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Red Lake Court  
" of  
Indian Offenses:

MANAGEMENT AUDIT  
TECHNICAL ASSISTANCE REPORT,  
March 22, 1982

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## INTRODUCTION

On January 21, 1982, the National Center for State Courts (NCSC) met with Bureau of Indian Affairs (BIA) Representatives Perry Baker, Rights Protection Officer and Frank Annette, Government Relations Officer, to discuss possible technical assistance from NCSC to the Red Lake Court of Indian Offenses. Mr. Baker indicated a need for a general review of the Red Lake court's management practices. Mr. Baker inquired whether the NCSC could make an on site visit to conduct a critical review of the Red Lake court's management practices to identify problems and make recommendations concerning them.

On February 26, 1982, BIA contracted with the Center to perform an on site management audit of the Red Lake court.

The Center agreed to examine and analyze recordkeeping and other court management practices, to identify and document problems of the court in this area. The NCSC was then to provide the BIA with a written analysis of the problems and make recommendations concerning them.

On March 2-3, 1982, James Farrar and Priscilla Wilfahrt, NCSC staff, visited the Red Lake Court of Indian Offenses at the Red Lake Reservation in Minnesota. They met with and interviewed Indian court judges, court staff and BIA representatives including the following:

Red Lake Court of Indian Offenses

Francis Downwind	(Acting) Chief Magistrate
Charles Fairbanks	Associate Magistrate
Emerson Beaulieu	Probation Officer
Wanda Lyons	Clerk of Court
Marilyn Johnson	Deputy Clerk
Debbie Beaulieu	Deputy Clerk

Bureau of Indian Affairs

Dennis T. Whiteman	Agency Superintendent
Frank Adakai	Agency Special Officer

Persons interviewed were asked to describe their function in relation to the court, their perceptions of problems of the court, court operations, record keeping practices, accounting procedures, and their suggested improvements.

In addition the NCSC staff collected copies of reports, rules, codes, procedures, and forms of the court, job descriptions, tribal constitution, code and procedure. The NCSC staff observed a criminal trial before the Chief Magistrate. The NCSC staff reviewed the court facilities, inventoried equipment and library resources.

At the end of the site visit NCSC staff met with Agency Special Officer, Frank Adakai and BIA Representative, Frank Annette at the Bemidji Holiday Inn to discuss findings and initial recommendations.

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### APPENDICES

Appendix A:	Audio/Video Technology and the Courts.
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## I. RED LAKE JUDICIAL SYSTEM

The Red Lake Minnesota Chippewa Tribal Code authorizes and provides for a trial and appellate court system for reservation tribal members. The court is currently exercising civil and criminal jurisdiction over tribal members. See Figure 1.

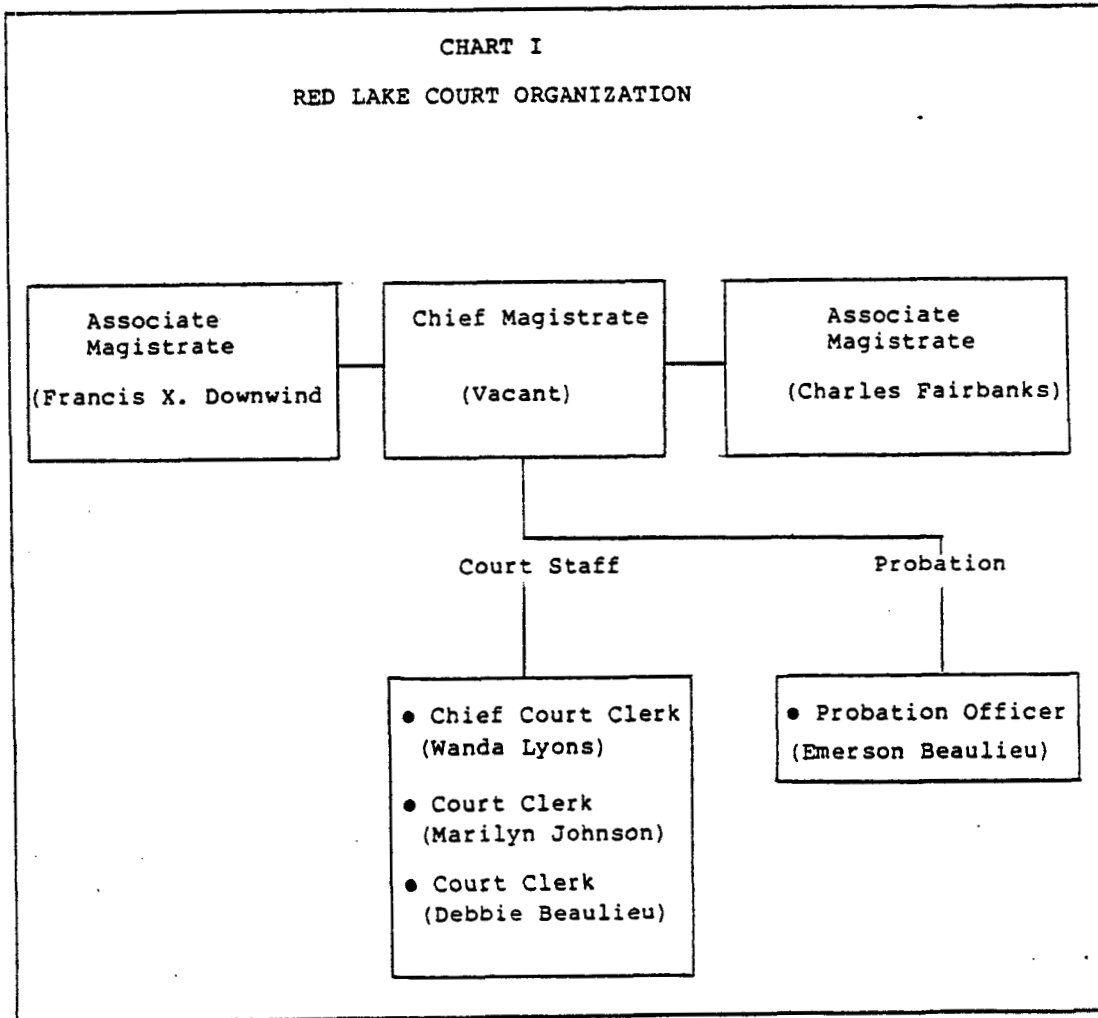
Figure 1.

	<u>Criminal</u>	<u>Civil</u>
Indian Defendant	Subject to jurisdiction of Indian Court.	Subject to jurisdiction of Indian Court.
Indian Plaintiff	May file against other Indians	May file against other Indians
Non-Indian Defendant	Not subject to jurisdiction of Indian Court	Not subject to jurisdiction of Indian Court
Non-Indian Plaintiff	May file criminal complaint against Indian	May not file civil complaint

The Red Lake court is officially a tribal court operating under a tribal code patterned after 25 code of Federal Regulations (which is occasionally amended by the tribal council). However, the court is presently being funded as a CFR Court, whereby court judges and staff are BIA employees and court revenues are deposited in a BIA court fund. The court has two associate magistrates (one of whom acts as chief magistrate) and is authorized to have a chief magistrate in addition. The court has a chief court clerk and two deputy clerks. See Chart I which describes the organizational

structure of the court. The estimated annual caseload of the court is 1000-1200.

The tribal code also provides for an appellate court composed of the three lower court judges. At the present when an appeal is taken from the trial court outside judges from the Leech Lake Reservation are brought in to hear it.



## II. FINDINGS AND RECOMMENDATIONS

While on site at the Red Lake court, project staff identified a number of operational practices that could be implemented immediately by the court to improve court operations and efficiency. Those recommendations are listed in Part A of the report. Part B of the report consists of those recommendations for which the court will need additional analysis and assistance.

Our initial findings and recommendations (Part A) can result in cost savings for the court if implemented. The court can save the time of one full staff person by transcribing only those transcripts that are necessary. The court has proposed additional staff positions. We recommend that no additions be made to court staff without further needs analysis. In addition, the court can increase revenues if it decides to implement a schedule of court costs. The development and implementation of a management information system will aid the court in determining and justifying more accurately future funding needs and thus may help acquire adequate funding for the future.

### A. Operational Changes the Court Can Implement Immediately

#### RECOMMENDATION 1

#### COURT CLERKS SHOULD STOP TRANSCRIBING ALL TAPE RECORDINGS.

The current practice at the Red Lake Court is to record all proceedings of the court. The tapes are dated and a log is maintained to keep track of which cases still need to be

transcribed. The clerk takes handwritten notes in addition to taping during the proceeding. The court clerks then transcribe all tapes, certifies the transcript and puts it in the file with the complaint. Each case transcribed is then checked off on the docket. Tapes are reused after they have been transcribed.

All three court clerks spend time transcribing tapes. Sometimes the person who does the transcribing is not the same person who taped the proceeding. This may cause problems in accuracy if the transcriber is not familiar with the proceeding or names of parties, or if the tape has imperfect clarity. It was the clerks best estimate that the time spent on transcribing equalled one full time person. It is the Center's recommendation that the clerks stop transcribing all tapes and make transcripts only in those instances when needed or are mandated by the code. There is no code requirement that all tapes be transcribed. A transcript is needed when a case is carried over and the judge wants to review prior proceedings and when an appeal is sought. The Rules of Court of the Red Lake Court of Offenses § 5(c) states that that if a transcript is available the appellate court acts only as a court of review, if there is no transcript the case is tried de novo. Thus for cost efficiency and convenience of the parties the court should always provide a transcript when an appeal is brought.

Typing only those transcripts necessary will save the time of one full time clerk. Tapes which are not transcribed should be logged, filed, and kept for the proper retention period, at



which point they could be reused again. It is economically more cost effective to buy more tapes, than to pay a full time clerk to transcribe all tapes. Tapes should be certified when filed, by the recording clerk. Care should be taken that a transcript is always certified by the clerk who recorded it.

#### RECOMMENDATION 2

##### COURTROOM CLERKS SHOULD MAINTAIN A STANDARD LOG OR INDEX OF ALL RECORDED PROCEEDINGS.

The tribal court maintains a cassette recording of all courtroom proceedings. The recording equipment is operated by a clerk who also takes selective notes during the proceedings. However, the types of notes vary and no effort is made to correlate events or witnesses to a location on the cassette. The only information recorded on the cassette is the date. These practices make it difficult for the courtroom clerk to locate a particular case or proceeding at a later date.

When a judge wishes to hear a portion of a recording or a defendant asks for a partial transcript, the clerks must listen to the whole tape until the needed testimony is found. This practice requires considerable clerical time. The use of a standard log (see, Charts 2 and 3 for proposed forms) to record the location of an event or testimony on the cassette would speed up the process of locating a specific item.

Chart 2 (Courtroom Log) is a general log that would be used each day to record arraignments, sentences and trials. At the beginning of a court session the clerk would record the general information at the top of the form. As a case was heard, the clerk would then record the time, case name/number, proceeding, and tape footage (from the cassette).

An additional more detailed log [see, Chart 3 (trial log)] would be prepared for each trial. The top portion of the trial log would be the proper name of all persons appearing before the court. Thereafter, the clerk need only record an abbreviation to identify each speaker or event. This form is two sided and should be sufficient to index all proceeding for each trial.

At the end of each day, the courtroom clerk should insert the logs for that day in a three ring binder. If there is a need to transcribe a proceeding, the clerk need only locate the appropriate numbered tape used for that day and fast forward the tape to the noted footage for the required proceeding. The court will have to sequentially number and store all used tape for future retrieval. These tapes cannot be erased or reused until the required retention period has passed.





CHART 3  
RED LAKE COURT OF INDIAN OFFENSES  
TRIAL LOG

Case Name \_\_\_\_\_ Date \_\_\_\_\_  
Case Number \_\_\_\_\_ Recorder \_\_\_\_\_  
Judge \_\_\_\_\_ Tape No. \_\_\_\_\_

	<u>Plaintiff</u>	<u>Defendant</u>
Attorney:	_____	_____
Party:	_____	_____
Witness I:	_____	_____
Witness II:	_____	_____
Witness III:	_____	_____
Witness IV:	_____	_____
Witness V:	_____	_____

TIME	SPEAKER/ EVENT	TAPE FOOTAGE	NOTES



### RECOMMENDATION 3

#### CLERKS SHOULD MORE CLOSELY MONITOR COURTROOM RECORDINGS.

NCSC staff observed the court in session during a criminal proceeding. At various points during the proceeding we noted microphones were out of place and the parties were very soft spoken. It appeared uncertain that the proceedings were being clearly recorded. We noted that with this particular taping equipment it was unclear whether the clerk could monitor what the tape was actually recording. It is our recommendation that the clerk pay close attention to placement of microphones during proceedings, to see that parties speak into the microphones, and to draw attention to it if it appears to her that the proceeding is not being properly recorded. In addition the court should examine its tape recorder to determine whether it is possible to monitor what is actually being recorded. If you cannot monitor after recording the court may wish to look into purchasing different equipment. (See Appendix A: Audio/Video Technology and the Courts.)

### RECOMMENDATION 4

#### THE COURT SHOULD REMOVE FROM A COURT FILE ALL UNNECESSARY OR DUPLICATIVE DOCUMENTS AS PART OF A DAILY ROUTINE.

Court staff do not remove or destroy any documents placed in a file. Such documents include envelopes, cover letters, and copies of pleadings placed in the file even after the original has been returned to the court. These items are either unnecessary or duplicative and need not be retained by the court. This practice increases the size of a file and the storage requirements of the court.

Envelopes and cover letters should not be placed in a court files. Copies of pleading (e.g., summons, writs of garnishments and warrants) should be discarded when the original is "returned" to the court. A more detailed review of papers kept in court file may reveal other documents that can be discarded by court staff.

#### RECOMMENDATION 5

THE COURT SHOULD PURCHASE A DATE/TIME STAMP AND STAMP ALL DOCUMENTS FILED WITH THE COURT.

The court does not presently record when a pleading or document is filed. Envelopes are attached to mailed-in documents in an effort to establish when an item was received. This practice increases the size of a court file. In addition, no record is kept when a document is filed personally by a party. All pleadings and documents filed with the court should have a notation indicating when the item was filed with the court. This practice protects the court and documents compliance or non-compliance with time requirements.

The cheapest and most efficient way of recording when a pleading or document was filed with the court is with an electric date/time stamp. The stamp would be kept on the counter and as soon as any document is filed, it should be inserted in the stamp.



B. Changes Requiring Additional Review and Assistance.

RECOMMENDATION 1

FACILITIES SHOULD BE REVIEWED FOR REMODELING.

The facilities at the Red Lake court appear generally to be good. The court is located in the same building as the tribal police, however, there are separate entrances. The building is a renovated forestry service garage, which was the only facility available to the court after the former court facility was burned in 1979. Project staff noted that the lighting was generally good, smoke detectors were installed, and it was fully carpeted. The court facility consists of:

- 1 courtroom
- 1 attached judges chambers (with washroom)
- 3 clerk's offices
- 1 associate judge's office
- 1 probation officer's office
- 1 general washroom.

Minor complaints about the facility were that it had no windows, the temperature in the courtroom was too warm (court staff are unable to control the thermostat), and the courtroom can not be secured. There is no lock on the doors to the main entrance to the courtroom. The courtroom contains no bench for the judge. The judge sits at a small table at the front of the court. The courtroom lacks accommodations for a jury. There is no jury box or separate room for jury deliberations. The court also lacks a separate room for a library. Project staff

also noted that court records are stored in the office of one of the court clerks. There is no separate storage space for court records or supplies. The copying machine is in the office of the associate magistrate, resulting in much interruption and inconvenience for him. Currently all offices in the court building are filled. The Red Lake Code authorizes a third magistrate. If that position is filled, there is no available office space for the third magistrate.

It is the Center's recommendation that further analysis is needed to determine facilities needs of the Red Lake court. At this point, it is clear that the facilities are inadequate in these areas:

- judge's bench;
- jury box;
- jury deliberation room (may be combined with library);
- library;
- records/supply storage/copier; and
- additional office space for authorized judges.

#### RECOMMENDATION 2

AN ACCOUNTING SYSTEM SHOULD BE DEVELOPED FOR THE COURT FUND INCLUDING A SHORTER PROCEDURE FOR PROCESSING MANDATORY REFUNDS.

All revenues collected by the court (e.g. bonds, fines, and penalties, and court costs) are deposited in a court fund account kept by the BIA Minneapolis Area Office. The procedure for collecting and depositing the court funds are as follows:

- Fines, bonds, and costs are paid at the court clerks office.

- Every week the Chief Court clerk takes the money to the First National Bank at Bemidji and buys a money order for the full amount.
- The Chief Clerk then takes that money order, attaches a summary sheet of funds collected and two copies of the actual receipt and delivers it to the BIA Agency Office in Red Lake.
- The BIA Agency Office gives the tribe a receipt for the money order.
- The Agency office mails the money order to the Minneapolis Area office to be deposited in the Red Lake court funds account there.

The court keeps no cumulative tally of money deposited in the court funds account. The money in the account is used for both court and police purposes. The court clerk and the Agency Special Officer indicated that prior uses of the money had been for police uniforms, cars, snowmobiles, court staff salaries, supplies and training. The procedure for obtaining money out of the court fund is as follows:

- Clerk of court makes out a voucher for the amount needed/requested.
- The Chief Magistrate signs the voucher.
- The voucher is submitted to the tribal council for approval.

If approved by the tribal council--

- The voucher is submitted by the Chief Clerk of court to the Agency Superintendent for approval and his signature.
- The Agency Superintendent then submits the voucher back to the Chief Clerk of court who mails it to the Minneapolis Area Office.
- The Minneapolis Area Office will not issue a check without the signature and approval of both the Tribal Council and the Agency Superintendent.
- The Minneapolis Area office issues a check directly to the person to whom the debt is owed.

This procedure is used both for discretionary expenditures and legal obligations. There is a long waiting period for money which the court has a legal obligation to return, such as bonds and over payments. The tribal council has actual authority over the court funds even though kept by the BIA, and expenditures authorized by the council are not vetoed by the BIA. The use of this lengthy procedure for making required refunds unnecessarily delays the processing of such requests. BIA should process the court's vouchers directly (in this area) without prior tribal council review and approval.

The court should also develop a system of accounting for court revenues and expenditures to enable them to have a complete total for use in the court budget. One simple method of accounting for court funds would be the "one-write" system, whereby writing the receipt creates a daily tally of funds taken in, and totals can be acquired on a daily, weekly and monthly basis. The "one write" system could also be quite easily used for keeping a tally of court expenses. (See Appendix B: Pegboard Accounting Systems for Smaller Courts, NCSC Report.)

### RECOMMENDATION 3

#### A JURY SYSTEM SHOULD BE IMPLEMENTED.

The Red Lake Tribal Code, Rules of Court, Chapter 1 § 4(i) authorizes jury trials in criminal cases where requested by the defendant. Chapter 4 of the Code, Civil Actions § 7 authorizes juries in civil cases on request of the defendant providing he/she posts a \$20 bond. The juries are to be composed of six

members from the band. The code in § 4(j) mandates that the tribal council prepare a jury list each year with juries to be drawn from that list by the judge.

Interviews with the Chief Magistrate and the Agency Special Officer indicated that the Red Lake court has never had a jury trial and juries were not being provided even when requested by parties. Reasons given for failure to provide jury trials were lack of a jury list, and lack of substantive judge training in conducting a jury trial. The Agency Special Officer indicated that a jury list had recently been compiled, but to date the court is still not holding jury trials.

It is the Center's recommendation that a procedure be established which complies with the tribal code for compiling a jury list and drawing juries from that list. A schedule of jury fees and costs also needs to be established. Substantive training needs to be provided to tribal court judges in how to conduct a jury trial.

#### RECOMMENDATION 4

##### THE COURT SHOULD DEVELOP A MANAGEMENT INFORMATION SYSTEM.

The Red Lake court is currently required by the BIA to collect certain types of data for monthly and annual reports. In the past collection of even the minimal data required has been irregular, although it appears to be better now. The reports in their present form provide minimal management information. Project staff could not identify any management use for these reports by BIA. The fact that there have been long periods when none were even turned in suggests that they are not being used for court management purposes.

Project staff received copies of annual and monthly court reports from the Red Lake Court. The annual report contained a monthly breakdown by male and female, and a total figure for the year. Staff were unable to identify from the annual report new cases, pending cases, types of dispositions, or types of cases (e.g., civil, criminal, or juvenile.) The present annual report format should provide more detailed management information.

The monthly reports are summary and do provide more detail but still lack useful management information. The reports include such information as numbers of male and female offenders broken down by the type of offense. However, no information is provided regarding type of disposition and number of cases pending.

It is the Center's recommendation that existing report formats be revised and standardized. The BIA should decide what information it needs to determine funding, staffing, facilities and equipment needs of the court. (See Charts 4, 5, 6, 7 for recommended formats.) We recommend substituting these formats for existing reports. Since the court is already collecting caseload information to create the existing required reports, these new reports would create no additional work for clerical staff and would provide more useful management information for both the court and the BIA. This information would be in a format that would allow both the court and the BIA to more accurately determine future court needs. Other management information which the BIA determined either useful or necessary could easily be added to the recommended formats.

CHART 4

CASELOAD

	TRIAL COURT							APPELLATE COURT				
	Pending Previous Period	Filed	Dis'm'd	Plea	Judge Trial	Jury Trial	Informal Disp.	Warrants	Pending	Filed	Decisions	Pending
I. Criminal												
II. Traffic (Civil/Crim.)												
III. Juvenile												
IV. Civil												
V. ICMA												
TOTAL												

## TYPES OF DISPOSITIONS\*

[illegible]**TOTAL**

\* Separate sheet for other types of cases (i.e., traffic, juvenile, civil, and ICWA).

**\*\* List individual cases.**



CHART 6

REVENUE

	COURT FUND							
	Fines	Court Costs	Fees	TOTAL	Restitution	Work Program	Judgments	
I. Criminal								
II. Traffic (Civil/Crim.)								
III. Juvenile								
IV. Civil								
V. ICWA								
(TOTAL)								

CHART 7

	TRIAL COURT			APPELLATE COURT
	Chief Magistrate	Associate Magistrate	Associate Magistrate	
<u>PENDING</u>				
Criminal				
Civil				
Traffic				
Juvenile				
IWCA				

## RECOMMENDATION 5

THE COURT SHOULD DEVELOP A PERSONNEL SYSTEM, CLASSIFICATION PAY PLAN, AND COLLECT ADDITIONAL WORKLOAD INFORMATION BEFORE NEW STAFF ARE HIRED.

The employees of the Red Lake court are paid by the Bureau of Indian Affairs and in some cases salary is supplemented or paid entirely out of the court funds account.

The magistrates are intermittent employees, and are paid on a per diem basis. The chief magistrate receives \$58.43 per day from Bureau of Indian Affairs appropriations and that amount is supplemented by money from the court fund to equal the authorized \$71.48 per day. The associate magistrates salary is drawn entirely from the court funds account.

As intermittent employees, neither the Chief magistrate or associate is entitled to any fringe benefits. However, both judges are present at the court full time, working every day from 8:00 a.m. to 4:45 p.m.

There was some discussion at the court of adding a third judge. The need for a third judge is unclear at this point. Due to a lack of accurate management information, staff were unable to document use of judicial time. Further analysis is needed to determine need for additional judicial staff. (See Recommendation 7 for additional discussion of this point.)

There was also discussion of adding other additional staff. One of the proposed additions was a prosecutor. The current practice at the court is for police officers to prosecute cases which they have investigated, the complainant

to prosecute his/her own case, or for the judge act as a prosecutor. It is an apparent conflict of roles for the judge to act as prosecutor and has been interpreted as in violation of due process. Wounded Knee vs. Andera, 416 F. Supp. 1236 (D.S.D. 1976). It was the feeling of the judges that neither the police nor the complainant do an adequate job of presenting a case, for them to act as prosecutor. It was generally felt by the court that a prosecutor is necessary to guarantee fairness and justice. The prosecutor position discussed was a combination prosecutor/probation officer. NCSC staff had inadequate information to determine whether the court needs a full or part time prosecutor. Project staff are in agreement with the court that a prosecutor is necessary, however the position as proposed may create some conflicts and needs to be discussed further.

There is presently a probation officer on staff who works three days a week and is paid entirely from the court fund. This position was cut from a full time GS 7 position because of a loss in BIA appropriations from 1981 to 1982. It was unclear to us whether the above proposed prosecutor/probation officer would be in addition to the present probation officer, or whether this position would be eliminated. Again, further analysis is needed to determine the need for additional staff.

Another proposed addition to the court staff was a court administrator. Currently the administration of the court is handled by the Chief Magistrate, Chief Court Clerk, and the BIA. The position as described would be something of a

combination between a law clerk/court administrator. Judges indicated they want someone to assist in legal research in substantive areas of law, provide some training for judges, and administer the court. (See Recommendation 8; on training for role clarification.) While the Center agrees that the court could benefit from the services of a court administrator further analysis is needed to determine whether an additional position is needed, if so, whether part time or full time. An alternative may be to train existing staff to assume those functions.

The three court clerks are all full time temporary positions. They are renewed on a year to year basis. As full time temporary positions they are eligible for some fringe benefits. They do accumulate sick and vacation time. They are not however, eligible for civil service step increases. The chief clerk has not had a raise in her three years with the court, except for cost of living increases. The clerks feel that they are permanent employees and are unhappy about the disparity in treatment. The clerks are currently not being evaluated on a regular basis as are permanent full time BIA employees. They indicated that they would like to be evaluated to assure their own job competence and so that they could be considered for step increases. Failure to be evaluated and lack of regular step increases has resulted in dissatisfaction and low moral on the court staff.

Requests by NCSC staff for copies of job descriptions revealed that not all court positions have descriptions. Staff

obtained descriptions for the chief magistrate, associate magistrate and the chief court clerk.

It is the Center's recommendation that a personnel system should be developed for the court including job descriptions for all positions and a uniform salary schedule.

It is the Center's opinion that a staffing needs analysis should be done before any new positions are authorized. This delay should not create any additional burden on the court if the court only types required transcripts.

#### RECOMMENDATION 6

##### THE COURT SHOULD DEVELOP A SCHEDULE OF COURT COSTS.

The Red Lake Tribal code, Rules of Court, Chapter 1, § 4(i) authorizes the court to assess costs against a defendant found guilty by a jury. Chapter 1, § 5(b) authorizes the court to assess costs against the defendant in appeals. The court at Red Lake does not currently assess any court costs in criminal cases, except in those cases where a jury is called.

The tribal code Chapter 4 § 7, also authorizes assessing \$20 in a civil jury case to cover jury cost and cost of service. Chapter 4 § 8 of the code authorizes the court to require appellants to deposit \$20 plus an amount sufficient to cover the cost of subpoenas and other costs and disbursements as determined. Chapter 4 § 10 authorizes the court to assess costs against whom the judgment is given. Such costs may include expenses of witnesses, jury fees, actual cost of the clerk and judge, and any other expenses connected with the procedure as the court may direct.

The court informed NCSC staff that the \$20 fee is required to be deposited in civil cases, however, no other costs are collected. The court is authorized to collect costs in both criminal and civil cases and may be justified in doing so. In order to determine the proper amount of costs to be assessed, an acceptable method used by many state courts is to divide the number of cases into total court expenditures. The Red Lake Court at present could not utilize this method since there appears to be no central accounting system to determine total court expenditures. The amount of BIA appropriations spent plus the amount spent out of court funds should be added together to calculate the total cost of operating the court.

It is the Center's recommendation that the court implement a central accounting system to determine total court expenditures from BIA and court funds. The court would then be able to establish a schedule of court costs by dividing caseload into total court expenditures. This approach uses actual costs.

#### RECOMMENDATION 7

THE COURT SHOULD IMPLEMENT AN APPELLATE PROCEDURE TO CONFORM WITH THE CODE.

The Red Lake Code, Rules of Court, Chapter 1, § 5(a-c) allows appeals in all criminal cases where the court or jury returns a verdict of guilty. The defendant must give notice of appeal at the time the sentence is imposed and deposit with the court \$20 to cover costs. In civil actions, Chapter 4, § 8

permits any party aggrieved by a judgment to appeal upon giving notice at the time of judgment and depositing \$20 with the Court to cover costs.

The code in Chapter 1 § 5(c) authorizes an appellate court composed of the Chief Judge and the Assistant Judges of the Red Lake Court of Indian Offenses. Where a transcript is available the court acts only as a court of review. In cases where there is no transcript the case shall be tried de novo. Decisions are to be based on a majority vote of the judges.

An interview with the Chief Magistrate indicated that the court has received very few requests for appeals. In those cases where appeals are taken an outside judge is brought in from the Leech Lake Reservation who sits with the two Red Lake judges (this procedure is not authorized by the tribal code). The Red Lake code also does not prohibit the trial judge who heard the case from sitting on the appellate court. Due to the judicial structure at Red Lake, the trial judge does sit on the appellate court. It is questionable whether the trial judge who heard the case should be allowed to hear his own case on appeal for reasons of justice and fair play.

Filling the third judges position has been proposed to alleviate the necessity of bringing in outside judges. However, this would not alleviate the problem of the trial court judge rehearing his own case on appeal. Other alternatives for filling the position of a third judge should be considered. One alternative would be to amend the code to



provide for four (4) judges or the use of outside judges. If the number of appeals remains relatively low, it may be more cost efficient to pay for outside judges when necessary, rather than hiring permanent judges, (even part time). Another alternative may be to hire two (2) additional judges but only on an "on call" basis. These judges would be called in only as needed for appeals.

#### RECOMMENDATION 8

THE COURT NEEDS ADDITIONAL ON-SITE SUBSTANTIVE AND ADMINISTRATIVE TRAINING FOR JUDGES (NAICJA TRAINING PROGRAMS) AND CLERKS, AND TRAINING FOR COURT STAFF, POLICE, AND TRIBAL COUNCIL ON THE COURTS' FUNCTIONS AND RELATIONSHIPS WITH OTHER GOVERNMENTAL BODIES.

Judges and court staff were interviewed at the Red Lake court to determine prior training for their positions. (See Chart 8 below for list of prior training.)

#### Judges

Both judges are recent appointees and have not had many opportunities to attend training programs. Both judges felt that they were in need of and would like more training in both substantive and procedural matters. It was brought to project staff attention that there have been instances where jury trials have been requested, but not given because judges did not know how to conduct jury trials.

It is our recommendation that at a minimum the judges should be provided further substantive training in the areas of:

- civil and criminal law
- juvenile law

and procedural training in the areas of:

- conducting jury trials
- appellate procedure.

All of the above training needs could be met by sending the judges to training sessions put on by the National American Indian Court Judges Association (NAICJA). NAICJA has also created excellent substantive legal resource materials for Indian court judges. As an alternative or supplement to attendance at these training programs, a benchbook could be developed for the court. The benchbook would provide the judges with a checklist of elements of offenses and of required procedures and practices. Any existing general benchbook could be adapted to fit the Red Lake Court. A benchbook seems especially appropriate for the Red Lake court since there has been a high turnover of judges in the past. A benchbook would help ease the transition period for new or inexperienced judges, and keep the court operating smoothly.

#### Clerks Training

The court clerks training needs appear not to be as immediate as the judges. The clerical staff seemed relatively stable (e.g., the Chief Court Clerk has been with the court three years). Their training in basic recordkeeping appears to have been adequate. In some cases judges and clerks have attended the same training sessions in which cases the clerks may be especially useful to new judges.

It is the Center's recommendation that the clerks should receive on-site additional training in general administration,

improvements in local operations, and revisions due to code or statutory change. This would enable them to deal with court administration and management problems.

Joint Training:

In addition to the proposed administrative training, the court staff generally need training regarding the role of the court and relationships with other governmental offices. Interviews with court staff indicated some confusion of various court relationships. The staff need training on the appearance of justice. For instance court staff indicated that it is not uncommon for parties to come in and discuss their cases with the judge prior to their court hearings. This creates the appearance of possible prejudicial influence to the opposing parties and the general public. Another problem related to the appearance of justice is the practice of either the judge or police acting as prosecutor. This may raise doubts in the defendant's mind about the fairness of his trial. The presence of the police as prosecutors blurs the relationship between the court and police and may give the impression the court is a police court. The independence of the court from the police needs to be made clear and stressed.

Discussions with court staff also indicated that there is some confusion of various roles within the court. The proposed new positions of court administrator and prosecutor/probation officer as described are not typical of these roles. The court administrator position as proposed would perform legal research

and training for judges. More typically legal research would be performed by a judge's law clerk (usually a law student or recent law school graduate), and judges training provided by outside experts. The court administrator deals with court management and administration.

The prosecutor/probation officer position as proposed has a built in conflict. It is hard to imagine that the same person who has just prosecuted a juvenile can then turn around and perform the function of a probation officer for that same juvenile.

It is the Center's recommendation that training in court roles and relationships be provided to cure these problems. It is staff's perception that clearly defining roles and relationships will enable court staff to operate more confidently and efficiently, and give a better appearance of justice to the public.

CHART 8: STAFF TRAINING

- Chief Magistrate
  - Indian Child Welfare, NAICJA, Minneapolis (1981)
  - Indian Child Welfare, Management Concepts Incorporated, Reno, Nevada (1981)
  - Planning for Judges, NAICJA, Grand Rapids, Minnesota (1981)
  - Indian Child Welfare Act, John Traillor, Red Lake, Minnesota (1981)
- Associate Magistrate (primarily juvenile)
  - Indian Child Welfare Act
- Chief Court Clerk
  - Member of Indian Court Clerk's Association
  - Attended three court clerk training sessions in Albuquerque, New Mexico.
  - Indian Child Welfare - several sessions
- Deputy Court Clerk
  - Indian Court Clerks Training Program, Denver, Colorado.
- Deputy Court Clerk (Juvenile)
  - Indian Child Welfare Act, John Traillor, Bemidji, Minnesota (1981)
  - Juveniles, Central Minnesota Legal Services (1981)

RECOMMENDATION 9

THE TRIBAL CODE AND COURT PRACTICES SHOULD BE COMPARED AND MADE TO CONFORM.

It came to project staff's attention that there were certain instances where current court practices either differed from what the code authorized or the court was not providing what the code authorized. For instance the code states that the appellate court "shall be composed of the Chief Judge and the Assistant Judges of the Red Lake Court of Indian Offenses". Presently the court brings in judges from the Leech Lake Reservation to sit on appeals. In addition the code authorizes jury trials in both criminal and civil cases. Court staff indicated that although there had been requests for jury trials, the court has never held one. The code also authorizes the court to assess costs against parties, again it was indicated by court staff that costs are not being assessed.

It is the Center's recommendation that the code and court practice should be compared and made to conform. Staff make no recommendation on whether the code should be changed or whether court practice should change. After the comparison has been completed, the court should then decide whether to change its practice or amend the code to fit the practice.

RECOMMENDATION 10

COURT NEEDS TO EXPAND AND UPDATE ITS EXISTING LIBRARY RESOURCES

An inventory of library resources available to the court revealed a lack of some basic materials. (See Chart 9 for

library resource inventory.) Other materials were either incomplete or not current. The Chief Magistrate indicated that their original library burned with the courthouse in 1979. Both the chief magistrate and the associate magistrate indicated they would like to have more legal resource materials available to them.

It is the Center's recommendation that current supplements be added to existing library books. In addition, the court may wish to purchase a legal dictionary, state probate code, Minnesota Statutes, Tribal Court Reporter, and copies of all of NAICJA's publications. Additional copies of some of these publications may also have to be purchased if an additional magistrate is appointed.

LIBRARY RESOURCES

- No Central Library
- Chief Magistrates Office
  - Red Lake Tribal Code
  - Tribal Court Reporter, Vol II, AILTP, (1980)
  - Indian Law Reporter, AILTP (incomplete set)
  - Criminal Law Review, Carr (1981)
  - Plea Bargaining and Guilty Pleas, James E. Bond (1980)
  - Practical Record Keeping
  - Financial Program Planning, BIA Handbook
  - Education for Parenthood, Program Curriculum Education Guide, HEW, (1977)
  - Goldstein Trial Techniques 3 Vols., Calahan (1981)
  - Advanced Issues in Indian Child Welfare, Management Concepts Incorporated, (1981)
  - West Collegiate Dictionary
- Associate Magistrates Office
  - 25 Code of Federal Regulations
  - Red Lake Tribal Code
- Clerk's Office
  - Indian Court Clerk's Manual (NAICJA)
  - Fostering Children from Chemically Dependent Environments, University of Minnesota (1981)
  - Advanced Issues in Indian Child Welfare, Management Concepts Incorporated (1981)



# RECOMMENDATION 11

## THE STATUS OF THE COURT (TRIBAL OR CFR) SHOULD BE CLARIFIED.

It came to project staff's attention during their site visit that there was considerable concern and confusion among court staff about the status of the court. The court, while currently classified as a tribal court will soon be reclassified as a Code of Federal Regulations court (CFR). The staff voiced concern over which code would apply, (e.g., the current adopted tribal code or 25 CFR), who would control the court, (e.g., tribe or BIA), and other changes which the reclassification from tribal to CRF might entail.

It is the Center's recommendation that the BIA identify and clarify to the Red Lake court any and all changes in court operation or practice resulting from a reclassification from tribal to CRF.

APPENDIX A

Audio/Video Technology

and the Courts

# AUDIO/VIDEO TECHNOLOGY AND THE COURTS

## GUIDE FOR COURT MANAGERS

### Courts' Equipment Analysis Project

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# Selecting Audio Equipment

Any recording system must provide an accurate record of the court proceedings. Although there are many choices in equipment design and features, not all audio systems are acceptable. The variety of options may confuse the court manager who is selecting audio equipment for courtroom use. Problems may arise because there are no precise national standards for audio fidelity recording for courtroom dialogue. Only a few audio recording systems have been developed primarily for courtroom recording, and several audio manufacturers have provided inferior or inappropriate audio recording systems to the courts during the 1960s and early 1970s—unfortunately, a few vendors still attempt to sell such equipment to some courts.

In the late 1960s, several state courts and research organizations began prescribing recording standards and equipment features needed to ensure a high quality, accurate audio recording system. As a result, several companies have developed audio systems specifically incorporating features and capabilities desired for recording judicial proceedings.

Nationwide audio standards for courts are difficult to establish because courts differ in courtroom acoustics, type of proceedings, uses of equipment (recording, playback, transcription, or a combination of such tasks), portability requirements, and specialized court practices.

Nevertheless, many general features and capabilities discussed in this report should be mandatory to ensure a high quality audio recording in a courtroom, and if necessary, to efficiently prepare a verbatim transcript.

Any evaluation and selection process for audio recording systems should include a rigorous field test of the equipment in court. The court should require that any audio recording system be evaluated and operated continuously under actual court conditions for several days or weeks.

This chapter further elaborates on selected technical specifications and components and the rationale for such choices. Appendix A contains a detailed listing of the recommended system components and configurations for utilizing audio recording.

## AUDIO TAPES

### Reels

Although polyester tapes are more expensive than acetate, they are recommended because of their greater tensile strength and resistance to moisture and brittleness. Acetate tapes should be avoided.

The tape size depends upon the time required for continuous recording in the courtroom, recording speed, and tape quality. The principal choices are 7-inch or 10-inch tape

reels because the 7-inch reels require smaller, less powerful motors and brakes within the tape recorder, allowing use of a less expensive and more portable machine. The 7-inch reels also require less time to locate a selected portion of the tape, provide the necessary continuous recording capability (few court proceedings last longer than three hours without a recess), and provide a more universal size that can be operated on another manufacturer's machines.

### Cassettes

Standard tape cassettes are available with varying tape lengths and thicknesses. Mini-cassettes are not recommended for recording court proceedings. Cassette tapes should have a ferric oxide coating and a tensilized polyester backing for greater strength. Chromium dioxide coating is not recommended for cassettes because chromium dioxide is highly abrasive and will rapidly deteriorate the recording heads.

The major limitation of cassettes is the limited amount of continuous recording time. Three actions can increase the recording time: reducing the tape speed, decreasing the tape thickness, or installing a dual cassette recorder system.

The established industry standard for cassette tape speed is 1 7/8 ips. Established for music recording, this speed unnecessarily limits continuous recording time because it is unnecessary for voice recording in the courtroom. A 15/16 ips speed provides excellent recording quality for courtroom testimony and substantially increases the recording time for each cassette. While C-60 cassettes (60 minutes of continuous one-way recording at 15/16 ips without operator intervention to change tapes) are an excellent standard, most courts which have used high quality C-90 cassettes (composed of a smaller tape thickness than C-60 cassettes) have been satisfied with both audio quality and cassette reliability. Some manufacturers offer even longer recording time by lowering the tape speed below 15/16 ips. The courts should assess the tape savings possibility as long as acceptable audio fidelity can be maintained.

## MICROPHONES

Some microphone features are mandatory (balanced, low impedance). Other features (such as directivity of the microphone) will depend upon the type of court proceeding, the acoustics of the particular courtroom, the location of the particular microphone, and the number and locality of participants.

### Microphone Type

The dynamic microphone is most suitable for recording

courtroom proceedings. The dynamic type is preferred over the electret condensor because it requires minimal maintenance and offers sufficient fidelity for voice recording, simplicity and sturdiness, and adaptability to public address systems.

A lapel (lavalier) microphone can be attached to a participant. It is not recommended for most judicial proceedings because a lavalier microphone is more expensive, is less reliable, and records extraneous noises—such as movements by the participant. In addition, it is often improperly attached to the participant, and causes inconvenience and delays when participants need to change lavaliers.

Some manufacturers offer a pause control (inhibitor) switch to be used by the judge or clerk to stop the recording during bench conferences and the like. Such an inhibitor switch is not recommended. Instead, a particular microphone should be temporarily disengaged to permit parties to have private conversations. A spring-loaded push-button switch allows a participant to momentarily disengage a microphone when the button is depressed. This push-button control ensures continuous recording without accidental stoppage, but allows participants to hold off-the-record conversations.

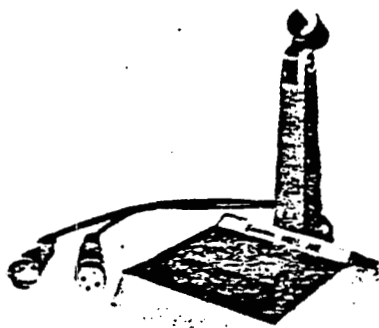


Figure 5.1. Spring-loaded microphone.

#### **Output Impedance**

The microphone should have a low impedance (150-600 ohms) to help reduce or eliminate extraneous noise.

#### **Balanced Microphones**

Balanced microphones contain three wires (two signal wires and a shield) connecting the microphone to the recorder. In many courts, microphones will require lengthy extension cords (20-75 feet) to be connected to the recorder. The microphone may pick up electrical interference from radio, television, or citizens band which must be screened out. If unbalanced microphones (containing only two signal wires) are installed, such signals will be recorded on the tape and may interfere with clarity of the courtroom testimony. Use of balanced microphone wires and connectors will reduce, and possibly eliminate, these extraneous signals and sounds. The recording device must also be equipped with balanced to ground input connectors. This type of connector

removes the extraneous noise from the audio track before it can be recorded on the tape.

#### **Microphone Frequency Range**

The microphone must be capable of picking up a sufficient range of sound. For ordinary courtroom conversation the frequency response of the microphones should be 100 to 10,000 hertz (Hz).

#### **Microphone Connections**

Microphones must be attached to the recorder. To ensure a permanent connection, professional quality three-prong locking connectors such as Cannon or Switchcraft (XLR) should be installed. This type of connector will prevent accidental disconnections of microphones from the recorder.

#### **Directivity**

A microphone is designed to record sound from specific directions in relation to its placement. The recording pattern of microphones can be classified into two categories—uni-directional (cardioid) microphones and omni-directional microphones. The uni-directional microphone is more practical when speakers remain stationary or in close proximity to the microphone, when extraneous sounds from outside or inside the courtroom need to be reduced, and when participants are soft-spoken.

The omni-directional microphone may provide greater latitude in recording sound when a participant, such as a lawyer, does not remain stationary. However, this type of microphone will pick up more extraneous courtroom sounds.

There is no definitive standard concerning the directivity of microphones used at a particular location in the courtroom. The type of proceedings and general courtroom acoustics are important to determine whether a particular microphone should be uni- or omni-directional. The microphone standards listed in Appendix A suggest the type of directivity for a particular microphone location.

While the audio recording system must allow participants some flexibility in movement, some participants, particularly lawyers, might have to change walking patterns in order to ensure that the microphone picks up appropriate speech. Any speaker should face in the general direction of a microphone.

#### **Microphone Stands**

Whenever possible, microphones should be inserted into sound-isolated (acoustically isolated) stands or holders to reduce extraneous noise or vibration. Sound-isolated stands are very important for microphones placed on tables or desks—such as counsel tables and at the judge's bench—to reduce noises such as writing, hitting, or shuffling papers. Microphones should be placed on floor stands which should contain sound-isolated holders. The use of portable microphone stands is suggested to allow some flexibility in positioning the microphones for different types of court proceedings.

### **Microphone Mixer**

Some courts may prefer or need to install more microphones in the courtroom than can be attached to the recorder. While a microphone mixer can be installed, it is not suggested because it requires a machine operator to monitor and to frequently change microphone signal levels.

Three alternatives to a separate microphone mixer are possible. In some courts, an additional microphone may be necessary for a short time such as during the voir dire examination. One of the regular microphones could be temporarily moved; a microphone normally located at the witness stand or counsel table could be moved close to the jury box. In other courts an additional microphone may be permanently needed.

Additional microphone inputs could be installed by using a Y-connector to connect two microphones into one recording track. In this way, eight microphones can be cascaded into a four-track recorder. While feasible, these Y-connectors weaken the signal strength and may affect sound fidelity.

Instead, the recording unit should contain a microphone mixer within the recorder. This approach allows additional microphones to be connected directly to the recorder without loss of signal strength or fidelity.

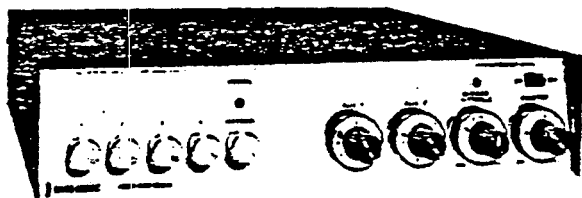


Figure 5.2. Microphone mixer.

### **AUDIO RECORDERS**

Recorders are the most critical and complex component in an audio recording system. Recorders must accurately record proceedings under varying conditions, different speakers, and diverse types of proceedings. There are various recorder designs and features available. Some are necessary to ensure comprehensive and comprehensible recording; other features are optional.

#### **Dimensions**

Courts tend to prefer smaller, portable recording machines. With the development of integrated electronic circuits, small recorders can now provide high quality audio fidelity with minimal audio distortion, excellent performance, higher reliability, and better portability. Both reel and cassette recording systems are becoming both smaller and easier to operate. As a result, the weight of any audio recording system should never exceed 50 to 55 pounds, but preferably would weigh 20 to 25 pounds. Heavier recorder units may contain outdated electronic components or may not be designed specifically for mobility or courtroom applications, such as police recording systems modified for courts. Some jurisdictions will prefer portable, lightweight equipment for relocating systems among courtrooms or

localities. A cassette recording system weighing under 25 pounds is recommended for such uses. Any audio recorders selected should be small enough to be placed on a standard desk or cabinet already available in the courtroom. Recorders should not exceed 24 inches in any dimension or exceed four cubic feet in volume.

#### **Operating Conditions**

A recorder should be operable in any courtroom facility regardless of atmospheric conditions; air conditioning is not required. The machine should be able to operate under conditions ranging from 32 to 105 degrees Fahrenheit temperature and 0 to 99 percent relative humidity, with a standard power supply (120 volts, 60 Hz), and withstand voltage variations ("brownouts") of up to 15 percent.

#### **Multi-Track (Channels)**

Multi-track recorders provide separate and distinct channels along which audio signals coming from different microphones are separately recorded on the tape and permit voices recorded from various microphones to be played back separately or in any combination desired. Multi-track recording equipment allows a listener or transcriber to more easily identify the speaker and clearly distinguish and isolate statements made simultaneously. The multi-track capability also permits the court to remove or reduce certain deleterious or undesirable background noises by listening to just the microphone nearest the individual and to modify the sound volume on a particular track to improve the muffled, whispered, or loud statement being made by a participant. These extraneous courtroom noises can be controlled both during the proceeding and also during playback of the tape.

The four-track recording system should be used for audio recording and transcription of court proceedings. Only under specialized circumstances should a six- or eight-track recording machine be considered. Four-track recorders should conform to NAB reel standards or Phillips cassette standards for four-track width and track spacing medium being used. This will permit compatibility of recorders and transcribers among jurisdictions which may use different manufacturers or models of equipment.

#### **Motors**

The number and type of motors can substantially affect the overall reliability of the recorder and tape speed control. Cassette recorders require only one motor. The best and most durable reel tape recorders utilize three separate motors: one drives the capstan, a rotating shaft which pulls the tape at a constant speed; another controls and powers the take-up reel; and a third controls the supply reel. The capstan should be controlled by solenoid-operated switches and servo-capstan drives are recommended.

The three-motor reel recorder is preferred because it stabilizes the tape speed better, reducing the wow (slow repeated fluctuations) and flutter (short rapid fluctuations), and reduces audio distortions; it is also a simpler mechanical

device and more reliable than a single motor system.

The single motor reel recorder system is less reliable and durable since it requires additional mechanical linkages, belts and pulleys to operate the capstan and reels.

### **Volume Control**

Because of the number and varied location of participants during a court proceeding, the recorder must allow the operator to control and adjust the volume input from the various microphones. The operator should be able to adjust the gain control separately for each microphone or channel connected to the audio system. Two types of automatic volume control devices are available—gain control or audio limiters—to modify weak or loud signals to a volume level comprehensible by most listeners. The automatic gain control device automatically amplifies weak signals and reduces loud signals so that the audio volume is within prescribed limits, regardless of the volume of the original sound. The audio limiter merely reduces loud signals to the prescribed volume range. Since sound levels are constantly changing in the courtroom and court personnel may not have time to make quick adjustments, automatic gain control or audio limiter control with a manual override is suggested.

### **Control Switches**

The recorder control, each clearly identified in English, should be located on the front panel and should include six modes: forward, pause, fast-forward, fast-reverse, stop and record. Solenoid switches are preferable to manual switches. The manual switches are cheaper but less reliable. The solenoid switch consists of a push-button relay coupled to a microswitch which activates an electromagnet. This switching mechanism is simpler to operate and provides better reliability.

### **Index Counter**

An index counter must be easily visible to the operator so that appropriate log notations may be made during the proceeding. Some jurisdictions may want to add to the recorder a display (such as a light emitting diode—LED) which permits any participant in the courtroom to see and record the precise index number. With an LED, participants are assured that the machine is operating, and counsel or court personnel can note for later reference, readback, or transcription the point on the tape that records a specific statement.

To reduce prolonged searching for a particular tape segment, the index counter must be so reliable that the desired information can be located within a few seconds after the counter number is reached. In addition, the counter should have a button to reset the counter to zero.

An automatic electronic search option, available from some manufacturers, permits the user to specify a counter number for which the recorder will automatically search. This mechanism permits very fast and accurate indexing, but will increase the cost for each machine.

### **Monitoring Equipment**

Court personnel should monitor the recorder during court proceedings to ensure that a complete record is being made and to readjust the audio recording system when necessary. The operator must be able to accomplish the following:

- quickly monitor each recording track by means of an earphone jack;
- quickly adjust the volume, if necessary;
- listen to the quality of the recorded signal on any track;
- easily view indicators that show strength of audio signals being recorded on the tape; and
- know when a serious malfunction has occurred.

The recorder, therefore, must have the following features:

- a separate VU-meter or light indicator for each audio track;
- volume (gain) control for each track;
- output signal connected by an earphone jack to a headset;
- a tape monitoring output from a playback head located after the record head;
- a signal-sensing circuit to automatically sense that a previously recorded audio signal is on the tape; and
- an audible signal to notify the operator and the participants that the recorder or the tape (end of tape or broken tape) has malfunctioned.

### **Recording Quality**

High quality audio recording of judicial proceedings is difficult to quantify precisely. Basically, audio fidelity is the degree to which original sound is faithfully and accurately reproduced. For judicial purposes, adequate audio quality is necessary to clearly record court proceedings with negligible distortion, whether caused by the machine or by extraneous noises. The audio quality necessary for recording verbatim statements in court does not require the same high fidelity as recording music for home entertainment or hi-fi equipment.

Many audio components affect audio quality.

Improvements in one particular capability are sometimes achieved at the expense of another, for example, increasing the frequency range may cause a deterioration in the signal-to-noise (S/N) ratio.

Unfortunately, manufacturers do not measure or report audio fidelity measurements such as frequency response range and signal-to-noise ratio in the same manner. Since manufacturers do not use comparable measurement techniques, a manufacturer's rating can be misleading or meaningless when compared to another manufacturer's. Courts should not use these measurements or ratings as the sole selection criteria. Judicial user experiences, vendor reputation, and, most critically, actual courtroom testing should be critical determinants.

**Audio distortion.** Distortion is the presence of extraneous sounds or harmonies which are not part of the original sound or statement. Technically, distortion is the difference in the sound wave form between the original signal wave form and the reproduced audio signal. Distortions are more critical with musical recording than courtroom (voice) recording.

The best recording equipment will always produce some distortion due to electronic or mechanical limitations in any audio recording system. Acceptable courtroom recorders will control and limit these distortions. Maximum distortion should be no more than 3 percent.

**Frequency response range.** Frequency response range of a recorder represents the range from the lowest (bass voice) to the highest (treble tones) pitched sound that can be recorded. The frequency response range is expressed in cycles per second (Hz). Courtroom recording equipment need only accurately record sound in the human voice range (100-6,000 Hz)—minimum acceptable range is 200 to 4000 Hz—and not of the musical fidelity range (50-20,000 Hz). Vendors should meet the specified frequency response range for both record and playback modes at the normal operating tape speed. The frequency range reported should be calibrated at  $\pm 3.0$  decibel (db) variation. To ensure that voice levels will be properly recorded, a court should test any proposed audio recording system with individual voices from the entire range.

**Signal to noise ratio.** By limiting the frequency response range, the manufacturer can provide improvements in the signal-to-noise ratio. This is a measure of the ratio of the desired audio signal compared to the extraneous noises caused by the recorder or its auxiliary components. If this ratio is too low, background noises due to hum (low frequency noises) or hiss (high frequency noises) can interfere with audibility of the voices being recorded. An acceptable rating is a minimum of 35 db, but a higher rating is desirable. Since manufacturers do not always calibrate or use the same standard for determining a signal-to-noise rating, courts must carefully compare vendor measurements and claims.

**Cross talk.** Multi-track recorders can create undesirable cross-talk. Cross-talk occurs when there is sound leakage between two channels, that is, when a statement recorded on one channel can be heard during playback on another channel. Cross-talk calibration must be above 32 db.

### **Transcribers**

A transcribing machine must be compatible with the recording machine so that the recorded tape can be played back properly and transcribed efficiently. Any machine used as a transcriber must have a foot control with forward, reverse, and stop modes and variable speed control. Controls which are optional include automatic back-up and speech compression.

The transcriber machine can either be the recording machine containing a few transcriber components or a transcriber containing features compatible with the recording machine, including the same tape medium, the same track specifications (equivalent track width and track spacing), the same tape speed, the same type of index counter and calibration, appropriate listening devices (both an internal loud speaker and an output signal connected to a headset), tone and volume control, speed control and separate audio

monitoring for each track or any combination of recording tracks.

Transcriber machines are useful when courtroom recorders are utilized daily and when transcript preparation is primarily done by court personnel during normal court work hours. An advantage of having a recording machine as a transcriber is that it can replace a malfunctioning recording machine. The best strategy depends upon the funds available for equipment expenditures, the personnel assigned to transcribe the tape, the location of transcription personnel in relation to the recording system, the transcript volume, and the availability of the recording machines for transcription.

If a recording machine is used to transcribe tapes, the machine must contain an indicator switch or mechanism to prevent accidental erasure or recording over while transcribing. If a transcriber machine is used, it should not contain a record or erase head.

## **ACCESSORY EQUIPMENT**

### **Bulk Erasers**

Erase heads should be excluded or removed from all court recorders and transcribers. A bulk eraser, a special electromagnetic device generating a strong magnetic field, can be purchased inexpensively (approximately \$25 to \$50) that can quickly erase any recorded tape within 5 to 15 seconds. The bulk eraser provides a reliable method of completely erasing a recorded tape and preventing accidental erasure on a recorder or transcriber machine.

### **Duplicators**

In some jurisdictions, lawyers or other government agencies may request a copy of the audio recording of the court proceeding. There are two alternatives: (a) If the request is made before the court proceeding begins, another recording device can be attached to the main recorder for simultaneous recording. The requesting party could be permitted, upon proper notification of the court, to attach his

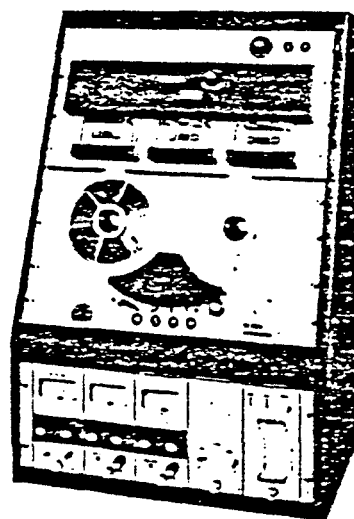


Figure 5.3 Duplicator.



own recording device and provide his own tapes to obtain duplicate recorded copies of the proceeding; and (b) if requests are received after the testimony has been recorded, a duplicator machine can be used.<sup>1</sup>

A duplicator is a high-speed audio reproduction system

<sup>1</sup> Another alternative, although cumbersome and time-consuming, is to connect two standard recorders together to reproduce a second tape. If requests for duplicate tapes are infrequent (a few times a year) this alternative is feasible.

which permits the original tape recording to be duplicated onto one or several tapes in minutes. Duplicators are available to copy one tape recording onto another tape such as cassette to another cassette, or from a reel to a cassette.

There is little need for duplicators in most jurisdictions; however, some jurisdictions may provide audio duplicating service instead of a typed manuscript to requesting parties or to appellate courts. Other courts may contract with an independent transcription service to produce additional copies.

APPENDIX B

Pegboard Accounting Systems  
for Smaller Courts, NCSC Report.

## Accounting poses problems for courts

All courts handle money for one purpose or another. As such, they are required to maintain accounting systems to manage the receipt and disbursement of funds for a variety of different accounts. All courts receive payment for filing fees, court costs, and fines, and some may receive child support and installment judgment payments. The filing fee will generally constitute one lump sum per case, although many states still require separate payment for individual transactions relating to a case. In terms of disbursement, the courts may expend money for operating expenses, juror and witness fees, child support, and, perhaps, payroll. In each case the court is responsible for maintaining accounting records that can be reviewed by an independent auditor.

The integrity of the accounting records in many courts depends primarily on the use of traditional bound record books and procedures that require accounting data to be posted in multiple locations. Most courts typically maintain the following types of records: receipt book or multipart receipt forms, cash book or journal, account books or ledger cards, deposit records, checkbooks, cash disbursement book or journal, payroll, court budget, and reports.

With the increase in court workloads and the demand for additional information and services by the public, courts are hard pressed to maintain their current accounting systems accurately and up-to-date without increasing personnel requirements. Alternative accounting systems are therefore needed to enable courts to continue operating effectively. Three alternative systems are discussed in this report: pegboard accounting systems (for small courts), intelligent or programmable cash registers (for small to medium courts), and computers (for medium to large courts).

# National Center for State Courts REPORT

## Court Improvement Through Applied Technology (CITAT)

ACCOUNTING SYSTEMS IN THE COURTS

MARCH 1980

## Pegboard accounting systems offer solutions for small courts

Most small courts throughout the country continue to use traditional accounting books and procedures since many believe that these approaches are the only economical way for them to maintain accurate accounting records. This belief, however, is often incorrect since modern manual accounting systems can offer substantial improvements and solutions at a minimal cost. The pegboard accounting system, in particular, responds to the needs of small courts through a forms system that generally costs less than current accounting books, reduces personnel time required for accounting functions, and provides even greater accuracy than traditional accounting methods.

The pegboard accounting system utilizes a board with pegs along the left side as the sole piece of equipment. Forms such as general ledger sheets (such as receipt or disbursement journals), individual account ledger cards (for cases or individual accounts), receipts, checks, deposit slips, and others are

specially designed as part of the system to meet the needs of the court. The unique part of the pegboard accounting system is that multiple forms relating to the same transaction (such as receipts, deposit slips, and the cash receipts journal) are designed so that corresponding columns of information are securely aligned by the pegs when these records are placed on the pegboard. For example, in a cash receipt system, when the appropriate information is written on the receipt, the impression is simultaneously recorded on the deposit slip and the cash receipt journal through the use of carbon backing (on the top of the receipt) and carbon paper (between the deposit slip and cash receipt journal). Similarly, in a child support system, information is also transcribed on the individual account records while producing a receipt to be given to the individual, an entry for the daily deposit slip, and a chronological entry in the cash receipt journal.

Pegboard accounting systems can be customized to meet the individual needs of courts. For example, if the court is required to divide filing fees among the court fund, sheriff's fund, and library fund, appropriate columns could be provided on the cash journal sheet for that purpose; after the receipt is prepared, these additional columns are completed indicating portions of the filing fee to be allocated to each account. Each column can then be tallied at the bottom to determine the total amounts to be transferred to each of these different accounts.

The court could also design a combined cash receipt and disbursement accounting system for child support (or installment payments for judgments). The child support system consists of specially designed cash receipt and disbursement journal sheets, individual account cards, and a receipt/check form that runs the entire width of the cash receipt and journal sheet. Similarly, many other systems could be designed that would enable the court to record information on several different records with one impression.

RECEIPT NO.	DATE	CASE NO.	AMOUNT	FUND
100-1	10-10-79	100-1	10.00	COURT
100-2	10-10-79	100-2	20.00	SHERIFF
100-3	10-10-79	100-3	30.00	LIBRARY
100-4	10-10-79	100-4	40.00	COURT
100-5	10-10-79	100-5	50.00	SHERIFF
100-6	10-10-79	100-6	60.00	LIBRARY
100-7	10-10-79	100-7	70.00	COURT
100-8	10-10-79	100-8	80.00	SHERIFF
100-9	10-10-79	100-9	90.00	LIBRARY
100-10	10-10-79	100-10	100.00	COURT

Pegboard accounting system, combining receipts, cash receipt journal, and deposit slip.

# Automation streamlines accounting in large courts

While the pegboard accounting system offers tremendous advantages over traditional accounting book systems, it is still totally manual and becomes cumbersome for a large number of transactions. Larger courts should therefore explore three automated alternatives: intelligent or programmable cash registers, computer-based accounting systems, and computer-based accounting systems with point-of-sale terminals.

Several different manufacturers now produce "intelligent" cash registers with capabilities to provide receipts, validate court records, and automatically divide money received into the appropriate accounts. Although some standard cash register systems are appropriate for court use, it is generally desirable to obtain one that can be programmed with specific codes to meet court needs. For example, special keys could be coded to indicate the type of payment (e.g., filing fee, misdemeanor fine, traffic ticket), the case number, the department of the court, and the individual handling the transaction. The system could also be programmed to calculate automatically a fixed dollar amount or percentage of the payment to be allocated to different funds such as the court fund, sheriff's account, and library fund. The cash register system automatically maintains data on all transactions (on a printed tape or magnetic media) and provides totals for each account on request. This system thus saves substantial personnel time in balancing and



"Intelligent" cash register

reconciling cash receipts for various accounts.

The intelligent cash register system, however, will not prepare checks or manage accounts. The court should therefore consider using the pegboard accounting system for preparing checks and for recording information for individual accounts and for the cash disbursement journal.

Courts may also want to use computer equipment to perform accounting functions. For smaller volume users, microcomputer systems are now available (for less than \$5,000) with accounting software for main-

taining cash disbursement journals and individual accounts, for preparing disbursements and printing reports, and for performing other court applications. With these less sophisticated computer systems, the court generally uses the cash register as indicated above and then rekeys the receipt information into the microcomputer for processing. The advantages offered by a low-cost computer system include personnel cost savings (especially in preparing reports), accuracy, speed, and space savings.

The larger courts should obtain more sophisticated minicomputer or large-scale computer equipment. The increased storage capacity and processing power of these systems will enable larger courts to operate the system interactively and to manage a larger number of transactions and accounts. Under ideal circumstances the computer system is linked with the intelligent cash register so that, once the information is recorded at the cash register, no additional keying is needed to update the computer accounts. This type of configuration is called "point-of-sale" and reflects the concept being used in many retail stores to capture important sales and inventory data at the cash register where the sale occurs. The data from the intelligent cash register can be transmitted to the computer through telecommunications or by manually transporting a magnetic media (generally a cassette tape) from the intelligent cash register to the computer.

## COURT IMPROVEMENT THROUGH APPLIED TECHNOLOGY PROJECT of the NATIONAL CENTER FOR STATE COURTS

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## Pegboard system pluses given

The pegboard accounting system offers courts the following advantages:

☐ **Reduces personnel time.** The pegboard accounting system may save up to 75% of clerical time compared with that for maintaining traditional accounting books. Time savings generally result because an entry can be made on multiple records with only one impression and because all records are in close proximity and easy to handle.

☐ **Reduces or eliminates transcription errors.** Traditional court accounting systems require that one record be created from another. Even when the original receipt is used to create all other records, there is still some potential for error when the information is transcribed. With a pegboard accounting system, the information transcribed onto subsequent records is exactly the same as the information written on the original receipt, check, or other record.

☐ **Reduces costs.** The pegboard accounting system costs approximately \$100 for the pegboard and approximately \$300 to \$500 for an annual supply of forms (depending on volume); the annual cost is, therefore, often less than the cost for traditional accounting books. The greatest cost savings, however,

will be achieved through a substantial reduction (up to 75%) in clerical time required to maintain accounting records.

☐ **Reduces training time.** The pegboard accounting system is easy to learn and operate. No extensive bookkeeping experience is needed by individuals who record most information in the system. (One person, however, should be experienced in the policies governing the court accounting system and the methods for managing various accounts.)

☐ **Produces up-to-date records.** With traditional accounting systems, the receipts may not be posted to the individual accounts or cash journal until later in the day or week. With a pegboard accounting system, all records are updated immediately, and their current status can be accurately determined.

☐ **Reduces auditing time.** Since the pegboard accounting system enables the court to transcribe information to multiple records with one impression, an auditor need not trace each location where information was transcribed to insure that the transcription was accurate. As a result, most auditors will endorse the use of the pegboard accounting system.