his district.

New Hamp-
shire

Superior Court is held at 12 locations in the state's ten counties, although sessions are not held every month in three counties. Superior Court justices are subject to statewide assignment; but by agreement they are assigned to sit in their respective counties of residence or in contiguous counties most months of the year, in a modified regional rotation plan introduced in 1984, with assignment by annual rotation to the counties where sessions are not held every month.

New Jersey

The state's 21 counties are divided for administrative purposes into 12 vicinages. While the Chief Justice of the Supreme Court may assign a Superior Court judge anywhere in the state, the judges of the Superior Court seldom sit outside their respective vicinages.

New Mexico

The state's 32 counties are organized into 13 judicial districts, each with from one to four counties. There are 6 three-county districts (including three with single-judge courts, where the judge must ride circuit among county seats) and 4 two-county districts. District Court judges do not often sit outside their respective districts.

New York

There are eleven judicial districts in the state, each consisting of from one to eleven counties (four of the districts, consisting of six counties, are New York City and Long Island). In only one of the districts are there more counties than judges, so that judges must travel from one county to another. While the Chief Judge of the Court of Appeals may temporarily assign Supreme Court trial judges to sit anywhere in the state, Supreme Court trial judges do not routinely sit outside their respective districts.

North Caro-
lina

The counties of the state are divided into four judicial divisions and 33 judicial districts. Each district has from one to seven counties. A constitutional provision calls for rotation of Superior Court judges, so that they ride circuit from one district to another in their respective districts. Each Superior Court judge sits six months

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in her or his district of residence and six, twelve or eighteen months in each other district in the same division. As a result, a Superior Court judge sits only six months of every 54 or 66 months in her or his district of residence. Many judges thus spend months or even years holding court as much as 200 miles away from their homes, commuting on weekends or, in some instances, establishing second homes in the districts to which they are assigned.

- North Dakota The state has seven judicial districts. Each district has more counties than District Court judges (there are over two counties per judge statewide), so that judges must travel between county seats in each district. District Court judges seldom sit outside their respective districts.
- Ohio There is a Court of Common Pleas in each of the state's 88 counties. Common Pleas judges do not sit outside their respective counties, except on a limited visiting-judge basis.
- Oklahoma There are nine judicial administrative districts and 26 District Court judicial districts. About half the judicial districts have one-judge courts with two or more counties, so that judges must travel from one county seat to another. (In addition to district judges, each district has associate district judges, and some have special judges as well, to help with the court workload.) District Court judges are popularly elected, and they do not routinely sit outside their respective District Court judicial districts.
- Oregon There are 20 circuits, half of which consist of only one county, and only one of which has more than three counties. Four circuits have more counties than Circuit Court judges, and for those circuits the judges must travel between counties. Circuit Court judges are popularly elected, and they do not usually sit outside their respective circuits.
- Pennsylvania The 67 counties of the Commonwealth are organized into 60 judicial districts, with seven districts composed of two counties. The creation of two administrative regions (each with seven or eight counties) has been approved, and a third such region has been proposed. Common Pleas judges (who are popularly elected) seldom sit outside their respective

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districts, except when assigned on consent by the Chief Justice or when a judge in one of the newly-approved regions agrees to sit temporarily in another county within that region.

- Rhode Island The Superior Court sits in four locations for the state's five counties. Superior Court justices are appointed, and they may be assigned to sit anywhere in the state, although most are regularly assigned to sit in Providence.
- South Carolina The state is divided into 16 circuits of two or more counties each. Circuit Court judges are elected by the legislature, and the state constitution requires that they rotate among the circuits as assigned by the Chief Justice. The rotation is based on four-month intervals, so that a judge presides in her or his home circuit for four months of the year and is assigned to two different circuits for the remainder of the year.
- South Dakota The Circuit Court is divided into eight geographical circuits, seven of which have more than one county. In six of the circuits, there are more counties than Circuit Court judges, and although the judges have magistrates to assist with their workload, they must travel from county to county in these circuits. Circuit Court judges are popularly elected, and they do not routinely sit outside their respective circuits.
- Tennessee There are 31 judicial circuits, each containing one or more counties. About three-fourths of the circuits have more counties than judges, so that judges must ride circuit among sitting locations. Circuit Court judges are popularly elected, and they do not as a rule sit outside their respective circuits.
- Texas There are nine administrative judicial districts and approximately 310 single-judge District Courts. The courts sit at each county seat and at other places prescribed by law. In some cases, the geographical jurisdictions of two or more districts overlap. Furthermore, the same geographical area may contain more than one District Court. District Court judges are popularly elected, and they do not regularly sit outside their respective districts.

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Utah	The state is divided into seven judicial districts, each with from three to six counties. There are four single-judge districts, and there is a four-judge district that serves six counties. In these districts, judges must sit in more than one county. District Court judges are initially appointed and are then subject to popular retention vote, and they seldom sit outside their respective districts.
Vermont	For purposes of Superior Court judicial assignments, the state's fourteen counties were divided into three regions in late 1983. For six months of each year, a Superior Court judge is assigned to sit in the region where she or he resides; and for the other six months of each year, each judge sits in one of the other two regions.
Virginia	There are 31 judicial circuits in the state, sitting at county seats and independent cities. In over a dozen circuits, there are more sitting locations than there are Circuit Court judges, so that the judges must travel between court locations. Circuit Court judges are elected by the legislature, and they seldom sit outside their respective circuits.
Washington	The 39 counties in the state are divided into 28 judicial districts. The Superior Court sits at each county seat. There are only five single-judge districts consisting of more than one county (four have two counties, and one has three), so that the judge must sit in more than one location. Superior Court judges are popularly elected, and they do not routinely sit outside their respective divisions.
West Virginia	The state is divided into 31 circuits, each containing from one to four counties. Over half the circuits have just one county, however, and only one has as many as four counties. In about ten circuits, the number of counties exceeds the number of Circuit Court judges, so that at least some of the judges must sit in more than one location. Circuit Court judges are popularly elected, and they do not often sit outside their respective circuits.
Wisconsin	The state is divided into 14 judicial administrative districts; it also has 69 judicial circuits, of which 66 are single-county circuits and three are two-county circuits. Circuit Court judges thus need

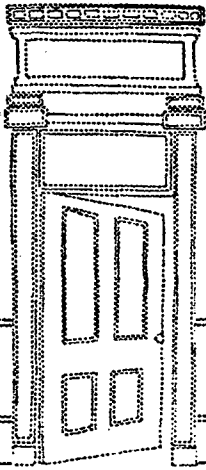
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not sit in multiple locations within their circuits. They are popularly elected, and they may be assigned to sit outside their respective circuits.

Wyoming

The state is divided into nine judicial districts, each consisting of from one to four counties. In six of the districts, there are more counties than District Court judges, so that judges must sit in more than one county. District Court judges are initially appointed and must then stand for popular retention election, and they seldom sit outside their respective judicial districts.



CENTER FOR JURY STUDIES NEWSLETTER

LEAA Juror Usage and Management Program

IS OUR JURY SYSTEM WORKING?

In the February 1981 Reader's Digest, Chief Justice Warren E. Burger finds that the jury system can be saved through changes that are already proving their worth in a number of American courts.

Emphasizing four problem areas, he discusses solutions that some courts have found. Under the caption "bungled scheduling," he describes improvements made in Manhattan, NY, where millions have been saved in reducing excessive juror calls and in Houston, TX, where the evil of "mass excusals" has been corrected. To overcome the problem of lawyer "brinkmanship," he describes how courts in Gainesville, FL, and Detroit, MI, have acted to "stop this nonsense." To shorten voir dire, he cites the advantages of the Federal system in having only judges query prospective jurors, and he suggests alternatives to jury trials for protracted and complex civil cases.

While contending that "the lot of America's jurors can be made better," he finds the pace of change has been painfully slow. He wonders why all courts have not followed the good examples; why, for instance, no more than a third of the nation's three thousand courts now use telephone call-in to reduce juror waiting time. Few things are more important, he says, "for citizens who serve on a trial jury . . . continue to find their faith in our legal system - and in democracy itself - strengthened." He quotes one juror who said, "It's been a long time since I have felt so much pride in simply being a citizen."

Reprints of the Chief Justice's article can be obtained from CJS. Progressive courts may wish to have it available for all.

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Telephone Call-In Equipment - Some 750 courts are now using telephone answering devices, p.3,4.

Can Jurors Question Witnesses? - Allowing jurors' questions may avoid misunderstanding and speed deliberations, p.5.

Requiring Employers to Pay Jury Leave - Florida appellate decision rules jury leave without pay is not coercion, p.6.

Alabama's New Juror Selection Process - Mobile Register praises the AOC for a "wise and economic" move, p.7.

Current Literature - Rita Simon's book finds citizens develop superior reasoning powers as jurors, p.8.

JURY DUTY AND THE ECONOMY

While inflation has increased the cost of many public services, the price of a trial by jury in many courts has actually decreased during the past decade. Modern management techniques have made economy possible, while jury fees have remained virtually stationary. As a result, actual juror cost per trial has tended down when every other cost has been soaring skyward.

To determine why jury systems have resisted inflationary pressures, CJS assessed recent savings reported by many courts. Although reports from courts that have adopted new methods are breathtaking, not all courts have taken such action. Yet, from the

Michigan, and New Jersey. Most of these courts have already adopted first class mailing, shortened orientation, reduced panel size, decreased term of service, introduced telephone call-in and many other "easy" measures that in no way influence basic court activity.

These examples illustrate why courts which have taken change seriously can claim savings of one-fourth to one-half of jury system costs. In addition to those mentioned above, courts that report savings of at least a fourth would include Boise, ID; Media and Norristown, PA; Montgomery, AL; Ft. Lauderdale, FL; and Atlanta, GA. The list could go on and on.

Since there is no central accounting of juror costs across the nation, any figure of total savings must be based upon rough estimates. Elsewhere in this issue, it is estimated that some 750 courts now use call-in equipment. With average savings of \$20,000 per year, this would place total savings by this one method at \$15 million per year. National savings might also be estimated by projecting the \$1.3 million reported above for eight of the nine notable courts covering 5% of the population, excluding Manhattan because of its size and the unique character of its saving method. If courts in other size categories saved comparable amounts, projected national savings would total about \$27 million.

Possibly more precise estimates can be made by other methods of allocation, but these two are sufficient to show that jury system savings nationwide are substantial and probably already approaching the halfway mark of the \$50 million savings goal projected by LEAA in 1977. Indeed the totals suggest that annual savings are from three to five times the total LEAA program expenditures over the entire decade.

Although these estimated savings show why cost per trial has not increased, they are not the sole purpose for jury system changes. The jury system is also becoming more equitable by spreading jury service among more people and is thus becoming more acceptable to those who serve. Equally important from the legal standpoint, these changes are making the system less prone to challenge and more defensible should challenge arise.

TELEPHONE CALL-IN EQUIPMENT

The increasing popularity of telephone call-in systems has led many courts to seek advice on what equipment to buy or rent, and how much to pay. Unlike Consumers Union, CJS has no testing laboratory to recommend specific products. We have, however, polled a number of the 750 courts now using call-in to learn the salient features of the telephone devices that have proved useful as well as problems that can arise. Enthusiasm was general amongst our respondents and that of Payne County, OK, seemed to typify the replies. "Do try call-in," Jury Manager Bernice Mitchell urged, "it not only saves wear and tear on judges, but also on the jurors, plus it saves time for everyone."

While encouraging the change, courts with call-in experiences have suggested some helpful preliminary cautions:

1. Make a careful study of the court's need and its budgetary limits to avoid overkill. Costs of devices now marketed range from about \$200 to \$2,000 and serve from 20 to 500 jurors per day.
2. Test several comparable machines and inquire about installation and special feature costs.
3. Obtain names of local users from dealers and contact to check machine performance and repair service. If weekend messages are planned, ensure that weekend repairs are provided in the contract. Tape telephone number of repair service to machine.
4. Provide a "janitor-proof" installation to prevent accidental disconnection.

Since monthly savings of 10 to 12 times the amount of the initial cost of equipment are not unusual, initial cost may be less important than needed features and predictable freedom from repair.

Satisfactory telephone devices used by various courts range from small home-style machines (see Consumers Report, June 1979) to expensive multi-purpose equipment. Cost usually reflects a machine's capacity to handle varying tasks and message loads. Important technical differences between

machines center around the following functions:

1. Message Length. Capacity ranges from a few seconds to several minutes. Courts should rehearse and time the messages they expect to record before selecting a device.
2. Number of Lines. Single-line machines handle calls consecutively, one at a time. Multi-line machines allow simultaneous calls in increments of five. Because all jurors tend to call between 5 - 6 pm, the number of calls expected multiplied by the message length will indicate the message load and suggest the number of lines needed.
3. Barge-In and Repeat. Some machines must complete their message before accepting a second call; others permit a second or third caller to "barge-in" on the message midway, which automatically repeats for these latecomers. This feature eliminates some juror frustration caused by constant busy signals.
4. Recording Answers. If only outgoing instructions are planned, no "input" recording feature is necessary. Although this feature has not been tested adequately by the courts, it might prove useful in accepting postponement requests by phone.
5. Recording Media. Cassettes and cartridges are easier to change when the message loses clarity or the equipment malfunctions. Under similar circumstances, machines using internal tapes might require service maintenance.
6. Remote Control. Snow or other emergencies may prevent employees as well as jurors from getting to the courthouse. A remote control feature allows the judge or jury clerk to change the message from his home phone.

Once a telephone device has been selected, preparation of a juror message requires more decisions. Since most tapes limit message lengths to one minute or less, brevity and clarity are vital and, even in a brief message, important points should be stressed by repetition. Large courts will need a repertory of messages to cover all contingencies. For example, Montgomery

County, MD, which assigns individual numbers to jurors, needs three cassettes to cover varying needs: #1 instructs all jurors to come in as summoned; #2 cancels all juror calls, and #3, which must be prepared daily, lists specific juror numbers called in for the next day's service. Elsewhere, as in Pontiac, MI, jurors are divided into alphabetical groups. Daily instructions are compressed into a single tape.

"Hello. This is the Oakland County Juror Information Service. Only jurors in groups A, C, and E should report at 9:00 tomorrow morning, Thursday, May 15 to the jury assembly room, second floor, east wing of the courthouse. Jurors in groups B, D, and F are not needed Thursday morning. All jurors please call again after 5 p.m. on Thursday to receive instructions for Friday."

As experience with juror messages accumulates, many earlier assumptions are being proven false. Jurors do not need or want cheery greetings and "nice days." They prefer the simple facts delivered as quickly as possible. Further, jurors do not seem to mind not knowing exactly when they will be called in. Although some individuals complain about being "cancelled" when they are willing to serve, most prefer that to sitting and waiting at the courthouse. Complaints can be greatly reduced by a reminder in the summons that a wasted day in court is the alternative to telephone cancellation.

While the CJS Methodology Manual for Jury Systems does cover general aspects of the call-in system, more detailed, practical advice is now available from users in many states. "Ask the man who owns one," is still good advice. The following list, in increasing order of cost from \$200 to \$2,000, provides references for the more commonly used machines:

Sanyo MI39N: Consult Judge Cecil Tedder, (501) 268-1161, for White, Faulkner, and Loanoke Counties, AR.

Code-A-Phone 180: Dick Perry, Hartford CT, (203) 566-3709, will summarize its use in all 16 Connecticut courts.

Ansaphone 520 (Dictaphone Co.): Contact Janie Alexander, Montgomery, AL, (205) 834-7990, who purchased equipment for many Alabama courts.

Code-A-Phone 111: Connie Drake, Dallas, TX, (212) 749-8217, will discuss the court's innovative midday call-in.

Code-A-Phone 360: Used since 1975 in Pontiac, MI, by Janet Lindsey, (313) 858-0029.

Code-A-Phone 555: Consult Fred Kirch, Wilmington, DE, (302) 571-2380, for use of its remote control feature.

Code-A-Phone 700: Sam Bailey, Boise, ID, (208) 284-8910; Henry Campen, Raleigh, NC, (919) 733-5996; and Jim Pearo, Rockville, MD, (301) 279-8201, lease this equipment.

Ansaphone 5001: Dennis Metrick, Media, PA, (215) 891-2111 and Bob MacNeel, Norristown, PA, (214) 278-3585, uses this multi-line device.

Telephony Northeast C-5 450 and 100: Joe Romanow, Cambridge, MA, (671) 494-4463, will explain this multi-line device and its remote control features.

CAN JURORS QUESTION WITNESSES?

Citizens who have been interviewed after serving on juries often express pleasant surprise to have learned that ordinary people show real judicial qualities. Once sworn in, jurors do become committed to the search for truth; so much so that many would like to ask clarification of facts not clearly explained. Many judges, however, severely curb such curiosity.

A notable exception is Superior Court Judge Winton McKibben of Alameda County, CA. In a recent letter, Judge McKibben explained his pioneering effort to encourage full juror participation. Not only does he allow the taking of notes, he permits jurors to question witnesses. At the start of each trial, Judge McKibben informs jurors of this privilege, instructing them to write out their queries which the judge examines for form and pertinence. If appropriate, the questions are delivered to the witness after counsels' examinations. Either side may object and the judge rules

on objections just as in the case of questions by opposing counsel.

For 12 years, Judge McKibben has followed this practice with what he considers excellent results. In about half of the trials, apt questions have been raised to help jurors achieve a verdict. Judge McKibben believes that his jurors become more attentive after being told they may raise questions. Subsequently, he says, they require less re-reading of testimony and arrive at decisions more quickly than those bound by conventional rules.

Chief Judge John Feikens of the U. S. District Court for Southern Michigan, has independently developed a policy permitting juror questions. Like Judge McKibben, he asks jurors to frame their queries in writing but discusses admissibility of the questions in a side-bar conference with counsel. He also secures stipulation from both sides before the trial.

Judge Feikens endorses the practice because it recognizes that jurors may have difficulty with concepts judges and lawyers take for granted. For instance, when a juror asked a witness whether any "earnest money" had accompanied an agreement, he revealed his ignorance of contract law, enabling the judge to explain that earnest money was not required for a valid contract. Neither lawyer had thought that point needed explaining.

The legality of juror questioning has been formally upheld in the Michigan Supreme Court, Judge Feikens further revealed. The issue arose in *People vs. Heard* (200 N.W. 2d 73, 1972), when defendant's counsel told the jury they could question witnesses, but was overruled by the trial judge. That judge was sustained on appeal but reversed by the Supreme Court which cited precedents for juror questioning in six states: Arkansas, Florida, Indiana, New York, Oklahoma, and Pennsylvania. The court allowed that such questions might help "unravel otherwise confusing testimony," and so held that it was an "error for the judge to rule that under no circumstances might a juror ask any questions."

Hoping to learn how many judges accommodate inquisitive jurors, CJS consulted Judge David Strawn, Director of the Institute for the Study of the Trial, Miami, FL, who also