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THE NEW MEXICO COURTS
OF
LIMITED JURISDICTION

**National Center
for
State Courts**

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SECTION
I
INTRODUCTION

A. Background

In recent times, much attention has focused upon the role of the courts in society. In response, most states either have instituted court reforms or are presently engaged in examinations of ways in which the state court systems can be improved (See Appendix C). New Mexico is certainly no exception.

At the time of statehood, there were three Supreme Court Justices, no Court of Appeals and eight district judges. In that year, 1912, the appropriation for the support of the judicial system was \$56,000. The Supreme Court produced forty-four opinions.

In 1975, about sixty years later, the Supreme Court had increased to five members and a five-judge Court of Appeals existed. There were thirty-two district judges, with at least four more scheduled to take office no later than 1977.

In 1974, the appellate courts disposed of 733 cases-- 361 cases through the Supreme Court and 372 cases through the Court of Appeals. During that same period, the Supreme Court heard and entered orders concerning 407 petitions for extension of the six-month period within which criminal cases must commence, heard oral argument on 153 original proceedings and motions, and considered and denied 53 petitions to review opinions of the Court of Appeals.

In 1974, 30,679 civil cases, 4,483 criminal cases and 4,956 juvenile cases, for a grand total of 40,118 cases, were filed in the district courts. 73,057 cases were filed in magistrate courts.

Most of the increase in cases and workload in the New Mexico judicial system has occurred in the last dozen years. In response to this increase many changes occurred in the sixties with the legislature, aided and guided by the bench and bar, taking the lead. During that decade the Court of Appeals was established; the magistrate court system replaced the justices of the peace; the Judicial Standards Commission, Judicial Council, and Judicial Conference were created; and district court financing was centralized.

Although some legislative action has taken place in the seventies looking toward improvement of the system (i.e. changes in judicial compensation and retirement), in the main, improvements in the workings of the system have resulted as a consequence of the efforts of the justices on the Supreme Court.

The Supreme Court has been very active in promoting improvements in the judicial system since January 1, 1971. The source of its power in this field lies in a strong separation of powers section in the New Mexico Constitution, a section designating the courts as the seat of the judicial power and a clause giving the Supreme Court supervisory control over all lower courts.

Over the years, it has been realized by concerned individuals working both inside and outside the judicial branch of government that the problems stemming from increasing population and caseloads cannot indefinitely be solved by appointing more judges and building more courthouses. To gather information through the use of which changes might be made to meet the public's expectation of an efficient and just court system, the examination of the effectiveness of the limited jurisdiction courts was undertaken.

B. Problem Definition

New Mexico, pursuant to a 1966 constitutional amendment, enacted legislation abolishing justices of the peace courts and creating magistrate courts. Since that time there has been no comprehensive study to determine the effect of that legislation in solving the problems that were prevalent during the era of justices of the peace.

It is common knowledge that the image of the entire judiciary is most often created in the limited jurisdiction courts, because it is to these courts that the vast majority of New Mexico's citizens must resort.

Therefore, the goals and objectives of this study have been to determine the nature and extent of the present adequacies and inadequacies of the limited jurisdiction court system of the state. The study is designed to determine if the potential of the new magistrate system has been realized or if this system experiences confusion and

inefficiency and if the continued existence of municipal, probate and small claims courts has any merit.

Although New Mexico has several persons capable in the field of judicial administration and many persons dedicated to judicial modernization, there are few who have more than a surface knowledge of lower court reforms in other states and can use the experience of such other states, good and bad, in solving problems unique to New Mexico (See Appendix E).

In recognizing the need for conducting this study, the New Mexico Supreme Court entered into a contract in October 1974 with the South Central Regional Office (SCRO) of the National Center for State Courts (NCSC) to make a study of the limited jurisdiction courts to discover if any structural or organizational problems exist in these courts and to make recommendations for solving any such problems.

The nature of the study required the collection of relevant data related to the functions of the entire judicial system. The data collected were designed to set out the judicial needs of the citizens of the state with regard to geography, ethnic and population considerations; present acceptance or rejection of the present system by its users; adequacy of qualifications of judicial officers; facility needs; record-keeping requirements; and requisite recourses to permit these courts to perform their duties as part of the third branch of government.

C. Methodology

1. Research and Evaluation of Previous Studies. In preparation for the trial courts of limited jurisdiction project, the South Central Regional Office (SCRO) reviewed a variety of studies and criminal justice action plans which discuss the upgrading of New Mexico's trial courts of limited jurisdiction. Relevant information from these studies was used in writing the interim and final reports. In addition, SCRO staff catalogued studies and reports of states which have made significant steps toward modernizing and consolidating their lower courts.
2. Census. SCRO completed a census of all New Mexico trial courts of limited jurisdiction. The census included official name of the court, court's address and judge's name. State and local election commissions and the Administrative Office of the Courts were the primary resources for the census. The Project Director and Project Coordinator determined upon completion of the census that 120 of 190 judges of the courts of limited jurisdiction were to be visited and evaluated as a representative sample of the lower court system in New Mexico. In addition, 28 district judges, 160 attorneys, and 110 lay-users who have had dealings with the limited jurisdiction courts were visited and interviewed to obtain their views regarding the effectiveness and efficiency of these lower courts.

3. Questionnaires. SCRO staff members designed detailed questionnaires to assist interviewers (See Appendix F). Questionnaires were developed for administration to trial court judges in the courts of general and limited jurisdiction; prosecutors, public defenders and private attorneys; and a wide cross-section of lay persons who have been users of limited jurisdiction courts. The questionnaires were designed to elicit specific information about the skills and talents of judicial personnel; the adequacy and accessibility of court facilities; the quality and quantity of court equipment; the organizational aspects of the courts; training programs; administration of the courts; and the image of the courts as created in the eyes of the lay-users. These questionnaires were administered personally by project staff. The summary results of the questionnaires are contained in Section III.
4. Profile of New Mexico Court System. The project staff compiled a profile of the New Mexico court system with particular emphasis placed on the courts of limited jurisdiction (See Appendix A). The profile includes an identification of courts by official name, terms of the courts; original and appellate jurisdiction; rule-making powers; superintending powers; selection, retention, and removal of judges and non-judge personnel; terms of office; administrative and adjudicative relationships between trial courts of general jurisdiction,

appellate courts and the State Court Administrator's Office; relationships of courts with the bar; existence and purpose of judicial commissions and judicial personnel associations; personnel plans; jury selection; records management requirements; and funding responsibility. This profile facilitated an analysis of the total judicial system in order to arrive at conclusions and recommendations regarding the limited jurisdiction courts.

SECTION
II
SUMMARY

The results of this study indicate that there are three areas in which the New Mexico Court System should make substantial changes in order to continue to progress in its efforts to modernize.

First, the structural and functional aspects of the trial courts should be changed. As the study reveals, the present fragmentation of trial courts in New Mexico fosters, at best, an inefficient judicial system and, at worst, an unjust one. Therefore, it is recommended: (1) probate courts and the Albuquerque Small Claims Court be abolished; (2) magistrate and municipal courts be consolidated and be made a part of, or a direct extension of, the district courts; and (3) the State establish a two-tier court system containing a trial level and an appellate level consisting of the Supreme Court and the Court of Appeals.

Second, adequate authority and resources should be made available to the New Mexico Supreme Court to permit the development of uniform administrative policies. Presently the Supreme Court and its Administrative Office of the Courts have neither funds or authority to oversee and monitor properly the functions of limited jurisdiction courts. Information is the basis for court modernization and at present only a modicum of unreliable information is available from most limited jurisdiction courts.

To encourage the legislature to join with the judiciary in its quest for modernization, the legislature must be provided with valid and convincing data.

Third, with court consolidation, the need for merit selection and retention of qualified judges, along with demerit ouster of unqualified judges, becomes imperative. However sweeping and important the benefits of court consolidation and adequate administrative resources may be, a system is no better than those who guide it. The citizens of New Mexico deserve as good a judicial system as possible with the judiciary divorced from the everyday political problems that may unconsciously cloud judgment and definitely require time that should be devoted to the duties of the bench.

SECTION
III

ATTITUDE SURVEY

As indicated previously, a set of questionnaires was designed and used by the project staff to elicit specific information regarding judges, facilities, equipment, funding, supportive personnel, records management, bookkeeping, and a number of other topical areas related to the project. Additionally, a subjective attitude survey was included in the questionnaires administered to twenty-eight District Court judges, 160 attorneys who have appeared in the course of their practice in the last two years in the limited jurisdiction court, and 110 lay-users (plaintiffs and defendants) who have appeared within the last year in the New Mexico trial courts of limited jurisdiction. The questionnaires were administered throughout both rural and urban areas of the state.

The District Court judges' and attorneys' questionnaires had twenty-two questions each and were the same. The lay-users' questionnaire contained only fourteen questions which corresponded with the questions asked the District Court judges and attorneys (See Appendix F for copies of questionnaires). The principal difference between the lay-users' questionnaire and the attorneys and District Court judges' questionnaire was that the lay-users had no questions referring to the limited jurisdiction court judge's knowledge of legal procedures, knowledge of technical or substantive law, ability to keep

abreast of legal developments, ability to withstand outside influences, knowledge of human nature, desire to serve as a judge, and the industry of the lower court judge, i.e., willingness to work additional hours to see a case through to its proper disposition.

The results of the survey indicated that attorneys who had practiced before limited jurisdiction court judges were the most critical of such judges' performance, with citizen users the next most critical, followed by the district judges.

It is interesting to note that, like the District Court judges, practicing attorneys were most critical of the limited jurisdiction court judges' knowledge of technical or substantive law. It is significant to note that both District Court judges and practicing attorneys, in providing their lowest rating of limited jurisdiction court judges, have flagged that area (knowledge of technical or substantive law) which is currently providing the basis for legal attacks upon the propriety of using non-attorney limited jurisdiction court judges to hear criminal matters, especially those which carry the penalty of incarceration.

The pattern emerges throughout the survey that the attorneys are very much more critical in their subjective perceptions of the limited jurisdiction court judges than the District Court judges. This might be explained, in part, by the fact that the practicing attorneys who appear in the limited jurisdiction courts on a relatively regular basis tend to deal with the

limited jurisdiction court judges more often and, consequently, perceive the deficiencies in the lower courts more clearly than do the District Court judges. The frustrations of a private attorney tend to be more acute also in his dealings with limited jurisdiction court judges, since it is in the limited jurisdiction court where his client is vesting more of his time and money for an adequate representation. After the one attempt, many clients will not wish to incur additional expense associated with appeal to the District Court. Thus, if an attorney loses due to the inability of a limited jurisdiction court judge to perceive legal issues, the attorney feels greater frustration with the lower court. On the other hand, a District Court judge does not have to experience that frustration, for in the end, he has the power to disregard the findings and decisions of limited jurisdiction courts and order trials de novo in the cases appealed from those limited jurisdiction courts not of record.

Regarding limited jurisdiction judges' "ability to communicate", attorneys and lay-users were three times as critical as district judges. We believe this to be caused by the fact that district court judges rarely attend any sessions of limited jurisdiction courts and must answer this question largely on the basis of hearsay.

Answers to questions related to "ability to keep abreast of the law, "reputation for fairness and "fairness, "reputation for propriety and integrity, "industry, "patience, "openminded-

ness, "punctuality, "courtesy, "consideration of others, "ability to withstand outside influence, "moral courage, "emotional stability, "independence, "common sense, "respect for lawyers and the legal profession", and "intelligence" form the same pattern as preceding questions. The answers from attorneys and lay-users range from three to seven times that of district judges in indicating displeasure with the present limited jurisdiction court system. Again this situation might be explained by the assumption that district court judges have little occasion to come into contact with the courts of limited jurisdiction except through trials de novo. This assumption is given credence by the answers to the question on "courtroom appearance and decorum" where a majority of district judges rated limited jurisdiction courts above average or higher, lay-users (who, for the most part, have never been in another court) did likewise, and almost three-fourths of the attorneys rated these courts as average or lower.

Of course, it is difficult to assign values to questions related to limited jurisdiction courts in New Mexico because most of the lay-users of these courts, other private citizens, and attorneys, have never been exposed to any other system; although, they can, through experience, see it is an improvement over the old justice of the peace system.

It should be noted that on almost all questions the attorneys and private citizens agree that the present system is only fifty percent effective.

Exhibits 1, 2 and 3 show the statistical analysis for all categories of the attitude survey.

"EXHIBIT 1"

DISTRICT COURT JUDGES

	<u>POOR (1)</u>	<u>BELOW AVERAGE (2)</u>	<u>FAIR (3)</u>	<u>GOOD (4)</u>	<u>ABOVE AVERAGE (5)</u>	<u>EXCELLENT (6)</u>	<u>MEAN RATING</u>
a. Knowledge of legal procedures			10%	33%	38%	19%	4.66
b. Knowledge of technical, substantive law		14%	19	38	19	10	3.92
c. Ability to communicate		5	10	43	33	9	4.31
d. Ability to keep abreast of legal developments		5	25	40	20	10	4.05
e. Reputation for fairness		5	14	24	33	24	4.57
f. Reputation for propriety and integrity		4	10	5	43	38	5.01
g. Courtroom appearance and decorum	5%	5	10	24	38	18	4.39
h. Industry (willingness to work additional hours)	10		19	14	33	24	4.32
i. Patience		10	10	14	42	24	4.60
j. Open-mindedness (impartiality & objectivity)		10	14	24	38	14	4.32
k. Punctuality	1		6	28	28	37	4.33
l. Courtesy			5	38	29	28	4.80
m. Consideration of others			11	43	33	13	4.48
n. Ability to withstand outside influence	5	10		30	40	15	4.35
o. Moral courage (willingness to take a strong position on issues)		5	15	30	40	10	4.35
p. Emotional stability	5		5	24	48	18	4.64
q. Knowledge of human nature			10	35	35	20	4.65
r. Independence		5		52	24	19	4.52
s. Common sense		5	5	35	50	5	4.45
t. Respect for lawyers and the legal profession			5	29	43	23	4.84
u. Desire to serve as judge			5	10	29	56	5.36
v. Intelligence		-15-	14	45	29	12	4.39

"EXHIBIT 2"

ATTORNEYS

	<u>POOR</u> <u>(1)</u>	<u>BELOW</u> <u>AVERAGE</u> <u>(2)</u>	<u>FAIR</u> <u>(3)</u>	<u>GOOD</u> <u>(4)</u>	<u>ABOVE</u> <u>AVERAGE</u> <u>(5)</u>	<u>EXCELLENT</u> <u>(6)</u>	<u>MEAN</u> <u>RATING</u>
a. Knowledge of legal procedures	6%	17%	32%	29%	15%	1%	3.34
b. Knowledge of technical, substantive law	14	17	38	16	14	1	2.92
c. Ability to communicate	3	9	29	34	20	5	3.74
d. Ability to keep abreast of legal developments	12	18	29	29	10	2	3.13
e. Reputation for fairness	7	8	23	31	21	10	3.81
f. Reputation for propriety and integrity	3	5	18	31	26	17	4.23
g. Courtroom appearance and decorum	4	7	21	39	18	11	3.93
h. Industry (willingness to work additional hours)	8	8	28	28	19	9	3.69
i. Patience	5	10	26	31	19	9	3.76
j. Open-mindedness (impartiality & objectivity)	6	12	30	34	10	8	3.54
k. Punctuality	7	14	25	27	13	14	3.67
l. Courtesy	6	9	17	33	23	12	3.94
m. Consideration of others	3	7	23	35	20	12	3.98
n. Ability to withstand outside influence	8	10	23	25	20	14	3.81
o. Moral courage (willingness to take a strong position on issues)	5	15	28	24	19	9	3.64
p. Emotional stability	1	8	21	40	22	8	3.98
q. Knowledge of human nature	2	4	27	26	31	10	4.10
r. Independence		12	27	29	24	8	3.88
s. Common sense		8	26	31	26	9	4.02
t. Respect for lawyers and the legal profession	2	6	20	28	27	17	4.23
u. Desire to serve as judge		2	2	39	31	26	4.77
v. Intelligence	3	9	36	32	18	2	3.59

"EXHIBIT 3"

LAY-USERS

	<u>POOR</u> <u>(1)</u>	<u>BELOW</u> <u>AVERAGE</u> <u>(2)</u>	<u>FAIR</u> <u>(3)</u>	<u>GOOD</u> <u>(4)</u>	<u>ABOVE</u> <u>AVERAGE</u> <u>(5)</u>	<u>EXCELLENT</u> <u>(6)</u>	<u>MEAN</u> <u>RATING</u>
a. Neat appearance (did judge wear a robe?)	3%		14%	25%	35%	23%	4.28
b. Ability to communicate	9	8%	23	23	22	15	3.86
c. Fairness	15	7	13	17	33	15	3.91
d. Propriety and Integrity	3	5	18	22	31	21	4.35
e. Patience	7	6	20	16	28	23	4.21
f. Open-mindedness impartially and objectivity	15	10	8	16	27	24	4.02
g. Punctuality (was he on time?)	13	13	23	16	19	16	4.63
h. Courtesy	5	8	12	23	33	19	4.28
i. Moral courage (willingness to take a strong stand on the issues)	7	18	12	23	22	18	3.89
j. Emotional stability	5	6	16	22	30	21	4.29
k. Independence	5	7	13	27	28	20	4.26
l. Common sense	14	7	9	23	25	22	4.04
m. Respect for lawyers, Plaintiffs, Defendants, witnesses and other participants in case	9	7	9	17	24	34	4.42
n. Intelligence	3	5	11	16	38	27	4.62

SECTION
IV

COURT CONSOLIDATION AND NEW MEXICO'S LOWER COURTS

PROBLEMS AND RECOMMENDATIONS

In 1940, the learned jurist, Roscoe Pound, noted:

(Consolidation) of the courts (of limited jurisdiction) would go far to enable the judiciary to do adequately much which in desperation of efficient legal disposition by fettered courts, tied to cumbersome and technical procedure, we have been committing more and more to administrative boards and commissions. Ours is historically a legal policy and the balance of our institutions will be sadly disturbed if the courts lose their place in it. If they are to keep that place they must be organized to compete effectively with the newer administrative bodies (Roscoe Pound, Principles and Outline of a Modern Unified Court Organization, 23 J. Am. Jud. Soc'y., 1940).

In 1974, another advocate for lower court reform wrote:

The consolidation of state tribunals with limited or special original jurisdiction is almost universally regarded, not only as an instrument of court regeneration, but also as the path to judicial grace--court systems that are competent, effective, uniform and equitable.

Specialists recently have paid increasing attention to the subject of (consolidation) which now stands in the forefront of concern in judicial administration at the state level. Interest began with Pound in 1906, who popularized the (consolidated) system implemented by the British in 1875. Despite Pound's repeated advocacy, this topic continued to be generally ignored inside and outside the legal profession until after the World War II when a few states gave it serious consideration. Since 1960, the interest of the states in this facet of court management has mushroomed. This attention

has been expressed in revisions to existing state judicial articles, enactment of new court legislation or judicial articles, and examination of numerous state judicial articles (James A. Gayell, Lower-Court Unification in the American States, Arizona State Law Journal, 1974).

Recently, several additional prestigious organizations have further supported the concept of court consolidation. In 1973, The National Advisory Commission on Criminal Justice Standards and Goals indicated that the state "courts should be organized into a (consolidated) judicial system financed by the State and administered through a statewide court administrator or administrative judge under the supervision of the chief justice of the State Supreme Court." Further, all "trial courts should be (consolidated) into a single trial court with general criminal as well as civil jurisdiction " (National Advisory Commission on Criminal Justice Standards and Goals, Courts, Standard 8.1, 1973).

In 1974, The American Bar Association concluded that the "aims of court organization can be most fully realized in a court system that is (consolidated) in structure and administration, staffed by competent judges, judicial officers, and other personnel, and that has uniform rules and policies, clear lines of authority, and a unified budget." Moreover, the "structure of the court system should be simple, consisting of a trial court and an appellate court, each having divisions and departments as needed. . .The administrative policy of the court system should be established by the judiciary and administered

under the direction of judges through clear and distinct lines of administrative authority " (A.B.A. Standards Relating to Court Administration, Standard 1.10, 1974).

To a large degree, New Mexico reflects the above standards. Most of the court system is state funded (i.e., the Supreme Court, Court of Appeals, district courts, and magistrate courts). The lines of administrative authority in the judiciary are relatively clear for those courts which are state funded. The Supreme Court, as a body, is the administrative head of the system, and an Administrative Office of the Courts (AOC), the administrative arm of the Supreme Court, has been established to assist the Supreme Court in administering the state-funded portion of the judicial system.

However, three trial courts remain substantially beyond the administrative control of the Supreme Court, inasmuch as they are not funded by the state and the Administrative Office of the Courts lacks the resources for supervision. These trial courts (probate, small claims, and municipal courts) do not submit case statistics to the Supreme Court, nor do they participate in the Judicial Conference to discuss policy and planning matters regarding the State's judicial system. They are not covered by the Judicial Department Personnel Rules which apply to all state-funded courts (See Appendix D for illustration of problems).

Magistrate courts; municipal courts; probate courts; and in Albuquerque, small claims courts comprise the limited jurisdiction courts of New Mexico.

Magistrate courts have jurisdiction over civil matters where the amount in controversy does not exceed \$2,000, misdemeanors, and may commit to jail or release on recognizance persons charged with more serious crimes.

The Albuquerque small claims courts have jurisdiction over civil matters where the amount in controversy does not exceed \$2,000, violations of county ordinances, and these courts may hold preliminary examinations in criminal matters.

Municipal courts have jurisdiction over violations of city ordinances.

Probate courts have jurisdiction over probate matters from the granting of letters testamentary or of administration to the decree of distribution.

There are 65 magistrates, two small claims court judges, 81 municipal court judges and 32 probate court judges.

As a consequence of the fragmented nature of the lower courts and inadequate resources for administration, several problems arise.

PROBLEM NUMBER ONE: Confusion Among Litigants and Lawyers

There is confusion among litigants and some lawyers in determining the most appropriate court in which to initiate an action. Part of the problem is directly attributable to the concurrent or overlapping jurisdiction of the several trial courts. To illustrate, in the Second Judicial District, matters which might be initiated in the Small Claims Court, Magistrate Court, and Probate Court may also be initiated in

the District Court. Another part of the problem can be explained by the similarity of jurisdictions. For example, both magistrate and municipal courts hear traffic violations. Many litigants, not trained in the law, are not sophisticated enough to understand that jurisdiction is determined not necessarily on the basis of geography. The violation of a state statute may occur within the boundaries of a municipality and because of that fact an accused will appear before a municipal court judge who does not have jurisdiction rather than a magistrate. Another reason for confusion is that a limited jurisdiction judge may have been a judge of two limited jurisdiction courts during the same period of time, because he had run for both judgeships and won. In the next election only one judgeship was won by him, and another individual received the other judgeship.

PROBLEM NUMBER TWO: Trials De Novo

The only limited jurisdiction courts that are courts of record are the small claims courts of Albuquerque, and appeals from these courts are made on that record. Appeals from all other limited jurisdiction courts must be made by trial de novo which necessitates that all the evidence presented in the limited jurisdiction court, including testimony of witnesses, must be presented again.

Trials de novo from magistrate, municipal, and probate courts represent a costly inefficiency in the state judicial system. Each appeal, if carried through to trial de novo requires a reassembling of witnesses, defendant, plaintiff and

attorneys. Only the affluent can cope with this added cost. Trials de novo are not only costly in terms of money but also in terms of justice. It is common knowledge among criminal defense attorneys that the winning of some cases can depend on the amount of time between the alleged crime and the trial or the additional burden placed upon prosecutors' offices. A trial de novo thus can become an effective tool in the delaying strategy of a criminal defense attorney.

Trials de novo also permit defendants in lesser criminal matters two trials by jury, while felony defendants receive only one trial, a result that does not seem consistent with the handling of ordinary affairs.

PROBLEM NUMBER THREE: Constitutional Arguments

In addition to the due process and equal protection questions referred to in PROBLEM NUMBER THIRTEEN other serious constitutional questions present themselves.

In the United States District Court for the District of New Mexico there is pending the case of Mendez v. Coughenour. In that case the issue of due process decided by the California Supreme Court in Gordon v. The Justice Court for the Yuba Judicial District of Cutter County, et al. 525 P.2d 72, 115 Cal. Rep. 532 (1974), (See PROBLEM NUMBER THIRTEEN) has been raised. But, in addition, the plaintiff has raised the equal protection of the laws question in that, in New Mexico, persons charged in Bernalillo County are tried before lawyer-judges while persons charged with the same offense in Rio Arriba County are tried before non-lawyer judges.

The constitutional question of double jeopardy in New Mexico's fragmented court system has recently been raised in New Mexico (See State v. Tanton, Ct. of Appeals, 88 N.M.S., 536 P.2d 269). Briefly, in that homicide case the defendant, on February 25, 1974 was charged in municipal court with violation of several municipal ordinances. On February 26, 1974 a criminal complaint was filed in magistrate court charging defendant with homicide by vehicle. No further action was taken pursuant to this complaint. On March 7 a grand jury indictment was filed in district court, also charging defendant with homicide by vehicle.

A hearing on the municipal charges was held on March 27, 1974 and the defendant was found guilty of three municipal offenses. The New Mexico Court of Appeals held that prosecution in the district court based upon the indictment would constitute double jeopardy. The New Mexico Supreme Court on September 30, 1975 reversed the Court of Appeals. This case illustrates further the inherent hazards in the present fragmented court system and the complicated legal and constitutional issues this raises.

PROBLEM NUMBER FOUR: Ineffective Supervision

Under Article VI, Section 13 of the New Mexico Constitution, the district courts have supervisory control over the limited jurisdiction courts and tribunals in their respective districts. Interviews indicate that, in most instances, the district courts do not exercise their supervisory power, except when cases are

- B. No accurate mechanism for projection of needed and available resources for judicial activities and program evaluation in the state to maximize efficient allocation and use of resources.

PROBLEM NUMBER SIX: Fragmentation or Absence of Personnel Systems

Except for those courts (Supreme Court, Court of Appeals, district courts and magistrate courts) which are included in the Judicial Department, funded by the State Legislature, and required to submit statistics to the AOC, highly fragmented or no personnel systems are in existence to accommodate judge and non-judge personnel serving in the probate, municipal, and small claims courts. As a result, there are tremendous variations in the quality of personnel, staffing patterns, salaries, and benefits for persons employed in those courts not part of the Judicial Department.

PROBLEM NUMBER SEVEN: Part-Time Judges

Many of the limited jurisdiction courts are staffed with part-time judges. For example, there are no full-time probate judges in New Mexico. Reasons vary from court to court. In many instances, the salary levels are so low that judges cannot afford to work full-time in limited jurisdiction courts. As a result of these part-time judgeships, most judges, not on a disability or retirement pension, must seek employment in other sectors of the community. Too often such employment is full-time. Therefore the judge tends to direct his energies toward his full-time work at the expense of his part-time responsibilities as a limited jurisdiction judge. Sometimes, his working at two or more jobs presents conflict of interest situations. For example, a part-time judge who has a business in a particular

appealed and are heard de novo. The Supreme Court through the Administrative Office of the Courts (AOC), however, exercises supervisory control over the administration of the magistrate courts, which extends from training and budgeting matters to purchasing of office supplies. Due to inadequate funding for the Administrative Office of the Courts and the fact that probate, municipal, and small claims courts are not state funded, it is impractical for the Supreme Court to exercise similar supervisory control over them. This lack of supervision is influenced further by local funding of these courts, lack of supervised training programs, and no requirements by the Supreme Court or AOC that municipal, probate, and small claims courts submit caseload statistics to the Supreme Court.

PROBLEM NUMBER FIVE: Inadequate Planning

As a consequence of the existence of New Mexico's fragmented limited jurisdiction courts, little or no significant comprehensive planning is done in these courts. Except for the municipal courts in Albuquerque, there is practically no careful setting of long or short range goals, no precise development of realistic plans to achieve these goals, and no perceivable mechanisms for measuring the progress toward achievement of the goals.

Evidence of the planning deficiency include:

- A. No broad-based policymaking body in the state composed of elements of the trial (especially limited jurisdiction courts) and appellate courts actively involved in the planning process and plan implementation. There is, however, a Judicial Conference and Judicial Task Force which have provided some input (mostly advisory in nature) into policy matters regarding court operations.

PROBLEM NUMBER NINE: Lack of Statistics or Misleading Statistics

Probate, municipal, and small claims courts are not required by the Supreme Court to submit statistics to the AOC, the administrative arm of the Supreme Court, again because of the lack of financial resources to accomplish the task. Consequently, there is no way of monitoring the caseloads and case flow in these courts to make certain there is no unreasonable backlog or delay.

Statistics that are sent to the AOC can be misleading at times regarding the magistrate court, which is the only limited jurisdiction court that submits statistics to the AOC. To illustrate, two courts are usually involved in the processing of a defendant charged with a given crime. The magistrate court conducts the preliminary hearing to determine probable cause, and the district court handles final disposition of the case. Often the final charge to which a defendant pleads is different from that upon which the preliminary examination was held. Consequently, discrepancies can appear. Moreover, as a result of trials de novo, statistics may not reflect that one case in the magistrate court was indeed the same case in the District Court.

PROBLEM NUMBER TEN: Inadequate Records Management

Although the Supreme Court through the AOC, has taken major steps in developing a uniform records management program in the district and magistrate courts, records management remains inadequate in the probate, municipal, and small claims courts. In the course of the study, the project staff found that most limited jurisdiction courts which are not funded by the state had missing,

revenues or interest to provide anything other than substandard facilities. Regarding the magistrates, the problem can be ascribed, in large part, to the lack of adequate funding for staff of the AOC to perform a comprehensive effort to evaluate the equipment and facilities needed by the limited jurisdiction courts.

PROBLEM NUMBER THIRTEEN: Non-Attorney Judges

Through the years, there has been much discussion in New Mexico with regard to non-lawyer judges. New Mexico's widely dispersed population and the existence of a large number of isolated communities compound the problem, inasmuch as substantial geographic areas simply have no lawyers available. Pay levels for judges, as well as general economic conditions, provide disincentives for lawyers to establish themselves in many parts of the state.

While it is true that in Bernalillo County, where all judges are required to be lawyers, there may be more legal expertise, it does not necessarily follow that in all cases there is more justice dispensed.

Certainly, in a fully consolidated court system with merit selection of judges, such as is proposed in this report, with all judges required to be lawyers under strict supervision of the Supreme Court, the situation would be ideal. However, it might be impractical at this time.

This entire issue may be resolved by court decisions. In Gordon v. The Justice Court for the Yuba Judicial District of

lost, or misfiled records. There is no uniformity in these courts in maintaining case records or administrative records. In high volume courts some court records have been moved from limited jurisdiction courts to storage facilities maintained by local governmental entities without requiring an inventory or receipt for the records. Thus, no one in these courts knows the whereabouts, quantity, and condition of thousands of valuable court records.

PROBLEM NUMBER ELEVEN: Inadequate Bookkeeping

In 1973, the Supreme Court, through the AOC, instituted a double-entry bookkeeping system to remedy problems of irreconcilable overages and shortages in the magistrate courts. In 1974, an internal auditor was established in the AOC to monitor magistrate bookkeeping. Although a uniform bookkeeping system has been implemented in the state-funded magistrate courts, no such system exists in those limited jurisdiction courts which are not state-funded. As a result, a variety of bookkeeping procedures, many of which are inadequate, operate in these courts.

PROBLEM NUMBER TWELVE: Inadequate Space and Equipment Management

Office and courtroom space and facilities vary in quality and quantity throughout the state's lower courts. Part of the problem is attributable to the decentralized responsibility for funding the courts which too often places the responsibility for provision of equipment, space, facilities, and janitorial services in the laps of local governments which often do not have adequate

community which he considers his full-time job may find one of the defendants before him is a regular customer at his business establishment. Thus, he may unconsciously render a decision not necessarily based on ethics as a judge but based on his ethics as a businessman. Another problem which inheres in part-time judgeships is that such judges may conduct judicial business at the place where their full-time employment is located. In the course of the study, the project staff found instances wherein limited jurisdiction judges held court in such places as a restaurant, a barber shop and a bakery. Obviously, the image of the entire state judiciary suffers when judicial decorum is lacking in limited jurisdiction courts.

PROBLEM NUMBER EIGHT: Fragmented Budgeting Policies

At present, the limited jurisdiction courts operate to a large degree on a "base" budgeting concept. That is, the bulk of their budgets consists of traditional court programs which are expected to be carried on at close to the level of activities and expenditures of the previous year. This portion of the budget is neither examined nor justified by local authorities. In some cases, a budget narrative is sent to those who control the funds which might ultimately be allocated to the courts. However, in many cases, no written budget request is required. Funding levels are, of course, directly related to economic conditions in the area where the courts are located. Thus, economically depressed areas operate on inadequate budgets whereas more prosperous communities operate on budgets which more than cover the costs of necessary expenses.

Cutter County, et al., 525 P.2d 72, 115 Cal. Rep. 532 (1974), the California Court held that permitting non-attorney judges to preside over criminal trials of offenses punishable by jail sentence denies due process of law unless the accused or his counsel waives the right to have an attorney judge preside. The United States Supreme Court has denied certiorari in the case.

In Russell v. North, 516 S.W.2d 103 (Ky. 1974) a police court judgment was held not void because the police judge was not a lawyer. The United States Supreme Court has granted certiorari in this case. Should the Supreme Court reverse the holding of the Kentucky case some immediate action would be required in New Mexico.

The next step may well be a test of similar nature as to a civil case. This situation, when coupled with the litigation involved in the Mendez v. Coughenour case (See PROBLEM NUMBER THREE), involving lawyer-judges in one area of the state and non-lawyer judges in another area, may render this particular issue moot in the relatively near future.

It should not be overlooked that similar cases may arise again in the Federal courts. It is also possible that the Courts of New Mexico will be called upon to address these delicate constitutional questions of due process and equal protection of the laws.

RECOMMENDATIONS

The three overall problems of inadequate resources for proper administration, a fragmented court system, and qualified judges,

demand public attention if New Mexico is to achieve a fair and effective process of dispensing justice. Toward that end, it is recommended:

RECOMMENDATION ONE: Adequate Support of Administrative Office of the Courts

There are presently insufficient resources available to the Administrative Office of the Courts to perform its presently assigned duties. At the very least, a careful examination should be made of the minimal financial requirements for carrying out the duties set out in Section 16-6-3 NMSA 1953 (See Appendix C). The legislature, supplied with supporting data, should be requested to make these resources available. It would seem that a consolidated court system, under clear management responsibility of the Supreme Court, would result in a more efficient administration of the judicial system of New Mexico.

RECOMMENDATION TWO: Abolishment of Probate Courts

All probate courts within the state should be abolished and their functions and jurisdiction should be transferred to the district courts.

Nowhere in New Mexico did the project staff find one full-time probate judge. Even in the largest probate jurisdiction, Bernalillo County, the probate judge is part-time, putting in only a couple hours a week as a probate judge. In less populated areas probate judges do nothing for weeks on end. Most attorneys interviewed indicated that probate judges were of marginal value. Since the vast majority of probate judges are not trained

in the law, many attorneys prefer to deal directly with district courts concerning probate matters, because district courts with judges trained in the law have concurrent jurisdiction with the probate courts.

RECOMMENDATION THREE: Abolishment of Small Claims Court

The Small Claims Court in Bernalillo County should be abolished. Bernalillo County is the only jurisdiction within the state with a small claims court. The concept of the court is commendable. It is intended to give creditors with cases involving relatively small sums of money an opportunity to resolve their problems without incurring the expense of resorting to district court. But the court tends to create more problems than it solves. For example, the existence of the Small Claims Court encourages "court shopping" by litigants and attorneys who have the option of filing their case either in the district or Small Claims Court. The existence of the Small Claims Court also increases confusion in the minds of lay-users, and, sometimes, attorneys who are not certain which is the most appropriate court in which to initiate an action. Another problem associated with the small claims court is that it is outside the administrative supervision of the Supreme Court. Its case-loads and case flow are not monitored. Moreover, an unnecessary and unfair burden is placed on the taxpayers of Bernalillo County, who must provide funds for a small claims court operation whose functions in the remaining thirty-one counties of New Mexico are funded by the State.

RECOMMENDATION FOUR: Abolish Trials De Novo

Trials de novo should be abolished and all trial courts made courts of record. In New Mexico, trials de novo represent the annual waste of literally hundreds of thousands of taxpayer dollars as duplication of effort, facilities and overhead costs are incurred as cases are heard again in the district court. In Bernalillo County, where more than a hundred trials de novo are heard annually, the situation is particularly inexcusable as all limited jurisdiction judges are required to be licensed attorneys. The project staff could find no reasonable explanation why one trial court judge should be allowed to review the decision of another trial court judge by hearing a case in its entirety, especially when both trial court judges are attorneys. The concept behind the creation of appellate courts is basically that appellate courts should review on the record the findings of law of a trial court judge and not the findings of fact. In New Mexico this concept is circumvented by hearing cases de novo.

Recently, magistrate courts throughout the state have received audio equipment for making a record of preliminary hearings of cases which might be bound over to the district court for trial. The project staff believes that, if these courts can make a record of the preliminary hearings, a logical extension would be to allow a record to be made of any judicial proceeding.

RECOMMENDATION FIVE: Abolish Part-Time Judgeships and Establish Full-Time Judgeships

To overcome the problems inherent in part-time judgeships, (See Section VI, PROBLEM NUMER EIGHT) full-time judgeships should be created. It is realized that providing for circuit judges on a full-time basis will not obviate the necessity for a judicial officer within each area of a reasonable size containing a significant population. The geography of New Mexico is such that it would be impossible to provide each such area with a judicial officer having the jurisdiction of a district judge, however, providing judicial officers authorized to meet the emergency societal needs of residents of these areas will not be contrary to the recommendations contained in this report.

RECOMMENDATION SIX: Consolidate Magistrate and Municipal Courts and Create a Single Trial Court

Magistrate and municipal courts should be consolidated, made a division of the district court, and funded by the State legislature.

This recommendation complies with the earlier mentioned standards of the American Bar Association and National Advisory Commission on Criminal Justice Standards and Goals.

In New Mexico, de facto consolidation has occurred in more than a dozen magistrate divisions and districts in which magistrate judges also serve as municipal court judges.

It should be noted further that municipal courts now perform functions more ministerial than judicial in nature. It seems that the collection of traffic fines in uncontested cases, for example, might well be performed by an appropriate city office where clerical help may be available. It should be appropriate to review activities of this court with this concept in mind.

It is recognized local governments may suffer a loss of revenue by placing all limited jurisdiction courts within a unified court system financed by the state. The problems, both financial and political, and possible solutions are discussed in Appendix G, entitled Financing State Courts.

RECOMMENDATION SEVEN: Merit Selection/Demerit Ouster

Both the American Bar Association and the National Advisory Commission on Criminal Justice Standards and Goals have come out against the method used for the selection of trial court and appellate court judges and justices in the State of New Mexico (A.B.A. Standards Relating to Court Organization, 1974 and the National Advisory Commission on Criminal Justice Standards and Goals, 1973). Those members of the project staff and the Advisory Committee who prepared this report on the New Mexico Courts of Limited Jurisdiction also oppose the method used for selecting judges in New Mexico, believing that such a method is an impediment to court modernization. Before any court system achieves modernization there should be a plan in operation providing that those persons who are to judge are of the highest quality possible.

The initial problem met in providing for judges of high quality rests in the selection process.

It is recognized that, aside from election on an adversary basis, a Governor often is faced with problems political in nature when selecting a judge. Although many Governors attempt to avoid politics by requesting bar associations to provide them with lists

of candidates, too often this results in a popularity contest.

Therefore, it is recommended that a judicial selection committee, non-partisan in nature and possibly composed of private citizens, attorneys and judges be provided which will submit names of qualified persons to the Governor to serve as judges. Then the Governor would select one name from the list.

The voters should not be denied their privilege of voting on whether a judge selected should receive further tenure. Such an election should be on the basis of giving the electorate the option of voting for or against the retention of a judge. If the vote is against retention, the judicial selection committee and the governor would fill the vacancy created.

All too often the electorate is given the option of selecting one of two candidates, neither of whom are qualified.

Under the proposal advanced in this report, the electorate would have the option of voting for or against the retention of one judge for each judgeship, a judge who had been appointed to the bench by the Governor. To overcome the argument that the electorate has no real alternative, if it votes against retaining a judge, it is further recommended that each judge seeking reelection have his record as a judge reviewed by the same judicial selection committee prior to placing his name on the ballot and that the committee's findings and recommendation for or against retention be published prior to the election wherein a judge is seeking retention in office.

As stated before, this recommendation should be implemented hand in hand with the consolidation of courts and in providing for adequate administrative resources.

Without merit selection and election, many of the gains accomplished by court consolidation and the upgrading of administrative resources will be of little value. It is obvious that this system based upon a trial and appellate (two-tier) system would provide more stability and, in time, give the citizens of New Mexico an effective and efficient judiciary. This system would also take the judge from the political arena and permit him to do what he is there to do--JUDGE.

Although the questionnaires were designed to discover the problems regarding limited jurisdiction courts, the staff who administered the questionnaires felt an undercurrent of dissatisfaction with the judiciary. Although problems related to judge shopping, election time judgments and other human frailties may still be present, the stability created by such a plan would reduce these problems significantly.

SECTION V
IMPLEMENTATION PLAN

It seems clear from the preceding sections of this report that there are many actions which need to be taken if there is to be substantial improvement in the conduct and administration of the courts of New Mexico. These can, as in the past, be addressed piecemeal. Experience indicates that this "tinkering" with the system is often counter-productive. It proliferates fragmentation rather than reducing it.

The problem should be faced head on, fully recognizing the political implications.

The system should provide for adequate resources for effective court administration; a consolidated court system; and qualified judges.

In the light of this overall recommendation, it is essential that early steps be taken to implement the recommendations. The changes proposed, in almost every instance, require legislative action and, in some cases, constitutional amendment by a vote of the people. Either of these procedures requires a public educational program to develop the constituency necessary for political action. The people are entitled to pass upon these recommended improvements.

New Mexico has at least two organizations which could be useful in implementing the recommendations in this report.

The New Mexico Judicial Council is a statutory body (See Appendix A(5)). It is composed of judges, members of the Bar, and lay members. It is concerned, by law, with the improvement of

the administration of justice. It seems particularly well-equipped by charter and composition to assist in implementation.

The "New Mexicans for Improvement of the Judicial System" is a nonprofit corporation formed after a statewide conference on improvements in judicial administration. This citizens group would seem to be an ideal base from which to develop a useful educational program for dissemination throughout the state.

An appropriate alliance between these two organizations could produce an "implementation strategy" for bringing into being these needed court reforms.

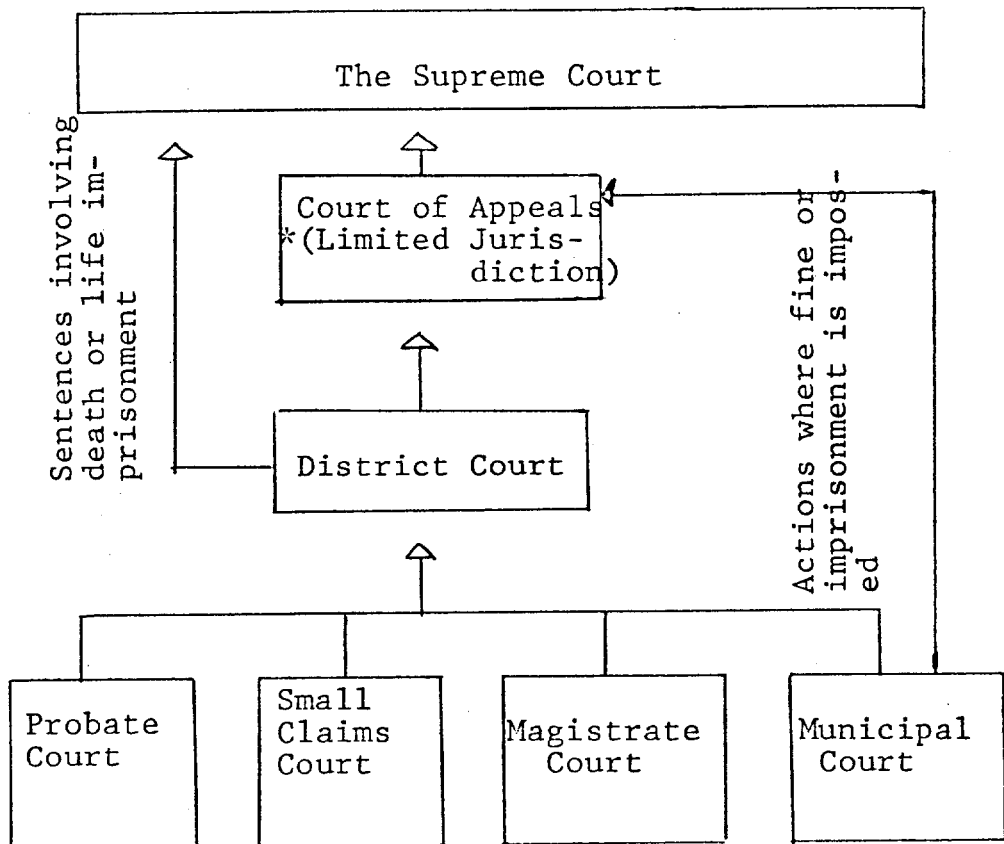
Proposed constitutional amendments and statutes necessary to establish a consolidated court system and improve court administration should be drafted. In addition to the aforementioned organizations, the Institute of Public Law and Services at the University of New Mexico and the American Judicature Society might be helpful in achieving the recommendations of this report. With an appropriate public information program initiated and led by the Judicial Council and New Mexicans for Improvement of the Judicial System, support of public and private organizations also should be sought. Political leaders, executive and legislative, state and local, should be asked to assume leadership in their respective spheres of influence for the project, and they should be assured of the support of concerned citizens throughout the state.

In conclusion, the project staff and Advisory Committee believe the recommendations of this report are attainable and, therefore, urge the citizens' action toward this end.

SECTION VI.
APPENDICES

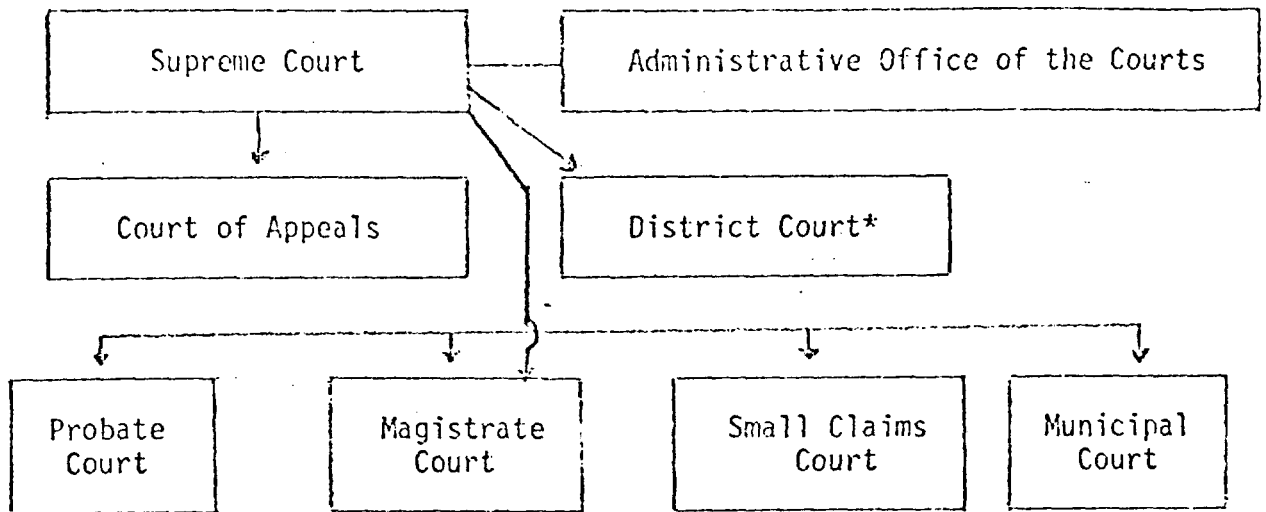
APPENDIX A.
NEW MEXICO COURT PROFILE

The New Mexico Judicial System
(The Appellate Process)



* See this Appendix "A" (2) B.

The New Mexico Judicial System
(Administrative Process)



*See Art. VI, Sec. 13 which provides for supervisory power of limited jurisdiction courts by district courts. District courts have not exercised any supervision under this section and the New Mexico Supreme Court has assumed supervisory authority over all courts.

NEW MEXICO

(1.) Court of Last Resort

- A. Name. The supreme court is the court of last resort.
- B. Seat. The court sits in Santa Fe. (N. M. Const., Art. VI, Sec. 7).
- C. Terms. (N. M. Const., Art VI, Sec. 7).
 - 1. The court shall hold one term each year commencing on the second Wednesday in January, and shall be in session at all times.
 - 2. The court may recess as in its judgment may be proper.
- D. Jurisdiction.
 - 1. Original (N.M. Const. Art. VI, Sec. 3).
 - a. The court has original jurisdiction in quo warranto and mandamus against all state officers, boards and commissions.
 - b. The court may issue extraordinary writs, including writs of prohibition, necessary for the complete exercise of its jurisdiction.
 - c. Each justice may issue writs of habeas corpus.
 - 2. Appellate. The court has jurisdiction over:
 - a. District court decisions imposing a death penalty or life imprisonment. (N.M. Const., Art. VI, Sec. 2).
 - b. All other cases where responsibility is not vested in the court of appeals. (Sec. 16-7-14, N.M.S.A.).
 - c. Final judgments of the court of appeals that are taken by writ of certiorari to the supreme court and cases certified to it by the court of appeals. (Sec. 16-7-14, N.M.S.A. (1953).
- E. Rule-making Powers. The court prescribes rules of pleading, practice and procedure in the district courts and rules of appellate procedure. (Sec. 21-1-1, N.M.S.A. (1953).
- F. Superintending Powers. The court has superintending control over all inferior courts. (N.M. Const., Art. VI, Sec. 3).
- G. En banc and Departments.
 - 1. None.
 - 2. A majority of the justices shall constitute a quorum and a majority of the justices shall concur in any judgment of the court. (N.M. Const., Art. VI, Sec. 3).

3. When a justice may have an interest in a case, or is absent or incapacitated, the remaining justices may call on any district court judge to act as a judge. (N.M. Const., Art. VI, Sec. 5).

H. Personnel.

1. Justices.

- a. Number. There are five justices of the supreme court. (N.M. Const., Art. VI, Sec. 10; Sec. 16-2-1 N.M.S.A. 1953).
- b. Qualifications. (N.M. Const., Art. VI, Sec. 8).
1. Be at least thirty years old;
 2. Be learned in the law;
 3. Have been in the practice of law, and resided in the state for at least three years; and;
 4. Service in the district court may be substituted for part of the three years of law practice.
- c. Selection.
- 1) Vacancy. (N.M. Const. Art. XX, Sec. 4).
 - a. The governor fills a vacancy by appointment; and
 - b. The appointee holds office until the next general election.
 - 2) Election. Justices are elected at the general election for representatives in congress. (N.M. Const., Art. VI, Secs. 4, 10).
- d. Term of Office. The term of office for justices of the supreme court is eight years. (N.M. Const. Art. VI, Sec. 4).
- e. Removal. (N.M. Const. Art. VI, Sec. 32).
- 1) A justice may be disciplined or removed for:
 - a) Willful misconduct in office;
 - b) Willful and persistent failure to perform his duties; or
 - c) Habitual intemperance.

- 2) A justice may be retired for disability seriously interfering with the performance of his duties which is or is likely to become a permanent character.
- 3) The judicial standards commission may, after investigation:
 - a) Order a hearing held before it concerning the discipline, removal or retirement of a justice;
 - b) Appoint three masters who are justices or judges of courts of record to hear and take evidence and to report their findings to the commission.
- 4) After hearing or considering the record and the finding and report of the masters, the commission may recommend to the supreme court the discipline, removal or retirement of a justice, judge or magistrate.
- 5) The supreme court will review the record of the proceedings on the law and facts and may:
 - a) Permit the introduction of additional evidence; or
 - b) May order the discipline, removal or retirement or reject the commission's recommendations; or
 - c) If the court orders retirement, the justice, judge or magistrate shall be removed from office, and his salary shall cease from the date of the order.
- 6) All papers filed with the commission or its masters, and proceedings before the commission or its masters are confidential and privileged communications.
- 7) No justices or judge who is a member of the commission or court shall participate in any proceeding involving his own discipline, removal or retirement.

2. Chief Justice.

a. Selection, Term of Office and Removal. (Sec. 21-2-1(25) N.M.S.A. 1953).

- 1) The justice of the supreme court who has the shortest term to serve, except a justice appointed or elected to fill a vacancy shall be chief justice. (SCR 25(1))
- 2) The order of accession to the office of chief justice in the event of a vacancy in the office determines the seniority of the remaining justices. (SCR 25(2))

- 3) Where two justices are elected at the same time for regular terms, each shall serve as chief justice for one-half the period both are qualified for the office. The justice receiving the highest number of votes at the election shall first become chief justice. (SCR 25(3))
- 4) In the absence of the chief justice the senior justice present at Santa Fe shall preside at all sessions of the court and he is authorized to perform any act which the chief justice could perform if present. (SCR 25(4))
- 5) No justices appointed or elected to fill a vacancy shall be chief justice. (N.M. Const. Art. VI, Sec. 4)

b. Authority.

- 1) Executive head. The chief justice is the executive head of the judicial system.
- 2) Assigning judges.
 - a) District judges. The chief justice may designate any district judge to hold court in any district or sit on the court of appeals. (N.M. Const. Art. VI, Sec. 15)
 - b) Court of Appeals judges. The chief justice may designate any court of appeals judge to hold court in any district court or act as justice of the supreme court. (N.M. Const., Art. VI, Sec. 28)
 - c) Supreme court justices. The chief justice may designate any justice of the supreme court to hold court in any district if a district court judge is not available or he may be designated to sit on the court of appeals. (N.M. Const. Art. VI, Secs. 15 & 28)
- 3) Canvassing Board. The chief justice, secretary of state, and governor constitute the state canvassing board which shall canvass and declare the results of an election for state officers. (N.M. Const., Art. V, Sec. 2)
- 4) Compilation commission. The chief justice is president of the compilation commission, which also includes the clerk of the supreme court and the attorney general. The commission carries out the provisions of the contract dealing with the compilation of the New Mexico laws, the Constitution of the United States, and the Constitution of New Mexico. (Sec. 1-1-2, NMSA 1953)
- 5) Supreme Court Law Library. The chief justice is chairman of the board of trustees of the Supreme Court law library.

- 2) A justice may be retired for disability seriously interfering with the performance of his duties which is or is likely to become a permanent character.
- 3) The judicial standards commission may, after investigation:
 - a) Order a hearing held before it concerning the discipline, removal or retirement of a justice;
 - b) Appoint three masters who are justices or judges of courts of record to hear and take evidence and to report their findings to the commission.
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 - a) Permit the introduction of additional evidence; or
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- 5) Supreme Court Law Library. The chief justice is chairman of the board of trustees of the Supreme Court law library

The other justices make up the remainder of the board.
(Secs. 4-10-1 and 4-10-2 NMSA 1953)

- 6) Impeachment Trial of Governor and Lieutenant Governor.
At the impeachment trial of the governor or lieutenant governor, the chief justice presides (N.M. Const. Art. LV, Sec. 35)

- I. Law Library. A board of trustees consisting of the chief justice and justices of the Supreme Court is charged with the management, control and supervision of the Supreme Court law library.
(Sec. 4-10-1 NMSA 1953)

J. Relationship with Bar.

1. Admission. Every applicant for admission to the bar shall file an application addressed to the Supreme Court, with the secretary of the board of examiners accompanied by the proper fees. (Sec. 18-1-8 Rule 9(b), NMSA 1953)

a. Qualifications of Applicants. (Sec. 18-1-8 Rule 8 NMSA 1953)

- 1) At least 21 years of age;
- 2) A graduate of an A.B.A. accredited law school;
- 3) A bonafide resident and domiciliary of New Mexico for at least 90 days immediately prior to taking the bar exam;
- 4) In good standing in states in which he has previously been admitted;
- 5) Professionally qualified by passing a written examination to practice; and
- 6) Special provisions are established for the admission of certain out-of-state attorneys and foreign law school graduates.

b. Admission Procedures.

- 1) The supreme court shall define and regulate the practice of law within the state. (Sec. 18-1-1 NMSA 1953).
- 2) A 16-member board of commissioners of the state bar association may prescribe the qualifications and requirements for admission to the bar. The board members are nominated and elected by members of the state bar, and hold office for three years. (Sec. 18-1-2.1 and 18-1-6 NMSA 1953)
- 3) A board of bar examiners composed of seven members of the state bar and appointed by the supreme court shall: (Sec. 18-1-8 NMSA 1953)

- a) Investigate the professional qualifications and moral character of applicants for admission;
 - b) Prepare and administer examinations for admission;
 - c) Consult with the disciplinary board and make specific recommendations to the supreme court with respect to reinstatement or readmission to practice of lawyers who have withdrawn or been disbarred or suspended from practice in New Mexico for disciplinary reasons.
- 4) The supreme court may annul or modify any rule, regulation or bylaw adopted by the board relative to discipline or admission to the bar.
(Sec. 18-1-7 NMSA 1953)

2. Disciplinary Procedures. (Sec. 21-2-1(3) NMSA 1953)

- a. Acts or omissions by an attorney which violate standards or rules of ethics adopted by the supreme court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. (Section 3)
- b. Misconduct shall be grounds for: (Section 4)
 - 1) Disbarment;
 - 2) Suspension for a period not exceeding five years;
 - 3) Public censure by the court; or
 - 4) Private reprimand by the disciplinary board or a board member.
- c. The state is divided into three disciplinary districts. The disciplinary district which has jurisdiction over an attorney is that in which he maintains an office, or in the case of an out-of-state attorney, the district in which any part of the conduct under investigation occurred. (Section 2)
- d. The supreme court, upon recommendation of the state bar commission, appoints nine members of the state bar to a disciplinary board. Each disciplinary district shall have at least one member on the board. Members of the board are selected for three-year terms. (Sec. 5)
- e. The board may: (Sec. 5(c))
 - 1) Investigate the conduct of any attorney, either by its own initiative or upon complaint of any person;

- 2) Appoint a chief bar counsel and any assistant bar counsel as may be necessary;
- 3) Appoint hearing committees within each disciplinary district, each committee consisting of three members of the bar of the state who shall conduct hearings into formal charges of misconduct and upon motions for reinstatement;
- 4) Assign formal charges concerning attorney misconduct to hearing committees;
- 5) Refer motions for reinstatement by attorneys to hearing committees;
- 6) Review the findings and recommendations of hearing committees, prepare its own findings and recommendations, and send them to the supreme court for review and order as it deems appropriate.
- 7) Privately reprimand attorneys for misconduct; and
- 8) Adopt rules of procedure consistent with those promulgated by the court.

f. Bar Counsel (Sec. 7)

- 1) The disciplinary board appoints a chief bar counsel and such assistant bar counsel as may be required for each disciplinary district. The bar counsel:
 - a) Investigates or refers to assistant bar counsel all matters involving alleged misconduct by an attorney;
 - b) Disposes of all matters of alleged misconduct by dismissal or by the filing of formal charges with the board;
 - c) Prosecutes disciplinary proceedings before hearing committees, the board and the supreme court;
 - d) Appears at hearings conducted upon motions for reinstatement by suspended or disbarred attorneys, to cross-examine witnesses testifying in support of the motion and to marshal available evidence in opposition; and
 - e) Maintains records of all matters processed.

g. Procedure (Sec. 8)

- 1) All investigations whether upon complaint or otherwise, shall normally be initiated by chief bar counsel.

- 2) The attorney complained against is advised of the nature of the charges against him and for a reasonable opportunity to submit to the investigator any relevant matters of fact, law or mitigation.
- 3) Upon application from bar counsel or the attorney complained against the board or local hearing committee may issue subpoenas to aid the investigation.
- 4) Investigations and hearings conducted by bar counsel are confidential.
- 5) Upon conclusion of an investigation the chief bar counsel shall review the report and recommendations of the investigatory counsel and either:
 - a) Institute formal disciplinary proceedings through the board before a hearing committee;
 - b) Recommend dismissal and refer the report to an appropriate chairman in the respondent's district for concurrence or disapproval;
 - c) Refer the matter to an assistant bar counsel, other than the one who made the initial investigation for institution and prosecution of formal proceedings if disapproved; or
 - d) Propose dismissal with a warning letter, and with the concurrence of his hearing committee, write and deliver such a letter. (If the committee does not concur it may direct further proceedings as it deems appropriate.)
- 6) At the conclusion of the hearing, the hearing committee submits a report of its findings and recommendations to the disciplinary board. A copy of this report is sent to the prosecuting bar counsel and the respondent attorney.
- 7) Upon receipt of this report the board shall consider the same, and upon written request of the respondent attorney set the matter for hearing on oral argument before a panel consisting of three board members selected by the chairman. (The chairman may also determine to hear the matter en banc.)

Requests for oral hearing and the submission of briefs are deemed waived if not filed within seven days after receipt of copies of the committee's report and recommendations.

- 8) Upon consideration of the report and record and any arguments or briefs, the board either affirms or modifies the recommendations of the hearing committee or orders dismissal of the charges.
- 9) Dismissals and private reprimands are handled by the board and bar counsel. If the board determines that the matter should be concluded by public censure, suspension or disbarment it shall submit its recommendations and the entire record to the supreme court.

h. Expenses (Sec. 21)

- 1) The salaries and expenses of bar counsel, the expenses of board members and hearing committees and other expenses incurred in the implementation or administration of the discipline process shall be paid from the funds collected by the attorney registration and assessment fees.
- 2) The board and hearing and inquiry committees may assess all other costs against the respondent attorney.

NEW MEXICO

(2). Intermediate Appellate Court

A. Court of Appeals

1. Name. The court of appeals is the intermediate appellate court.
2. Seat. The headquarters of the court and the clerk's office is located in Santa Fe, but the court may convene at any location in the state. (16-7-7 NMSA 1953).
3. Terms. The court holds one term each year beginning on the second Tuesday in January, and is always in session. (16-7-7 NMSA 1953).

B. Jurisdiction

1. The court has no original jurisdiction. (N.M. Const. Art. VI, Sec. 29).
2. The court has jurisdiction to review on appeal: (Sec. 16-7-8 NMSA 1953).
 - a. Any civil action which includes a count in which one or more of the parties seeks damages on an issue based on tort;
 - b. All actions under the Workmen's Compensation Act (Secs. 59-10-1 to 59-10-37 NMSA 1953), the Injury Act (Secs. 59-10-126 to 59-10-133 NMSA 1953) and the Federal Employer's Liability Act;
 - c. Criminal actions except those in which a judgment of the district court imposes a sentence of death or life imprisonment;
 - d. Post conviction remedy proceedings except where the sentence involved is death or life imprisonment;
 - e. Actions for violation of municipal or county ordinances where a fine or imprisonment is imposed; and
 - f. Decisions of administrative agencies of the state.

C. Determination of Jurisdiction

1. No matter on appeal in the supreme court or the court of appeals is dismissed because it is improperly docketed in the other court. The case is transferred by the court in which it was filed to the proper court.
2. If either court determines it has jurisdiction in a case filed

in that court and proceeds to decide the matter,
that determination of jurisdiction is final.

D. Rule-making and superintending powers. The rule-making and superintending powers reside exclusively in the supreme court. (N.M. Const. Art. VI, Sec. 3).

E. Divisions (Sec. 16-7-11 NMSA 1953).

1. Three judges of the court of appeals constitute a quorum for the transaction of business.
2. No more than three judges may sit in any matter on appeal.
3. Opinions shall be written and the result concurred in by at least two judges.

F. Personnel

1. Judges

- a. Number. The court of appeals is composed of five judges. (Sec. 16-7-1 NMSA 1953 (Supp. 1973)).
- b. Qualification. Qualifications for the court of appeals are the same as those for supreme court justices. (Sec. 16-7-1 NMSA 1953).
- c. Selection. Judges are nominated and elected in the same manner as justices of the supreme court. (N.M. Const. Art. VI, Sec. 28).
- d. Term of Office. A term of office for court of appeals judges is eight years. (N.M. Const. Art. VI, Sec. 28).
- e. Removal. Judges are removed in the same manner as supreme court justices. (N.M. Const. Art. VI, Sec. 32).
- f. Vacancy. The governor shall fill the vacancy by appointment of a qualified person to serve until December 31 following the next general election or for the remainder of the unexpired term, whichever is longer. (Sec. 16-7-4 NMSA 1953).

2. Chief Judge. (Sec. 16-7-2 NMSA 1953).

- a. At their first meeting in each odd-numbered year, the judges of the court designate by a vote of the majority one of their number to serve as chief judge for two years.

- b. In the absence of the chief judge, the senior judge present in Santa Fe shall exercise the powers of the chief judge.
- c. Seniority is determined by length of present continuous service on the court.
- d. In the event of a vacancy in the office of the chief judge, the judges vote to designate one of their number to serve for the term's remainder.

NEW MEXICO

(3). Trial Courts of General Jurisdiction

A. District

1. Name. District courts are the trial courts of general jurisdiction. (N. M. Const., Art. VI, Sec. 13).
2. Terms. The district court is always in session. At least two regular terms for each county within a judicial district are established by court rule. (N.M. Const., Art. VI, Sec. 13; Sec.16-3-2 NMSA 1953).

B. Jurisdiction

1. District court.

a. Original (N.M. Const., Art. VI, Sec. 13).

1) District courts have original jurisdiction in all matters and causes not excepted in the constitution or otherwise provided by law, including exclusive original jurisdiction in actions under the New Mexico Children's Code.

2) District court judges have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition and all other writs, remedial or otherwise in the exercise of their jurisdiction.

3) District courts have the power of naturalization.

b. Appellate. District courts have appellate jurisdiction of cases originating in inferior courts in their respective districts. (N.M. Const., Art. VI, Sec. 13).

c. Children's Court Division. Within the district court, there is a children's court division. (Sec. 13-14-9 NMSA 1953).

1) The children's court has exclusive original jurisdiction of all proceedings in which a child is alleged to be:

- a) A delinquent child;
- b) A child in need of supervision; or
- c) A neglected child.

2) The court also has exclusive original jurisdiction of the following proceedings:

- a) The termination of parental rights;

2. Chief Judge. In judicial districts having more than one district judge, the judge of the division number one is designated the presiding judge of the district, unless otherwise designated by rule of the district court. (Sec. 16-3-5 NMSA 1953).
3. Masters. (Sec. 21-1-1(53) NMSA 1953).
 - a. When the issues of a case are particularly complex, the court may appoint a Master (referee, auditor or examiner). Masters may be used only in non-jury trials. A master's powers are limited by the order of reference issued by the court and he may only perform acts necessary for the performance of his duties under the order.
 - b. Masters prepare reports upon the matters submitted to them by the order of reference. If required, any findings of fact and conclusions of law are included in the report.
4. Probation Officers.
 - a. The district court may request the director of the state board of probation and parole to prepare presentence investigations and to supervise adult probationers. (Sec. 41-17-23 NMSA 1953).
 - 1) The State Board of Probation and Parole is an agency of the Corrections Department. (Sec. 42-9-4 NMSA 1953).
 - 2) Its officers are covered by the Personnel Act. (Sec. 5-4-28 to 5-4-46 NMSA 1953).
 - b. The court may establish probation services for juveniles. If probation services are established by the court it also establishes a classification and compensation plan in accordance with the personnel rules of the supreme court applicable to district courts. (Sec. 13-14-7 NMSA 1953).

NEW MEXICO

(4). Trial Courts of Limited Jurisdiction

- A. Names. Four courts comprise the trial courts of limited jurisdiction: magistrate courts (N.M. Const., Art VI, Sec. 26, NMSA 36-1-1); municipal courts (Sec. 37-1-1 NMSA 1953); probate courts (N.M. Const., Art. VI, Sec. 23; Sec. 16-4-1 NMSA 1953); and in Albuquerque, the small claims courts (Sec. 16-5-1 NMSA 1953).
- B. Terms.
1. The magistrate courts are year-round.
 2. Terms of the municipal courts are specified by ordinance.
 3. The probate courts are always in session. (Sec. 16-4-9 NMSA 1953)
 4. The small claims court shall be open at all times. (Sec. 16-5-10 D, NMSA 1953).
- C. Magistrate Courts.
1. Classification of Counties. There are two classes derivable according to magistrate qualification: Bernalillo and the remaining counties. (Sec. 36-2-1 NMSA 1953).
 2. Jurisdiction.
 - a. Original. Magistrate court judges may:
 - 1) Administer oaths and affirmations (Sec. 36-3-1 NMSA 1953);
 - 2) Solemnize the contract of marriage (Sec. 36-3-2 NMSA 1953);
 - 3) Have civil jurisdiction in action not exceeding \$2,000 (Sec. 36-3-3 NMSA 1953);
 - 4) Have jurisdiction in all cases of misdemeanors (Sec. 36-3-4 NMSA 1953); and
 - 5) In criminal action beyond jurisdiction of the court, commit to jail, discharge, or recognize the defendant to appear before the district court. (Sec. 36-3-4 NMSA 1953).
 - b. Prohibited Original. A magistrate has no jurisdiction in any civil action: (Sec. 36-3-3B NMSA 1953):
 - 1) For malicious prosecution, libel or slander;
 - 2) Against public officers for misconduct in office;

4. Superintending Power. The magistrate court has no superintending power.
5. En banc and separate.
- a. En banc. Although no statute requires it, in each magistrate court which has more than one judge, the court may sit en banc to:
 - 1) Appoint a clerk and other employees; and
 - 2) Conduct other business relating to the administration of the court, as authorized by and subject to the approval of the director of the administrative office of the courts.
 - b. Separate.
 - 1) In each magistrate court which has more than one county judge, each judge sits separately for the trial of cases and the transaction of judicial business;
 - 2) Each court is known as the magistrate court of the county wherein held; and (Sec. 36-1-2, NMSA 1953)

- 3) Each judge has all of the powers which he might have if he were the sole judge of the court.
6. Place of holding court. The magistrate court sits at the county seat. However, in counties where there are more than one division magistrates may have their offices and sit at places other than the county seat. (Secs. 36-1-4 to 36-1-35, NMSA 1953).
7. Personnel.
 - a. Judges
 - 1) Number. A district may have from one to five magistrates. (Secs. 36-1-4 to 36-1-35, NMSA 1953).
 - 2) Qualifications. Each magistrate shall be: (Sec. 36-2-1 NMSA 1953)
 - a) A qualified elector of, and reside in, the district for which he is elected or appointed;
 - b) Graduated from high school, or attained the equivalent of a high school education;
 - c) In districts with a population of more than 100,000 persons, members of the New Mexico bar and licensed to practice law in the state.
 - 3) Training. (Sec. 36-2-4, NMSA 1953)
 - a) Judges-elect shall attend a qualification training program conducted by the administrative office of the courts.
 - b) As a qualification for continuing in office, each magistrate shall attend at least one magistrate training program each year, unless excused in writing by the chief justice of the supreme court.
 - c) Magistrates are reimbursed per diem and mileage for one round trip to attend one magistrate training program each year.
 - 4) Selection and Election.
 - a) Magistrates are nominated and elected within each magistrate district at the primary and general elections. (Sec. 36-1-3, NMSA 1953).
 - b) The governor fills vacancies by the appointment of persons who possess the personal qualifications to serve until the next general election. (Sec. 36-2-2, NMSA 1953).

- 6) Removal. Same as supreme court. (N.M. Const., Art. VI, Sec. 32).
- 7) Salary. All salaries and expenses of the magistrate court are paid by the state treasurer. (Sec. 36-9-11, NMSA 1953).
- 8) Fines and costs. All fines, forfeitures and costs collected by magistrates are paid to the administrative office of the courts. These monies are turned over to the state treasurer and deposited in the school fund and the state general fund. (Sec. 36-9-4, NMSA 1953).
- b. Presiding Judges. Where two or more divisions act as a single court, the director of the administrative office of the court shall designate the magistrate of one of the divisions as presiding magistrate to perform administrative duties. (Sec. 36-1-37, NMSA 1953)

D. Small Claims Court

1. Jurisdiction. (Sec. 16-5-1, NMSA 1953).
 - a. Original. The small claims court exercises concurrent jurisdiction with the district court and magistrate court in:
 - 1) Civil actions where the amount in controversy does not exceed \$2,000.00;
 - 2) Violations of county ordinances; and
 - 3) Holding preliminary examinations in criminal cases.
 - b. Prohibited Original. A small claims court judge has no jurisdiction in any action involving:
 - 1) Malicious prosecution, divorce or alimony;
 - 2) Slander, libel, defamation and misconduct in office;
 - 3) Specific performance of contracts for the sale of real estate, possession of land or where the title or boundaries of land may be in dispute; and
 - 4) Writs of injunction, habeas corpus or extraordinary writs.
2. Rule-making and Other Powers. Small claims judges may: (Sec. 16-5-10 NMSA 1953)
 - a. Issue process necessary for discharge of their duties;

- b. Make rules and orders regulating the business and practice of their courts not inconsistent with the laws of New Mexico;
- c. Punish for contempt of court.

3. Personnel

- a. Judges. Small claims judges are elected in each county with a population of one hundred thousand or more persons. Additional judges may be elected when the board of county commissioners determines the workload requires more than one judge.
 - 1) Qualifications. Each small claims judge shall be:
(Sec. 16-5-3, NMSA 1953)
 - a) At least 25 years of age;
 - b) A member of the New Mexico bar, and licensed to practice law in the state;
 - c) A resident of the county where elected for at least two years prior to election;
 - d) Engaged in the practice of law for at least two years.
 - 2) Selection. Small claims judges are nominated and elected in the same manner as county officials.
(Sec. 16-5-3 NMSA 1953).
 - 3) The governor appoints a qualified replacement in case of a vacancy. (Sec. 16-5-3 NMSA 1953).
 - 4) Term of Office. A term of office of a judge of the small claims court is four years. (Sec. 16-5-3 NMSA 1953)
 - 5) Removal. Same as supreme court. (N.M. Const., Art. VI, Sec. 32).
 - 6) Fines and Costs. Receipts of the small claims costs are paid to the county treasurer. (Sec. 16-5-2 NMSA 1953).

E. Municipal Courts.

1. Jurisdiction. (Sec. 37-1-2 NMSA 1953).

- a. Municipal courts have jurisdiction over all offenses and complaints under ordinances of the municipality.

- b. Municipal courts may issue subpoenas and warrants and punish for contempt.
- c. The municipal court has jurisdiction over violations of campus traffic regulations upon written agreement between the university board of regents and the governing body of the adjacent municipality.

2. Personnel

a. Judges

1) Qualifications

- a) The qualifications of municipal judges, bond required and salary received are provided by ordinance of the municipality. (Sec. 37-1-3 NMSA 1953).
- b) Completion of a judicial training program conducted under the authority or approval of the court administrator. (Sec. 37-1-10 NMSA 1953).

2) Selection (Sec. 37-1-4 NMSA 1953)

- a) Municipal judges are elected at a regular municipal election.
- b) The governing body of a municipality fills vacancies by appointment until the next regular municipal election.
- c) In municipalities with a population of 50,000 persons or more, additional judges may be elected if the governing body determines the court's workload demands such.

3) Term of Office. Municipal judges serve for terms of four years. (Sec. 37-1-4 NMSA 1953).

4) Removal. Same as supreme court. (N.M. Const., Art. VI Sec. 32).

3. Fines and Costs. Fines and costs collected by municipal judges are paid to the municipality each month. (Sec. 37-1-7 NMSA 1953).

F. Probate Court.

1. Jurisdiction. The probate court has original jurisdiction in matters regarding: (Sec. 16-4-10 NMSA 1953).

- a. The probate of wills;

- b. The granting, repealing and revoking of letters testamentary and of administration;
 - c. The appointment and removal of estate representatives;
 - d. The settlement and allowance of accounts of estate representatives and determination of heirship;
 - e. The hearing and determination of all controversies respecting wills, rights of executorship and administration the duties, accounts and settlements of estate representatives and any order, judgment or decree of the probate courts.
2. Rule-making powers. None.
3. Personnel
- a. Judges
 - 1) Number. There is one probate judge in each county in the state. (Sec. 16-4-1 NMSA 1953)
 - 2) Qualifications. The qualifications for probate judge are the same as those required to serve as a public official within their respective county. (N. M. Const., Art. VI, Sec. 23).
 - 3) Selection. Probate judges are elected at the time of the state's general election. (Sec. 16-4-2 NMSA 1953).
 - 4) Term of Office. Probate judges are elected for two year terms. They may be re-elected but after serving two consecutive terms are ineligible to hold any county office for two years. (N.M. Const., Art. X, Sec. 2).
 - 5) Removal. Same as supreme court. (N.M. Const., Art. VI, Sec. 32).
 - b. Chief Judge. None.
 - c. Masters. None.
 - d. Salary. Paid by county. (Secs. 15-43-4 et seq., NMSA 1953)

NEW MEXICO

(5.) Judicial Commissions

- A. Judicial Standards Commission. The function of the judicial standards commission is to recommend to the supreme court the discipline, removal, or retirement of any justice, judge or magistrate when the commission finds good cause. (N.M. Const., Art. VI, Sec. 32; Sec. 16-8-1 NMSA 1953).
1. The commission is composed of nine persons as follows:
 - a. Two justices or judges;
 - b. Two attorneys;
 - c. Five citizens, not licensed attorneys or justices, judges or magistrates.
 2. The five citizen members of the commission are appointed by the governor to serve for five year staggered terms. Not more than three of the five positions are to be occupied by persons from the same political party.
 3. Attorney members of the commission are appointed by a majority vote of all members of the board of commissioners of the state bar of New Mexico to serve for four year terms. No member of the board of commissioners may be appointed.
 4. Judicial members of the commission serve four year terms and are appointed to the commission by the Supreme Court.
 5. The commission may:
 - a. Conduct investigations;
 - b. Hold hearings; and
 - c. Appoint masters who are justices or judges of courts of record to conduct hearings.
 6. After hearing or considering the record, findings and report of the masters, if the commission finds good cause, it may recommend the discipline, removal or retirement of the justice, judge or magistrate.
 7. The supreme court may:
 - a. Review the record of the proceedings on the law and facts;
 - b. Permit the introduction of additional evidence, and;
 - c. Follow the commission's recommendation, or;
 - d. Wholly reject the recommendation.

8. Finances for the commission are provided by the general fund appropriations.

B. The Judicial Council

1. The functions of the judicial council are: (Sec. 16-10-3 NM SA 1953)
 - a. To continuously study the administration and operation of all courts in the state;
 - b. To investigate criticisms and suggestions of any person pertaining to the administration of justice;
 - c. To be advised concerning decisions of the courts and the legislature affecting the administration, operation or organization of the courts;
 - d. To recommend to the legislature any desirable changes in the operation, organization or administration of the courts;
 - e. To recommend desirable rule changes to the supreme court;
 - f. Hold at least four meetings a year, including one session at which the general public is invited to submit complaints, observations or recommendations concerning the administration of justice in the state's courts.
2. The judicial council consists of 17 members as follows: (Sec. 16-10-1 NMSA 1953).
 - a. One justice of the supreme court, appointed by the supreme court;
 - b. One court of appeals judge, appointed by the court of appeals;
 - c. Three district judges, appointed by vote of all district court judges;
 - d. Two members of the senate and two members of the house of representatives, appointed in the same manner as members of standing committees;
 - e. Two attorneys appointed by the board of commissioners of the state bar;
 - f. Three non-lawyers appointed by the governor;
 - g. The attorney general as an ex officio member;
 - h. The dean of the law school, University of New Mexico, as an ex officio member, and;
 - i. The director of the administrative office of the courts as an ex officio member.

3. Terms of the judicial council appointed by bar commissioners and by the governor are four years. Other members serve for terms of two years and may not serve more than two consecutive terms. (Sec. 16-10-1 NMSA 1953).
4. Funding for the judicial council is granted by the state legislature from the general fund. (Sec. 16-10-6, NMSA 1953).

C. The Judicial Conference. (Sec. 16-9-1 NMSA 1953)

1. The functions of the judicial conference are:
 - a. To meet at least once a year to discuss methods for improving the administration of justice and to make recommendations to the legislature, Governor and supreme court.
 - b. To conduct other business provided by law or by rule of the supreme court.
2. The judicial conference consists of all justices of the supreme court, all judges of the court of appeals, and all judges of the district courts, each of whom serves ex officio as a member of the conference.
3. The judicial conference shall elect from its membership a chairman and other necessary officers, and it may adopt rules necessary for transacting its business.

APPENDIX B

NEW MEXICO SUPREME COURT
RULES IN FORCE AND PREPARATION

August 11, 1975

CIVIL LAW HANDBOOK

RULES OF CIVIL PROCEDURE FOR THE DISTRICT COURTS.

Comment: This is the only set of rules listed that is not completely new since January 1, 1971. New Mexico adopted Rules of Procedure generally patterned upon the federal rules effective August 1, 1942. It is interesting that they were adopted following enactment of a statute in 1933 (Section 21-3-1, NMSA 1953) which directed the Supreme Court to regulate by rule "pleading, practice and procedure in judicial proceedings in all courts of New Mexico"

The rules were considerably revised in 1949 and have been frequently amended in recent years.

RULES OF CIVIL PROCEDURE FOR THE MAGISTRATE COURTS, with forms, effective October 1, 1974.

RULES OF EVIDENCE with commentaries, effective July 1, 1973.

Comment: These are also included in the Criminal Law Handbook.

CRIMINAL LAW HANDBOOK

RULES OF CRIMINAL PROCEDURE FOR THE DISTRICT COURTS, with approved forms and committee commentary, effective July 1, 1972.

RULES OF EVIDENCE, with commentaries, effective July 1, 1973.

RULES OF CRIMINAL PROCEDURE FOR THE MAGISTRATE COURTS, with approved forms, effective October 1, 1974.

UNIFORM JURY INSTRUCTIONS - CRIMINAL, effective September 1, 1975.

Comment: The giving of these instructions is mandatory and they now cover general instructions, including definitions and criminal intent, homicide, property crimes, evidence, justification and defense and concluding instructions.

OFFICE MANUAL

RULES OF APPELLATE PROCEDURE FOR CIVIL CASES AND RULES GOVERNING ORIGINAL PROCEEDINGS IN THE SUPREME COURT, effective April 1, 1974.

Comment: These rules originally governed both civil and criminal appeals and have been appropriately amended to take into account the new Rules of Criminal Appellate Procedure.

RULES OF APPELLATE PROCEDURE FOR CRIMINAL CASES, effective September 1, 1975.

CODE OF PROFESSIONAL RESPONSIBILITY - CANONS AND DISCIPLINARY RULES, effective June 1, 1974.

Comment: Since its initial adoption in 1971, the code has been amended in two rather important ways. The first amendment permitted the creation of plans for prepaid legal services and the second permitted specialization in practice - a matter governed by other rules.

RULES GOVERNING DISCIPLINE, effective May 1, 1974.

DISCIPLINARY BOARD RULES OF PROCEDURE, effective May 1, 1974.

RULES GOVERNING BAR EXAMINERS, BAR EXAMINATIONS AND ADMISSION TO THE BAR, effective December 20, 1973.

CODE OF JUDICIAL CONDUCT, effective January 1, 1974.

RULES GOVERNING THE NEW MEXICO BAR, effective May 1, 1974.

Comment: New Mexico has long had an integrated bar by statute. In 1974, upon a reapportionment of the Board of Bar Commissioners, the Supreme Court adopted unobjectional parts of various pertinent legislation by rule.

REGULATIONS OF THE SPECIALIZATION BOARD, effective July 1, 1974.

RULES GOVERNING THE SPECIALIZATION BOARD, effective June 1, 1974.

SUPREME COURT RULES GOVERNING COURT REPORTERS IN THE COURTS OF NEW MEXICO, effective September 1, 1975.

MISCELLANEOUS RULES, effective May 1, 1974.

RULES WORK IN PROGRESS

(All targeted for completion by year-end 1976)

1. Rules of Civil Procedure for the District Courts.

These rules are being reviewed in light of other recent rules promulgated by the New Mexico Supreme Court and the extensive modifications of the federal rules. Such revision as seems appropriate will follow.

2. Uniform Jury Instructions - Criminal.

This committee is continuing to function vigorously to extend the instructions into additional areas, including assault and battery, kidnapping, sex crimes, arson, interference with law enforcement, initiatory crimes/accomplices and controlled substances.

The work product may be promulgated in installments.

A high priority is assigned to this project.

3. Uniform Jury Instructions - Civil.

New Mexico has had this since 1966 in a bound volume.

The committee has been revived and is presently engaged in reviewing the present instructions for general improvements and to conform the instructions and directions for use to intervening court decisions.

Most important, the instructions will be substantially expanded into new areas.

It is contemplated that the entire effort will be redistributed in loose-leaf form.

4. Rules of Procedure for Municipal Courts.

This is just underway. It is thought that some of the magistrate's criminal rules may be used.

This was assigned a low priority because these courts are not a part of the state court system.

5. Rules of Evidence.

These rules were initially patterned on the then proposed federal rules to achieve uniformity and be enabled to take advantage of federal precedents.

They have been reviewed in light of the changes made in the federal rules prior to adoption and certain modifications have been recommended.

6. Rules of Procedure Under the Children's Code.

A new Children's Code was enacted in 1972.

APPENDIX C.
ADMINISTRATIVE OFFICE OF THE COURTS

APPENDIX C.

ADMINISTRATIVE OFFICE OF THE COURTS

The AOC, the administrative arm of the supreme court, is maintained at Santa Fe. It is supervised by a director appointed and subject to removal by the supreme court. (Sec. 16-6-1 NMSA 1953).

The director of the AOC performs administrative functions for the supreme court, the court of appeals, the district courts and the magistrate courts. The director of the AOC, under the supervision of the supreme court, has the following statutory authority and responsibilities: (Sec. 16-6-3 NMSA 1953).

1. Supervise all matters relating to administration of the courts;
2. Examine, secure, prepare and transmit to the supreme court statistical data and reports as to the business of the courts;
3. Submit an annual report concerning the business of the courts and the activities of the AOC to the supreme court and to the legislature;
4. Receive, adjust and approve the budgets of the courts supported by legislative appropriation;
5. Compile manuals prescribing detailed requirements for uniform systems of records and forms for use by the courts; and
6. Serve as secretary to the Supreme Court Building Commission having care, custody and control over grounds, building, equipment, furniture and fixtures, and personnel.
7. Perform other duties as directed by the supreme court.

Following the creation of the magistrate court system through legislation passed in 1968, the Administrative Office of the Courts began the laborious task of administering to the many new and obvious needs of this court of limited jurisdiction. What was once a justice of the peace system, and often referred to as a "Kangaroo Court", was now to become a statewide and unified lower court system.

Little progress developed in the early years following the transition. Although this lower court was now under the administrative and operational supervision of the Administrative Office of the Courts, minimal supervision was being provided. In 1972 the Supreme Court, having superintending control over all lower courts, directed the Administrative Office of the Courts to exercise its supervisory control and establish unified procedures throughout the system. Under the guidance of a new director, the Administrative Office of the Courts began the implementation of many new programs and procedures. Fully realizing that sufficient funding for these various improvements would be difficult to obtain in one fiscal year, the Legislature, in its wisdom, directed the Administrative Office of the Courts to prioritize its needs and present these improvements accordingly.

The major areas of improvement over the past three years include improved housing conditions, furniture and fixtures, tighter fiscal responsibility, personnel, and training. In the early years, each magistrate was primarily responsible for their individual court facilities. No records were maintained concerning locations, rental agreements, space, etc. Since then, the Administrative Office of the Courts has entered into leasing agreements with nearly every magistrate court in the state, maintaining master records on all

pertinent information. Official office hours are certified by each individual magistrate, and a record of same has been provided to both the Supreme Court and Legislature. Unanticipated rent increases during an existing fiscal year are no longer a concern due to these rental agreements.

Modern furniture and equipment have now been provided to the majority of the courts throughout the state. This accomplishment has come about over a period of the last three years and continued funding will be requested in attempting to maintain this improvement. An Internal Auditor was hired at the Administrative Office of the Courts for the sole purpose of implementing a double entry journal bookkeeping system to assure maximum financial responsibility. Several million dollars are received at the Administrative Office of the Courts each year through either the penalty assessment program or fines, forfeiture and court costs. Total accountability has now been established through the continual auditing of the magistrates' financial records. A judicial personnel plan was approved by the Supreme Court and adopted on July 1, 1974 providing new rules and regulations governing classified employees. This plan is extended to the magistrate system as well. Better qualified personnel are now being hired at the magistrate level. Great emphasis has been placed on the continued judicial education and training of elected officials as well as classified personnel. Training programs have recently been provided magistrate clerks as well as annual training programs for the judges. Judicial academies such as the American Academy of Judicial Education, the National Center for State Courts, and the National College of the State Judiciary have participated in annual training seminars for the magistrate judges. In addition, selected judges attend training seminars at

various colleges throughout the country which include areas of special study such as traffic, evidence, search and seizure, and so forth. The Administrative Office of the Courts has contracted with the Institute of Public Law for purposes of preparing a New Mexico Magistrates Bench Book. This manual will be completed in late 1975. Training committees consisting of both judges and clerks have been established to assist the Administrative Office of the Courts in the educational curriculum selected for each year's training seminars.

The following will reflect a near one hundred per cent increase in appropriations requested for the magistrate system over a three year period:

61st Fiscal Year (1972-73)	\$ 875,364
62nd Fiscal Year (1973-74)	994,600
63rd Fiscal Year (1974-75)	1,140,400
64th Fiscal Year (1975-76)	1,416,200

These increases are a result of the improvements being provided the New Mexico magistrate system.

APPENDIX D.
EXAMPLE OF FRAGMENTATION AND
INADEQUATE ADMINISTRATION

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EXAMPLE OF FRAGMENTATION AND
INADEQUATE ADMINISTRATION

For the purposes of this study, a survey was conducted by the Director of the Administrative Office of the Courts in a typical multi-county district in New Mexico. Although there is presently only one district judge serving the entire district, the 1975 Legislature created an additional judgeship to be elected at the next general election. In 1974 this district judge maintained the second heaviest caseload in the state. He handled 1880 criminal, civil, and juvenile matters.

The district has 11,496 square miles (3rd largest in state), serving 50,400 people (8th most populated in state). It is fairly typical of rural districts in that there is considerable distance between towns and villages.

At the lower court level however, there are a total of thirteen limited jurisdictional courts in the district. There are seven municipal judges, six magistrate judges, and two probate judges. Three judges are both magistrate and municipal judges. Only one judge is a lawyer.

The survey was conducted in an attempt to establish the approximate overall cost involved to the state, counties, and various municipalities in the operations of these courts of limited jurisdiction. Although, in some instances, only estimated data could be obtained, the facts and figures reflected in the study generally support the concept of 'consolidation of trial courts.' Aside from the magistrate judges, there were no uniform policies and procedures being followed. The municipal and probate courts did not develop any statistical data regarding caseload, etc., other than that developed for their own use. Salaries, court furnishings, personnel, locations, caseloads, and training were inconsistent throughout.

COMBINED SALARY COSTS: MAGISTRATE COURTS

First District, Division I & II	
Judge A	\$ 10,500.00
Judge B	10,500.00
Clerk	6,300.00
Clerk	5,040.00
First District, Division III	
Judge C	5,830.00
Sub Total:	\$ 38,170.00
Second District, Division I	
Judge D	\$ 6,600.00
Second District, Division II	
Judge E	5,300.00
Second District, Division III	
Judge F	7,700.00
Clerk	5,064.00
Sub Total:	\$ 24,664.00

\$ 62,834.00

COMBINED SALARY COSTS: MUNICIPAL COURTS

Court A	\$ 6,000.00
Court B	2,400.00
Court C	1,800.00
Court D	6,000.00
Court E	4,200.00
Court F	1,440.00
Court G	300.00
Court A Clerk-estimated	2,500.00
Court C Clerk-estimated	1,200.00
Court D Clerk-estimated	1,144.00

Sub Total: \$ 26,984.00

\$26,984.00

COMBINED SALARY COSTS: PROBATE COURTS

County A	\$ 2,760.00
County B	2,776.00
County B Clerk-estimated	600.00

Sub Total: \$ 6,136.00

\$ 6,136.00

GRAND TOTAL COMBINED SALARIES OF LIMITED COURTS IN
12th DISTRICT:

\$95,954.00

NOTE: These salaries prior to July 1, 1975

NUMBER OF CLERICAL ASSISTANTS BEING USED IN LIMITED COURTS:

<u>LOCATION</u>	<u>FULL TIME</u>	<u>PART TIME</u>
First District Magistrate		
Division I, II, III	2	
Second District Magistrate		
Division I, II, III	1	2
Court A, Municipal Court		1
Court B, Municipal Court		1
Court C, Municipal Court		1
Court D, Municipal Court		1
Court F, Municipal Court		1
County B, Probate Court		1
	<hr/>	<hr/>
	3	8

ANNUAL MAGISTRATE RENTALS BEING CHARGED TO STATE OF
NEW MEXICO:

Magistrate Court 1 (\$300.00 per month)	\$ 3,600.00
Magistrate Court 2 (\$60.00 per month)	720.00
Magistrate Court 3 (\$35.00 per month)	420.00
Magistrate Court 4 (\$100.00 per month)	1,200.00
Magistrate Court 5 (\$75.00 per month)	900.00

\$ 6,840.00 per year

NOTE:

Overall rental charges for Municipal and Probate Courts undetermined. Not charged separately. Cost would be estimated at approximately the same as Magistrates.

ANNUAL CASELOADS PER JUDGE: Calendar Year 1974

First District Magistrate

Judge A	1282
Judge B	1291
Judge C	250

Second District Magistrate

Judge D	367
Judge E	61
Judge F	874

Court A Municipal Judge	4659
Court B Municipal Judge	728
Court C Municipal Judge	350
Court D Municipal Judge	2284
Court E Municipal Judge	500-estimated
Court F Municipal Judge	--- not available
Court G Municipal Judge	10
County A Probate Judge	180
County B Probate Judge	22

SUMMARY:

Some interesting information was developed through this exercise:

1. City, County and State Government are paying well in excess of \$100,000.00 per year in salaries and benefits to 15 judges and supporting personnel in the court system in this district.

2. In the limited jurisdictional system court facilities and office hours vary greatly from place to place.

3. Aside from the magistrate judges, limited training is offered to the municipal judges, and literally none provided the probate judges.

4. Several of the judges in this district have dual roles as both magistrate and municipal judge. (It is impossible to determine a true cost breakdown for the state and a municipality under these circumstances.)

5. Aside from the magistrates, there is no method to determine workload indicators or methods of disposition for the municipal and probate courts. These two courts do not presently forward any data to a centrally controlled agency such as the Administrative Office of the Courts.

6. Aside from magistrates, salaries for the judges appear inconsistent. If we were to consider salaries on a caseload factor only, the salaries range from \$5.00 a case to \$126.00 per case.

7. Municipal and probate judges consider themselves more of a city and county employee than an arm of the Judicial Branch of State Government.

NOTE: The costs shown for courts of limited jurisdiction are "direct" costs only. It is not possible to make meaningful cost comparisons but it seems obvious that over \$100,000 salary costs could provide for several full-time or associate judges in the district.

APPENDIX E

JUDICIAL MODERNIZATION
IN OTHER STATES

ALASKA

Effective reform date: 1959, 1960, 1962, 1974, 1975

Trial courts affected: District court and magistrate court.

Nature of court reform: In 1956, a new state constitution ratified by the voters, provided for a unified judicial system, which became effective in 1959. Three court levels resulted: the supreme court, and superior court, (general jurisdiction), created by the constitution, and district court, (limited jurisdiction), created by the legislature. District court has two levels of judges: district judges and magistrate judges.

In 1974, a single Area Court Administrator was established in three of the judicial districts, the presiding judge for both superior and district courts was reduced from 2 or one judge per court, to one for both courts. Also emphasized in 1974 was increased training programs for both districts, including the lay magistrates, and superior court judges. Consolidation of the district and superior court clerical staffs of the Anchorage and Juneau courts became effective in 1975.

Proposed court reform: Proposals have been made to realign judicial district boundaries to improve the delivery of judicial services to rural areas, and to integrate the processing of municipal cases into the state court system.

Alaska

Current court structure: District court is a court of record. Appeals from district court are heard on the record in superior court (general jurisdiction). Superior court may decide to hear the case de novo in whole or in part. Trials de novo in superior court are rare. A defendant has a right to jury trial in district court.

The supreme court makes and promulgates rules governing the administration, practice and procedure in civil - criminal cases in all courts.

District court judges must be licensed to practice law in the State of Alaska. Magistrate court judges are not required to be lawyers. Mandatory retirement age is 70 years of age.

Alabama

Effective reform date: December 27, 1973, 1974, 1975.

Trial courts affected: Probate court, county court, recorders court, justice court, and the family court of Jefferson County.

Nature of court reform: In 1973, the voters approved an amendment to the state constitution which provided for the creation of a unified court system in Alabama. The 1973 judicial article provided for the creation of a district court of limited jurisdiction. Legislation passed on October 9, 1975 implemented the 1973 judicial article.

District court, a trial court of limited jurisdiction, is a court of record. Appeals made to circuit court (general jurisdiction) from district court are heard de novo. In criminal cases, the jurisdiction of district court is concurrent with that of the circuit court. Appeals from district court criminal cases are heard on the record by the circuit court. Jury trials are not held in district court.

Alabama

Probate court is a state court which is financed through the county. There are 67 counties, each of which has one probate court, except for Jefferson County, which has two. The October 1975 legislation did not address probate court matters.

Municipal court is not a court of record. Appeals from municipal court are heard de novo in circuit court.

Municipalities may abolish their municipal courts. If such action is taken, all cases normally handled by municipal court will be taken to the district court. There are 387 municipal courts in Alabama (October, 1975). If a municipal court continues in existence, appeals are heard de novo by the circuit court.

All court rules are promulgated by the Supreme Court.

Judges in all courts, except probate, are required to be lawyers. Mandatory retirement for all judges is 70 years of age.

Justice of the peace courts were abolished in 1974.

Arizona

Effective reform date: 1960

Trial court affected: Justice court, municipal court.

Nature of court reform: a 1960 constitutional amendment raised the justice court jurisdiction from \$200 to \$500. The amendment gave the legislature power to create municipal courts, but none have been created up to the present. All justices of the peace and police magistrates are salaried.

Proposed court reform: Various proposals for court reform were introduced in the 1974 session of the Arizona legislature, some of which included the integration and unification of courts, legal training of the justices of the peace, criteria for establishing superior court divisions, merit selection of judges, and the integration of police courts into the justice courts. These proposals were not passed during the 1974 session, with the exception of merit selection of judges. A modified merit selection plan was approved to provide for the merit selection of all superior and appellate court judges for Pima and Maricopa Counties. The Supreme Court of Arizona established a committee to study the reorganization of the lower court system in Arizona. It is expected that this committee will make proposals which will be acceptable to a future session of the legislature.

Arizona

Both justice and police courts are not courts of record. Appeals from either court are made to the superior court which hears the case de novo. Jury trials must be requested before the actual trial by the litigants in justice court.

Uniform rules of practice and procedure which apply to superior court (general jurisdiction) also apply to justice court so far as applicable and when not otherwise prescribed. Rules of criminal procedure for the superior court apply to police court so far as applicable and when not otherwise prescribed.

Justice court and police court judges are not required to be lawyers. Individual cities may require police judge to be attorneys.

Arkansas

Effective reform date: 1965, 1969, January 1, 1976.

Trial court affected: County courts, municipal courts, courts of common pleas, justice courts, and police courts.

Nature of court reform: Legislation passed in 1965 gave administrative control of the courts to the chief justice of the supreme court. The fee system for criminal cases in justice of the peace courts was abolished by a state supreme court ruling in 1969. Effective January 1, 1976 the number of justices of the peace will be reduced.

Arkansas

Statutorily the lower courts are courts of record with the exception of justice courts. Appeals from the lower courts are de novo.

The Arkansas Supreme Court makes the court rules for courts of general jurisdiction. The Circuit court has rule-making authority for the lower courts. Authority over court rule-making has been exercised by the legislature, however, the Supreme Court usually makes the final decisions related to changes or additions to court rules. The legislature has adopted changes in the substantive criminal laws which become effective January 1, 1976. The Supreme Court's finalizing consideration of changes in the procedural rules which will become effective in October, 1975.

Municipal courts, which have county-wide jurisdiction, handle about 90% of the limited jurisdiction cases and are presided over by lawyers. City courts primarily handle traffic cases and are usually presided over by the mayor. Jury trials are possible in justice of the peace courts but not in city or mayor's court.

California

Effective reform date: January 1, 1976

Trial courts affected: Justice Court

Nature of court reform: A bill, sponsored by the Judicial Council, was passed in 1975 which provides that no non-lawyer can be selected for a justice court judgeship. Non-lawyer incumbents can remain in office for one more year. This law becomes effective January 1, 1976. There are 70 lawyers and 120 non-lawyer justices in California.

Proposed court reform: In 1973, an attempt was made to create a two-layer trial court system. The superior courts (general jurisdiction) would have been left alone. A countywide lower court system would have merged the municipal and justice courts (limited jurisdiction) into a single county court. These proposal were defeated in the Senate.

In 1974, the California Supreme Court held in *Gordon v. Justice Court* that non-attorney justice court judges in California could no longer hear misdemeanor cases where a defendant could be sentenced to serve time in jail.

California

Municipal and justice courts are courts of record. Appeals from both courts are heard on the record by superior court. Small claims appeals from either court are heard de novo by superior court. Jury trials are held in both lower courts.

Court rules are primarily prescribed by the Judicial Council. The legislature prescribes rules of procedure and practice. Local court rules by the lower courts must be consistent with those provided by statute or by the Judicial Council.

Municipal and justice courts require lawyer judges. There is no mandatory retirement age for the judges.

Colorado

Effective reform date: 1965, 1966, 1970

Trial courts affected: Justice of the peace court, county court, juvenile court, and district court.

Nature of court reform: Justice of the peace courts were abolished in January, 1965 by a constitutional amendment. At the same time, the old county court was eliminated and some of its jurisdiction transferred to the district court (general jurisdiction). The old county court was a court of record which heard probate, mental health, juvenile, and guardianship cases and had certain civil and criminal jurisdiction. A new county court was created which handles limited civil (up to 1,000) and minor criminal cases and is a court of record.

A 1966 constitutional amendment replaced judicial elections and created nominating commissions for selection and a qualifications commission for removal of all judges of courts of record.

Other recent changes include the assumption by the State of Colorado in 1970, of full responsibility for funding all courts of record, including juvenile and adult probation, excluding the Denver county court, which also has municipal jurisdiction. Also established in 1970 was a separate court personnel system. Court budgeting, fiscal administration, statistical record-keeping, and the development of a capital improvement program were made the responsibility of the State Court Administrator, but subject to the approval of the Chief Justice.

Proposed court reform: A legislature interim committee in 1974 proposed an amendment to the judicial article which would abolish part-time county judges in smaller counties and provide for full-time circuit lawyer county judges in their place. The amendment died in the House Rules Committee.

Colorado

County courts and the Denver superior court, probate court, and juvenile court are courts of record. In other towns where municipal courts have been established, the municipal court may become a court of record if the judge or judges are required to be lawyers and if the city council passes an ordinance or resolution making it a court of record.

Appeals taken to the district court from the county court are heard on the record. Appeals from the Denver County Court are taken to superior court. Denver Superior court cases are appealable on the record to the court of appeals. Probate case appeals are taken to the court of appeals. Appeals from Denver juvenile court are taken to court of appeals on the record. When the municipal court is not a court of record, appeals are heard de novo in county court. Cases from municipal courts, which are courts of record, are heard on the record in district court.

Jury trials may be held in all courts of limited jurisdiction in Colorado.

County court judges in A, B, and C counties are required to be licensed to practice law. Those county court judges in D counties who are not lawyers must have at least a high school education and some training in the duties and function of the county court. Judges of the Denver superior court, probate court, and juvenile court are required to be lawyers and have the same qualifications as district judges. Municipal court judges are required to be lawyers whenever possible.

Colorado

County courts, the Denver superior court, probate court and Denver juvenile court are courts of record. In towns where the municipal court has been established with the following requirements: 1) a verbatim record of proceedings and evidence be kept, and 2) the judges must currently be licensed to practice law in Colorado, the court is a court of record.

Appeals taken to the district court from the county court are heard on the record. Appeals from the Denver County Court are taken to the superior court. Denver Superior court cases are appealable on the record to the supreme court or the court of appeals. Probate case appeals are taken to the supreme court or the court of appeals and heard on the record. Appeals from Denver juvenile court are taken to the supreme court and heard on the record. When the municipal court is not a court of record, appeals are heard de novo in county court. Cases from municipal courts, which are courts of record, are heard on the record in county court.

Jury trials may be held in all courts of limited jurisdiction in Colorado.

County court judges in A, B, and C counties are required to be licensed to practice law. Those county court judges in D counties must have at least a high school education and some training in the duties and function of the county court. Judges of the Denver superior court, probate court, and the Denver juvenile court are required to be lawyers. Municipal court judges are required to be lawyers whenever possible.

Connecticut

Effective reform date: December 31, 1974.

Trial courts affected: Circuit court, court of common pleas.

Nature of court reform: Legislation, which became effective December 31, 1974, merged the circuit court into the court of common pleas. Also included in this same legislation was the provision that the records of municipal and justice courts become those of the court of common pleas.

Other changes made under the same act provide for the nomination of juvenile court judges by the governor to the legislature, who must appoint the juvenile judge by joint legislative resolution. Also provided were modified retirement benefit provisions for retired judges and their continued assignment to judicial duties.

Proposed court reform: The commission which drafted the above legislation, was reestablished by the legislature to study and prepare legislation for the unification of all the functions, powers, and jurisdiction of the court of common pleas and the juvenile court with those of the superior court. Legislative drafts are to be presented to the 1976 legislative session.

Delaware

Effective reform date: 1965

Trial court affected: Justice of the peace.

Nature of court reform: In 1965, justice of the peace courts were placed under the supervision of the chief justice of the supreme court and are governed by rules promulgated by the supreme court. The fee system was abolished and replaced by an annual salary for the justices. Also provided for the justices were offices and staffs. The 1965 legislation gave the deputy administrator to the chief justice the authority to assign justices to hold court where and when needed, and also provided that the justices should have statewide jurisdiction.

Delaware

The court of common pleas, the family court in New Castle County, and the municipal court of Wilmington, are courts of record. Justice of the peace and alderman's courts are not courts of record.

Appeals from the court of common pleas are made on the record to the superior court. Family court cases may be appealed de novo to the superior court for child custody orders. Appeals from aldermen's court, justice court, and the municipal court of Wilmington are heard de novo in superior court.

In the court of common pleas, there is a right to jury trial in Kent and Sussex Counties and there is no right to jury trial in New Castle county. Jury trials in civil matters can be held in justice court. Criminal matters are bound over to superior court. No jury trials are held in family or alderman's courts.

The supreme court may adopt rules for the administration of justice and the conduct of business of all the courts. Generally, the courts of limited jurisdiction in Delaware may make local rules regulating the practice and procedure of the court and the keeping of court records. Such rules must not conflict with supreme court rules and are subject to the supreme court's exercise of power.

Judges in the court of common pleas, family court, justice court, and the municipal court of Wilmington are required to be licensed to practice law, but may not practice law while in office. Justice of the peace and alderman's court judges are not required to be lawyers. There is no mandatory retirement age for the lower court judges.

Florida

Effective reform date: January 1, 1973.

Trial court affected: Civil court of record, criminal court of record, county court, county judges' court, juvenile court, small claims court.

Nature of court reform: Effective January 1, 1973, the civil and criminal courts of record, county judges' courts, juvenile courts, small claims courts, metropolitan courts and justice of the peace courts were abolished. The constitutional amendment also extended the jurisdiction of the circuit courts to include probate, equity, and juvenile matters and gave the circuit courts exclusive jurisdiction of felonies. The new county court system handles all other matters which had been previously handled by the state's limited jurisdiction courts. Municipal courts remain in existence until January 3, 1977 or until abolished by the legislature, whichever occurs first. Decriminalization of traffic cases was also provided in the January, 1973 reform.

Florida

County court and municipal courts (until January 1, 1977) are courts of record. Appeals from both courts are heard on the record by the circuit court (general jurisdiction). Jury trials are provided upon request, except for traffic cases.

The Supreme Court has the authority to adopt rules of practice and procedure for all courts. This rule making authority can be abolished by a two-thirds majority vote in both houses of the legislature. The legislature cannot abolish a specific rule promulgated by the Supreme Court. County court may make local rules which are subject to Supreme Court approval.

Judges in county court must be a lawyer if the county population is over 40,000. Mandatory retirement for all judges is 70 years of age.

Georgia

Effective reform date: 1973, 1974

Trial court affected: All state courts

Nature of court reform: In 1973, the Judicial Council of Georgia was created. Shortly thereafter, the Administrative Office of the Courts was established to serve the courts in Georgia.

In November, 1974, a constitutional amendment for a unified judicial system was passed by the voters. The unified system is expressly for the purposes of administration of the courts. This amendment made no provision for changing the structure of the present court system.

Also in 1974, the name "Court of Ordinary" was changed to "Probate Court".

Proposed court reform: The Governor's Commission on Court Structure and Organization was sworn in during July, 1975. The Commission was established to make an in depth study of the entire court system. The results of the study should be available at the end of 1975.

Georgia

Georgia has a multiplicity of courts of limited jurisdiction. Probate, county, state, juvenile and city courts are courts of record. Justice of the peace, magistrates, municipal, recorder's, and small claims courts are not courts of record.

Juvenile court appeals are heard either by the superior court, court of appeals or the supreme court. Probate, county, justice of the peace, and small claims appeals are heard de novo by the superior court. Appeals from city court are heard on the record by the court of appeals. Magistrate court appeals are made to jury in magistrate's court or to the superior court on a de novo basis. Municipal court appeals are heard either by the court of appeals or supreme court. Usually appeals from recorder's, police or mayor's courts are made to superior court, but they may also go to the city council if so provided by charter or municipal ordinance. State court appeals are heard on the record by either the court of appeals or the supreme court.

Jury trials are held in county, city, magistrate (Clarke County only), state, and small claims courts.

The legislature prescribes civil and criminal rules of procedure for the courts. The lower courts generally have local rule-making ability which must be consistent with United States and Georgia law.

Juvenile, probate (in counties over 100,000 population), magistrate's and state court judges are required to be lawyers. The other six lower courts do not have this requirement. There is no mandatory retirement age for the judges.

Georgia

Georgia has a multiplicity of courts of limited jurisdiction. Probate, county, state, juvenile and city courts are courts of record. Justice of the peace, magistrates, municipal, recorder's, and small claims courts are not courts of record.

Juvenile court appeals are heard either by the superior court, court of appeals or the supreme court. Probate, county, justice of the peace, and small claims appeals are heard de novo by the superior court. Appeals from city court are heard on the record by the court of appeals. Magistrate court appeals are made to jury in magistrate's court or to the superior court on a de novo basis. Municipal court appeals are heard either by the court of appeals or supreme court. Usually appeals from recorder's, police or mayor's courts are made to superior court, but they may also go to the city council if so provided by charter or municipal ordinance. State court appeals are heard on the record by either the court of appeals or the supreme court.

Jury trials are held in county, city, magistrate (Clarke County only), state, and small claims courts.

The legislature prescribes civil and criminal rules of procedure for the courts. The lower courts generally have local rule-making ability which must be consistent with United States and Georgia law.

Juvenile, probate (in counties over 100,000 population), magistrate's and state court judges are required to be lawyers. The other six lower courts do not have this requirement. There is no mandatory retirement age for the judges.

Hawaii

Effective reform date: 1950, 1968, 1972

Trial court affected: All

Nature of court reform: A unified court system was provided for Hawaii by amendment to the State Constitution in 1968. The Chief Justice of the Supreme Court is the Administrative head of Hawaii's courts. The Supreme Court has the power to make the rules and regulations which govern civil and criminal cases in all courts statewide. The Office of the Administrative Director of the Courts is responsible for the statewide programming, budgeting, personnel, and management operations of the Judiciary.

On January 1, 1972, district magistrate courts were eliminated and replaced by district courts with the judicial circuit as its jurisdictional area. The district court became a court of record and remained a court of limited jurisdiction.

Hawaii

District and land courts are courts of record. Cases appealed from district court, with the exception of small claims cases, are heard on the record by the supreme court. Appeals from land court cases which request a jury trial are heard by the circuit court on the record. Other land court case appeals are heard by the supreme court on the record, either directly from the land court or on appeal from a jury in circuit court.

When a demand for a jury trial is made in district court, the case is removed to the circuit court. Jury trials are not heard in land court.

The supreme court promulgates rules and regulations in all civil cases for all courts relating to process, practice, procedure and appeals. District court judges may make and amend rules of practice and proceedings with the approval of the supreme court. Land court rules' procedure is to conform to that of the circuit court.

District and land court judges must be licensed to practice law in Hawaii. Mandatory retirement age in Hawaii is 70 years of age for all judges.

Idaho

Effective reform date: 1962, 1971, 1974, 1975

Trial court affected: Justice of the peace court, probate court, municipal court and magistrate divisions of the district court.

Nature of court reform: A 1962 constitutional amendment removed all references to justice of the peace and probate courts. Effective January, 1971, legislation added magistrate divisions to existing district courts (general jurisdiction). These divisions replaced probate, justice, and municipal courts in each of the seven judicial districts. District court was authorized to create a small claims department in its magistrate division.

In 1974, the judges of the magistrate division were subjected to voter approval. Originally appointed by their magistrate commission in 1971, magistrates stood before the voters on their records, asking to be retained in office. Only one magistrate was not retained.

Effective January 1, 1975 the jurisdiction of the magistrates in civil cases was increased from \$2,500 to \$5,000.

Idaho

Magistrate court is a court of record. Appeals from magistrate court are heard on the record by the district court. Small claims case appeals are heard de novo by the district court. A person has a right to jury trial in all courts except for traffic court cases in which the fine would be less than \$25.

The supreme court exercises rule making authority for all courts. The legislature, except in regard to case calendaring, exercises rule-making authority regarding substantive rules.

Magistrate district court judges are not required to be lawyers. Mandatory retirement for magistrate judges is 70 years of age.

Illinois

Effective reform date: 1964, 1971

Trial court affected: Justice of the peace, all other courts of limited jurisdiction prior to 1964.

Nature of reform: A unified trial court system was adopted in January, 1964 which did abolish all special and limited jurisdiction courts.

From January 1, 1964 to July 1, 1971 there were three classes of trial court judges in Illinois: circuit judges, associate judges and magistrate judges. Those judges of the county courts, probate courts and municipal courts became associate judges of the circuit court.

A new state Constitution effective July 1, 1971, elevated the associate judges to circuit judges and the magistrates became associate judges. With the elimination of the magistrate judge, Illinois now has two classes of trial court judges: circuit and associate judges (general jurisdiction).

Illinois

All courts in Illinois are courts of record. Appeals are made on the record either to the Intermediate Appellate Court or the Supreme Court. Jury trials are heard by all trial judges.

General administrative and supervisory authority over all courts is vested in the supreme court.

All judges are required to be lawyers. Mandatory retirement for all judges is 70 years of age.

Indiana

Effective reform date: January 1, 1976

Trial courts affected: Justice of the peace, city court

Nature of court reform: A Judicial Study Commission was created in 1965 by the General Assembly. The Commission recommended to the 95th General Assembly the reorganization of the court system to eliminate levels of trial courts and thus allow unification and integration of trial court operations. Unwilling to disturb the status quo, the General Assembly passed a constitutional amendment which was adopted by the electorate in November, 1970. The amendment preserved all pre-existing courts until future action was taken by any act of the General Assembly.

Proposed court reform: Effective January 1, 1976, the office of Executive Director of Administration of State Courts will be established. Also effective on this date, justice of the peace and city courts will be abolished and replaced by county courts.

Indiana

Probate, criminal, county, juvenile courts, and the municipal court of Marion County are courts of record. Appeals from probate and county courts are heard on the record by the court of appeals. Criminal court appeals may be heard by the court of appeals on the supreme court depending on the sentence involved. Juvenile court appeals are heard on the record by the court of appeals. Appeals from the municipal court of Marion County civil actions, excluding municipal ordinance violations, are heard on the record by the court of appeals. In criminal cases, appeals may be heard on the record by either the criminal court or the circuit court. Jury trials are held in criminal, county, and municipal court of Marion County. There are no jury trials in juvenile court.

The supreme court has exclusive authority over rules of procedure for the courts. The legislature makes substantive rules which are effective provided they do not contradict supreme court rules or if they are not overruled by the supreme court. Local court rules are made provided they are consistent with supreme court and statutory rules.

All lower court judges are required to be lawyers. There is no mandatory retirement age for lower court judges.

Iowa

Effective reform date: July 1, 1973, July 1, 1974

Trial courts affected: Municipal court, police court, justice of the peace court, mayor's court, and superior court.

Nature of court reform: A unified trial court system went into effect on July 1, 1973 and all superior, municipal, mayor's and justice courts were abolished. There are no trial courts of limited jurisdiction per se. One trial court of general jurisdiction, the Iowa District Court, was established.

The Iowa District Court has three classifications of judges: district court judges, those district court judges plus additional judges as provided by this act; district associate judges, those municipal court judges who were in office on June 30, 1973; and judicial magistrates, those appointed by the judicial magistrate appointing commission beginning in April, 1973.

Effective July 1, 1974 the small claims jurisdiction was raised to cover cases involving money claims up to \$1,000 and the eviction of persons from property. These cases are generally heard by judicial magistrates, however, the district associate judges have the same jurisdiction as do the judicial magistrates.

Also effective in 1974 was the authorization of district court judges to substitute one full-time judicial magistrate for three part-time magistrates.

Iowa

Appeals for cases handled by magistrates are heard de novo in district court except for small claims which are appealed on the record. Jury trials may be held in criminal cases by either a judicial magistrate or district associate judge before a six-man jury. Indictable misdemeanors are heard before a twelve-man jury. Small claims cases do not have jury trials.

The Supreme Court promulgates rules of civil procedures. The Legislature has the authority to change these rules. The district court makes local rules which may not be in conflict with the supreme court rules.

A judicial nominating commission submits names to the Governor who appoints the district court judge.

Full-time judicial magistrates must be lawyers while part-time magistrates are not required to be lawyers.

Mandatory retirement is at age 72 for Supreme Court and district court judges.

A judicial retirement system became effective July 1, 1975 which includes the supreme court, district court and district associate judges.

Kansas

Effective reform date: 1969, 1973, July 1, 1974, January 1, 1975

Trial court affected: Justice of the peace, city court, municipal court, county court.

Nature of court reform: Initially, justice of the peace courts were almost abolished in 1969 when statutory amendments reduced their jurisdiction to \$1.00. These courts were completely abolished July 1, 1974 when the statutes were further amended. In seven counties all justice of the peace functions were transferred to the county court. City courts have countywide jurisdiction.

Eight counties have what is called the county judge, who handles both probate and juvenile cases. The remaining 97 counties have separate courts to handle these two kinds of cases.

In 1973, municipal courts were created under the supervision of the district court. Municipal court hears all matters in violation of city ordinances.

The Kansas Judicial Study Advisory Committee made five major recommendations for court reform in Kansas. Some recommendations have already been enacted. Effective January, 1975, 23 of 29 judicial districts adopted merit selection of district court judges. At the same time, all district judges and court reporters were placed under the Kansas Public Employers' Retirement Act.

During the (1975) session of the legislature, Section Two of the five major recommendations of the advisory committee was approved. Section Two contains recommendations regarding appellate review and procedures.

Effective January 1, 1977, a Court of Appeals will be established which will receive appeals from the district court level (general jurisdiction).

Proposed court reform: A major proposal of the Kansas Judicial Study Advisory Committee is that of creating a unified district trial court. Probate, juvenile, county, magistrate, city, common pleas, and municipal courts would all be eliminated and their jurisdictions vested in the district court.

Another proposal is state level financing of all courts with local governments responsible for providing the court facilities.

Kansas

Kansas lower courts of record include: Probate, county, juvenile, city magistrate, and in all felony cases and on request in the court of common pleas. Municipal court is not a court of record. All appeals from the lower courts are heard de novo by the district court. Jury trials are held in county, magistrate and probate courts.

The Supreme Court has administrative authority over all courts. The lower courts are governed by supreme court rules, legislative rules of procedure, and their own local rules which must be consistent with supreme court rules and state statutes.

Probate, juvenile, magistrate and county (in counties with a population over 24,000) courts are required to have lawyer judges. There is no mandatory retirement age for lower court judges.

Kentucky

Effective reform date: None

Trial courts affected: Quarterly court, police court, justice court and county court.

Nature of court reform: None

Proposed court reform: An amendment to the Kentucky state constitution will be subject to voter approval in November, 1975. The proposed amendment provides a unified court system, elimination of partisan political elections and expedited court actions throughout the state. A district court in each county would take over the duties of four lower courts, replacing the quarterly, police, and justice court. County court would continue, but the county judge, though still an elected official, would have exclusively administrative duties. There would be at least one district court judge in each judicial circuit. If this proposed amendment is passed, the changes for the lower courts would become effective January 1, 1978. If this proposed amendment is passed, the changes for the lower courts would become effective January 1, 1978.

Louisiana

Effective reform date: 1956, 1975

Trial courts affected: Justice of the peace court, city court, parish court, juvenile court, family court of East Baton Rouge, municipal or mayor's court, traffic court of New Orleans, and Municipal Court of New Orleans.

Nature of Court reform: In 1956, legislation abolished justice of the peace courts in wards within cities of over 5,000 population. Justices of the peace were then replaced by city judges who must be attorneys.

A new judicial article effective January 1, 1975 removed courts of limited jurisdiction as constitutional courts and gave the legislature the power to reorganize and restructure the state's court system. The legislature can abolish or merge trial courts of special or limited jurisdiction as well as establish limited jurisdiction trial courts which have parish-wide jurisdiction and subject-matter jurisdiction and which are uniform throughout the state. As of October, 1975, the legislature had not changed the court system in Louisiana.

Maine

Effective reform date: 1961, 1971, 1975

Trial courts affected: Justice of the peace court, municipal court, district court

Nature of court reform: In 1961, both the justice of the peace and municipal courts were replaced by a unified statewide system of district courts. Small claims jurisdiction was expanded in 1971 to a claim limit of \$200.

Appeals from district court are made to the superior court on the record. This change was made in 1975. In 1975 district court was given exclusive jurisdiction over all traffic infractions. Effective October 1, 1975, all traffic cases were decriminalized and made civil cases.

Maine

District court is a court of record from which appeals are taken to the superior court (general jurisdiction) on the record. Probate court is not a court of record. Appeals from probate court are heard de novo by the superior court. There are no jury trials in either district or probate courts.

The supreme court promulgates rules for all lower courts. The legislature and the lower courts themselves do not have any rule making authority.

Judges in both district and probate courts are required to be lawyers. Mandatory retirement for district court judges is effected by forfeiture of retirement benefits if the judge serves in the office after his 71st birthday. Probate judges do not fall under this provision.

Maryland

Effective reform date: July 5, 1971

Trial courts affected: Justice of the peace court, county trial magistrates, people's courts in the counties, the People's Court of Baltimore City, and the Municipal Court of Baltimore City.

Nature of court reform: A constitutional amendment effective July 5, 1971 abolished the above trial courts and established the district court as a state-funded court of limited jurisdiction. The orphans court, dating back to state constitution of 1776, was the only limited jurisdiction court other than the district court which was retained.

Maryland

Lower courts in Maryland, district court and orphans court, are not courts of record. For district court appeals in civil cases under \$1,000 and in criminal cases, trial de novo is heard by circuit court (general jurisdiction). All other civil appeals are heard on the record. Orphans' court cases may be appealed de novo to circuit court or superior court of Baltimore County or to the court of special appeals.

Jury trials are not held in district court or orphans court. In two counties, probate matters are handled in circuit court. In the remaining 20 counties, probate is handled by the orphans court.

The court of appeals makes the rules of practice and procedure for the lower courts. Rules for internal administration of the district court are made by the chief judge of the district court and must be consistent with rules established by the court of appeals. Orphans court can adopt local administrative rules consistent with those established by the court of appeals. The Legislature has the power to change rules promulgated by the court of appeals but (generally) has not exercised this option.

District court judges must be members of the Maryland bar. Orphans' court judges are not required to be lawyers. Mandatory retirement for all full-time, legally trained judges is 70 years of age. The mandatory age does not apply to orphans court judges.

Massachusetts

Effective reform date: 1963, 1972, 1975

Trial court affected: District court, probate court, Boston Municipal court, Juvenile court, land court, and housing court.

Nature of court reform: In 1963, a chief judge was appointed for the District Court. An administrative office and staff provide supportive assistance to the chief judge. A 1972 Constitutional Amendment provided for mandatory judicial retirement at age 70. In 1975, legislation created a Nominating Commission which submits 3 names to the Governor for filling court vacancies. Appointments by the Governor must meet with the consent of the judicial council.

Proposed court reform: Legislative proposals for lower court changes will be made in the latter part of 1975 or early 1976. These proposals include: phasing out of special judges in probate and district courts; use of district court judges to relieve superior court congestion; unitary financing of land and juvenile courts; use of electronic recordation in district and probate courts; refundable bail deposits in district court; and a six-man jury for all district courts.

Massachusetts

Current court structure: District court is not a court of record. Land, juvenile, housing and probate courts are courts of record. Appeals from the lower courts are heard de novo in the superior court. Jury trials are possible in the Boston Juvenile housing and district courts.

In the housing and district courts, general court rules are made by the Chief Justice. The juvenile court makes its own rules which are based on District Court Juvenile Rules. Land court makes general rules and forms of procedure which must be approved by the Supreme Judicial Court or a Justice of the Supreme Judicial Court.

Judges are not required to be lawyers to serve in office in Massachusetts. Mandatory retirement age for judges is 70 years of age.

Michigan

Effective reform date: 1963, January 1, 1969, January 1, 1971

Trial courts affected: Justice of the peace court, recorder's court of the city of Cadillac, municipal and police courts.

Nature of court reform: A constitutional amendment in 1963 provided that all judges must be lawyers. Those judges in office who were not lawyers were grandfathered in office.

Legislation effective January 1, 1969, abolished justice of the peace courts, circuit court commissioners, and the recorder's court of the city of Cadillac. Municipal and police courts were also abolished except in districts where the electorate voted to retain these courts.

Legislation, effective January 1, 1971, again attempted to abolish all municipal courts. Those cities which passed a resolution to retain their municipal courts still have a municipal court. At present, (November, 1975), there are 24 municipal courts with 32 judges, 29 of whom are part-time judges.

Michigan

District court, court of common pleas of Detroit, court of claims, and probate court are courts of record. Municipal court is not a court of record. Appeals from district court, court of common pleas of Detroit, and probate court are heard by the circuit court (general jurisdiction) on the record. Court of claims case appeals are heard on the record by the court of appeals. Municipal court appeals are heard de novo by the circuit court.

Jury trials may be held in district, probate, court of common pleas Detroit, and municipal courts. The court of claims does not hold jury trials.

State statutes provide that rules of pleadings and procedures in the district court shall be governed by rules established by the supreme court and by the district court under the supervision of the supreme court. General rules of practice in the district court are provided in the Code of Criminal Procedure and the Revised Judicature Act. General rules for probate, court of common pleas of Detroit, and the court of claims are provided by the Revised Judicature Act, as well as by the supreme court which is charged with establishing, modifying, and simplifying practices and procedures in all state courts. Probate rules of uniform practice and procedure may be drafted by the probate court and must be adopted by the supreme court before they may become effective. Rules of practice and procedure in the court of claims are the same as those prescribed for the circuit court.

There is a Uniform Municipal Court Act which prescribes court rules and operations for municipal courts. Generally, the local municipality has its own municipal ordinances or codes establishing the municipal court and its rules. In matters of criminal procedures, the supreme court issues administrative orders to the municipal courts.

Michigan

All lower court judges are required to be members of the Michigan bar. Mandatory retirement for all judges is 70 years of age.

Minnesota

Effective reform date: 1956, 1972, 1974, 1975

Trial court affected: Justice of the peace court; probate court, municipal court, and county court.

Nature of court reform: A 1956 constitutional amendment repealed the justice courts in cities, townships, and villages; however, the abolition of the courts was left to legislative enactment. Hennepin County abolished justice courts in 1963.

Court reorganization in 1972 abolished justice courts in all counties, except Ramsey county, in which a county court held regular sessions or in those municipalities in which the county court had established an ordinance and traffic violation bureau. In addition, municipal and probate courts were merged into the county court in 84 of the state's 87 counties. Then, in 1974, the three remaining counties were added to the county court system.

Ramsey county abolished justice of the peace courts effective January 1, 1975. However, justices of the peace still exist in some of the counties. Each county had special legislation covering municipal counties. Ramsey county had seven municipal courts and now has one, the Ramsey County Municipal Court, which became effective January 1, 1975.

Proposed court reform: Proposals for a unified court system in Minnesota will be presented to the Legislature in January, 1976.

Minnesota

Probate county court, municipal, conciliation, and justice courts are courts of record. Probate court is not a court of record. Probate county court case appeals are heard by district court (general jurisdiction) on the record, except in cases tried by a non-lawyer judge, in which case the appeal is tried de novo in district court. Appeals from probate courts in Hennepin and Ramsey counties are tried de novo in district court. Appeals for cases tried in justice court are heard de novo by the probate county court, except those appeals from St. Paul justice of the peace, which are heard by the St. Paul Municipal Court. Municipal court case appeals are heard de novo by the district court. Appeals from the municipal courts of Hennepin County, St. Paul, and Duluth are taken directly to the supreme court, on the record, except for misdemeanor violation convictions, which are appealed to the district court. Conciliation court case appeals are heard de novo by the probate county court or the municipal court of Hennepin or Ramsey counties. Probate court case appeals are heard on the record by the district court unless the judge is a non-lawyer. In such cases, probate appeals are heard de novo by the district court.

Jury trial must be available in at least one court location in a county. Probate county, probate, municipal and conciliation courts all provide the right to jury trial. Justice court does not hold jury trials.

The supreme court and legislature both have authority to establish rules governing the pleadings, practices, procedures, and the forms thereof in all state courts. Lower courts with the exception of justice courts, have the authority to make local court rules which are not inconsistent with existing rules.

Minnesota

Judges of probate county courts, probate, municipal and conciliation courts must be attorneys. Mandatory retirement for judges is 70 years of age.

Mississippi

Effective reform date: NA

Trial court affected: County court, family court, municipal court and justice of the peace court.

Nature of court reform: NA

Proposed court reform: In 1968, the Mississippi Judiciary Commission was established by legislative enactment in order to survey and study the state's court system. Recommendations were made by the Commission to the 1970 legislative session. Proposals related to the personnel and practice in all limited and special jurisdiction courts were included. Other proposals made were designed to upgrade justice of the peace courts by: raising the qualification for the justices, placing them on a salary in lieu of the fee system, and changing venue requirements in order to discourage "forum shopping".

Mississippi

Lower courts of limited jurisdiction in Mississippi are courts of record, but no transcripts are made. Appeals from justice of the peace and municipal courts are heard de novo in county court (limited jurisdiction) where it exists or otherwise in circuit court (general jurisdiction). Appeals from county court are heard in circuit court for law causes and in chancery court for equity causes. In both types of appeals the cases are heard on the record. A defendant has a right to jury trial in all lower courts.

Court rules of civil practice and procedure were made by the Legislature until 1975 when that power was vested in the Supreme Court. Rule changes are submitted to the Legislature which must approve them by majority vote. The lower courts can make their own local rules which must be consistent with those promulgated by the Supreme Court.

County court judges in Harris County must be lawyers with five years law practice experience. Police justices are required to be lawyers in cities with over a 10,000 population. Family court judges are also required to be lawyers.

There is no mandatory retirement age due to judges being elected officials who are state employees. Usual retirement is at age 65, however, this requirement can be extended.

Missouri

Effective reform date: 1945

Trial court affected: Justice of the peace court, probate court, municipal and police courts, Cape Girardeau Court of Common Pleas, St. Louis Court of Criminal Correction.

Nature of court reform: In 1945, the justice of the peace system was abolished and replaced by salaried magistrates who must have legal training. In addition, the Supreme Court was empowered with the responsibility for the operation of the entire state court system.

The Supreme Court may transfer trial judges to other trial courts as well as make procedural rules for all courts.

Proposed court reform: A new judicial article, drafted (1975) by a committee of the Missouri Bar, will be submitted to voter approval in November, 1976. Proposed changes include: municipal courts served by lawyer judges. If a community decides against requiring a judge to be a lawyer, then all ordinance violations would be heard by the circuit court (general jurisdiction). Probate and magistrate court jurisdictions would be merged with the circuit court. Magistrate judges would become associate circuit court judges. Mandatory retirement for all judges would be 70 years of age.

Missouri

With the exception of municipal courts, all courts of limited jurisdiction in Missouri are courts of record. Minute entries only are kept. Lower court cases are appealed de novo to the circuit court except in magistrate court in Marion County where appeals go to the Court of Common Pleas. A defendant has a right to jury trial in magistrate and municipal courts, but not in probate court.

The Supreme Court makes rules of practice and procedure for the lower courts which generally are neither allowed nor proscribed from adopting local rules. The Legislature may make statutory laws for court rules of evidence. It also has the power to eliminate court promulgated rules but rarely does so.

In Kansas City, municipal judges are selected by the Missouri Plan. A judicial nominating commission submits a list of names to the mayor who makes the initial selection. Municipal judges then retain their office if they are approved by the voters in a non-partisan election when the initial term of office ends. Partisan elections are held for magistrate and probate judges in almost all other counties. In some areas the magistrate and probate is combined into one judgeship.

Removal of judges is handled by a Commission on judicial retirement, removal and discipline for all judges statewide.

Magistrate, probate, St. Louis Court of Criminal Correction, and Cape Girardeau Court of Common Pleas judges must be licensed to practice law in Missouri. Mandatory retirement is 70 years of age for judges under the non-partisan merit plan; there is no mandatory age for other judges.

Montana

Effective reform date: 1972

Trial court affected: Justice court

Nature of court reform: The 1972 Montana constitution provided for the establishment of at least one justice court in each county. It did not provide for municipal or police courts, which are now authorized by statute. The 1972 constitution and subsequent legislation provided several changes for the justice court. The number of justices of the peace in a county is influenced by the population of that county. The number of justices was reduced and their salaries were improved. Also improved were court room facilities.

Proposed court reform: A Commission on Lower Courts supervised by the supreme court is actively studying the lower court system. Areas being considered for future improvement include: the judicial record system, court rules, dockets, forms and instructions within the lower courts.

Montana

In the Montana judicial system, trial courts of limited jurisdiction are not courts of record. Appeals to the District Court are heard de novo. A defendant has the right to jury trial in all lower courts in Montana.

The supreme court makes rules for the lower court which may make their own rules provided they are consistent with the rules promulgated by the supreme court. Rules of procedure for the courts are set by statute.

Judges in municipal, justice, and police courts are not required to be lawyers. There is no mandatory retirement age for Montana judges.

Nebraska

Effective reform date: 1966, January 4, 1973

Trial court affected: Justice of the peace court, police court, county court and municipal court.

Nature of court reform: In 1966, a judicial qualification commission was established.

In 1972, legislation abolished justice of the peace and police courts and replaced them with county courts. Non-partisan merit selection is used to choose county court judges who must be attorneys in good standing. These changes became effective January 4, 1973.

Nebraska

Nebraska's lower courts are courts of record. Appeals to district court (general jurisdiction) are heard de novo but the case records are also used. Prior to 1973, all appeals were de novo without any records provided to the district court. Juvenile case appeals are taken to the supreme court and heard on the record. A defendant in Nebraska has a right to jury trial in the lower courts.

The Nebraska supreme court makes the rules for the lower courts through its general administrative authority over all courts. The lower courts may make their own rules which must be consistent with the state constitution, laws already enacted and those rules established by the supreme court. The legislature can repeal statutes pertaining to court rules with the understanding that the supreme court will replace the repealed rules.

Municipal and juvenile court judges are required to be lawyers. As of January 4, 1973 county court judges are required to be lawyers. Associate county court judges do not have to be lawyers. The associate county court judge is also the clerk of the county court. The associate judge's duties as clerk take up about 90% of his/her time while official judgeship duties take up the remaining 10%. Mandatory retirement age is 72 years for all judges.

Effective 1973, the jurisdiction of county courts increased for civil cases from \$1,000 to \$5,000. The county court is also the juvenile court except in Lincoln and Omaha counties which have separate juvenile courts. Probate matters are also handled by the county court. Small claims are handled by a separate department within the county court system.

New Hampshire

Effective reform date: 1957, July 1, 1964, 1972, 1973

Trial courts affected: Justice of the peace court, and municipal court.

Nature of court reform: In 1957, legislation removed all judicial functions from the office of justice of the peace. Reform legislation passed in 1963 aimed at phasing out the municipal court. On July 1, 1964, 27 of a total 85 municipal courts were established as district courts. The remaining 48 municipal courts were to be abolished if the individual towns failed to vote to retain the court. Municipal court was retained in 41 towns. The municipal courts were to continue until the office of the justice became vacant. When the vacancy occurred, the court would be abolished and the district court would have jurisdiction in that town. There were still 21 municipal courts as of January 1, 1974.

In 1972, exclusive jurisdiction in small claims action was expanded from claims not exceeding \$300 to those not exceeding \$500. Concurrent jurisdiction of the district court with the superior court (general jurisdiction) in civil matters was expanded for claims not exceeding \$1,500 to a \$3,000 maximum in 1973.

Proposed court reform: Proposals relating to the unification of district courts will be made by the Judicial Council of the Legislature. In September, 1975, a major study of standards and goals for the entire court system was initiated.

New Hampshire

District and municipal courts do not have transcripts prepared. Appeals from these two courts are heard de novo by the superior court. Probate court was overhauled in 1975. Probate appeals are on the record to superior court. A defendant in either district or municipal court does not have a right to jury trial.

Both the supreme court and the superior court have rule-making authority over the lower courts. The Administrative Committee of the district and municipal courts may recommend rules for those courts to the supreme court for its approval. Probate judges may suggest rules governing probate court business, which also are subject to supreme court approval.

Lawyers are not required for district or municipal courts. Whenever possible, a district judge should be a lawyer. Municipal judges must be learned, able and discreet. Mandatory retirement for judges is 70 years of age.

New York

Effective reform date: 1974

Trial court affected: All

Nature of court reform: The Office of Court Administration was created in 1974.

Proposed court reform: In 1973, the Temporary Commission on the New York State Court System recommended that a superior court be established as a statewide court of general jurisdiction. The supreme court, court of claims, county court, surrogate's court and the family court should be merged into the superior court. The New York City Criminal Court and the New York City Civil Court should be retained, and, in larger counties outside New York City, the district court should be mandatory, and all village courts should be abolished. No legislation has been introduced to effect these changes (as of September, 1975).

Constitutional amendments will be placed before the voters this year (1975) which provide for a Court Administrator, who is to be appointed by the Chief Judge of the Court of Appeals and confirmed by the Senate. New York now has a State Administrative Judge who is the Court Administrator. Another amendment to go before the voters would provide a two-tier judicial discipline system: 1) a Judicial Conduct Committee, and 2) a Court on the Judiciary for all judges.

It has been proposed by another amendment to transfer most rule-making power to the State Administrative Judge.

Nevada

Effective reform date: None

Trial court affected: None

Nature of court reform: None

Proposed court reform: A new judicial article to the state constitution was proposed in 1968 by the Legislative Commission of the Legislative Council Bureau. The article called for a unified trial court system with a single trial level court of general jurisdiction which would be the district court. The proposal also provided for the establishment of divisions with the district court and the appointment of magistrates to one or more of these divisions. In 1972, the electorate rejected these changes. In 1973, four new proposals covering almost the same changes passed a joint session of the Nevada legislature. If passed again by another resolution, the proposals will be submitted for voter approval at the next general election in 1976.

A resolution was approved for the first of two times by the Legislature in 1975 which would eventually increase the jurisdictions of the justice and district courts. The earliest a law could be enacted to effect this change would be 1979.

Nevada

Municipal and justice courts are not courts of record. Both courts' case appeals are heard de novo by the district court. Justice cases involving felonies are on the record. A defendant has a right to jury trial in justice court but not in municipal court.

The supreme court has primary rule making authority. Court rules for municipal and justice courts are provided by state statutes. Rules regarding municipal court records may be prescribed by the court administrator. Municipal and justice courts may make local rules and regulations, not inconsistent with the law which must be approved by the supreme court.

Lower court judges are not required to be lawyers. They may not, however, if attorneys, have a partner acting as an attorney or counsel in any court of the state. There is no mandatory retirement age for the judges.

New Mexico

Effective reform date: 1966

Trial courts affected: Justice of the peace court, magistrate court, and probate court.

Nature of court reform: Two constitutional amendments in 1966 required the abolition of the justice of the peace courts within five years. Magistrate courts were to be established in their place and were to be courts of limited original jurisdiction. A new Probate code has been passed and is subject to further revision in the 1976 Legislative Session.

Proposed court reform: Recommendations made to the Supreme Court of New Mexico include the abolishment of the Small Claims Court in Albuquerque, abolishment of trials de novo, and the consolidation of municipal, magistrate, small claim and probate courts into one court of limited jurisdiction which would be a court of record. In addition, all judges of the courts of limited and general jurisdiction, and the court of appeals should be required to retire at 70 years of age. Judicial salaries should be increased, as well as the qualifications to be eligible for judicial office. All judgeships should be full-time.

New Mexico

Probate court is a court of record. Municipal, magistrate, and small claims courts are not courts of record. Appeals from the lower courts are heard by the district de novo.

A person has a right to jury trial in probate and magistrate courts. Municipal and small claims courts do not hold jury trials.

Generally, the supreme court has rule-making authority over all lower courts. Probate court is governed by the Probate Code which is in the process of being revised by the legislature. The Rules of Civil Procedure which govern district court (general jurisdiction) apply to the small claims court. Magistrate court is subject to rules promulgated by the supreme court which regulate pleading, practice, and procedure in these courts. The administrative office of the courts has supervision and control of the administration of the magistrate courts. Municipal court is also under the rule making authority of the supreme court. Probate and small claims courts have local rule-making ability as far as making, publishing, and enforcing rules and orders regulating business and practice in their courts which must be consistent with state laws.

Probate judges are not required to be lawyers. In magistrate court, the judge must be a lawyer in districts with a population of 100,000 or more. Municipal court judges are not required to be lawyers unless the local government so requires. Small claims judges must be lawyers. There is no mandatory retirement age for the judges.

New Jersey

Effective reform date: 1947, 1972, 1973

Trial courts affected: All

Nature of court reform: New Jersey's court reform efforts began in 1947 with an attempt to unify its court system. An Administrative Director of the State court system was established who, to the present time, exercises control over limited and special jurisdiction court judges. Creation of the courts of limited and special jurisdiction was left to the legislature, which has established a multiplicity of trial courts since 1947.

In 1972, trial court administrators were provided on a statewide basis for assignment judges in the twelve judicial administrative regions. A court planning service for the judiciary was also provided. This service was to promote the development of innovative programs and acquisition of funding for the improvement of court operations.

Authorization to appoint a deputy director for the administrative Office of the Courts was granted in 1973 by (statute) legislative enactment.

New Jersey

County district juvenile and domestic relations criminal judicial district, and county traffic courts of record. Criminal appeals from county district court are heard by the county courts. Civil appeals from county district court and appeals from criminal judicial courts are heard by the appellate division of the superior court. Appeals from municipal court are heard by county court. Jury trial are held in county district, municipal and criminal judicial district courts.

Rules governing the administration, practice, and procedure for all state courts are made by the supreme court.

Lawyer judges are required in county district, juvenile and domestic relations, municipal and criminal judicial district courts. Mandatory retirement is set at 70 years of age for county district and the juvenile and domestic relations courts.

New York

Courts of record in New York include: court of claims county, surrogate's, family, New York City Criminal, and New York City Civil, Courts. Town and village and justice courts are not courts of record. Appeals from county, surrogate's, family, court of claims, New York City Criminal, and New York City Civil courts are heard on the record by the appellate division of the supreme court. District court appeals are heard on the record by county court of the appellate division of the supreme court. Justice court appeals are heard by the county court of the appellate division of the supreme court. City courts' (outside New York City) appeals are heard on the record by county court.

Jury trials are held in county, surrogate's, New York City Criminal, New York City Civil, district, city, town and village, and justice courts.

The lower courts are governed by specific uniform court acts, i.e., Uniform Family Court Act, Rules of Criminal Procedure, Civil Practice Laws, Civil Rules, and by local rules consistent with any state laws, which the court itself may adopt.

Lawyer judges are required in court of claims, county, surrogate's, family, district, city courts outside New York City, justice, New York City Criminal, and New York City Civil courts. Mandatory retirement age for lower court judges is December 31 of the judge's 70th year.

North Carolina

Effective reform date: 1966-1970, 1974

Trial courts affected: Justice of the peace court, mayors' court, domestic relations and juvenile courts, recorders court, city court and county court.

Nature of court reform: A two-tier trial court system was introduced in North Carolina between 1966 and 1970. The district court, a limited jurisdiction court, replaced justice of the peace, mayors', domestic relations and juvenile, recorders, city, and county courts. When the district court was created, it was given jurisdiction over: civil cases involving \$5,000 or less; criminal cases less than felonies; domestic relations and juvenile cases. Watchdog over the state court system is the North Carolina Courts Commission which is responsible for the organization, jurisdiction, procedures and personnel of the courts. All courts are state funded.

Mandatory retirement for district court and superior court judges was established as 70 years of age by the Judicial Retirement Act which became effective January 1, 1974. Those judges already in office were not affected by this change.

North Carolina

District court is a court of record for civil matters and not a court of record for criminal matters. The criminal appeals are heard de novo by the superior court. Civil appeals are heard on the record by the Court of Appeals. Cases handled by magistrate judges may be appealed and heard de novo by the district court. A defendant does not have a right to jury trial under either a magistrate or a district court judge.

Rules of procedure for the lower courts are made by the supreme court. The chief judge of the district court (limited jurisdiction) can make rules or orders which apply to the hearing of actions and prescribed the location of magistrate courts and bail procedures. The legislature also has a statutory rule making authority.

North Dakota

Effective reform date: 1959, 1975

Trial court affected: Justice of the peace court.

Nature of court reform: In 1959, legislation was passed which replaced justice of the peace court with a county justice court. The county justices were salaried and qualified to practice law in the state.

In the 1975 session of the Legislature, a judicial qualifications commission was created in order to consider the removal of any judge. The commission may make recommendations to the supreme court who then must rule upon it.

North Dakota

Municipal and county justice courts are not courts of record. County courts are courts of record. Trial de novo is held in district court (general jurisdiction) for: 1) appeals made from county court regarding probate and testamentary cases; and 2) appeals made from county justice court regarding civil actions. Trial de novo is held in either district court or county court of increased jurisdiction for appeals from municipal court.

A defendant has a right to jury trial in county justice court, in criminal cases, and by demand in civil cases in county courts of increased jurisdiction. In municipal court, violations of city ordinances are tried by the judge. A defendant has a right to jury trial when the case is appealed.

Both the county court and the county justice court may adopt local rules provided they are consistent with state rules and statutes. Both the supreme court and the legislature can make rules for the courts. In either civil or criminal cases in municipal court, the process and proceedings are governed by the same provisions regulating justice courts.

North Dakota has attempted to require lawyer judges but there still are loopholes in the laws. Very few municipal judges are lawyers. In municipal court, the judge must be an attorney licensed to practice in the state unless no such person is available or the population is less than 3,000 people. In county justice court, the judge must be licensed to practice law in the state. County court judges must be learned in the law and be at least 25 years of age. All judges are elected on a non-partisan ticket. There is no mandatory retirement age for the judges in North Dakota.

Ohio

Effective reform date: 1973, 1975

Trial court affected: Court of common pleas (general jurisdiction)

Nature of court reform: In November, 1973 the voters of the State of Ohio approved the establishment of divisions of the Court of Common Pleas (general jurisdiction) and the organization of this court into districts. The police court of Ottawa Hills was abolished in 1975.

Proposed court reform: The Ohio Municipal Judges Association followed the 1973 voter-approved changes with a proposal that the municipal and county courts be incorporated within the structure of the Court of Common Pleas as a division of that court. This would create a single trial court system in Ohio.

The Ohio Constitutional Revision Commission is in favor of abolishing all existing limited jurisdiction courts and may recommend that a part-time lawyer-magistrate court replace these courts.

Ohio

County and municipal courts are courts of record. Mayor's court is not a court of record. From county and municipal courts any party may appeal a case to the court of appeals which hears the case on the record.

Appeals from mayor's court are taken de novo to the county court or the municipal court.

Jury trials are held in county court in civil and criminal cases on demand. A defendant has a right to jury trial in municipal court by written demand.

The supreme court prescribes rules governing practice and procedure in all state courts. County courts may adopt rules concerning court practice which are not inconsistent with those promulgated by the supreme court. Municipal court is governed by the same rules of civil practice and procedure as used in the court of common pleas or county court, unless special provisions are given. The municipal judge has the power to adopt, publish, and revise rules for the regulation of court practice, procedure and administration. Mayor's court is governed by criminal rules of procedure of the supreme court.

Judges in county and municipal courts must have been admitted to the state bar. Mayor's court judges are not required to be lawyers. Mandatory retirement for judges is 70 years of age. Mayor's court judges are not under the state retirement requirements.

Oklahoma

Effective reform date: 1968

Trial court affected: Superior court, common pleas court, county court, children's and juvenile court, justice of the peace court, and municipal courts.

Nature of court reform: Court reform efforts in 1968 effected the abolition of superior, common pleas, county, children's and juvenile, and justice of the peace courts.

Administrative reforms have taken place in municipal courts, for which a Manual of Rules and Procedures was prepared by the Administrative Office of the Supreme Court.

Oklahoma

There are no lower courts of limited jurisdiction in Oklahoma except for city funded courts. Appeals from the municipal criminal court of record are heard on the record by the court of criminal appeals. Jury trials are held in this court. The municipal court not of record holds jury trials if the judge is a lawyer. Appeals from this court are heard de novo by the district court.

The supreme court has administrative or managerial control over these city funded courts. The legislature has rule-making authority over rules of procedure and evidence. Municipal court may make rules regulating court business which must be consistent with any rules established by the supreme court or by statute.

Lawyer judges are required in the municipal criminal court of record. The municipal court not of record does not require lawyer judges. There is no mandatory retirement age for these judges.

Oregon

Effective reform date: January 1, 1977

Trial court affected: District court

Nature of court reform: Legislation effective January 1, 1977 makes district court a court of record, raises its civil jurisdiction to \$3,000 and provides that appeals be on the record to circuit court (general jurisdiction) rather than de novo.

Current court structure: District and county courts are not courts of record. County court appeals are heard de novo by the circuit court. Municipal and justice courts are not courts of record. Municipal and justice court appeals are heard de novo by the district court. A defendant has a right to jury trial in district, municipal, and justice courts. No jury trials are held in county court.

District court judges must be lawyers. Municipal, county, and justice court judges are not required to be lawyer judges. Mandatory retirement for judges is 75 years of age.

Oregon

County, district, municipal, and justice courts are not courts of record. Appeals from county and district courts are heard de novo by the circuit court. Municipal and justice court appeals are heard de novo by district court. A defendant has a right to jury in district, municipal, and justice courts, but not in county court.

The supreme court has general administrative and supervisory authority over all state courts. The legislature makes rules of civil and criminal procedures for the courts. The courts themselves have local rule-making power over court business and operations.

District Court judges are required to be lawyers. County, municipal, and justice court judges are not required to be lawyers. Most cities are using lay judges except for the larger cities. Mandatory retirement for the judges is 75 years of age.

Pennsylvania

Effective reform date: 1968

Trial court affected: Municipal and traffic courts in the city of Philadelphia, and justice of the peace court.

Nature of court reform: In 1968, the present Judicial article of the Pennsylvania Constitution was adopted. Municipal and traffic courts in the city of Philadelphia and justice of the peace courts were provided for, along with authorization for the legislature to establish any additional courts. The constitution allows for the replacement of municipal, traffic, and justice of the peace courts by the establishment of a community court. Community courts in each judicial district may be established by a majority vote of the electors within a district. To the present time, no community courts have been established.

Proposed court reform: Legislation promoted by the Administrative Office of the Pennsylvania Courts is pending to provide secretarial and support services to "senior" judges (retired judges hearing cases).

Pennsylvania

Municipal court of Philadelphia is a court of record. Traffic court of Philadelphia and the traffic, city and housing courts of Pittsburgh are not courts of record. Appeals from the lower courts are heard de novo by the court of common pleas (general jurisdiction). A defendant does not have the right to jury trial in any of the courts not of record.

Pennsylvania Supreme Court prescribes general rules governing practice and procedures for all courts. The superior court shares rule-making power in matters of criminal procedure. The lower courts may adopt additional local rules which must be consistent with those prescribed by either the supreme or superior courts.

Judges of the municipal court of Philadelphia are the only lower court judges required to be lawyers. Mandatory retirement for the judges is 70 years of age.

Rhode Island

Effective reform date: 1944, 1961, 1969

Trial courts affected: All

Nature of court reform: Jurisdiction over juvenile matters was transferred from the district court to the juvenile court in 1944. In 1961, the family court was created by legislative enactment. Domestic relations cases were then transferred from the superior court to the family court, which also has jurisdiction over juvenile cases. The 1969 Court Reorganization Act created a three-tiered court system in Rhode Island. The state administers and finances all courts within the system. Probate and municipal courts are not part of the new system.

Rhode Island

Probate, family, and municipal courts are courts of record. Appeals from probate, and municipal courts are heard on the record by superior court. District court appeals are heard de novo by superior court. Family court appeals are heard by the supreme court on the record. Jury trials are held in municipal court and in family court only for domestic relations cases.

Court rules are made by the lower court themselves. District and family courts have revised their court rules, which are subject to supreme court approval. Rules of procedure for probate court are provided by statute and by the court itself.

Probate, family, and district court judges are required to be lawyers. Municipal judges' requirements vary according to the municipality. There is no mandatory retirement age for lower court judges.

South Carolina

Effective reform date: 1968

Trial courts affected: Juvenile and domestic relations courts.

Nature of court reform: In 1968, all juvenile and domestic relations courts were replaced by family courts. The name, juvenile and domestic relations court, is still used in some counties. This non-uniformity is due to the fact that in South Carolina the counties exercise strong control over the courts of limited and special jurisdiction. Almost every statute relating to these courts varies in some way from county to county.

Proposed court reform: The General Assembly created a special Judicial System Study Committee, which has recommended that all courts of limited and special jurisdiction be abolished. In lieu of the present lower court structure, six divisions (civil, criminal, family, equity, traffic, and probate) within a District Court would be created. No action was taken on these proposals by either the 1974 or 1975 sessions of the General Assembly.

A constitutional amendment, ratified in 1973, mandated a uniform statewide system of courts. By June of 1976, the state is required to have passed legislation which implements this unified system.

South Carolina

Magistrate and city recorder's (municipal) courts are not courts of record. Probate, county, family, and civil and criminal courts are courts of record. Appeals from the lower courts are de novo. A defendant has a right to jury trial in all lower courts except in family court in regard to juvenile cases.

State Court Administrator's office in South Carolina issues court rules for magistrate court. Family court issues its own rules which must be consistent with state statutes. County court follows rules established for the circuit court by statutory provisions.

County, family, and, generally, civil and criminal court judges are required to be lawyers. Probate, magistrate, and municipal court judges are not required to be lawyers. Mandatory retirement is 70 years of age for those judges who participate in the state retirement system and 72 for those who do not.

South Dakota

Effective reform date: January 7, 1975

Trial court affected: County district court, municipal court, police magistrate court, and justice of the peace court.

Nature of court reform: A new judicial article to the state constitution, adopted by the voters in 1972, established a new judicial system in South Dakota. The new system became effective January 7, 1975 and establishes a unified court system in the state. The county district, municipal, police magistrate, and the justice of the peace courts were abolished. The legislature was empowered to establish courts of special and limited jurisdiction. Two new courts were created by the legislature: law-trained magistrate courts and magistrate courts.

The Chief Justice of the Supreme Court is head of the unified system. Budgeting for the whole system is done by the Chief Justice's Office and the state finances it. The Supreme Court has the superintending powers over all courts and makes rules of practice and procedure for all courts.

South Dakota

Magistrate court, the only court of limited jurisdiction in South Dakota, is not a court of record. Appeals are taken to the circuit court (general jurisdiction), where they are heard de novo. If a jury trial is requested in magistrate court, the case is transferred to circuit court.

The Supreme Court has general superintending powers over all courts and may make rules of practice and procedure and rules governing the administration of all courts. Such rules may be changed by the legislature. Magistrate court does not have local rule-making ability.

Magistrates do not have to be licensed to practice law in South Dakota. Those magistrates designated as "law-trained magistrates" are licensed to practice law in the state. Mandatory retirement for all judges is 70 years of age.

Tennessee

Effective reform date: None

Trial court affected: None

Nature of court reform: None

Proposed court reform: Tennessee has a multiplicity of courts of limited jurisdiction. Proposed for the state is a single state-wide court of limited jurisdiction which would have full-time professional judges. The Clerk of the circuit court (general jurisdiction) should be the clerk of the proposed district court (limited jurisdiction). Appeals from District Court would be made to the circuit court and based on a tape recording of the case as heard in district court.

Tennessee

County, general sessions, city and justice of the peace courts are not courts of record. Probate and juvenile courts are courts of record. Appeals from county, juvenile, and justice of the peace courts are heard de novo by circuit court. General sessions and city courts' appeals are heard de novo by circuit court or the court of appeals. Probate appeals are heard de novo, but on the record by the Court of Appeals or the chancery Court. Jury trials are held in juvenile and probate courts.

The supreme court promulgates civil rules of procedure for the courts. Generally, the lower courts establish court rules on a local basis. The legislature is limited to notification of changes made by the supreme court.

Lawyer judges are required in less than half of the county and general sessions courts, and in only a few city courts. There is no mandatory retirement age for the judges.

Texas

Effective reform date: None

Trial court affected: None

Nature of court reform: None

Proposed court reform: In 1973, the Chief Justice's Task Force proposed a new judicial article which provided a two-tiered trial court system and the selection and tenure of judges by a system of appointment similar to the Missouri Plan. The proposal was not approved due to the convening of a Constitutional Convention in 1974. The Legislature decided not to approve the proposal in order to avoid a piecemeal approach to Constitutional revision.

Another attempt to introduce a different judicial article in 1974 also failed to be approved by the Constitutional Convention.

A new judicial article is being presented for voter approval on November 4, 1975. If passed, the legislature will be given the responsibility of passing the necessary enabling legislation for changes in the state court system.

Texas

Constitutional county court, statutory county court at law, and three municipal courts are courts of record. The remainder of the municipal courts and justice courts are not courts of record. Appeals from constitutional county court and statutory county court at law are heard on the record: for civil appeals by the court of civil appeals, and for criminal appeals by the court of criminal appeals. Justice and municipal court appeals are heard de novo by either the constitutional county court or the statutory county court.

A defendant has a right to jury trial in all four courts of limited jurisdiction. The special domestic relations and juvenile court where it exists is a substitute court in some counties for district court (general jurisdiction).

Civil case rules are made by the supreme court and criminal case rules are made by the legislature. The lower courts have limited rule making ability in civil and administrative matters.

Judges in constitutional county court, justice court, and municipal court do not have to be lawyers. Judges in statutory county courts, the three municipal courts, and any other municipal courts whose municipalities so decide, are required to be lawyers. Generally, there is no mandatory retirement age for the judges. Statutes pertaining to county courts at law are specific for individual courts and may require lawyer judges in some of these courts.

Utah

Effective reform date: 1970, 1971, 1975

Trial court affected: All

Nature of court reform: A juvenile court system throughout the state was established by the legislature in 1970. All justices of the peace are required by a 1971 law to attend one annual institute supervised by the Utah Supreme Court. In addition, mandatory retirement age for all trial judges was set at 70 years and 72 years for all Supreme Court justices. Justices of the peace are not covered by the provisions of the 1971 retirement act. At the same time a judicial qualifications commission was created to handle removal of judges from office. Other forms of judicial removal still in effect are removal by: impeachment, legislative vote, and forfeiture.

In a special legislative session in June, 1975, a bill was passed which provides that every defendant has the right to be tried and sentenced by a lawyer judge. In order to be heard by a justice of the peace who is not required to be a lawyer, the person must waive this right.

Proposed court reform: In 1971, the Utah Legislative Council was given the task of preparing recommendations for the modernization and unification of the Utah court structure. The unified court system recommended by the Legislative Council would provide a two-tiered structure. The structure would encompass a Supreme Court, or appellate division which would hear all cases appealed from the lower court, and a District Court, or trial division, which would have specialized departments for handling of different kinds of litigation. City, juvenile and justices' courts would be abolished and their functions assumed by the District Court.

Utah

Juvenile court and city court (no mechanical recording devices) are courts of record. Justice courts are not courts of record. Cases are appealed for all three courts de novo to the district court. Jury trials may be held in city court if the fine is more than \$50 or more than 30 days in jail. Justice court holds jury trials in some cases.

The Judicial Council has statutory authority over the establishment of rules and policies for all the courts. A study is being made of the court rules of practice at the present time. Lower courts may make their own local rules provided these do not conflict with any rules already made by either the Judicial Council or the Supreme Court.

In Utah juvenile and city court judges must be members of the bar in good standing. Justices of the peace do not have to be lawyers. Juvenile and city court judges have a mandatory retirement age of 70 years. Justices of the peace do not come under the state retirement provisions.

Vermont

Effective reform date: 1946, 1956, 1967, 1968, 1974

Trial courts affected: District court, justice court and probate court.

Nature of court reform: In 1946, the Judicial Council was established.

Probate judges were placed on a salary basis and the fee system was abolished in 1956. The position of Court Administrator was created in 1967.

The Judicial Constitutional Amendment, ratified in March, 1974, placed the judicial power of the state in a unified judicial system. The Supreme Court was given both administrative and supervisory power over the unified system. Probate judges are to be elected for four-year terms instead of two-year terms. Except when commissioned as magistrates by the Supreme Court or when marrying people, justices of the peace no longer exercise judicial duties. Also provided was that all justices and judges are required to retire at the end of the calendar year in which they reach 70, whichever occurs later. In addition, district court was given jurisdiction of mental illness commitment cases.

In 1968, district court judges were changed from being elected officials to being appointed.

The Supreme Court may suspend all justices and judges for cause and in the manner provided by law. Also, the Supreme Court may make the rules for administrative practice and procedures for all courts, but all supreme court rules are subject to change by the legislature.

Proposed court reform: Implementation of the 1974 constitutional amendment providing a unified judicial system is being enacted by the legislature at this time. In a present bill before the legislature is the provision for the consolidation of superior and district courts. The bill would also give to

Vermont

the Supreme Court complete assignment, jurisdiction, and personnel transfer power including judicial and non-judicial employees with the court system.

District, probate, and justice courts are courts of record. Appeals from the district court are made to the state supreme court. Probate appeals are usually heard de novo by the superior court; questions of law may be appealed directly to the Supreme Court. Appeals from justice court may be taken to the county court or to the district court within such county having jurisdiction. In district court a defendant has the right to jury trial. The right to jury trial in justice court is implied.

District court judges are now appointed and retained in the same manner as superior and supreme court judges: the Governor receives a list of certified candidates from the Judicial Selection Board and appoints one from the list. The Senate has the power of confirmation. For retention in office: after each 6-year term, the legislature votes "yes" or "no".

All lower court judges are required to be attorneys except for probate judges. Mandatory retirement for district and probate judges is 70 years of age.

West Virginia

Effective reform date: January 1, 1975

Trial court affected: Justice of the peace court, juvenile court, common pleas court, criminal court, intermediate court, domestic relations court, county court, and municipal court.

Nature of court reform: A constitutional amendment passed on November 5, 1974, provided for several changes regarding courts of limited jurisdiction. All justice of the peace courts were to be abolished and the legislature was empowered to create magistrate courts. The justices of the peace were to become magistrates and be paid a salary .

Justice of the peace/magistrate courts are currently in a state of limbo. The court, referred to as justice of the peace, has not been entirely abolished due to the fact that the legislature has not as yet, (November, 1975) enacted legislation which would create the magistrate court.

Authorization was given the legislature to establish new municipal courts. Municipal courts now in existence will continue until 1977, when their jurisdiction will be limited to enforcement of municipal ordinances. The remaining courts of limited jurisdiction were absorbed by the circuit courts (general jurisdiction).

West Virginia

Magistrate court and municipal court are not courts of record. Appeals from both courts are heard de novo by circuit court (general jurisdiction). A defendant has a right to jury trial in magistrate court. There are no jury trials in municipal court.

The State Supreme Court of Appeals has general supervisory power over all courts. The legislature also has rule-making authority pertaining to criminal procedures. Magistrate and municipal courts may adopt rules governing court business and operations.

Judges in the lower courts are not required to be lawyers. There is no mandatory retirement age for judges in West Virginia.

Virginia

Effective reform date: July 1, 1973

Trial courts affected: County court, and domestic relations court, municipal court, police court, mayors' court, police justice court, traffic, civil, town and trial justice courts.

Nature of court reform: All the above courts of special and limited jurisdiction were abolished effective July 1, 1973. The new court system divided the state into 31 judicial districts, each of which has one general district court and one juvenile and domestic relations court (limited jurisdiction). Justice of the peace court was left in the system, however, effective January 1, 1974, this court was being phased out as the individual judges' term expired.

On July 1, 1980, all positions that allow for part-time judges on courts of special and limited jurisdiction will be abolished. In addition, no district judge elected on or after July 1, 1980 shall be elected to serve in more than one district or on both a general district court and a juvenile and domestic relations court.

Virginia

County general district court and juvenile and domestic relations district courts are not courts of record. Appeals from both lower courts are heard de novo by the circuit court (general jurisdiction). Jury trials are not held in either court.

Neither court of limited jurisdiction has local rule-making ability. The Supreme Court has the authority to make court rules for all courts. The legislature has the authority to make statutory laws governing the court rules, but it usually leaves rule-making to the supreme court. If any question arises, the statutes prevail over any supreme court rules.

Judges in both lower courts are required to be lawyers. Mandatory retirement is 70 years of age for all judges elected after 1970. Those judges elected prior to 1970 who turn 70 before their term expires may finish out their term of office.

Washington

Effective reform date: 1961, 1975

Trial court affected: Justice court, district court, and municipal court

Nature of court reform: In 1961 legislation was enacted which allows any county, by majority vote of its County Board of Commissioners, to replace its justice courts with a district court. As of June, 1974 only two counties failed to exercise this option.

Proposed court reform: Effective June 17, 1975, it is possible to have non-lawyer, full-time judges in second class and larger counties (over 70,000 population). This law repealed the 1973 law which required that all full-time, district and municipal court judges be attorneys.

Washington

District, justice, and municipal courts are not courts of record. Appeals from all 3 courts are heard de novo by the superior court (general jurisdiction). A defendant has a right to jury trial in all three courts.

Lower courts are governed by the rule-making authority of both the supreme court and the legislature. The lower courts also can make local rules which are consistent with supreme court rules and state statutes.

All full-time district and municipal court judges are not required to be attorneys. Mandatory retirement for all judges is 75 years of age.

Wisconsin

Effective reform date: 1966, 1971

Trial court affected: Justice of the peace court, municipal court

Nature of court reform: An amendment to the Wisconsin Constitution in 1966 abolished the office of justice of the peace. The present system of municipal courts was created by the Legislature at the same time. In 1971, municipal court lost the authority to have jury trials, handle criminal matters or perform marriages.

Proposed court reform: In 1973, the Citizens Study Committee on Judicial Organization recommended changing the name of the municipal court to the municipal ordinance bureau. Jurisdiction of the bureau would be restricted to the assessment and collection of forfeitures from municipal ordinance violations. All contested cases would be handled by the general trial court. Also recommended was the development of a single level trial court of record with general jurisdiction. None of these suggested changes has been considered by the Wisconsin Legislature.

Wisconsin

Wisconsin has one court of limited jurisdiction, municipal court, which is not a court of record. Appeals are heard de novo in circuit court. If a defendant requests a jury trial, the case is transferred to county court (general jurisdiction).

Court rule-making power is exercised both by the supreme court and the legislature. When the supreme court makes court rules, they become statutory law. The municipal court can make local rules which must be consistent with the supreme court rules.

Municipal judges' qualifications for office are determined by the city or town in which the court resides. Retirement provisions are also decided by the local government creating the court.

Wyoming

Effective reform date: January 1, 1975, January 1, 1979

Trial court affected: Justice of the peace court

Nature of court reform: Effective January 1, 1975, the fee system in the justice of the peace courts was abolished, the justice must be authorized to practice law in Wyoming and must be a qualified elector of the county. The Supreme Court has superintending control of the justice courts and assigns the justices of the peace their judicial duties. Trial de novo were also eliminated effective January 1, 1975.

Effective January 1, 1979, a county court system (limited jurisdiction) will be established in those counties where the justice courts will have been eliminated. The board of commissioners in counties of more than 30,000 people and municipalities of more than 15,000 people are required to establish the county court. In those counties and municipalities with a small population respectively, the board of commissioners could establish a county court.

Wyoming

Wyoming limited jurisdiction courts are courts of record. In county, municipal and justice court cases, appeals to the district court (general jurisdiction) are heard on the record.

A defendant in county court receives a jury trial in criminal cases as of right, but in civil cases he must request a jury trial. There is no right to jury trial in municipal court unless the defendant can be incarcerated. The defendant must request a jury trial in justice court cases.

County courts are governed by the Wyoming Rules of Civil Procedure and the Wyoming Rules of Criminal Procedure. All courts' procedures and regulations are promulgated by the Supreme Court. Municipal court conforms to the procedural rules established for justice courts. Local cities or towns may also provide procedural rules which do not conflict with general state laws.

County court judges are required to be qualified to practice law in Wyoming. A non-lawyer may run for judicial office if a lawyer is not available to run. Municipal court judges are not required to be lawyers unless the local governing body so requires. Justices of the peace are required to be lawyers. Approximately one-third of the justices of the peace are lawyers, and slightly more than 50 per cent of the municipal judges are lawyers. Such things as population, location and availability have affected the requirement for a lawyer-judge in justice court. Mandatory retirement is 70 years of age for all judges.

APPENDIX F.

QUESTIONNAIRES USED

IN STUDY

NEW MEXICO
TRIAL COURTS OF LIMITED JURISDICTION
JUDGES QUESTIONNAIRE

PART I - General Information:

1. Specific Name of your Court? _____

2. Address of Court? _____

3. Your name and official title? _____

4. Telephone number? _____
5. Are you a full-time or part-time Judge? _____
6. Salary? _____ per _____
7. How long have you been Judge of this Court? _____
8. What is the date of your most recent appointment or election to the bench?

9. Prior to becoming this Court's Judge, what occupation were you in? (If part time Judge, what is your occupation?) _____

10. Are you also a Judge in another trial court of limited jurisdiction? _____
If yes, give the name of the court and the address. _____

11. Are you licensed to practice law in New Mexico? _____

12. Age? _____ Date of Birth? _____

13. Highest level of Education attained:

a. High School Graduate: _____

b. G.E.D. Equivalency: _____

c. College Degree(s): _____

PART II - Facilities:

14. a. Do you rent Court space? _____

b. If yes, from whom? _____

c. If yes, how much do you pay per month? _____

15. Is your Court facility located in:

a. A public office building? _____

If yes, indicate specific governmental entity such as municipality,
county, state, etc: _____

b. A commercial office building? _____

c. A private residence? _____

d. Other? _____

16. a. What do your Court facilities include? (Hearing room, Judge's chambers, jury deliberation room, library, conference room, etc.) _____

- b. Your courtroom has:

1. Elevated bench? _____

2. Witness stand within reasonable view and hearing of judge and jury? _____

3. Court reporter stand close to witness stand, bench and jury? _____

4. Tables for counsel? _____

5. Microphones? _____

6. Adequate acoustics? _____

7. Adequate heating, cooling and ventilation? _____

8. Adequate lighting? _____

9. Adequate spectator space? _____

10. Other? _____

c. Square feet? _____

17. a. Is this the only place your court sits? _____

b. If no, give addresses of court's other locations. _____

18. How would you rate your overall court facilities? (Adequate or inadequate?)

19. Is there a sign in the building housing the court which clearly identifies your court?

PART III - Equipment

20. Which of the following equipment is in your court?

	<u>ITEM</u>	<u>QUANTITY</u>	<u>MAKE/MODEL</u>	<u>AGE</u>
a.	Typewriter	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
b.	Word Processor	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
c.	Adding Machine	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
d.	Calculator	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
e.	Accounting Machine	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
f.	Mini-computer	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>
g.	CRT	<hr/> <hr/>	<hr/> <hr/>	<hr/> <hr/>

	<u>ITEM</u>	<u>QUANTITY</u>	<u>MAKE/MODEL</u>	<u>AGE</u>
h.	T/S system	_____	_____	_____
i.	Mailing Equipment	_____	_____	_____
j.	Dictation Equipment	_____	_____	_____
k.	Filing Equipment	_____	_____	_____
l.	Telephone(s)	_____	_____	_____
m.	Reproduction Equip- ment	_____	_____	_____
n.	Microfilm Equipment:			
	1. Camera	_____	_____	_____
	2. Processor	_____	_____	_____
	3. Reader/Printer	_____	_____	_____
o.	Audio/Video Equipment	_____	_____	_____
p.	Other	_____	_____	_____

21. How would you rate your equipment? (Adequate or inadequate?) _____

PART IV - Organization:

22. a. List your staff by title and briefly describe the duties of each. _____

[illegible]

23. Are there any formal written evaluations of personnel performance in your court? _____ If yes, who performs evaluations? _____

PART V - Training:

24. a. Is there an association of judges for your particular court in New Mexico?

b. If yes, are you a member of the association?

c. If no, state reasons why not.

25. a. Have you or members of your staff ever attended any training sessions on the administration or operation of your court? _____
- b. If yes, please indicate:
1. Where and when the most recent sessions were held: _____

2. Who conducted the sessions: _____

3. The principal topics covered at the sessions: _____

26. a. Do you see any need for further training of program administration and staff? _____
- b. If yes, please indicate what you consider the most important topics to be covered in future training sessions. _____

27. a. Do you have any formal in-house procedures for training new administrative, secretarial and clerical employees? _____

b. If yes, who conducts in-house training? _____

28. a. Do you have any training manuals or benchbooks? _____

b. If yes, what are the titles? _____

PART VI - Administration:

29. What are the operating hours and days for your court? _____

30. a. What is the paid fee for the following:

1. Interpreters? _____

2. Court Reporters? _____

3. Expert Witnesses? _____

b. What other expenses (mileage, meals, housing) are paid and what are the minimum/maximum costs allowed? _____

c. What is the basis for the particular fees and expenses? _____

31. a. Do you have a schedule for retention and destruction of records? _____
b. Do you have a record of transferred or destroyed files? _____

32. Have you considered microfilming court records? _____

33. Have you applied for a microfilm program in your budget? _____
When? _____
34. Who has access to case files? _____

35. Are there any controls over access of case files? _____

36. Has your court lost any case files? _____

37. Who designs the legal and administrative forms used in your court? _____

38. From whom do you purchase these forms? _____

39. Do attorneys or personnel not employed by the Judicial Department pay for the forms provided by the court? _____

40. Where do you store active and inactive case files? _____

41. Where do you store exhibits? _____

42. What do you do with exhibits after a case has been declared inactive? After
a case has been dismissed? _____

43. What moneys do you receive? _____

44. How do you account for moneys received? (Please explain in detail.) _____

45. a. How often are your books audited? _____
b. By whom are they audited? _____

c. When were you last audited? _____
d. What would you think of having an auditor from the State Court Administra-
tor's Office do you regular audit? _____

46. Do you have any problems regarding the case statistics sent to the State Court Administrator's Office? _____

47. How much time (percentage) do you spend in preparing these reports? _____

48. How are jury trials scheduled? _____

49. Explain procedure for selecting jurors: _____

50. How far in advance are prospective jurors notified to appear? _____

51. How many jurors are summoned for civil and criminal cases, if any formula exists? _____

52. How are jurors notified to appear? _____

53. Is there an orientation program for jurors? _____
If yes, what is the program? _____

54. How are cases calendared in your court? Do you develop the calendar? _____

55. Do the district attorney and public defender have any role in the calendaring process? If yes, what is their role? _____

56. What administrative functions do you delegate? _____
a. Budget? _____

b. Purchasing? _____

c. Calendaring? _____

d. Jury selection and management? _____

57. Approximately how much time (percentage) do you devote to administrative functions? _____

58. If an administrative problem emerges which you cannot resolve, who do you contact for assistance? _____

59. Who prepares your budget? _____

60. If you need supplemental funds, how do you acquire those funds? _____

61. What is the average time required to get criminal cases to trial? Contested civil cases? _____

62. How is the calendar managed in your court? _____

63. What do you think of standardized methods and procedures of bookkeeping for the state audit? _____

64. Should there be greater communication between your court and the State Court Administrator's Office regarding the budgeting process? _____

65. What do you think of a central purchasing unit to provide supplies, equipment, and furniture for the court? _____

66. Should forms used in the courts be standardized throughout the state? _____

67. What does your court's law library include? _____

68. What kind of contact do you have with the State Court Administrator's Office? _____

69. What types of information and/or assistance would you like to receive from the State Court Administrator's Office? _____

70. Art. VI. Sec. 13 of the New Mexico Constitution provides that district courts shall have supervisory control over the inferior courts and tribunals in their respective districts. How does the district court supervise your court? _____

71. Would you like to have more, less or the same degree of supervision by the the district court? _____
If more or less, please explain in detail. _____

72. What "non-supervision" contact do you have with the district court? _____

NEW MEXICO

TRIAL COURTS OF LIMITED JURISDICTION

DISTRICT COURT JUDGES QUESTIONNAIRE

1. Your name and official title? _____

2. Address of Court? _____

3. Telephone number? _____
4. How long have you been judge of this court? _____
5. a. Is this the only place your court sits? _____
b. If no, indicate other locations? _____

6. Cases on appeal from the trial courts of limited jurisdiction are heard de novo in the district court. How many trials de novo have you heard this year? _____

7. Art. VI, Sec. 13 of the New Mexico Constitution provides that district courts shall have supervisory control over the inferior courts and tribunals in their respective districts. How does your district court supervise the lower trial courts? _____

8. a. Would you like to have more, less or the same degree of supervision over the inferior trial courts? _____
- b. Please give reasons for your position. _____
- _____
- _____
- _____
9. What "non-supervision" contact do you have with the lower courts outside trial de novo? _____
- _____
- _____
10. How would you generally rate limited jurisdiction judges of courts in your district in the following areas:

(Circle one number)	<u>POOR</u>	<u>BELOW AVERAGE</u>	<u>FAIR</u>	<u>GOOD</u>	<u>ABOVE AVERAGE</u>	<u>EXCELLENT</u>
a. Knowledge of legal procedures	1	2	3	4	5	6
b. Knowledge of technical, substantive law	1	2	3	4	5	6
c. Ability to communicate	1	2	3	4	5	6
d. Ability to keep abreast of legal developments	1	2	3	4	5	6
e. Reputation for fairness	1	2	3	4	5	6
f. Reputation for propriety and integrity	1	2	3	4	5	6
g. Courtroom appearance and decorum	1	2	3	4	5	6
h. Industry (willingness to work additional hours)	1	2	3	4	5	6

Question #10 continued.

	<u>POOR</u>	<u>BELOW AVERAGE</u>	<u>FAIR</u>	<u>GOOD</u>	<u>ABOVE AVERAGE</u>	<u>EXCELLENT</u>
i. Patience	1	2	3	4	5	6
j. Open-mindedness (im- partiality & objectivity)	1	2	3	4	5	6
k. Punctuality	1	2	3	4	5	6
l. Courtesy	1	2	3	4	5	6
m. Consideration of others	1	2	3	4	5	6
n. Susceptability to influence	1	2	3	4	5	6
o. Moral courage (willingness to take a strong position on issues)	1	2	3	4	5	6
p. Emotional stability	1	2	3	4	5	6
q. Knowledge of human nature	1	2	3	4	5	6
r. Independence	1	2	3	4	5	6
s. Common sense	1	2	3	4	5	6
t. Respect for lawyers and the legal profession	1	2	3	4	5	6
u. Desire to serve as judge	1	2	3	4	5	6
v. Intelligence	1	2	3	4	5	6

11. a. Are any lower trial courts in your jurisdiction staffed with lawyer judges?

b. Do you believe trial courts of limited jurisdiction should require lawyer judges? _____ if yes, indicate which courts. _____

c. State reasons for your position. _____

12. Do you believe adequate and competent justice is currently dispensed in the trial courts of limited jurisdiction? _____
Explain. _____

13. Should the trial courts of limited jurisdiction be:

a. Reorganized? _____ If yes, how? _____

b. Abolished? _____ Why? _____

c. Left alone? _____

14. Do you have any additional comments on the trial courts of limited jurisdiction?

NEW MEXICO
TRIAL COURTS OF LIMITED JURISDICTION
ATTORNEYS QUESTIONNAIRE

1. Full Name? _____

2. Address: _____

a. Office: _____

b. Home: _____

3. Date of Birth? _____

4. Place of Birth? _____

5. Education: _____

	<u>College</u>	<u>Degree</u>	<u>Year</u>
(Undergraduate)	_____	_____	_____
	_____	_____	_____
(Graduate)	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

6. How long have you been a licensed attorney in New Mexico? _____

7. What general areas of practice do you specialize? (Criminal, Personal Injury, Probate, Real Estate, etc.) _____

8. a. Do you regularly appear in court? _____
b. How often have you appeared in the past two years (estimate)? _____

9. What percentage of your appearances in the past two years was in:
a. Federal Courts? _____
b. New Mexico Appellate Courts? _____
c. New Mexico Trial Courts of general jurisdiction? _____
d. New Mexico trial courts of limited jurisdiction? _____
10. What percentage of your litigation in the past two years was:
a. Civil? _____
b. Criminal? _____
11. What percentage of your litigation in the past two years was:
a. Jury? _____
b. Non-jury? _____
12. a. Have you ever held judicial office or been a candidate for such an office? _____
b. If yes, which office and when? _____

13. a. Have you ever been a prosecutor or public defender? _____
b. If yes, indicate where and when. _____

14. a. Are the judges in the trial courts of limited jurisdiction in which you have appeared attorneys? _____

b. If yes, name the court(s) and judge(s). _____

15. How would you generally rate limited jurisdiction judges of courts in which you have appeared in the past four years in the following areas?

(Circle one number)	<u>POOR</u>	<u>BELOW AVERAGE</u>	<u>FAIR</u>	<u>GOOD</u>	<u>ABOVE AVERAGE</u>	<u>EXCELLENT</u>
a. Knowledge of legal procedures	1	2	3	4	5	6
b. Knowledge of technical, substantive law	1	2	3	4	5	6
c. Ability to communicate	1	2	3	4	5	6
d. Ability to keep abreast of legal developments	1	2	3	4	5	6
e. Reputation for fairness	1	2	3	4	5	6
f. Reputation for propriety and integrity	1	2	3	4	5	6
g. Courtroom appearance and decorum	1	2	3	4	5	6
h. Industry (willingness to work additional hours)	1	2	3	4	5	6

Question #15 continued.

	<u>POOR</u>	<u>BELOW AVERAGE</u>	<u>FAIR</u>	<u>GOOD</u>	<u>ABOVE AVERAGE</u>	<u>EXCELLENT</u>
i. Patience	1	2	3	4	5	6
j. Open-mindedness (im- partiality & objectivity)	1	2	3	4	5	6
k. Punctuality	1	2	3	4	5	6
l. Courtesy	1	2	3	4	5	6
m. Consideration of others	1	2	3	4	5	6
n. Susceptability to influence	1	2	3	4	5	6
o. Moral courage (willingness to take a strong position on issues)	1	2	3	4	5	6
p. Emotional stability	1	2	3	4	5	6
q. Knowledge of human nature	1	2	3	4	5	6
r. Independence	1	2	3	4	5	6
s. Common sense	1	2	3	4	5	6
t. Respect for lawyers and the legal profession	1	2	3	4	5	6
u. Desire to serve as judge	1	2	3	4	5	6
v. Intelligence	1	2	3	4	5	6

16. a. Do you believe trial courts of limited jurisdiction should require lawyer judges? _____

16. b. State reasons for your position. _____

17. Do you believe adequate and competent justice is currently dispensed in the trial courts of limited jurisdiction? Explain. _____

18. Should the trial courts of limited jurisdiction be:
- a. Reorganized? _____
If yes, how? _____

- b. Abolished? _____ Why? _____
- c. Left alone? _____
19. Do you have any additional comments or suggestions on trial courts of limited jurisdiction? _____ If so, explain. _____

NEW MEXICO
TRIAL COURTS OF LIMITED JURISDICTION
LAY-USERS OF COURTS QUESTIONNAIRE

1. Your full name? _____
2. Your Address? _____

3. What court did you appear in? (Give name of court(s), address(es) and name of judge(s). _____

4. a. What reason were you in court? (i.e. Plaintiff, Defendant, Witness, juror, etc.) _____

b. If Plaintiff or Defendant, state nature of case and charge. _____

5. a. Did the case in which you were involved go to trial? _____
b. If yes, was the case tried in the lower court as:
1. trial to court or trial by jury? _____
2. Civil or Criminal? _____
c. Was the lower court's role only that of preliminary hearing? _____

6. If the case was criminal:

- a. Was the Defendant found guilty, acquitted, found innocent or was the case dismissed? _____
- b. If Defendant was found guilty, what penalty or sentence was imposed?

7. Did the courtroom have:

- a. Elevated bench? _____
- b. Witness stand within reasonable view of judge and jury? _____
- c. Court Reporter's stand close to witness stand, bench and jury? _____
- d. Tables for counsel? _____
- e. Microphones? _____
- f. Adequate acoustics? _____
- g. Adequate lighting? _____
- h. Adequate heating, cooling and ventilation? _____
- i. Adequate observer space? _____
- j. Were the court facilities adequate or inadequate in your opinion? _____

- k. Other? _____

8. How would you generally rate the limited jurisdiction judge who presided over the particular case in which you were involved according to the following categories?

(Circle one number)	<u>POOR</u>	<u>BELOW AVERAGE</u>	<u>FAIR</u>	<u>GOOD</u>	<u>ABOVE AVERAGE</u>	<u>EXCELLENT</u>
a. Neat appearance (did judge wear a robe?)	1	2	3	4	5	6
b. Ability to communicate	1	2	3	4	5	6
c. Fairness	1	2	3	4	5	6
d. Propriety and integrity	1	2	3	4	5	6
e. Patience	1	2	3	4	5	6
f. Open-mindedness impartially and objectively	1	2	3	4	5	6
g. Punctuality (was he on time?)	1	2	3	4	5	6
h. Courtesy	1	2	3	4	5	6
i. Moral courage (willingness to take a strange stand on the issues)	1	2	3	4	5	6
j. Emotional stability	1	2	3	4	5	6
k. Independence	1	2	3	4	5	6
l. Common sense	1	2	3	4	5	6
m. Respect for lawyers, Plaintiffs, Defendants, witnesses and other participants in case	1	2	3	4	5	6
n. Intelligence	1	2	3	4	5	6

9. Was the judge a lawyer or non-lawyer? _____

10. Do you believe justice was dispensed in this judge's particular courtroom? _____

Explain. _____

11. Were you impressed with the judicial process? _____

12. Do you have any additional comments on the trial courts of limited jurisdiction? _____

APPENDIX G.

FINANCING STATE COURTS

FINANCING STATE COURTS

The complete separation of court revenues from any consideration of levels of court operations has become one of the goals of state court financing plans. However, the trend toward state absorption of court revenues has been limited and is caused by several basic factors. Primarily, of course, in many states, the counties and municipalities stand to lose a significant amount of income, if all court revenues are paid to the state. Because such earmarked funds are relied on by the assigned agency it is usually very difficult to revoke or reduce those funds. Finally, it has been difficult to devise politically acceptable plans which preserve revenue to local bodies while maintaining a distinction between the judicial function and the receipt of revenues. Thus, proposals for state financing have had difficulty in overcoming the idea that some courts are "courts of revenue."

To accomodate and balance these needs, some of the states that have considered a state financing scheme have recommended that a portion of the court revenues accrued by a state be reimbursed directly to the local governments.

The Problem

The traditional method of financing the trial courts has been for local government units, the counties and municipalities, to bear all or most of the operating costs. To compensate for

these expenses, the local governments kept most or all of the revenues generated by the courts. In some states that provided a windfall for the counties and municipalities since these courts generated more in revenue than was necessary to cover their operating expenses. This is because a large volume of court cases, such as traffic and parking violations, produce substantial revenue in fines and bail forfeitures, but do not require a significant expenditure of court resources.

These "extra" revenues generated by the courts for the local governments created several related concerns. First, as was noted in a study of California lower courts, these revenues were used as a criteria for determining salaries of judges and personnel levels for the courts (California Lower Court Study, San Francisco: Booz Allen & Hamilton, 1971, p. 100). Consequently, tying court revenues to appropriations meant that some judges were subject to pressure to give heavier consideration to the revenue aspects of cases before them than to the facts and applicable law.

A further problem related to local funding is that such a system does not encourage effective financial management of the courts. Thus, courts are not encouraged to develop a budget based on anticipated court needs but rather to seek operating expenses based on ability to raise revenues for the local government (See: Hazard, Geoffrey, Court Finance and Unitary Budgeting, Chicago: American Bar Association, 1973, for a discussion

of the administrative advantages of the budgeting process). In addition, where funds are earmarked complicated accounting procedures may be necessary to make sure that funds go to the proper place.

State Financing as a Possible Solution

Among the several purposes of providing a system of state financing, one major goal is to improve the administrative capability of the court system. Instead of the individual and independent funding of each court, state financing makes it possible to establish priorities and a rational allocation of resources based on budget information from all courts within the state. Several court studies have noted that budgetary responsibility will enable the state administrative office to supervise all of the courts within the state and to assist each of them in achieving a high and uniform quality of justice (See: Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, Washington, D.C.: Government Printing Office, 1971, p. 45 and Citizens Study Committee on Judicial Organization, Report to the Governor, Madison: State of Wisconsin, 1973, pp. 99-100).

At the same time state financing frees local courts from their dependence on counties or municipalities for their continued operation. A subsidiary benefit is uniform bookkeeping, since all funds derive from a single source and results are accountable to a single source.

Another major goal of state funding is to secure the financial capacity of the judiciary as an independent and equal branch of government. Judges perform state imposed functions and consequently their salaries and court expenses should be borne by all of the taxpayers of the state rather than by those who have a property interest in a given county (Wisconsin Citizens Committee, Report to the Governor, p. 101). State financing of all courts also serves to free judges from the potential conflict of interest inherent in seeking money from local governing boards who may later appear before the court. Appropriations of judicial expenditures in a state budget are detached from local political disputes. Thus, a judge on the local level is freed from any pressure that might otherwise influence his judicial decisions.

This view of judges as servants and officers of the state has the greatest impact on trial courts which, because of their reliance on local funding, have tended to be considered as agencies of the counties and municipalities. State funding is an overt recognition that the court system is an equal branch of state government. Further, state funding assures one aspect of the judicial function - to administer justice fairly, consistently and impartially (State-Local Relations, p. 45). Under this concept, pressures on courts to raise revenue for the local government would be removed. Fines and forfeitures consequently would be imposed solely as penalties for violations of the law and not, adjunctly, as sources of money to run the courts.

Ideally, a system of state financing also requires channeling of all court revenues into the state general fund under the concept that its assumption of all court funding dictates receipt of court revenues. This approach offsets the concept of "courts of revenue" since the revenue will no longer be directly attributable to a particular court. Instead, such revenues will be mixed with all other state revenues in a larger fund to be used by the legislature in determining the needs of the state as a whole.

However, the removal of substantial revenue from the local entities mandates that some means be devised to compensate for these lost dollars. One method recommended by the consulting firm that studies the lower courts of California was to assure that various local government entities would not suffer out-of-pocket losses because of state funding. To do this, they recommended that the legislature directly appropriate funds based on a demonstration of local service responsibility and need to be adjusted as the needs increased (California Lower Court Study, pp. 100-103).

This plan has several advantages. It is easy to administer since there is no complex accounting system for allocating court revenues. In addition, the cities and counties would be required to be fiscally responsible and to demonstrate a need for funds. Also, local governments would be assured of additional funds as demand for their services increased. Obviously, this would be more reliable than counting on fluctuating levels of court revenues.

In sum, it would provide a means of totally separating court revenues from expenditures while providing a sure alternate source of revenue for the cities and counties.

Special Problems

Despite the logic of such a plan, there are a variety of reasons why all court revenues cannot always be paid into the state general fund. The degree to which these factors are present will vary from state to state and each will have a slightly different impact on the goal of separating the operating needs of the courts from the revenues they generate.

Structure: The Goals of Consolidation

If a system of state funding has been developed as part of a court consolidation plan, the structure of the consolidated system may affect procedures used for the allocation of revenues raised by the courts of limited jurisdiction. For example, under the new judicial article in Alabama, the municipalities have been given the option of maintaining their own municipal courts or of joining the state's district court system. Because of this option, the Advisory Commission on Judicial Article Implementation has recommended that the costs, fines, fees and forfeitures collected by the district court when enforcing municipal ordinance violations be allocated between the state and the municipalities on a percentage basis: the municipalities to receive 90% of moneys collected from fines and forfeitures and 10% of the court fees; the state to receive 10% of the fines and forfeitures and receive 90% of the costs. Noting that many

municipalities have become dependent on court revenue to finance local law enforcement agencies, the commission proposed these percentages as a means for encouraging municipal participation in the district court system. Under this scheme, the municipalities would not suffer any significant loss of revenue from participation in the district court system.

The commission also cited a provision of the Alabama judicial article which seems to require an apportionment of court revenue:

The revenue from fines, forfeitures and court costs produced in district courts from the exercise of jurisdiction under municipal ordinances shall be apportioned between the municipality and the state as provided by law (Alabama Constitution, Art. 6 §159 (d)).

(See: Report of the Advisory Commission on Judicial Article Implementation, Montgomery: State of Alabama, 1975, p. 39.)

A system of apportioning revenues on the basis of percentages has the advantage of being relatively easy to administer, and maintains the municipalities at their current revenue levels. In addition, because the state will be financing the operational costs of the district courts, municipal revenues cannot become the basis for determining levels of court funding. Judges will therefore be relieved of possible pressures to consider revenue generation when deciding cases. The Alabama plan does not completely separate revenues from the operation of the courts as the moneys received by the municipalities will directly depend on the revenues raised by the courts.

Groups such as the Advisory Commission on Intergovernmental Relations have also expressed concern about linking law enforcement activity to court revenues, because the police function might then be considered more as a revenue raising activity than as the enforcer of laws. This fear is similar to the concerns about linking court revenues to court operating expenses (State-Local Relations in the Criminal Justice System, p. 46). Yet, the percentage allocation of revenues is a useful means of allocating revenue in a state where the municipalities do not necessarily have to be part of the state judicial system. It also does not require a legislative commitment of state funds to local units of government, while assuring the municipalities of a specific revenue level.

Municipal Ordinance and Traffic Violations

The special attention given to revenues from municipal ordinance violations in Alabama brings out some of the problems involved in determining the best methods for handling those revenues. It is arguable that the revenues generated from violations of municipal ordinances should go to the municipalities as such revenues are the result of enforcement of a local rather than state law. However, this can be countered by the argument that even when enforcing local laws, the courts are performing a judicial function prescribed by the state. In this view, enforcement of local ordinances can be seen as an extension of state activity (State-Local Relations in the Criminal Justice System, p. 46).

Another means of resolving this conflict has been proposed by the Wisconsin Citizens Study Committee on Judicial Organization. That committee recommended the removal of non-contested municipal cases from the courts, using instead administrative adjudication of municipal ordinance violations. This technique would provide a local bureau for disposing of uncontested violations which did not require a full trial (Wisconsin Citizens Committee, Report to the Governor, pp. 69-70).

The arguments for this proposal are strongest when applied to minor traffic offenses, especially parking violations which are more easily viewed as minor violations of city regulations not requiring adjudication in the courts. The California Lower Court Study recognized this distinction and recommended that revenues collected from fines and forfeitures be returned to the appropriate government entity through a contractual arrangement which permitted the courts to recover their costs (California Lower Court Study, p. 101). In some municipalities traffic cases have been removed from the courts and administrative procedures established for adjudication. In this situation the fine and forfeiture revenues remain at the local level. However, if a municipality does not establish administrative procedures for traffic violations, it will lose revenues to the state when the municipal court function is absorbed by the state. To resolve this dilemma, a state financing proposal in New York recommended that these traffic revenues be refunded to the municipalities

less the cost of adjudication (. . . And Justice for All, Albany, Temporary Commission on the New York State Court System, 1973, p. 71).

Earmarking

One problem of special concern in establishing a system of allocation for court costs is the "earmarking" of judicial revenues as sometimes required by constitutional or statutory requirements. One problem raised by earmarking is administrative, particularly requiring a complex accounting system for disbursements to many different agencies. This is exemplified by the experience in South Dakota in implementing its new judicial article. In deciding not to adopt a system of total state funding the legislature made certain designations for the allocation of court revenues. These provisions often seem to conflict and it has been difficult to predict the financial impact of the new system on both state and local governments (The Implementation of the South Dakota Unified Judicial System, Chicago: Public Administration Service, 1974, pp. 9-41). This experience points out the need for clarity and specificity in planning court financing, because uncertainty as to funds receivable prevents sensible budget planning.

Another difficulty is that earmarking does not encourage fiscal responsibility, because the agency receives funds which are separated from the budget process. Further, there is often no relationship between the penalty imposed by the courts and the benefit received by the designated agency, i.e., when schools

receive revenues from traffic fines. Of course, many of the problems of earmarking could be eliminated by a financing system where revenues were paid into the state general fund. Then the agencies which are presently receiving earmarked revenues could obtain special appropriations as was proposed in the California Lower Court Study. It should be noted that receiving agencies are often reluctant to relinquish their special funds because of the possible failure of state appropriation at some later time. Earmarked funds thus may remain as one of the required disbursements of court revenue under a system of state court financing.

Court Fees

Another aspect of court revenue which requires special consideration in developing state financing plans is court fees. Unlike fines and forfeitures, fees have generally been considered as one method of defraying a portion of the operating costs of the courts. Consequently, a strong argument can be made for transmitting these fees to the state as part of a plan for state financing. Because many states have fee schedules which were established many years ago with no subsequent adjustment for steady inflation, some financing proposals have included recommendations that the fee system for the state be completely reviewed and revised.

Financial Impact

Although very difficult to determine, it is important that the current financial status of the courts and agencies which

receive court money be definitely determined before developing any state financing plan. The consequences, otherwise, could mean delay or denial of funds to governmental units that are dependant on these moneys (The Implementation of the South Dakota Unified Judicial System). In this regard, the Utah Courts Advisory Committee recommended the creation of a judicial finance committee to study all aspects of the impact of a state financing system and to make recommendations to relieve the financial hardship which could be imposed on some localities by a loss of court revenue (Unified Courts Advisory Committee, Utah Courts Tomorrow, Salt Lake City: Legislative Council, 1972, p. 29).

Conclusion

These studies demonstrate that the goal of establishing a system of court financing which removes the tag "courts of revenue" may be difficult to achieve, if there is a conflict between the goals of a system of state financing and the structure and goals of a consolidated court system, or if state consitutional and statutory provisions require that certain revenues go to the designate agencies or funds.

The problems and considerations which go into the development of a system of state financing which separates revenues from court operations are complex and will depend to a large extent on the unique problems of each state and the political feasibility of any given plan.