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MUNICIPAL COURTS SURVEY  
CLEVELAND MUNICIPAL COURT  
AND THE  
HENNEPIN COUNTY (MINNEAPOLIS) MUNICIPAL COURT

INSTITUTE FOR COURT MANAGEMENT  
University of Denver Law Center

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## MUNICIPAL COURTS SURVEY

### Introduction

In an effort to learn more about the dynamics of litigation in the courts of limited jurisdiction, the Institute conducted general surveys in the Cleveland Municipal Court and the Hennepin County (Minneapolis) Municipal Court.

The objectives of these surveys were:

- 1) to develop a format for comparing municipal level courts with respect to the processing of misdemeanors and felonies;
- 2) to understand the criminal process; and
- 3) to determine the availability or lack thereof of statistics regarding misdemeanors and felonies.

### Summary

As the chart that follows makes clear, the two courts studied represent two distinct models of court administration on the municipal or limited jurisdiction level. The Hennepin County Municipal Court is an example of the more modern approach to court management which is in sharp contrast to the more traditional set-up of the Cleveland court. This difference is revealed in a number of ways.

Structure: The Hennepin County Court is a unified court serving the entire county (there are 4 branch courts outside the City of Minneapolis). In contrast, the Cleveland Municipal Court is just one of 13 municipal courts in Cuyahoga County. Each court has its own rules and structure. Under such circumstances, a uniform standard of justice within the county and economy and efficiency in the use of resources are obviously difficult to achieve.

Court Administration: The Hennepin County Court has a Court Administrator who has full authority to manage the non-judicial business of

the court. There is no Clerk of Court. Among the major duties of the Court Administrator are the preparation and administration of the budget; hiring, promotion and removal of personnel; and general supervision of the court's calendaring system, including control over the issuance of trial continuances. The Court Administrator is hired by and responsible to the entire bench.

The Cleveland Municipal Court has no Court Administrator or central administration. The Chief Justice has the basic responsibility for the administration of both the internal functions of the court and the division of duties and responsibilities of the judges. There is a Clerk of Court responsible for court records but he is an independently elected official. Because of this bifurcation between the Clerk and the Court, two budgets are prepared for the court, one by the Clerk and one by the Chief Justice.

In addition, within the court there are three different personnel systems. The Clerk appoints the deputy clerks on his staff, the court appoints probation officers, reporters and assignment commissioners, and there is a bailiff's department which is under civil service.

Performance: Assessing the performance of any court is difficult since there are so few generally accepted performance standards available. However, in recent years, the American Bar Association, through its Project on Minimum Standards for Criminal Justice, has developed a series of standards for the processing of criminal cases. While our general surveys of municipal court operations were not designed to systematically measure and compare performance, they do suggest that a court with a more modern approach to management will more likely be able to achieve the goals established by the ABA. For instance, with regard to bail practices, the Standards Relating to Pretrial Release declare that, "the law favors the release of defendants pending determination of guilt or innocence." The Hennepin County Municipal Court seems to be pursuing that policy. Our survey found that a majority of

misdemeanor defendants are released from jail prior to a court appearance. While Minnesota law bars defendants charged with gross misdemeanors or felonies from being released prior to a court appearance, that appearance usually takes place within 24 hours of arrest. Aside from posting bail, felony and misdemeanor defendants can be released on their own recognizance. A survey in 1970 indicated that about one-third of the misdemeanor defendants were released with no bail required. In addition, the court is involved in a pre-arraignment diversion project designed to divert selected misdemeanor and felony defendants from the court process and provide them with an intensive six month evaluation and follow-up. The success of the Municipal Court's release policy is indicated by the fact that in 1970, 68% of the felony defendants and 97% of the misdemeanor defendants were released within three days of arrest.

The Cleveland Municipal Court presents an entirely different picture. Our survey indicated that the release of defendants on personal recognizance is practically non-existent; posting money bond through a bail bondsman is the usual avenue of pretrial release. In this regard, the ABA Standards referred to above state that reliance on money bail should be reduced to minimal proportions and that compensated sureties (bail bondsmen) should be abolished. To its credit however, it should be noted that the Cleveland Municipal Court is open 20 hours per day to facilitate arranging bail.

A similar situation exists with regard to the provision of defense services to indigents. The ABA Standards Relating to Providing Defense Services state that counsel should be provided in all criminal proceedings punishable by loss of liberty. This policy appears to be in effect in the Hennepin County Municipal Court. The Public Defender's Office (as well as a number of other agencies) will represent all

defendants that need counsel whether they are charged with misdemeanors, gross misdemeanors, or felonies. This determination is made very early in the process at or before the defendant's first appearance in court.

In contrast, in the Cleveland Municipal Court there is no formal program for the provision of defense services to the poor. This situation exists despite the fact that the U. S. Supreme Court has held (Coleman v Alabama, 399 U. S. 1 (1970) that a preliminary hearing is a critical stage in a criminal proceeding and that the presence of counsel at that stage is vital.

Another matter that is of key significance in the criminal process concerns the time it takes to dispose of cases. A meaningful assessment of performance in this area is not possible since accurate statistics regarding the processing time of cases are lacking in both courts. However, on the basis of data that is available it appears that both courts are plagued by delay in the processing of felonies. In Cleveland, even though the prosecutor in most cases proceeds directly to the grand jury, thereby eliminating the preliminary hearing, it takes about eight weeks to get a felony case to the grand jury. In Hennepin County, the time span is shorter but it still takes three to six weeks from first appearance to preliminary hearing. (The grand jury is not used in most cases.) In contrast, the model felony timetable proposed in the Task Force Report: The Courts issued by the President's Commission on Law Enforcement and the Administration of Justice (1967) calls for a maximum of seven days between first appearance and the preliminary hearing with another seven days allowed for action by the grand jury.

Aside from the lack of data about processing times, the courts were also found to be deficient with regard to other important statistical information. For example, in the Hennepin County Municipal Court we could not determine from the available court data how many

felonies were filed, dismissed, bound over, or reduced to misdemeanors. In Cleveland, such basic information as backlog figures and the number of guilty pleas were unavailable.

In terms of future studies, this lack of statistical data means that much time and effort must be devoted to collecting meaningful information prior to any in-depth analysis. It also means that development of management information systems should have high priority in studies of courts of limited jurisdiction.

In conclusion, the Task Force Report: The Courts recognized the need on the local court level for unifying and centralizing the administration of the court to provide for superintendence of calendars, assignment of physical and personnel resources, and control over budgets. To a large extent this has been accomplished by the Hennepin County Municipal Court but not the Cleveland Municipal Court.

Thus, while our surveys are only suggestive, on the basis of the above comparison it appears that in terms of performance in some key areas centralized administration can make a difference. It also appears that future studies of courts of limited jurisdiction should focus on the areas cited by the Task Force Report so that these courts, which face huge volumes of cases, can become stronger links in the justice process.

# MUNICIPAL COURTS SURVEY

## Item                      Cleveland

Jurisdiction            Limited to Cities of Cleveland and Bratenahl

-Civil                    Up to \$10,000

-Criminal               Ordinance violations including traffic  
Misdemeanors (crimes for which the maximum penalty does not exceed one year imprisonment).  
Felony preliminary hearings (felonies are crimes calling for a sentence in excess of one year imprisonment).

Judges                   13 elected for six year term through non-partisan city-wide election.  
Chief Justice of the court selected for position by the electorate for six year term.  
Assignment of judge's rotated every six months. Assignments made by Chief Justice. Four judges assigned to criminal and traffic cases.

## Hennepin County (Minneapolis)

County-wide including Minneapolis and surrounding communities. There are four branch courts.

Up to \$6,000, except cases involving title to real estate. No pure equity jurisdiction.

Ordinance violations including traffic Misdemeanors (crimes for which the maximum penalty does not exceed a fine of \$300 or a prison sentence of not more than 90 days or both)  
Preliminary hearings for felonies and gross misdemeanors. (Felonies are crimes calling for a sentence in excess of one year imprisonment. Gross misdemeanors are crimes calling for a sentence greater than a misdemeanor but less than a felony).

16 elected for 6-year term through non-partisan election.  
Chief Judge, by custom the most senior judge, elected for one year term by the bench.  
Rotation every four weeks. Schedule prepared by Court Administrator with approval of the bench. Four judges are assigned to suburban branches. Four others are assigned to criminal and traffic cases. Usually six judges are on General Assignment and hear civil and criminal jury trials.

<u>Item</u>	<u>Cleveland</u>	<u>Hennepin County (Minneapolis)</u>
Administra- tion	Clerk of Court is elected for six year term on non-partisan ballot. He is responsible for court records and appoints civil and criminal assignment commissioners, bailiffs, reporters and probation officers. Jury Commissioner is a civil service position. Two budgets are prepared: one by Chief Justice and one by Clerk of Court, both are submitted to City Council. County is required to pay 2/5 of salaries of judges and the Clerk.	Court Administrator appointed by the bench, exercises supervision and control over the non-judicial activities of the court including personnel and calendaring. There is no Clerk of Court. Budget prepared by Court Administrator, approved by court and submitted to County Administrator for review. County Administrator submits budget to County Board of Commissioners.
Criminal Process Prosecutor -Felony	Suspect taken by police to detective bureau. Detectives then present case to city prosecutor who prepares formal charge. Case can also be referred directly to county prosecutor who can proceed before the grand jury; this happens in a large number of cases.	Arresting officer discusses facts with County Attorney who prepares formal charge.
-Misdemeanor	Police present case to city prosecutor for formal charge.	City or Village Attorney prepares charge after talking to arresting officer.
Bail -Felony	Bail usually set at first appearance which occurs about two days after arrest. Present practice does not allow for a suspect's release on personal recognizance from Municipal Court.	Bail is set at first appearance which occurs the morning after arrest. Release on personal recognizance is available. Probation Department handles investigation.



Item

Cleveland

-Misdemeanor

Suspect can be released by police if someone posts bail at the Clerk's office. The office is open 20 hours per day. Type and amount of bail determined by Clerk's office pursuant to a schedule. First appearance is morning after arrest.

Counsel for  
Indigents  
-Felony

No formal procedure for appointment of counsel. Recent practice has been to assign cases in which defendant cannot afford an attorney to Saturday mornings for preliminary hearings. On Saturday mornings private attorneys and representatives of Public Defender and Legal Aid appear to represent clients. This is a volunteer system. However, most cases go directly to the grand jury by-passing preliminary hearing.

-Misdemeanor  
No provision for appointment of counsel for misdemeanor defendants.

Hennepin County (Minneapolis)

Bail can be posted in County Jail pursuant to a schedule approved by Municipal Court. Majority of misdemeanor suspects are released before arraignment. Pre-arraignment diversion is available for suspects charged with felonies and misdemeanors. Selected defendants are given six months of supervision and guidance, if successful charges are dropped.

Public defender available for indigents. Defendants interviewed prior to first appearance. Public Defender available six days a week.

About 20% of felony defendants waive the preliminary hearing. Preliminary hearings scheduled 2-4 weeks after first appearance.

Public defender is available. In all cases where conviction can result in confinement for even a brief time, the defendant must be furnished counsel if he is financially unable to retain a lawyer.