

**INTERMUNICIPAL COURTS:**

**A COMMON CHOICE?**

A research analysis of the existing New Jersey Statutory provision which permits two or more municipalities to enter into an agreement creating an intermunicipal (joint) court.

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**April, 1986**

**Institute for Court Management**  
**Court Executive Development Program**  
**Phase III: Executive Project**

### **ACKNOWLEDGMENT**

I would like to acknowledge the support and assistance given to this project by the following:

Samuel J. Serata, Presiding Judge Municipal Courts

R. Kenneth Platt, Municipal Court Liaison

Kathleen Blau, Trial Court Administrator's Staff

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## SECTION I: INTRODUCTION

The purpose of this research project is to analyze the existing New Jersey Statutory provision which permits two or more municipalities to enter into an agreement creating an intermunicipal (joint) court.<sup>1</sup> For whatever reasons, these intermunicipal courts are not common in New Jersey even among the smaller municipalities. Over 97% of the local courts currently operating in the state, are one municipality courts requiring separate staff, facilities and overall resources. Simply speaking, the project sets out to identify reasons why municipalities commonly avoid the option of intermunicipal courts. The primary intention of the research was to gather this information through attitudinal surveys of both existing and potential intermunicipal courts. However, the project was also undertaken with the intention of stimulating discussion and negotiation which may lead to the formation of such courts among a number of small municipalities in Atlantic and Cape May Counties, New Jersey.

Prior to establishing the boundaries of the research, it is first essential to provide a brief overview of the New Jersey Court System, followed by a more detailed description of the municipal courts.

### Project Background

#### The New Jersey Court System

Essentially, the New Jersey Court System, having experienced a number of changes over the past years, continues to resemble in a broad sense, the structural pattern of most state court systems. A detailed chart with appropriate descriptions can be found in the appendix.<sup>2</sup> Briefly, starting from the top, we find the "Supreme Court", the state's final court of appeals. At the intermediate level is the multi-

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1. New Jersey Statute, 2A:8-3, Title 2A. Administration of Civil and Criminal Justice (See Appendix A-1).
  2. See Appendix B-1.

divisional "Superior Court" which includes the Appellate, Law and Chancery Divisions. The Appellate Division serves as the intermediate court of appeals. The Law Division includes the Criminal and Civil Parts, and the Chancery Division, the General Equity and Family Parts. Lowest on the ladder we find the "Municipal Courts", the courts of limited jurisdiction and the focus of this project.

### The Municipal Courts

Municipalities were granted the authority to create local municipal courts following the adoption of the 1947 State Constitution and its numerous court reforms.<sup>3</sup> N.J.S.A. 2A:8-1, permits any municipality or any two or more municipalities entering into an intermunicipal agreement by ordinance, to establish a municipal court.<sup>4</sup> The specific statutory authority for intermunicipal courts is N.J.S.A. 2A:8-3.

In 1984 there were 531 municipal courts in the State, only 13 of which were intermunicipal or joint courts serving more than one municipality. One may ask, why are there so few intermunicipal courts? This question gets to the heart of this project and will be addressed extensively at a later point.

### Jurisdiction

The municipal courts are courts of limited jurisdiction. Under N.J.S.A. 2A:8-21 and 22, municipal courts have jurisdiction over motor vehicle and traffic violations, ordinance violations, disorderly and petty disorderly persons offenses, fish and game and other enforcement type violations, specified criminal offenses and probable cause hearings on indictable offenses. Although not common, municipal courts are permitted to try certain specific cases involving crimes occurring within their territorial jurisdiction, provided a waiver of indictment and trial by jury is executed by the defendant. The territorial jurisdiction of these courts generally extends to the boundaries of the municipality, or municipalities, served by the court.

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3. New Jersey Constitution (1947) Article VI, Section I.

4. See Appendix A-1.

## Personnel and Resources

Judges are appointed by the local governing body, except in intermunicipal courts where appointment is by the Governor with the advice and consent of the Senate.<sup>5</sup> Special notice should be taken of this difference between municipal and intermunicipal courts as it will become important. Municipal court judges serve for a term of three years and until their successor is appointed and qualified. Under the current system, the only real requirement is that a candidate be a member of the State Bar (effective January 1st, 1952).<sup>6</sup> Very few judges devote their full time to judicial duties. Most serve part time and maintain private law practices. In 1984, of the 531 municipal courts, only five had full-time judges. There is no tenure of office, nor is there a mandatory retirement age. Salaries are determined by the local governing bodies and vary greatly.<sup>7</sup> Supporting personnel, facilities and other resources are funded solely by the municipalities and lacking required minimum standards, vary greatly.<sup>8</sup> Resources for intermunicipal courts are funded by the participating municipalities based upon an agreed ratio.

## Revenue

A misconception on the part of many not associated with the courts is the belief that all monies collected by a municipal court, i.e., fines, forfeited bail or court costs, become revenue for the municipality where the court is located. Although it is true that some monies do stay within the municipality, the bulk of the money is actually disbursed to either the county or state.

Funds received in the course of enforcing municipal ordinances, disorderly and petty disorderly conduct offenses, or indictable offenses heard on waiver, are disbursed to the municipality. However, under N.J.S.A. 39:5-41, fines collected for violations of

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5. N.J.S.A. 2A:8-5 (See Appendix A-1).

6. N.J.S.A. 2A:8-7 (See Appendix A-1).

7. N.J.S.A. 2A:8-9 (See Appendix A-1).

8. N.J.S.A. 2A:8-13, 2A:8-18 (See Appendix A-1).



Title 39 (Traffic Regulations) are forwarded to the County Treasurer unless the complaint was instituted by the Director of the Division of Motor Vehicles, or by a member of his staff, or the State Police. In such cases fines are paid to the State Division of Motor Vehicles. With very few exceptions, traffic fines represent the majority of all monies collected by municipal courts.

The assessment of fees and costs for the handling of the above matters is permitted by N.J.S.A. 22A:3-4 and are retained by the municipality. However, in traffic cases, such costs may not exceed \$15.00 even though the minimum fine on a moving violation is \$50.00. Court costs on non-traffic matters may not exceed \$25.00.

Forfeited bail is disbursed in the same manner as fines for the particular violation.

The handling of revenues by intermunicipal courts is slightly different. Disbursements to either the county or state are handled in the same manner. However, fines normally due to a municipality must be paid to the municipality in which the offense was committed. Any costs or fees and bail forfeitures must be apportioned among or between the municipalities according to the ratio of the municipalities' contribution to the support of the court.<sup>9</sup>

#### Evolution

The municipal courts as we know them today and as described briefly above, were created in 1947 to replace what was a less than adequate system of local courts which included justices of the peace, police and magistrate courts. Although granting municipalities the authority to create individual municipal courts, the reforms of 1947 also placed administrative responsibility for all court rules and procedures for municipal courts and all other state courts, with the Chief Justice and the Supreme Court. The creation of the State Administrative Office of the Court was added to assist in this task. Rules of Court issued by the Supreme Court dictate proper forms and procedures.<sup>10</sup>

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9. N.J.S.A. 2C:46-4, (See Appendix A-1).

10. "Rules Governing Practice in the Municipal Courts," Part VII, Rules Governing

### Regional Courts?

Although the creation of the municipal courts and the rules of uniform procedure did improve the overall perception of the local courts, levels of efficiency and professionalism still varied greatly. For this reason, various efforts at further improvement were tried, however unsuccessfully, for the next three decades. The most common attempt to improve the system, has been an effort to create regional courts. A system of regional courts with judges appointed by the Governor was formally advocated by Chief Justice Joseph Weintraub in 1958, and again in 1969 by Administrative Director of the Courts, Edward McConnell. The greatest effort at regional courts was undertaken in 1971 with a complete study actually commissioned through the State Administrative Office of the Courts.

The study, entitled "Merging Municipal Courts" with a subtitle, "A Design For a Minor Criminal and Traffic Division of the County District Court" was prepared by SYNECTICS, a Trenton, New Jersey based firm.<sup>11</sup> As indicated in the subtitle, the study called for abolishing the local municipal courts and creating a state-supported division of the County District Court, including 66 judicial units. A complete summary of the recommendations can be found in the appendix.<sup>12</sup> While the intent of the study was a serious promotion of regional courts, it is commonly accepted that the results were quite the opposite. Believing that this was the State's "real" effort at regionalization, municipalities launched frequent public debates. Preservation of the local courts became the public cry.

The cry was loud and persuasive as indicated by the fact that even in 1985, except for relatively minor adjustments, the municipal courts in reality remain the

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(cont.)

the Courts of the State of New Jersey.

11. "Merging Municipal Courts," Design for a Minor Criminal and Traffic Division of the County District Court. Prepared for the New Jersey Administrative Office of the Courts by SYNECTICS, Trenton, New Jersey, (April, 1971).

12. See Appendix C-1.

same as created back in 1947. The "need" to preserve the "People's Court" in New Jersey was again brought to light in an article published in the November 1982 issue of New Jersey Municipalities.<sup>13</sup> The article, a copy of which is in the appendix reported the results of a survey taken to measure the opinions of various municipal court judges (actually only 34) with reference to the possibility of regional courts or retention of the existing system. Without going into great detail, the survey indicated that a majority of the judges favored retention of the existing "local" system and felt that a regional court would not provide a more efficient system of justice. An interesting observation is that 13 of the 34 judges when asked, "Are municipal courts operations influenced by local politics?" indicated, yes. The article concluded with the prediction that the present municipal court system is here to stay. "It is not possible to regionalize the system without taking away from citizens an opportunity to be heard in a forum familiar with neighborhood matters."

#### Who's in Control?

It was mentioned above, that except for minor adjustments, the municipal courts in reality remain the same as created back in 1947. In fairness to the State of New Jersey and more precisely the State Administrative Office of the Courts, over the years various attempts have been made to improve the efficiency and professionalism of the local municipal courts. Local Court Administrative Offices in the state's 15 judicial districts (vicinages) under the direction of the respective Assignment Judges, and through the State Office, have conducted various levels of training for municipal court personnel. Annual audits or visitations of each court to insure compliance with appropriate court rules and statutes have been the normal practice. Statewide policy directive letters have been mailed to the individual courts on a bi-monthly basis for

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13. Schmoll, "The People's Court in New Jersey," New Jersey Municipalities, (November, 1982) (See Appendix D-1).

years. These are just some examples of the efforts made to provide a semblance of statewide uniformity within a system of, in reality, local control.

Legal opinion remains that "the municipal court is an integral part of the statewide judicial system and exercises a power retained by the State and not delegated to local government".<sup>14</sup> However, practically speaking, the influence of the State over the municipal courts can still be considered remote. The real control remains in the hands of the 500 plus municipalities resulting in municipal courts shaped by the personalities of those communities served. Today, in 1985, municipal courts in New Jersey range from a once a month court session held in the basement of the local school or firehouse meeting room to a daily session, full time court with facilities equal to or better than those at the State Supreme Court. As indicated earlier, the resources of these courts range just as greatly. These vast variations exist, even though the statutes being enforced and the rules governing procedure, are uniform. However, the greatest indication of where the control really lies, comes in the fact that the appointment of the judges is in the hands of the local governing bodies. As indicated earlier, judges only serve three year terms at which time they are considered for reappointment. While it is difficult to put a finger statistically on whether or not political pressure exists, and if so, the effects of same, it is fair to say that the existing system does at least provide for possibilities of political pressure and influence. A recent survey of all police chiefs in the state indicated what they felt were the major disadvantages of the existing municipal court system: The concept of the part-time judge, the role of politics in judicial appointment, the dysfunction caused by turnover in judges, lack of experience or qualifications of judges, and judicial findings made on the basis of political pressure.<sup>15</sup>

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14. In Re Mattera, 34, N.J. 289, 168 A. 2d. 38, 42 (Sup. 1961).

15. Report of the Supreme Court Task Force on the Improvement of Municipal Courts. Presented at the New Jersey Judicial Conference, June 28, 1985. Chapter 3, Municipal Court Personnel Introduction, P.75.

### Task Force on the Improvement of Municipal Courts

The latest effort at improving the existing municipal court system, has been the creation of the Task Force on the Improvement of Municipal Courts in October of 1983. The efforts of this Task Force are still very much active today. Chief Justice Robert W. Wilentz was convinced that a thorough review of the municipal court system was necessary. He stated that "The majority of our citizens who come in contact with courts do so through the municipal courts. It is thus from these courts that their impression about the administration of justice are shaped, whether for good or for ill. Yet, the municipal courts have not been given the attention or the resources to achieve that standard of fair and efficient justice for which we strive."<sup>16</sup>

The Task Force includes a broad cross-section of representatives; judges, lawyers, state and local elected officials, court administrators and private citizens. The work of the committee has been broken down into five major areas: (1) Administration; (2) Budget, personnel and physical plant; (3) trial practice and procedures; (4) computerization and case processing techniques; and (5) issues involving the accountability of the courts to the public, including performance/ evaluation standards and other topics of public concern.

As indicated earlier, the work of the Task Force is still a timely item at the time of this writing. A review of the initial recommendations, for example minimum standards on personnel, salaries and facilities, just to name a few, does indicate a serious effort at uniformity and professionalization. Whatever the case, the simple creation of the Task Force on the Improvement of Municipal Courts also indicates something else, at least to this writer. It would appear that local municipal courts, possibly a bit more uniform and regulated, and not a system of regionalized courts, continue to be in the

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16. Task Force Report. Appendix C, Minimum Standards for Municipal Court Facilities, P.17.

future for New Jersey. The research project described on the following pages, accepts the premise that the local municipal courts will remain in their present form without opinions which system may be considered superior. However, this very assumption begs the questions: Why do many small municipalities struggle to maintain individual municipal courts when other options are and have been available? Will even these municipalities be able to continue individual courts in the midst of change?

### Project Scope and Goals

The preceding pages, in an attempt to paint a clear picture of the existing municipal court system, have dealt with the system as a whole. In addition to providing an overview of the system, the discussion of the various unsuccessful attempts at regionalization should explain why research on complete consolidation was avoided. Again, this project accepts that the existing system of local municipal courts will remain at least for the near future.

The project focuses on the smaller municipal courts, the ones earlier categorized as having once a month court sessions held in the basement of the local school or firehouse meeting room. While this description may not be fair in some cases, the fact is that many of the 531 municipal courts currently existing in the State are rather small, unprofessional operations falling far short of the expected expression of justice.

Assigned to the Court Administrator's Office in Atlantic and Cape May Counties, two of twenty-one counties in the state, a part of my duties over the past few years has been overseeing the visitations and evaluations of 36 distinct municipal courts. During this time I have always been somewhat concerned and even puzzled that a number of relatively small municipalities, many of which experience financial trouble routinely, continue to maintain individual municipal courts, requiring individual facilities, staff, equipment, etc. Such attempts at operating individual operations continue in

spite of the fact that as indicated previously, the New Jersey Statutes permit two or more municipalities to enter into an agreement creating an intermunicipal court:

**2A:8-3. Intermunicipal agreement establishing single municipal court for two or more municipalities authorized.**

Two or more municipalities may, by similar ordinances, enter into an agreement to establish a single intermunicipal court with jurisdiction coextensive with the territory of the municipalities party to the agreement. Upon the taking effect of the ordinances establishing such a municipal court, all municipal courts theretofore existing in the respective municipalities shall be abolished and their functions, powers and duties, records, property and pending cases shall be transferred to the municipal court so established.

The benefits of such an agreement would not be unlike those often discussed when the issue of consolidation is mentioned. The pooling of all resources would permit the possibilities of advanced professional operations otherwise unobtainable. Public access to the courts would be improved since prior part time operations would probably result in a full time set up. The overall concept of the centralized operation would undoubtedly be a cost saving to participating municipalities while providing for a much more uniform administration of justice.

In the eyes of those charged with the elimination of duplication and promotion of efficiency, the alternative of intermunicipal courts would probably appear ideal. However, in the eyes of those who in reality control the municipal courts, the municipalities, the alternative does not seem to be a popular one. As stated in the background information, only 13 of the state's 531 municipal courts (less than 3%) currently are intermunicipal operations. It should be noted that according to recent references, there have never been more than 16 intermunicipal courts at any one time during the last twenty years. Setting aside the discussion of completely regionalized courts, it is accepted that a majority of the remaining 518 courts today probably can justify individual courts based simply upon case volume. However, it is also accepted that approximately 20% of the state's municipal courts possess caseloads that do not

require court sessions at least once a week and do not require employment of a full time staff. It is these courts that commonly have less than adequate facilities and resources to meet the expected expression of justice so often talked about. Such courts would appear to be ripe for merger into intermunicipal operations, but as the statistics show, this is not the common choice. The underlying purpose of this research project is to answer the question: Why not?

In terms of research, the theoretical problem has been established. In an attempt to gain a better understanding of all of the related issues, a series of surveys described in the following sections were taken. The heart of the research was a survey of nine low volume municipal courts in the counties of Atlantic and Cape May. Judges, court clerks and municipal officials were surveyed to obtain current attitudes, values, beliefs and motives concerning the issue of intermunicipal courts. The purpose of this survey was two-fold. By identifying these nine potential courts as small, somewhat substandard operations, most appropriate for intermunicipal operations, it was assumed that the results of the survey could represent attitudes of municipalities in similar situations statewide. Again in terms of true research, the nine small surveyed courts were meant to be a research sample for all the small courts in the state, or the research population. The second intent of this particular survey, a bit more localized, was probably the one that led to this project in the first place. Fully realizing that intermunicipal courts were not usually a favorable consideration, I still hoped that the project would stimulate the small municipalities in my immediate jurisdiction to consider, if they had not already done so, or reconsider if they had, the alternatives of forming intermunicipal courts.

Additional surveys, although not nearly as structured as the one mentioned briefly above, also were a part of this project. A number of the thirteen intermunicipal courts currently operating in the state were first surveyed to learn about their experiences and general attitudes. In doing this, I hoped not only to obtain answers pertinent to



the study but also prepare for any questions posed to me during my survey of the potential courts. A survey of a number of administrative personnel from both the county and state level was also conducted to gain further insight into the issues being analyzed.

The surveys conducted were not structured to measure strictly a series of particular variables per se. However, this introduction would lack complete honesty if the existence of a hypothesis were not admitted indicating my beliefs as to why intermunicipal courts are not common in New Jersey. I will limit the possible variables to three at this point.

It should not be a big surprise that the desire to maintain independence, local control, local autonomy, etc. could be considered as a factor, and possibly the major factor. It may be fair to say that intermunicipal courts are not common for many of the same reasons that a regional court system has been unobtainable.

Another possible factor somewhat related to the first, is the appointment of the judge. As stated in the background information, local governing bodies appoint municipal court judges except in intermunicipal courts where the appointment is by the governor with the advice and consent of the Senate. In addition to removing the power of appointment, this difference may also remove the ability to manipulate.

A third factor, maybe too simple, would be that intermunicipal courts are not common because municipalities simply are not aware that the statutory provisions for same are available. And if they are aware, they are unaware of how to go about pursuing their creation and how they work, once in existence.

Again, while all of these factors are variables and are not explicitly set forth in the surveys, their validity or invalidity as the case may be, should be apparent from the responses. Of course, other factors were expected.

One additional aspect has been addressed in the survey and needs further explanation prior to the actual research. In the background information, mention was

made of the latest effort at improving the overall municipal court system, that being the creation of the Task Force on the Improvement of Municipal Courts. The report of the Task Force, a rather extensive effort, has been submitted to the Supreme Court and offers 56 separate recommendations with supporting position papers. Although the possibility of seeing all 56 recommendations actually implemented may be remote, it is accepted among those associated with municipal courts, that a majority will be implemented in time. It is my belief that a number of the recommendations, if implemented, could have a unique impact on the category of smaller municipal courts this project has dealt with. Eight such recommendations taken from the actual Task Force report are included with brief commentaries in the appendix.<sup>17</sup> Regarding the relationship to this project, the eight recommendations highlighted can be broken down into two categories. The first category would include those recommendations that could seriously hinder the financial ability of small individual municipal courts to continue, including: minimum salary requirements for judges and support staff; minimum standards for facilities; and a budget impasse procedure providing Assignment Judges with authority to mandate sufficient funding. The second category would include those recommendations which may reduce the small municipalities' desires to maintain individual courts, since much of their local power and discretion (manipulation) would be reduced: minimum qualifications for judges, including mandatory prequalification education programs; mandatory annual evaluations of judges by a Judicial Committee; involvement of Assignment Judges in the hiring of support staff; and a strict nepotism policy.

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17. See Appendix E; E-1, 2, 3, 4, 5, 6, 7, 8.

Included in the surveys was an attempt to obtain concerns or feelings on the possible ramifications of Task Force recommendations, should they be implemented.

Hopefully the foundation for a clear understanding of the project's intentions has been provided. With that, we turn to the methodology employed.

## SECTION II: METHODOLOGY

As hinted in the introduction, the major research technique employed to explore the existing attitudes concerning intermunicipal courts, was a series of informational surveys. The data collection consisted of three phases, each phase having a distinct target group or sample, and a distinct semi-structured interview. Each will be discussed separately.

### Phase One: The Existing Intermunicipal Courts

The first phase was conducted at the initial stages of the research project in conjunction with a review of the existing statutes, references and past research projects. The target group was the existing thirteen intermunicipal courts in the state with an attempt made to contact as many judges, court clerks and municipal officials associated with these courts as possible. Information pertaining to names, addresses, phone numbers, etc. was obtained from the 1985 New Jersey Lawyers Diary and Manual.<sup>18</sup>

The purpose of this phase was an attempt to gain a real feeling for intermunicipal court operations from those with actual hands-on experience. Although the review of the various statutes had provided some understanding of the intermunicipal operations, a number of questions still remained. In addition to obtaining information on particular issues related to the research, the intention was to build up a bank of knowledge to possibly share with "potential" courts at a later point in the project.

Although a questionnaire was originally considered and actually constructed for this phase of the project, a pretest indicated that there would be a probable need to explain and expand upon a number of the questions. For this reason, a semi-structured interview was utilized. A copy of the interview format is provided in the appendix.<sup>19</sup> In addition to allowing for the expansion of questions, the interview allowed for the

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18. 1985 New Jersey Lawyers Diary and Manual including Bar Directory of New Jersey, Newark, N.J.

19. See Appendix F-1.

discretionary of probing into the subject's answers when necessary. This was actually done quite frequently.

The interview format consisted of primarily two types of questions, informational and attitudinal. The first of three informational questions simply asked when the intermunicipal courts were created. The remaining two were a bit more involved and were of particular interest to me administratively. As indicated in the introductory background information under revenues, intermunicipal courts are required to apportion court costs, fees and bail forfeitures among the municipalities according to the ratio of the municipalities' contribution to the support of the court. However, to the best of my knowledge there are no established guidelines for determining just how much a participating municipality should contribute to the overall costs of operating an intermunicipal court. Although I would predict that this is done through caseload volume analysis, the question was posed as to what methods the existing courts utilize. This knowledge would be valuable to me if ever called upon to assist in the financial end of creating or considering an intermunicipal court.

The last informational question concerned the appointment of the judge. As indicated numerous times prior, the judge of an intermunicipal court is appointed by the governor with the advice and consent of the Senate. While this may seem clear and simple, I have often wondered just how such an appointment is facilitated. Do the municipalities have some involvement in such appointments, and if so, in what way? This question was posed during the interviews. In addition to learning the answers to satisfy my own interest, I thought the information could possibly be of interest to municipalities considering intermunicipal agreements since the appointment of a judge is usually a sensitive matter.

The remaining questions surveyed the attitudes concerning intermunicipal court operations. Subjects were asked for comments on both advantages and disadvantages and if they were in favor of retaining their existing set-ups. Related to this, subjects

were asked if they would recommend small municipalities currently operating individual municipal courts to merge into intermunicipal courts. If yes, they were asked what advice they might offer to these municipalities. The reasoning for these attitudinal questions in relation to the research project, I believe is self-explanatory. The final question, possibly answered within the other questions listed above, simply asked the subjects why they felt their court was one of only thirteen intermunicipal courts in the state. Obviously, this question was an attempt at testing my original hypothesis while also trying to find out what was so unique about the municipalities participating in the thirteen intermunicipal courts.

Prior to contacting any of the courts to conduct the interviews, the various vicinage Trial Court Administrator's Offices charged with the supervision of the courts, were contacted to advise that the interviews would be requested. With the approvals of the various T.C.A. offices, the attempts at contacting the court personnel and the municipal authorities began.

The geographic location of most of the intermunicipal courts required a majority of the interviews to be conducted via telephone. However, I don't believe this hindered the results of the survey. At least one subject from a majority of the courts was contacted, i.e., the judge, court clerk, or municipal authority, and, as indicated in the findings, the majority of those interviewed were court clerks. The court clerks were available for the most part during fixed daytime hours, while the judges and other authorities, usually serving their communities in a part-time capacity, were not so easily contacted. The questionnaire originally considered for this survey would have been much more successful in reaching all of the subjects, but of course, non-response would have been a factor. In the long run, the personal contact of the interview and the ability to expand upon both the questions and answers, I believe was a superior method. The insight of the court clerks was quite valuable to the purpose of the

survey since most had been employed by their respective courts for a number of years, experiencing both turn-over in judges and changes in municipal administrations.

In all a total of eleven of the thirteen existing intermunicipal courts in the state were contacted. Eleven court clerks or deputy court clerks, one from each of the eleven courts, were interviewed. Also interviewed were three judges and five municipal officials, including one mayor, two town clerks and two members of council.

Although the number of responses may be considered limited, I believe this survey was still quite "successful." As indicated, the information desired from the "informational" questions was obtained from eleven of the thirteen courts, and a significant number of comments and observations concerning the over-all concept of intermunicipal courts were received. It should be noted for the sake of validity, that most of the subjects interviewed seemed quite comfortable during our conversations, obviously not feeling threatened in any way by the questions being asked.

#### Phase Two: Court Administrative Personnel

Phase Two of the project was geared to a less specific target group than that of Phase One. In this phase, a number of individuals charged with the supervision of municipal court operations in various capacities were surveyed. I categorized these as "Court Administrative Personnel" including Presiding Judges, Court Administrators and other individuals in administration from both the County and State levels. This target group was not selected in any scientific manner but rather included individuals from my immediate and surrounding jurisdictions, in addition to individuals from around the state that I have had occasion to work with on various committees.

The purpose of this phase is not as clear cut as the others. Quite honestly, I attempted to gain not only additional insight into the issue of intermunicipal courts, but also to gain support for conducting the research in the first place. Was it erroneous to conceive that intermunicipal courts should be a serious consideration for small municipalities? Do other individuals in positions similar to mine ever wonder why

intermunicipal courts are not considered more favorably? The individuals surveyed had once worked, or still were working closely, with municipal courts in various capacities. They were sensitive to the powers of local control and had been given the opportunity to view and compare a sample of the wide variety of municipal court operations. The goal of seeking a high degree of uniformity in the administration of justice was a part of their jobs, just as it was mine. Just what were their thoughts on the various issues being researched?

To survey the comments and thoughts, I once again turned to the semistructured interview for reasons similar to Phase One.<sup>20</sup> The ability to expand upon the questions and probe into answers was essential. Most of the interviews turned into lengthy two way conversations that were quite informative. Obviously this all would have been missed if a questionnaire had been used.

The interviews were actually limited to only four questions, the first simply asking about the subject's position and involvement with the municipal courts. In most cases I already knew the answers to this question but I thought I would let the subjects brag or complain, whatever the case.

The second question was rather broad, asking the subjects whether they were favorable to intermunicipal courts. If the answer was yes, they were asked to discuss in what instances such agreements would be appropriate. Of course, if the answer was no, they were asked to expand upon their feelings. Obviously this question got to the heart of my desire to know if others had similar feelings to mine. If a common answer to this question would have been no, my original hypothesis as to why intermunicipal courts are not a common choice, would be in need of revision. Without the support of at least some court administrative personnel, intermunicipal agreements would never be considered.

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20. See Appendix F-2



The third question, again testing my original hypothesis, asked the subjects for comments as to why there are only thirteen intermunicipal courts in the state.

The final question concerned the possible ramifications of the Task Force recommendations as discussed briefly in the project scope and goals section. These court administrative personnel were quite appropriate for this discussion, since most were well aware of the recommendations, many actually being members of the Task Force, or involved in some way.

Although I desired a larger target group, a total of seven court administrative personnel were interviewed including:

A Presiding Judge of Municipal Courts - A currently sitting municipal court judge assigned through a pilot project of the Task Force to oversee general administration of all municipal courts in a vicinage. Also a member of the Task Force for Municipal Court Improvement and other statewide committees.

A Municipal Court Administrator - in addition to overseeing administration of a municipal court, also a member of the Task Force for Improvement of Municipal Courts.

Three Assistant Trial Court Administrators - assigned through Trial Court Administrator's offices to provide general administrative assistance to municipal courts in a vicinage.

Two Municipal Court Liaisons - assigned as field representatives to visit and evaluate municipal courts in a vicinage.

Phase Two of the research was quite valuable to the over-all project. Even though I was acquainted with many of the subjects interviewed, I don't believe the validity of the results were tainted in any way. Actually because of our acquaintance and mutual respect, I believe the subjects freely expressed their true feelings and comments on the issues.

### Phase Three: The Potential Municipal Courts

As described briefly under the section on Project Scope and Goals, Phase Three, the survey of potential Municipal Courts for intermunicipal agreements, represented the heart of the research. In this phase, a research sample of nine municipal courts was selected, at least somewhat scientifically I would like to think, from among the

thirty-six courts within my jurisdiction of Atlantic and Cape May Counties. Many of these courts actually initiated my original concern as to why intermunicipal courts are not more common. These courts, for the most part, could be categorized as small, somewhat substandard operations, and at least in my eyes, most appropriate for intermunicipal courts. Prior to discussing the actual survey, its components, intentions, etc., the selection process of the courts included in the research sample should be described.

Court Selection (Selection of the Research Sample):

The selection of the nine courts was based primarily upon caseload analysis. An analysis of operating expenses in relation to revenue generated also played a minor role.

Caseload analysis I believe was an obvious criteria to utilize inasmuch as the identification of small court operations was the intention. Although not perfect, the volume of cases filed still seems to be the most appropriate tool for comparing the size of courts.

Table #1 provides a comparison of average case filings for each of the thirty-six municipal courts. Total complaints filed (non-traffic, traffic and parking) for the years 1983 and 1984 were used to create an annual average.<sup>21</sup> In order to obtain a true comparison of the volumes, the caseloads were weighted using the state guidelines as follows:

Parking	value set at 1.0
Traffic	Weighting is 2.6
Non-traffic	Weighting is 9.0

Although far from perfect, these weights are considered relatively accurate and allow for a better measure than merely counting cases.<sup>22</sup>

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21. Data obtained from Monthly Municipal Court Statistical Reports (form number ST-33A)
22. Excerpted from: Statewide Municipal Court Budget Information Manual A.O.C. 1982.

As indicated in a prior section it is somewhat accepted that approximately 20% of the state's municipal courts possess caseload related conditions that may make them appropriate for the consideration of intermunicipal courts. These conditions include such things as caseloads that do not warrant at least weekly sessions, do not require a full time staff, or do not support appropriate facilities. Although open to challenge, this rather arbitrary 20% figure was used to select courts for the survey. Using the weighted caseloads from Table #1 as described above, the courts possessing the seven lowest caseloads (7 being approximately 20% of the total 36 courts) were selected. The Weymouth Township/Estell Manor/Corbin City Court, already an intermunicipal court, was excluded leaving West Wildwood, Cape May Point, West Cape May, Woodbine, Buean Boro, Folsom and Linwood. Although selected arbitrarily the 20% figure actually provided a natural cut off including all of the courts within a weighted caseload of less than 5000.

A second criteria for selection of the research sample was an analysis of the individual court operating expenses in relation to the municipal revenues generated. From a judicial point of view it is considered improper to discuss a court operation and making money in the same breath. However, it does not seem improper to agree that a municipal court should generate at least enough municipal revenue to meet its operating costs, or in other words, "break even." This is especially true when, as discussed in the background information under revenues, one realizes that the state and county actually receive a majority of the revenues without assisting in operating expenses. Although a majority of the municipal courts in New Jersey do at least "break even", as has been mentioned, a number of small municipalities continue to operate individual municipal courts even though the courts continually operate "in the red". Although I was sure that this was true to some degree within the 36 courts in my jurisdiction, I decided to take a look statistically for two reasons. First, I was interested in knowing just how many courts were operating in the red, and if these courts would

# CASELOAD ANALYSIS

(Average of 1983 and 1984 Annual Filings)

COURT	Non Traffic	Traffic	Parking	Total Weighted Avg. Caseload
Atlantic City (A)	11,537 (103,833)	13,222.5 (34,378.5)	46,704.5 (46,704.5)	186,916.0
Ocean City (C)	1,093.5 (9,841.5)	5,557 (14,448.2)	15,104 (15,104)	39,393.7
Egg Harbor Twp.(A)	2,036.5 (6,328.5)	5,483 (14,255.8)	1,346 (1,346)	33,930.3
Hamilton Twp. (A)	929.5 (6,365.5)	9637.5 (25,057.5)	96.5 (96.5)	33,519.5
Wildwood (C)	1,599.5 (14,395.5)	1,225.5 (3,186.3)	15,070.5 (15,070.5)	32,652.3
Galloway Twp.(A)	620.5 (5,584.5)	7,198.5 (18,716.1)	581 (581)	24,881.6
No. Wildwood (C)	992 (8,928)	1,828.5 (4,754.1)	10,025.5 (10,025.5)	23,707.6
Cape May (C)	311 (2,799)	768.5 (1,998.1)	17,040.5 (17,040.5)	21,837.6
Pleasantville (A)	1,165 (10,485)	3,290 (8,554)	764 (764)	19,803.0
Ventnor (A)	900.5 (8,104.5)	1,331 (3,460.6)	6,314.5 (6,314.5)	17,879.6
Margate (A)	587.5 (5,287.5)	1,756 (4,565.6)	6,144 (6,144)	15,997.1
Somers Point (A)	844 (7,596)	2,972.5 (7,728.5)	621.5 (621.5)	15,946.0
Wildwood Cr. (C)	373.5 (3,361.5)	2,564 (6,666.4)	5,659.5 (5,659.5)	15,687.4
Hammononton (A)	839.5 (7,555.55)	2,870 (7,462)	474 (474)	15,491.5
Middle Twp. (C)	730.5 (6,574.5)	3,107.5 (8,079.5)	641 (641)	15,295.0
Sea Isle City (C)	725.5 (6,529.5)	1,074 (2,792.4)	1,705 (1,705)	11,026.9
Lower Twp. (C)	902 (8,118)	1,035.5 (2,692.3)	86.5 (86.5)	10,896.8
Northfield (A)	542 (4,878)	1,854.5 (4,821.7)	307 (307)	10,006.7
Avalon (C)	658.5 (5,926.5)	1,154 (3,000.4)	953.5 (953.5)	9,880.4
Buena Vista Twp.(A)	338.5 (3,046.5)	2,408.5 (6,262.1)	0 (0)	9,308.6
Mullica Twp. (A)	372 (3,348)	2,240 (5,824)	0 (0)	9,172.0
Upper Twp. (C)	232 (2,088)	2,180 (5,668)	0 (0)	7,756.0
Stone Harbor (C)	233.5 (2,101.5)	876 (2,277.6)	2,982.5 (2,982.5)	7,361.6
Absecon (A)	289.5 (2,605.5)	1,750 (4,550)	200 (200)	7,355.5
Longport (A)	129.5 (1,165.5)	1,533.5 (3,987.1)	1,665 (1,665)	6,817.6
Dennis Twp. (C)	237.5 (2,137.5)	1,751 (4,552.6)	0 (0)	6,690.1
Egg Harbor City (A)	264.5 (2,380.5)	1,586 (4,123.6)	123 (123)	6,627.1
Brigantine (A)	367 (3,303)	1,067.5 (2,775.5)	544.5 (544.5)	6,623.0
Linwood (A)	181.5 (1,633.5)	1,085 (2,821)	70 (70)	<u>4,524.5</u>
Folsom (A)	135.5 (1,219.5)	1,222 (3,177.2)	0 (0)	<u>4,396.7</u>
Buena Boro (A)	257.5 (2,317.5)	786.5 (2,044.9)	21.5 (21.5)	<u>4,383.9</u>
Weymouth (A)	104.5 (940.5)	1,313.5 (3,415.1)	.5 (.5)	4,356.1
Woodbine (C)	173.5 (1,561.5)	284 (738.4)	4 (4)	<u>2,303.9</u>
West Cape May (C)	55 (495)	183.5 (477.1)	30.5 (30.5)	<u>1,002.6</u>
Cape May Point (C)	8 (72)	53.5 (139.1)	486 (486)	<u>697.1</u>
West Wildwood (C)	19 (171)	11 (28.6)	10.5 (10.5)	<u>210.1</u>

NOTE: Figures in Parenthesis ( ) denote weighted caseload  
A = Atlantic County  
C = Cape May County

Criminal = 9.0  
Traffic = 2.6  
Parking = 1

TABLE #1

fall into a small court category. Second, did my selection of the seven courts for the research sample through the caseload analysis, include all of the courts routinely operating in the red.

Table #2 provides an operating expense and municipal revenue analysis for all thirty-six courts covering the years 1983 and 1984. The operating expense figure simply reflects the employee salaries and basic costs of operating the courts. Fringe benefit packages are not included. Facility costs, i.e. rent, electric, etc. also are not included. The municipal revenue figures include only the monies disbursed back to the municipality including fines and forfeited bail in non-traffic matters, and court costs. The main purpose of Table #2 was a comparison of the two figures. To do this, column three provides the operating expense as a percentage of the municipal revenues generated. Obviously, if the percentage is less than 100% , the court is showing a net gain or "profit" for the years analyzed. On the other hand, a percentage of over 100% indicates a net loss and a court operating in the red.

Table #2 makes it quite clear that six of the thirty-six courts were operating substantially at a deficit for the years analyzed. Four of the six, Linwood, Cape May Point, West Wildwood and Woodbine, had already been selected for the research sample. The remaining two were Dennis Township and Upper Township. It was decided to include these two courts in the research sample for a number of reasons, in addition to the financial analysis. First the court's weighted caseloads, 6,690 and 7,756 respectively, were still relatively small. Second, from my personal visits to both courts, I knew both operated in substandard facilities. Third, the two townships actually border each other geographically.<sup>23</sup>

A word should be given to the three courts originally selected for the research sample through caseload analysis that still showed a net financial gain for the years analyzed. These courts included, Buena Boro, Folsom and West Cape May. Actually,

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23. See Appendix G-1.

## ANNUAL OPERATING EXPENSE AND REVENUE ANALYSIS 1983-1984

OPERATING EXPENSE AS A

COURT OPERATING EXPENSE\* MUNICIPAL REVENUE % OF MUN. REVENUE

Atlantic County

Absecon	40,360	75,820	53%
Atlantic City	645,894	766,551	84%
Brigantine	38,350	67,307	57%
Buena Boro	18,500	33,826	55%
Buena Vista	22,129	24,392	91%
Egg Harbor City	35,105	49,296	71%
Egg Harbor Twp.	201,609	242,883	83%
Folsom	10,925	14,945	73%
Galloway Twp.	62,506	114,349	55%
Hamilton Twp	111,954	159,477	70%
Hammononton	52,037	61,707	84%
Linwood	39,395	24,858	<u>158%</u>
Longport	15,000	54,862	27%
Margate	62,650	92,169	68%
Mullica Twp.	31,370	38,351	82%
Northfield	33,813	78,812	43%
Pleasantville	55,421	69,224	80%
Somers Point	38,741	114,265	34%
Ventnor	79,877	92,671	86%
Weymouth Twp.	13,315	13,805	96%

Cape May County

Avalon	28,802	100,207	29%
Cape May City	73,677	189,424	39%
Cape May Point	6,625	2,912	<u>228%</u>
Dennis Twp.	54,557	22,579	<u>242%</u>
Lower Twp.	64,373	82,858	78%
Middle Twp.	65,549	139,603	47%
North Wildwood	80,064	149,783	53%
Ocean City	155,094	292,923	53%
Sea Isle City	56,393	100,286	56%
Stone Harbor	27,903	67,758	41%
Upper Twp.	39,325	28,063	<u>140%</u>
West Cape May	3,840	6,000	64%
West Wildwood	4,120	1,333	<u>309%</u>
Wildwood	122,303	204,238	60%
Wildwood Crest	46,772	141,270	33%
Woodbine	21,055	10,664	<u>197%</u>

\* In most cases, this appropriation does not include facility costs, simply salaries and other expenses.

TABLE #2

because of the small caseloads, the profits realized were relatively small and for many of the reasons discussed in previous sections, these courts still appeared appropriate for the research sample.

Although the selection process could probably be challenged on various fronts, the research sample, including the following nine courts, was set:

Buena Boro  
Cape May Point  
Dennis Twp.  
Folsom  
Linwood  
Upper Twp.  
West Cape May  
West Wildwood  
Woodbine

Whatever the limitations, I was confident that if intermunicipal courts were ever to be considered, my original intention of identifying those courts most appropriate for same, had been met.

#### A Closer Look:

Although an in depth description of each municipal court will not be attempted, it would appear minimally necessary for adding legitimacy to the sample to identify any particular conditions that would apparently make the courts ripe for intermunicipal consideration. To reiterate, aside from relatively small caseloads and financial difficulties, which were inherent for the most part in all nine courts, this project has accepted from past research three conditions which alone or in combination would identify a potential for consideration:

- (1) Court sessions not warranted at least once weekly.
- (2) Employment of a full time clerk not required.
- (3) Facilities not meeting minimum standards.

In addition to identifying the existence of any of the above, additional basic information will be provided. Prior to discussing the courts individually, I feel obligated to state that no part of this project was intended as a criticism of any particular

individual. The individuals staffing the nine courts at the time of this research were competent and conscientious with a sincere desire of having their courts operate as well as possible. The items described as deficiencies were in no way within their control.

Buena Boro: A small community located at the western most corner of Atlantic County, the population of Buena Boro being approximately 3,500. Although somewhat rural, Buena Boro still maintains a small local police force. The average weighted caseload of approximately 4,400 includes a fair amount of non-traffic and moving traffic violations, with very little parking.

A court clerk staffs the clerk's office/violations bureau on a full-time basis. Court sessions are held twice a month. All court facilities are located in the boro hall which meets the needs of the court adequately.

As indicated by the revenue analysis, the Buena Boro court appears to be a financially efficient operation, especially when compared to courts of similar case volume.

Cape May Point: As indicated by the average weighted caseload of 697.1 and annual municipal revenues of only approximately \$3,000.00, it is quite obvious that the Cape May Point Court is exceptionally small. In fact, a quick review of weighted caseloads for all 531 courts in the state reveals that only six courts, at least at the time of the research, had smaller caseloads. Located at the southern most tip of New Jersey, Cape May Point actually has a permanent population of less than 300 residents. However, just as in most of the shore communities, the population dramatically increases during the summer months, in the Point's case to approximately 3,500. Even with this increase, no matter what the time of year, Cape May Point would still be considered the smallest community in Cape May County.

Needless to say, the municipal court is a part time operation, handling for the most part, uncontested parking tickets issued by a part time police force and paid over the counter at a part time violations bureau. Part time is actually generous, as the



bureau posts its hours as Monday evenings, 7-8 P.M.; The violations bureau is actually a 9'x10' room located at the base of a historical lighthouse. Although court sessions are scheduled once a month, during 1984 only three sessions were held handling a small number of speeding tickets and noise ordinance complaints. These sessions were held two blocks from the violations bureau, in the second floor of the volunteer firehouse, complete with pool table and "covered" beer tap.

Dennis Township: Geographically speaking, Dennis Township cannot be considered as small as Cape May Point and is, in area, almost the largest municipality in Cape May County. However, the township is quite rural with a permanent population of approximately 5,000 and a summer population of approximately 19,000. The township does not maintain a local police force, but is patrolled by the State Police. Although the court handles a fair amount of cases, the majority are traffic moving violations, with the fines payable to the state and only court costs being retained by the municipality. Because of its rural nature, very few, if any, local parking violations are handled, these being a major revenue generator in many other courts.

Although consistently experiencing financial difficulty, the court maintains a full time clerk's office employing a full time clerk and deputy. Court sessions are normally held once a week and sometimes more frequently in the summer. However, the major concern has always been the less than adequate facilities. Housed in what resembles an old single room school house, the accommodations are not comfortable. The clerk's office/violations bureau is located in the back of the courtroom and is extremely cramped.

Folsom: A rather small community located in Atlantic County, Folsom's population is approximately 2,000. Although on a smaller scale, the caseload situation is quite similar to Dennis Township. Patrolled by the State Police, a majority of the cases are moving traffic violations issued on a major access highway to Atlantic City. Being rural, there are no parking violations.

Although the clerk's office/violations bureau is considered open full time, the court clerk also serves as the town clerk, handling much of the other town office work. The clerk's office is actually located in a private residence, far from an ideal situation. Court sessions in the local town hall, are held two evenings a month.

Linwood: A small residential community located in Atlantic County just inland off the shore, has a population of approximately 6,000.

As in most courts, the majority of cases handled are moving traffic violations with a small amount of parking tickets issued by a local police force. Consistently experiencing financial difficulty as reflected in Table #2, the court continues to maintain a full time clerk's office/violations bureau, employing a full time court clerk and deputy. Compared to similar size courts, a question could be raised as to whether a staff of two full time employees is required. Court sessions are held two evenings a month. Both the clerk's office and court are located in a rather modern city hall and are above average.

Upper Township: Located in Cape May County, the description of Upper Township is quite similar to that of its adjoining municipality, Dennis Township. Almost as large in territory, the permanent population of approximately 8,600 is larger with the summer population of 17,000, being about the same. This substantially rural township is also patrolled by the State Police. The majority of the cases filed are moving traffic violations with no parking, leading to much of the same financial difficulties as experienced by Dennis Township. Even so, the caseload does require a full time clerk's office/violations bureau, with a staff of a full time clerk and deputy.

Court sessions are held once a week. All of the court facilities are located in a town hall which is actually a renovated school. Although workable, the accommodations fall below standard.

West Cape May: Located near, but not actually bordering Cape May Point, West Cape May is similar to the Point in territory and population with a permanent population of

approximately 1,200 and a summer population of approximately 4,800. The court is almost as small an operation, one of the smallest in the state, with a weighted caseload of about 1,000. The majority of the cases are moving traffic violations totalling less than 200 summonses a year issued by a small local police department.

The clerk's office/violations bureau, staffed by a part time court clerk is actually accessible about 25 hours a week. However, during these hours, the court clerk also works for the Sewer Department. Court sessions are held once a month.

The court facilities are located in a modern borough hall which was constructed with the assistance of a federal grant. The facility is more than adequate for the needs of the court.

West Wildwood: Although by territory and population (400 permanent, 6,500 summer), West Wildwood is not the smallest community in Cape May County, as reflected by a weighted caseload of 210, the municipal court is the smallest. In fact, based upon a weighted caseload, the court is actually the second smallest in the entire state.

The West Wildwood Municipal Court is unique, especially considering the topic being researched. Although not a true intermunicipal court, the West Wildwood Court does not maintain its own facilities but operates out of the neighboring City of Wildwood Municipal Court, the second largest in the county. The court clerk for West Wildwood is employed full time as Wildwood's Deputy Clerk, making her available to accept West Wildwood fines at the City of Wildwood violations bureau. However, separate docket and financial records are maintained. Although both municipalities retain the appointment of a judge, the same individual has been appointed by both since they began sharing of facilities. Because of this, court sessions are shared with the violations being heard separately. West Wildwood pays a small rental fee for the above arrangements.

Although the arrangements described actually allow for the cost effectiveness of consolidation, in reality this situation appears to be a clumsy way around surrendering individual authority on the part of the municipalities.

Woodbine: A small community in Cape May County, Woodbine is actually completely surrounded by the Townships of Dennis and Upper. Possessing a rather small population of about 3,000 permanent residents and a summer population of 4,400, the municipality does not maintain a local police department but depends upon State Police patrol.

The court also falls into the category of small with an average weighted caseload of 2,303, the majority being moving traffic violations. Even with the limited caseload, a full time clerk's office/violations bureau is staffed by a full time court clerk. Although this allows for good public access to the court, the caseload apparently does not support such an expense, with the court operating in the red consistently. Court sessions are held twice a month.

All court facilities are located in a town hall and are adequate for the needs of the court.

The foregoing descriptions make a conscious effort at highlighting the conditions apparently making the courts appropriate for consideration of intermunicipal agreements. The following indicates that at least one of the three listed conditions exists in each court:

<u>Court</u>	<u>Part Time Staff</u>	<u>Infrequent Court Sessions</u>	<u>Substandard Facilities</u>
Buena Boro		X	
Cape May Point	X	X	X
Dennis Twp.			X
Folsom	X	X	X
Linwood		X	
Upper Twp.		X	X
West Cape May	X	X	
West Wildwood	X		
Woodbine		X	

A number of the descriptions also addressed the geographic location of the courts. If serious consideration of consolidation into intermunicipal courts was to become a reality, geographic location would be important. It seems logical to assume that most large municipal courts would not willingly give up complete control by opening their doors to assist a small municipality. The realistic situation would be that a small municipality desiring an intermunicipal agreement would need to search for another neighboring small municipality desiring the same. As indicated on the maps of Atlantic and Cape May Counties provided in the appendix, a majority of the courts selected for the research sample either border on or are in close proximity to at least one of the other courts in the sample.<sup>24</sup> On paper, ideally the natural consolidations could be as

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24. See Appendices G-1 and G-2.

follows: Buena Boro - Folsom; Cape May Point - West Cape May; Dennis Twp. - Upper Twp. - Woodbine. Only Linwood and West Wildwood are not considered in the geographic discussion.

This should establish the legitimacy of the sample.

#### The Survey:

The purpose of this phase, actually the heart of the research, and as described in the Project Scope and Goals Section, was two-fold. The survey was directed towards judges and court clerks of the nine small municipal courts in the research sample and the municipal officials of the respective municipalities, in an attempt to obtain current attitudes concerning the issue of intermunicipal courts. The municipal officials group included individuals holding various positions within their municipalities including mayors, members of councils or committee, and municipal clerks. Because these nine courts were considered at least somewhat appropriate for intermunicipal operations, it was felt that the results could also represent attitudes of municipalities in similar situations statewide. While surveying these individuals to obtain current attitudes, there was also a hidden intention. Although probably a long shot, I hoped that discussing intermunicipal courts would stimulate possible consideration of entering into such an agreement. A number of questions asked of the thirteen existing intermunicipal courts in Phase One prepared me to address any particular inquiries.

As with the first two surveys, I felt there was no question that the semistructured interview would be most appropriate for this survey. The ability to expand upon both the questions and answers, while adhering to a set format, was essential. This was especially true in this survey since a number of subjects were not sure about the details of an intermunicipal court. The Task Force on Municipal Court Improvement was also addressed in the survey and often required substantial explanation. The same interview

format, a copy of which is in the appendix, was used for both the court personnel, i.e. clerks and judges, and the municipal officials, with only two variations.<sup>25</sup>

The interviews began with basic informational questions. The judges and court clerks were asked how long they held their positions. For the most part, this question was asked to provide a sense of the degree of their experience. Those holding their positions for a number of years could offer insight into the history of the court far beyond that of municipal officials. Municipal officials were simply asked what their position was with the municipality.

The remaining questions addressed the research topic directly. All subjects were asked if they were aware that the New Jersey Statutes currently permit two or more municipalities to establish a single intermunicipal court. This question tested one factor of my original hypothesis, which I first thought was quite weak, namely, that a reason why intermunicipal courts are not common, is that municipalities simply are not aware of the statutory provision.

All of the subjects were next asked if they had any knowledge of their municipality ever considering the possibility of entering into such an agreement. Although on the surface I was only requesting a yes, no or unsure answer, I hoped that the subjects would begin to expand upon both their individual feelings and their municipality's feelings on intermunicipal courts.

The next question asked the subjects was if they felt their municipality would consider entering into an intermunicipal court agreement under the existing court system. By existing court system, I asked the subjects to take for granted that none of the possible changes that they may have heard about would be implemented in the near future. Explanations of the answers were requested, again hopefully in an attempt to gain a sense of the real attitudes.

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25. See Appendix F-3.

As a follow-up, consideration was then given to the possible ramifications of recommendations from the Task Force for Municipal Court Improvement. This required substantial explanation since most of the subjects had limited knowledge of the Task Force. After receiving a briefing on the possible financial and other ramifications, the subjects were asked if implementation of the various recommendations would possibly result in a greater consideration of intermunicipal courts.

The judge and court clerks were then asked what their major concerns would be if their municipality were to consider entering into such an agreement. This question was necessary inasmuch as the other questions had dealt primarily with the intentions of the various municipalities. The question allowed for the venting of personal concerns.

Instead of asking for personal concerns, the municipal officials were asked if they would be interested in obtaining information concerning the existing intermunicipal courts in the state. An answer of yes would at least indicate a slight amount of interest if not already so indicated.

In closing the interviews, all of the subjects were asked if they had any comment as to what the information being obtained was going to be used for.

#### Limitations:

As in any research, this project and more precisely this phase has its share of limitations. Although it would be impossible to identify them all, it would appear appropriate to discuss at least the most obvious at this point.

The research sample of the nine small courts will be addressed first. As indicated, it was felt that the results of the survey could represent attitudes of municipalities in similar situations statewide. Obviously the validity of this intention is somewhat questionable and is based upon various assumptions. For the sample to be truly representative, we would have to assume that all small municipal courts statewide are identical. This is simply not the case. The overall validity in this research could



have been increased if small municipal courts statewide would have been surveyed, an overwhelming task. However, such representativeness was sacrificed in favor of the second intention of the localized survey, --the hope of possibly stimulating discussion and negotiation among small municipal courts in my immediate jurisdiction. However limited, it seems fair to say that the results of the survey could be used as a possible indication of concerns around the state for or against intermunicipal courts. Questions asked in phases one and two also added some statewide insight.

Even the localized intention of the research sample was quite limited. Although my hope was that by discussing intermunicipal courts, at least a few of the small municipalities maintaining separate courts, would consider the possibility of such an agreement more favorably, the survey was not structured as a feasibility study for consolidation. In generating discussion, it was hoped that the municipalities would simply see that there was another option, take things into their own hands, and possibly reach out for technical assistance that I was prepared to provide through my phase one research. This limited focus was quite intentional. Even though I was tempted to voice my opinion to the subjects that their courts seemed appropriate for consolidation and define my reasons why, this approach was avoided. My fear was that the municipalities would immediately jump on the defensive with closed minds and pass the research off as just another attempt at regionalization. You might say that I attempted to take a more psychological approach. Because of this approach, a number of particular questions were intentionally avoided. For example, consideration was given to discussing with the municipal officials the individual financial situation of the courts, most operating at a deficit, in comparison to the majority of the other courts in the state that at least break even. On the one hand, the discussion may have stimulated consideration for an intermunicipal court. However, on the other hand, it may have an adverse affect and result in drastic cutbacks in the existing budget appropriations to the courts, further decreasing efficiency.

Based on the focus, intentions, and limited control of the target group of this survey, the findings in Section III are not broken down individually court by court. However, because the data was collected through personal interviews, observations on particular court situations were achievable in some instances and will be addressed briefly. However, it must be stressed once again that due to the sensitivity of the topic being analyzed, my intention was simply to approach the subject gracefully. In depth feasibility studies, where appropriate and desired, would be a natural follow-up to this research project.

As indicated above, there was limited control of the target group in this phase, that being the judges and court clerks of the nine courts, and the municipal officials of the respective municipalities. Originally I set out with rather idealistic intentions of interviewing every judge and court clerk, in addition to a majority of mayors, members of councils, municipal clerks, etc. The realities became apparent when I attempted to schedule the various interviews. Once again the court clerks presented no problem, since they were available during fixed hours. Also, a majority of the judges were interviewed. Although personal interviews were attempted, the result was that a majority were conducted by telephone. Again, I didn't believe this hindered the results in anyway.

The success rate for interviewing the municipal officials was not as great. Although I had hoped to meet personally with a number of officials from each municipality to gain a broad perspective, in some cases only one official from a municipality was interviewed. As discussed in Phase One, most of the officials in these small communities are not easily contacted. This limited contact of the municipal officials in conjunction with the responses from the various clerks and judges, still provided a good sense of both the past and current attitudes concerning intermunicipal courts, and served the first intention of the survey well. The second intention, that being to stimulate serious consideration of establishing intermunicipal courts, probably

was somewhat restricted by the limited contact with municipal officials. However, as will be discussed later, the initial contact with officials from two municipalities actually lead to an invitation to a joint meeting of these same municipalities to discuss the possibility of establishing an intermunicipal court.

The validity of the responses from the various subjects interviewed also needs to be addressed. In Phases One and Two, it was noted that for the most part the validity of the responses could not be challenged. However, because of the sensitivity of the matter being researched, this is not the case with Phase Three. Although all of the questions were answered during the interviews, it was quite obvious that many of the subjects were not comfortable with the questions. Many seemed to be somewhat threatened and had their "guards up" during the interviews. It would be difficult to determine exactly the reasons why this occurred but possible reasons may be obvious. On the part of the judges and court clerks, it might have been a sense of pride for "their court" especially for those who had been associated with the court for a long time. In addition to possibly losing "their court", these individuals may have felt a possibility of losing "their jobs". On the part of the municipal officials, it is fair to speculate that they might have sensed another attempt at regionalization coming on, or at least another attempt at reducing their local control.

### SECTION III: FINDINGS AND DATA PRESENTATION

As described extensively in Section II, there were three distinct phases of research conducted. In an attempt to keep some of order, each will be addressed separately, first providing a summary of the actual findings, followed by a more in depth analysis of those findings.

#### Phase One: The Existing Intermunicipal Courts

##### Data Presentation:

To reiterate, total of eleven of the thirteen existing intermunicipal courts in the state were contacted. Eleven court clerks or deputy court clerks, one from each of the eleven courts, were interviewed. Also interviewed were three judges and five municipal officials, including one mayor, two town clerks and two members of council. The data received will be presented collectively.

The first question simply asked when the intermunicipal court was created. Although a few of the dates were estimated, the following responses were received:

1948	1961	1967
1952	1965	1975
1960	1966	1977
1960	1966	

The second question concerning the financial contributions from the municipalities was posed in two parts. First, the subjects were asked what methods were used to determine a municipality's contribution to the running of the intermunicipal court:

In eight of the eleven courts surveyed, costs are divided equally among the participating municipalities with no consideration given to the size of municipalities or volume of cases filed.

Two courts base the contributions by a ratio of the volume of cases originating from the particular municipality. In one court this is re-evaluated every five years. The other court has not re-evaluated the ratio since the creation of the court in 1967.

The remaining court, a two municipality court, is apparently funded by only one municipality. The other municipality is very small and by agreement allows all

costs and fines originating from offenses in their territory to be retained by the funding municipality.

The subjects were then asked if they felt the method used for their court was adequate:

The majority overwhelmingly felt the methods were adequate. Two court clerks from courts dividing costs equally felt that method was inadequate due to the disparity in size of the participating municipalities.

The third question addressed the degree of involvement on the part of the municipalities in the selection of the judge, even though by statute the appointment is by the governor.

All of the subjects indicated that the participating municipalities in their intermunicipal courts do take part in the selection of the judge by passing resolutions recommending the individual that they desire. Nine of the courts surveyed have created court committees with representation from each participating municipality. Joint interviews of candidates for judge are often held during the committee meetings.

In follow up, two additional questions were asked on the subject of selection of the judge. First, the subjects were asked if to the best of their knowledge, the governor had ever appointed an individual other than the one recommended by the municipalities. Second, did the participating municipalities ever recommend different individuals for the one judge position:

To the first, the response was that the governor, to the best of their knowledge, had always appointed the recommended individual. Six of the courts remarked that their judges had held the position in excess of 10 years.

To the second, none of the subjects were aware of any occasion in which more than one recommendation was made to the governor. Most indicated that this was a result of the court committees resolving any differences prior to recommendations being made.

Question four was the first of the attitudinal questions and asked the subjects if there were any advantages of an intermunicipal court operation: (There were numerous comments made, but by taking a little liberty, they can be summarized into six major responses. The numbers denote the number of times such a response was given):

- ... Overall cost effectiveness - better use of all resources, i.e. staff, facilities, equipment, etc. (11).
- ... Allows for much more of a professional operation (6)
- ... Advantageous to the State Police. If separate courts were maintained, the same troopers would be required to appear in two or three separate locations at different times (5).
- ... The public is better served through better use of tax dollars (3).
- ... Access to the court by the public is improved (2).
- ... The "quality of justice" is improved as it is easier to maintain independence from political influences (2).

Question five dealt with the converse and asked for disadvantages of an intermunicipal court operation:

- ... No disadvantages worth highlighting (6).
- ... Fair distribution of financial contributions among the participating municipalities is difficult (2).
- ... Budgets or needs of the court must be presented and justified to a number of municipalities possessing different attitudes and concerns (it's more difficult to convince two or three than it is one) (2).
- ... Local control on the part of the individual municipalities is somewhat reduced. Things are usually done in a majority rule type fashion (2).
- ... Extra work is required by the court since records must be kept on where violations occurred, and separate financial records must be maintained for proper distribution (1).
- ... Participating municipalities may require enforcement of various differing ordinances. Adjudication of same may be confusing (1).

Question six simply asked the subjects if they were in favor of retaining their intermunicipal court. The response was unanimous:

19 yes    0 no

Question seven asked if they would recommend small municipalities currently operating individual municipal courts to consider merging into intermunicipal courts. Again the response was unanimous:

19 yes 0 no (two qualified their responses by indicating that they would recommend an intermunicipal court if the municipality was experiencing financial difficulty. Both were municipal officials).

In follow up, the subjects were then asked what advice they may offer municipalities when entering into such an agreement. The number of responses was limited and can be summed up with the following:

- . . . Select an adequate facility centrally located.
- . . . Set up a committee with open representation from all participating municipalities.
- . . . Make every attempt at distributing operating costs fairly.

The final question asked for an opinion as to why more municipalities have not entered into intermunicipal court agreements. Again, the comments can be categorized into six inclusive responses:

- . . . Politics .....loss of local control, home rule, etc. (8).
- . . . Reluctance to move the court from the local neighborhood.....travelling distance, etc. (4).
- . . . Communication between municipalities is often limited and/or neighboring municipalities often do not get along for various reasons (3).
- . . . Municipalities may feel that the financial requirements may be too complicated and may not be in their best interest (3).
- . . . Municipalities may not be aware that the option is available (2).
- . . . Municipalities may feel that the initial negotiation and additional set up requirements may not be worth the end result (1).

#### Editorialized Analysis:

Although the intention of this survey has probably already been met simply by presenting the data collected, further analysis of particular areas pertinent to the overall research will be attempted.

Excluding the detail, it should be reminded that this survey of the existing intermunicipal courts in the state, was conducted as a learning process. A learning process to obtain first-hand information on the operations of an intermunicipal court.

Second, to find out just what was so distasteful about such operations as to cause them to be avoided by other municipalities in the state who should be interested.

Regarding the desire to learn more about the workings of an intermunicipal court, there is no question that the survey provided substantial information especially in the areas of finance, appointment of the judge and overall involvement of the participating municipalities. Regarding the "desire" to possibly find negative remarks to lend assistance in understanding why intermunicipal courts are not more common, this survey, although admittedly limited, provided quite the opposite. Although minor concerns and problems were identified, the endorsement of intermunicipal courts by those participating was unanimous. To illustrate this support, the interviews with the court clerks provided the following quotes:

"I often wonder why more towns don't consider joint courts."

"I wish more courts in our area would join in with us. The bigger the better."

"I would be embarrassed to work in some of the small courts around the state."

In fairness, I should indicate that the court clerks, although totally endorsing intermunicipal courts, still voiced the same complaints heard from all court clerks no matter where the court, i.e. low pay, long hours, not enough help, etc. They fit into the common mold.

Before moving on, a few additional observations of this particular survey which may or may not offer some insight into the overall research topic, will be made.

An interesting observation, at least to me, can be made from the first question of the interview which asked when the intermunicipal courts were created. Nine of the eleven courts surveyed were created at least eighteen years ago; two, more than thirty years ago. This may have some impact on why intermunicipal courts are not commonly being created. First, since no intermunicipal courts have been created for some time, the knowledge that such an option is available may not be widespread. Even



if it is known, since no municipalities have recently "made the move", municipalities may want to avoid appearing as an oddball or being identified as substandard.

Another area of apparent concern to municipalities causing them to avoid intermunicipal courts, is the problem of fairness in financial contributions and general financial matters. The survey indicated that the municipalities participating in the intermunicipal courts are no different. Financial concern will always be present. To assure that each municipality maintains some control and involvement in all matters, a majority of the courts have created court committees with representation from all municipalities. Usually the majority rules in these committee meetings. Although complete local control is surrendered, control is not completely sacrificed. Attention should also be given to the interview question which requested information on the methods used to determine a municipality's contribution to the running of the intermunicipal court and also the distribution of court costs. Contrary to my original prediction that this was determined by caseload analysis, the interviews revealed that only two courts actually used caseload analysis, the remaining nine simply divided costs equally. Although only two clerks indicated that dividing costs equally was inadequate, I believe a conclusion that dividing costs equally is adequate, may be an invalid one. It must be remembered that the majority of the respondents were court clerks, the ones charged with disbursing the costs per the agreed ratio. Although it cannot be proven, many of the court clerks may have indicated that equal distributions are adequate simply because it is less difficult than calculating unequal percentages. Additional interviews with municipal officials possibly may have revealed the common practices as inadequate. In the long run, caseload analysis and possibly weighted caseload analysis, may provide fairer distribution.

Another factor often identified as a common reason why municipalities avoid intermunicipal courts, is the fact that the governor takes over the appointment of the judge. The survey set out to determine if municipalities relinquish involvement

completely or if they still take part in some way. As the results revealed, all of the courts indicated that the municipalities still played a major role by passing resolutions recommending the individual they desired for the position. In most of the courts, the court committees, with representation from all municipalities, jointly interview possible candidates. Recommended candidates have always been appointed by the governor. Although it is true that the governor does officially take over the appointment, the municipalities still have some control, in a shared capacity. It is interesting to note that when asked for both disadvantages of intermunicipal courts and reasons why more municipalities do not consider such agreements, none of respondents indicated that relinquishing the appointment of judge as a concern. This was quite a surprise. Apparently these individuals, knowing the inside story, felt there was still local control over the appointment.

The majority of the advantages and disadvantages of an intermunicipal court as listed in the data presentation section, require no further discussion. Only a few of the comments will be highlighted. It was interesting to observe that among the comments under advantages were those indicating that intermunicipal courts are advantageous to the State Police. All of the participating municipalities in seven of the eleven courts surveyed were State Police patrolled. At least one of the participating municipalities in the remaining four courts also was patrolled by the State Police. If anything, this comment adds further legitimacy to a number of the courts selected for the research sample in Phase Three of the project.

An interesting comment under disadvantages was the most common response, that being that there were no disadvantages worth highlighting, obviously indicating a strong endorsement for intermunicipal courts.

In fear of giving away some of my overall concluding remarks for the project quite prematurely, I offer the following to bring the discussion of Phase One to a close. It would appear at least from this particular survey, that a possible reason why some

municipalities may avoid intermunicipal courts is that they are either misinformed about, or do not understand the actual operation of such courts. I can relate this to my own personal experience. Although I have worked directly with municipal courts for over four years, much of the data received from this survey was news to me.

## Phase Two: Court Administrative Personnel

### Data Presentation:

A total of seven Court Administrative Personnel were interviewed for this phase including:

A Presiding Judge of Municipal Courts; a Municipal Court Administrator; three Assistant Trial Court Administrators; and two Municipal Court Liaisons.

The subjects were first asked if they were in favor of intermunicipal courts and if so, in what instances:

The support in favor of intermunicipal courts was unanimous. Comments as to situations where such courts would be most appropriate were as follows:

- ... Small courts commonly experiencing financial difficulty (4)
- ... Low caseload volume courts requiring infrequent court sessions (4).
- ... Understaffed courts (3).
- ... Courts with inappropriate facilities (3).

The next question asked for an opinion as to why more municipalities have not entered into intermunicipal court agreements:

- ... Politics, loss of local control, etc. (4)
- ... Reluctance to giving up appointment of the judge (3)
- ... Municipalities may not be aware that the option is available (2).

- . . . Municipalities pride themselves on having a court in their community (1).

The final question asked for comments on the possible ramifications of recommendations of the Task Force for Municipal Court Improvement if implemented. A scope of the following recommendations was established: minimum salary requirements for judges and support staff; minimum standards for facilities; a budget impasse procedure providing Assignment Judges the authority to mandate sufficient funding; minimum qualifications and evaluations of judges; involvement of Assignment judges in the hiring of support staff; and a strict nepotism policy. Would the implementation of these recommendations have an effect on municipalities possibly considering Intermunicipal Courts more favorably?

- . . . An overwhelming comment was that if in fact the recommendations were implemented, the impact on the small municipal courts would be substantial. Most small operations would be unable to continue and intermunicipal courts may be a necessity.
- . . . However, a number of the subjects voiced skepticism on whether the recommendations, especially the financial ones, could be realistically implemented under the existing system. Most felt such mandates would need to be coupled with a means of allowing the municipalities to retain additional monies from court costs, etc.
- . . . One subject commented that no matter what mandates are placed upon municipal courts, some municipalities will do anything to retain their "own court". "They would have to be ordered to shut down."

#### Editorialized Analysis:

As indicated in the indepth description of this survey in Section II, the purpose of interviewing the court administrative personnel was to gain additional insight while also seeking support for researching the topic in the first place. The favorable response to the initial question concerning whether the subjects supported intermunicipal courts, indicated that I was not alone in desiring that the option would be considered more frequently. Although the interviews didn't request comments on advantages of an intermunicipal court directly, just about every subject addressed the issue to some

degree. The most common comment was that such operations would be much more cost effective.

The responses to the question of what particular instances intermunicipal courts would be most appropriate, fit right into line with research and actually added credence to the research sample surveyed in Phase Three.

The responses to the request for opinions as to why more municipalities have not entered into intermunicipal courts, really didn't offer any major surprises. The comment that many municipalities didn't wish to relinquish their local control was easily becoming the forerunner as the research went on.

Some of the most interesting conversations with the court administrative personnel concerned the possible ramifications of the recommendations of the Task Force for Municipal Court Improvement. It was obvious that all of the subjects supported the overall work of the Task Force and felt that implementation of the various recommendations would improve the courts substantially. However, the comments concerning whether the recommendations could realistically be implemented without additional financial assistance, may prove to be quite valid. It should be noted that the Task Force also addressed the need to re-evaluate the distribution of revenues to municipalities. A copy of this commentary can be found in the appendix.<sup>26</sup> However, most felt that it was still fair to say that even with increased revenues, and with or without mandated increases in salaries, etc., many small courts such as those targeted in the research, would still be very appropriate for intermunicipal courts.

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26. See Appendix E-9

### Phase Three: The Potential Municipal Courts

#### Data Presentation:

Because the nine municipal courts were selected primarily as a research sample to obtain an overall sense of the attitudes concerning intermunicipal courts, the data will be presented without differentiating between municipalities. However, because of the possibility of different concerns on the part of the judges, court clerks and municipal officials, the responses from these three distinct groups will be separated. Observations on particular court situations, emerging from the various interviews, will be presented in the subsequent analysis.

The first question of the interview simply asked the judges and court clerks for the number of years they had held their positions. A total of five judges and nine court clerks were interviewed. The years of service are as follows:

#### Judges

one year (1)  
two years (1)  
three years (1)  
six years (2)

#### Court Clerks

one year (1)  
three years (1)  
six years (1)  
seven years (1)  
nine years (1)  
fifteen years (3)  
thirty-three years (1)

The municipal officials were asked what their positions were with the municipalities. A total of ten officials were interviewed with the specific positions broken down as follows:

Mayors (3)

Members of Council or Committees (4)

Municipal Clerks (3)

The second question asked the subjects if they were aware that the New Jersey Statutes currently permit two or more municipalities to establish a single intermunicipal court:

Judges:                      5 Yes 0 No

Court Clerks                8 Yes 1 No

Municipal Officials:     7 Yes 3 No

The third question asked the subjects if they had any knowledge of their municipality ever considering the possibility of entering into an intermunicipal court:

Judges:                    1 Yes 3 No 1 Unsure

Court Clerks             4 Yes 5 No 0 Unsure

Municipal Officials:     4 Yes 6 No 0 Unsure

The fourth question asked the subject if they felt their municipalities would consider entering into an intermunicipal court under the existing system:

Judges:                    2 yes 3 no

Court Clerks:            4 yes 5 no

Municipal Officials:     4 yes 6 no

In follow up the subjects were asked to expand upon their answers indicating what they felt their municipalities major concerns would be concerning intermunicipal courts. I believe the question was appropriate for all of the subjects, no matter what their answer to question four. The comments were difficult to categorize, but an attempt has been made:

Judges:

- . . . The municipality would be concerned with the loss of local control, home rules, etc. (4).
- . . . There would be concern over losing the appointment of the judge (3).

Court Clerks:

- . . . Concerned with the loss of local control (6).
- . . . Concern about the financial arrangements, i.e. fair distribution of the operating costs and disbursements of fines and court costs (4).
- . . . Concerned over losing the appointment of the judge (2).
- . . . Concern over possibly moving the court from the local neighborhood (2).

Municipal Officials:

- . . . Concerned with the loss of local control (7).

- ... Concern over the financial arrangements, i.e. fair distribution of the operating costs and disbursement of fines and court costs (7).
- ... Concern over losing the appointment of the judge (6).
- ... Concern over moving the court from the local neighborhood (4).

The fifth question concerned the possible ramifications of the recommendations of the Task Force for Municipal Court Improvement. After substantial discussion of the recommendations, the subjects were asked if implementation of the recommendations discussed would result in their municipalities considering intermunicipal courts more favorably:

#### Judges:

- ... There was general skepticism on whether the recommendations concerning the increased salaries of judges and court clerks could realistically be implemented without a means of permitting the municipalities to retain additional revenues. Of course there was overall support for the possibility of increased salaries.
- ... Three of the five judges commented that the recommendations for minimum qualifications, education and evaluation of judges wouldn't have a major effect inasmuch as many of these requirements are already being met in a limited capacity. In addition, most judges in small courts also sit in other courts. In other words, there would be an adequate pool of qualified judges available.
- ... Two of the five judges felt the recommendation for minimum facilities standards would be of no effect inasmuch as their municipalities already possessed above standard facilities.

#### Court Clerks:

- ... The majority of the court clerks felt that if in fact the recommendations were implemented, there would be a major effect on the municipalities. However, as with the others asked this same question, there was general skepticism on whether the recommendations on salaries, etc. would be realistically implemented.

#### Municipal Officials:

- ... The discussion of minimum salaries, facilities and mandates from Assignment Judges concerning adequate funding led to lengthy conversations with a number of the municipal officials. Most voiced the same skepticism about whether such mandates could realistically be implemented without additional financial assistance.



- ... Three officials stated that such mandates would seriously affect the larger municipalities even more than the smaller, and will never be implemented in their current form.
- ... Two officials stated that minimum salaries, facilities, etc., if implemented, would force a number of courts to simply shut down without considering a merger with another municipality. In such cases, the caseloads would be shipped to the Superior Court which would be unable to handle the additional burden.
- ... Concerning the qualifications, education and evaluation of judges, two of the officials made similar comments to those of three of the judges. They felt their existing judges, all sitting in more than one municipality, would meet the necessary requirements.

Question six asked the judges and court clerks what their major concerns would be if their municipality were to enter into an intermunicipal court agreement:

Judges:

- ... Two judges stated that they would obviously be concerned about losing their jobs. One stated that because he was relatively new to the bench, his chances of being appointed would be slim.
- ... One judge clearly endorsed the possibility of an intermunicipal court stating it would be a major improvement.
- ... One judge claimed his major concern would be the location of the court inasmuch as it was obvious his municipality's facilities would not be appropriate. The town's people would have to travel.
- ... One judge had no comment as far as individual concerns.

Court Clerks:

- ... The most common comment, mentioned by four of the clerks, was that they would be concerned about losing their jobs, or at least a loss of status, for example from court clerk to deputy court clerk.

(The following comments were each made once):

- ... Would be concerned about the judge losing his job.
- ... Would not want to see the court lose its independence.
- ... Would be concerned that the finances would not be handled fairly.
- ... Local townspeople may be upset.
- ... The setting up of the court would be difficult, i.e. moving of resources, merging of records, etc.

The municipal officials were simply asked if they would be interested in obtaining information concerning the experiences of the existing intermunicipal courts in the state:

All of the officials responded yes to the question, however, it was obvious that a number were only trying to be polite. Four seemed quite sincere.

The final question asked of all the subjects, was if they had any comment as to what the information being obtained was to be used for:

Judges:

- ... No comment (3)
- ... Follow up research for the Task Force for Municipal Court Improvement (1)
- ... Attempt at eliminating the very small courts (1)

Court Clerks:

- ... No comment (4)
- ... Attempt at eliminating the small courts (2)
- ... Regionalization (2)
- ... Research on the feasibility of intermunicipal courts.

Municipal Officials:

- ... Reduction of local control (3)
- ... Elimination of the small courts (3)
- ... No comment (2)
- ... Limited regionalization (2)

Editorialized Analysis:

Taking into consideration the limitations of the research sample and the restricted number of interviews, hopefully the data presented has provided at least some additional insight into why intermunicipal courts are not a common choice. With respect to this first intention of the survey, the data presented probably is self-explanatory. However,

some deeper analysis into a limited number of the responses may add to the overall focus of the research.

As previously discussed, the semi-structured interview was selected for all of the surveys to allow for the ability to expand upon both the questions and the answers. The questions in this particular survey were intentionally vague to test the degree of knowledge, and past consideration concerning intermunicipal courts.

The first example of this vagueness comes in the question that asked the subjects if they were aware of the existence of intermunicipal courts. Although a majority were aware of the statute or at least that municipalities could merge operations somehow, it seemed clear that a number of the subjects had little knowledge of the inner workings of such a merger. During many of the interviews, especially with but not limited to the municipal officials, a number of questions were being asked of me even before I could continue with the scheduled questions. Some asked how the appointment of the judge is handled. Others questioned how the finances are handled. To promote validity in the responses to the rest of the interview question, I found myself explaining the ins and outs of intermunicipal courts. I was able to handle some of the particular questions with information I had learned from surveying the existing intermunicipal courts. This lack of knowledge on the part of many of those interviewed adds support to the argument made at the end of Phase One's findings. A possible reason why more municipalities do not consider intermunicipal courts is that they are misinformed or do not understand the operations of such courts.

Regarding support of previous arguments, this survey put the lid on the "fact" that the main reason why intermunicipal courts are not more common is that municipalities wish to maintain local control, home rule, etc. This was the most common response when the subjects were asked what their municipalities major concerns would be. It should be noted that the municipal officials were not quite so direct as to state terms such as home rule, local control, etc. Instead, comments such as the

following were made: We like to maintain our own facilities; we like to hire our own people.

This survey also provided interesting insight into the possible ramifications of the recommendations of the Task Force for Municipal Court Improvement. Setting aside the impact on the possibility of intermunicipal courts, the surveys in this project could be used to indicate that the recommendations for increased salaries, improved facilities, etc. may meet substantial barriers unless coupled with provisions for increased revenues to the municipalities. Although in time the recommendations will undoubtedly have some affect on the ability of small municipal courts to survive, enough skepticism has been introduced to put the subject on the back burner at least for now.

#### A New Intermunicipal Court?

Turning from the first intention of this particular survey, a brief discussion of the second intention is in order. To reiterate, while surveying the potential courts as a research sample to obtain current attitudes on intermunicipal courts, I had hoped to stimulate consideration of the possibility of such mergers among those being interviewed. It was this intention that led to this research project. Although I felt a complete feasibility study was not in order, obviously by the tone of this work, I felt a majority of the nine courts targeted in the survey were very appropriate for intermunicipal courts. Although the project cannot accept full responsibility, two of the courts surveyed have just begun serious consideration of merging to form an intermunicipal court.

As the copy of the newspaper article in the appendix indicates, at the time of the interviews with the respective municipal officials, West Cape May and Cape May Point had already begun negotiations to merge their police forces.<sup>27</sup> The interviews were successful in suggesting that similar merger of the court operations may be just as advantageous. The courts were quite appropriate. In addition to being geographically

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27. See Appendix H-1.

close, West Cape May's facilities are outstanding while Cape May Point's have been considered among the worst in the state. The court clerk of Cape May Point was planning to retire and the same judge was currently sitting in both courts.

Following a joint meeting with both municipalities to explain the creation and operation of an intermunicipal court, Cape May Point's records and supplies were moved to West Cape May's facilities. In addition, the court clerk of West Cape May was named the Acting Clerk of Cape May Point.

Although at the time of this writing the formal intermunicipal court agreement has not been signed, it appears imminent. Many of the advantages of a consolidated operation have already been achieved.

#### SECTION IV: CONCLUSIONS AND RECOMMENDATIONS

To set the tone for the research, a pre-survey hypothesis was presented speculating possible reasons why intermunicipal courts are not common in New Jersey. The possibilities were limited to three factors:

1. Municipalities may have a strong desire to maintain independence, local control, autonomy, etc.
2. Municipalities may be reluctant to relinquish the appointment of the judge to the governor.
3. Municipalities may not be aware of the legislative provision for establishment of an intermunicipal court, and if they are aware, they may be unaware of how to pursue its creation.

It is quite obvious that the first factor received the anticipated strong support from all of the surveys. The overwhelming reason given for why municipalities commonly avoid intermunicipal courts is the desire to maintain local control. It is probably fair to say that many municipalities avoid intermunicipal courts for the same reasons regionalized courts have been defeated in the past.

The second factor, the reluctance to relinquish the appointment of the judge, also received some support from the surveys. However, the survey of the existing intermunicipal courts provided a different focus, introducing the possibility that municipalities shouldn't be so concerned about "losing" the appointment since, in reality, they would still have some involvement in the selection process. This different focus possibly could be considered one of the most important factors revealed in the research. I believe it is fair to say that a great number of municipalities have no knowledge that there is local involvement in the selection process, just as I had no knowledge.

The third factor, the speculation that municipalities simply may be unaware of the intermunicipal court provision, received more support than originally anticipated. Although most subjects stated that they were aware of the provision, it was quite

obvious that there was little knowledge of the actual organization and operation of such courts.

In addition to the three factors covered by the original hypothesis, the surveys also provided other possible reasons to explain why intermunicipal courts are not common. For example, a frequent response was that there may be concern over the financial arrangements, i.e. fair distribution of the operating costs and fair disbursement of fines and court costs. Municipalities may fear losing money instead of showing overall cost savings.

Another factor identified in the surveys was the fact that neighboring municipalities cannot always achieve high levels of cooperation. A municipality sincerely desiring participation in an intermunicipal court may not be able to do so if another municipality desiring the same cannot be located.

#### Putting the Research to Work:

Although the primary intention of the research was the identification of reasons why intermunicipal courts are not more common, some of the reasons obtained in themselves, are appropriate for additional attention. Much of the data obtained would appear to indicate that many municipalities may not necessarily be against intermunicipal courts, but rather either do not understand or are misinformed about the operation of such courts.

Another question has been exposed. Taking into consideration what has been learned from the surveys, with emphasis on the information obtained from the existing intermunicipal courts, the question must now be asked: Would small municipalities upon learning more about the actual operation of intermunicipal courts, be more apt to consider the possibility of such a merger? Using the West Cape May - Cape May Point apparent merger as addressed in Section III as an example, the answer to this question, at least in some cases, may be yes. If the answer is yes, then attention must be given to identifying which municipalities would be approachable for an expanded

discussion of the possibility of intermunicipal courts. In addition, attention must be given to what information would serve to reduce a municipality's apprehension about considering a municipal court merger.

The research indicates that the small courts most appropriate for intermunicipal court consideration can be divided into at least two separate categories.

The first category includes the courts in municipalities that clearly wish to maintain local control no matter what the cost. These highly political arenas, possibly representing a majority of the appropriate municipalities, probably would not give up their individual municipal courts unless they were ordered to do so. As described above, these municipalities would clearly be against participation in an intermunicipal court. The information identified in this research and any research for that matter, would not change the position of these municipalities.

The second category includes the courts in municipalities that may be avoiding the consideration of intermunicipal courts because of total ignorance of the permissibility of intermunicipal courts, or a lack of knowledge about the actual operation of such courts. These are the municipalities that may feel that they would lose total control of the appointment of the judge, or would be concerned about the fairness of the financial contributions and disbursements. Many of these municipalities may simply require education about the actual operation of an intermunicipal court, and then may choose to disregard their previous misapprehensions.

Information which may reduce a municipality's apprehension about considering a court merger has been obtained for the most part from the surveys of the intermunicipal courts in the state, and may be summarized as follows:



1. Municipalities first need to be informed that the option of intermunicipal courts is available. In doing this, general information on the differences between individual municipal courts and intermunicipal courts should be provided, i.e. appointment of the judge, distribution of operating expenses, etc.
2. Upon discussing the appointment of the judge, municipalities should be advised that although the appointment is formally by the governor, each participating municipality commonly recommends their desired candidate by appropriate resolution. In most existing intermunicipal courts, a court committee with representation from each municipality, jointly interviews candidates.
3. In most existing intermunicipal courts, the court committee also jointly considers the court's operating budget with input from all contributing municipalities. Regarding operating expenses, etc., municipalities should be informed that a major advantage of merging court operations is the overall cost effectiveness. Because of combined use of resources, i.e., facilities, staff, equipment, etc., municipalities participating in intermunicipal courts, experience a major cost savings as compared to operating individual courts. Fair distribution of costs can be achieved through caseload analysis, if desired. Statistics are easily obtained from local Trial Court Administrator's Offices.
4. Additional advantages should also be addressed:
  - (a) Much more professional operations are attainable.
  - (b) The public is better served through better use of tax dollars.
  - (c) Access to the court by the public may be improved, inasmuch as intermunicipal courts would probably maintain full time office hours.
  - (d) In municipalities which are State Police patrolled, the intermunicipal court would be advantageous to the State Police. Court time could be reduced making troopers available for patrol.
  - (e) Probably the greatest advantage, and one often forgotten is that the overall quality of justice would be improved.

In conclusion, the primary intention of this research has been met simply by producing at least some reasons why intermunicipal courts are not a common choice in New Jersey. In analyzing these reasons, the research has identified that at least in some cases, intermunicipal courts should not be treated in a negative sense. In these cases, intermunicipal courts should be considered as a viable option with feasibility studies being encouraged rather than discouraged. The timing for consideration of intermunicipal courts may be appropriate. Although there was skepticism related in the research, it is still probably safe to say that the recommendations of the Task

Force for Municipal Court Improvement, in whatever format, will have some affect on the ability of small municipal courts to continue to function in the substandard manner we have been forced to accept.

Feasibility studies will be highly recommended in the small courts of Atlantic and Cape May Counties, and a recommendation for similar action is made to the other counties in the state. Although intermunicipal courts may not become a common choice, they should become an understood and respected option.

## SUMMARY OF NEW JERSEY STATUTES RELATED TO THE RESEARCH TOPIC

### **2A:8-1. Municipal courts; establishment authorized; name of court; change of name**

Any municipality, or any two or more municipalities entering into an intermunicipal agreement as hereinafter provided, may, by ordinance or ordinances, establish a municipal court and determine upon the name thereof. The name of any municipal court so established shall be the "municipal court of (insert name of municipality or where there are two or more municipalities, insert name of municipalities or a name descriptive of the municipalities with respect to their location in the county, as shall be specified in the ordinances adopted by said municipalities)." The name of any municipal court, established by two or more municipalities, may be changed after its establishment, to accord with the provisions of this act, by ordinances adopted by all of them. As amended L1953, c. 396, p. 2033; L.

### **2A:8-3. Intermunicipal agreement establishing single municipal court for 2 or more municipalities authorized.**

Two or more municipalities may, by similar ordinances, enter into an agreement to establish a single intermunicipal court with jurisdiction coextensive with the territory of the municipalities party to the agreement. Upon the taking effect of the ordinances establishing such a municipal court, all municipal courts theretofore existing in the respective municipalities shall be abolished and their functions, powers and duties, records, property, and pending cases shall be transferred to the municipal court so established.

### **2A:8-5. Judge of municipal court; term of office; appointment.**

Each municipal court shall have a judge who shall serve for a term of 3 years from the date of his appointment and until his successor is appointed and qualified. Each judge of a municipal court of a single municipality shall be appointed as follows:

In municipalities governed by a mayor-council form of government, by the mayor with the advice and consent of council; provided, that in municipalities governed under the borough law (Chapters 86 to 94 of Title 40 of the Revised Statutes), if the mayor fails to nominate a judge within thirty days after the office becomes vacant, or the council fails to confirm any nomination made by the mayor within thirty days after the same is made, then the council shall appoint the judge; and

In all other municipalities, by the governing body of the municipality.

Each judge of a municipal court of two or more municipalities shall be nominated and appointed by the governor with the advice and consent of the senate. As amended L. 1952, c. 356, p. \_\_\_, L.

#### **2A:8-7. Qualifications of Judge**

Every municipal court judge shall be a resident, and attorney at law, of this state, or a person holding on January 1, 1952, the office of municipal court magistrate, recorder, police judge or justice of the peace. A judge who is an attorney at law need not be a resident of the municipality or municipalities to which the jurisdiction of the court extends, but a judge not an attorney shall be a resident thereof.

#### **2A:8-9. Compensation of judges**

Judges of municipal courts shall be compensated by an annual salary to be paid by the municipality or municipalities wherein the court is located. The salary shall be fixed by ordinance adopted by the governing body of the municipality, and where the court's jurisdiction extends to two or more municipalities, the compensation shall be fixed by agreement of the municipalities included in such jurisdiction, which agreement may be evidenced by ordinance or resolution. The compensation so paid judges shall be in lieu of any and all other fees.

#### **2A:8-13. Municipal court clerk and personnel; compensation**

The governing body of a municipality, or the governing bodies of two or more municipalities, as the case may be, for which a municipal court has been established may by ordinance or resolution or by similar ordinances or resolutions provide for a clerk and other necessary clerical and other assistants for the municipal court and provide for their compensation. The governing body may by ordinance or resolution designate any officer or employee of the municipality to serve as clerk of the municipal court with or without additional compensation.

#### **2A:8-18. Municipal court accommodations and supplies provided.**

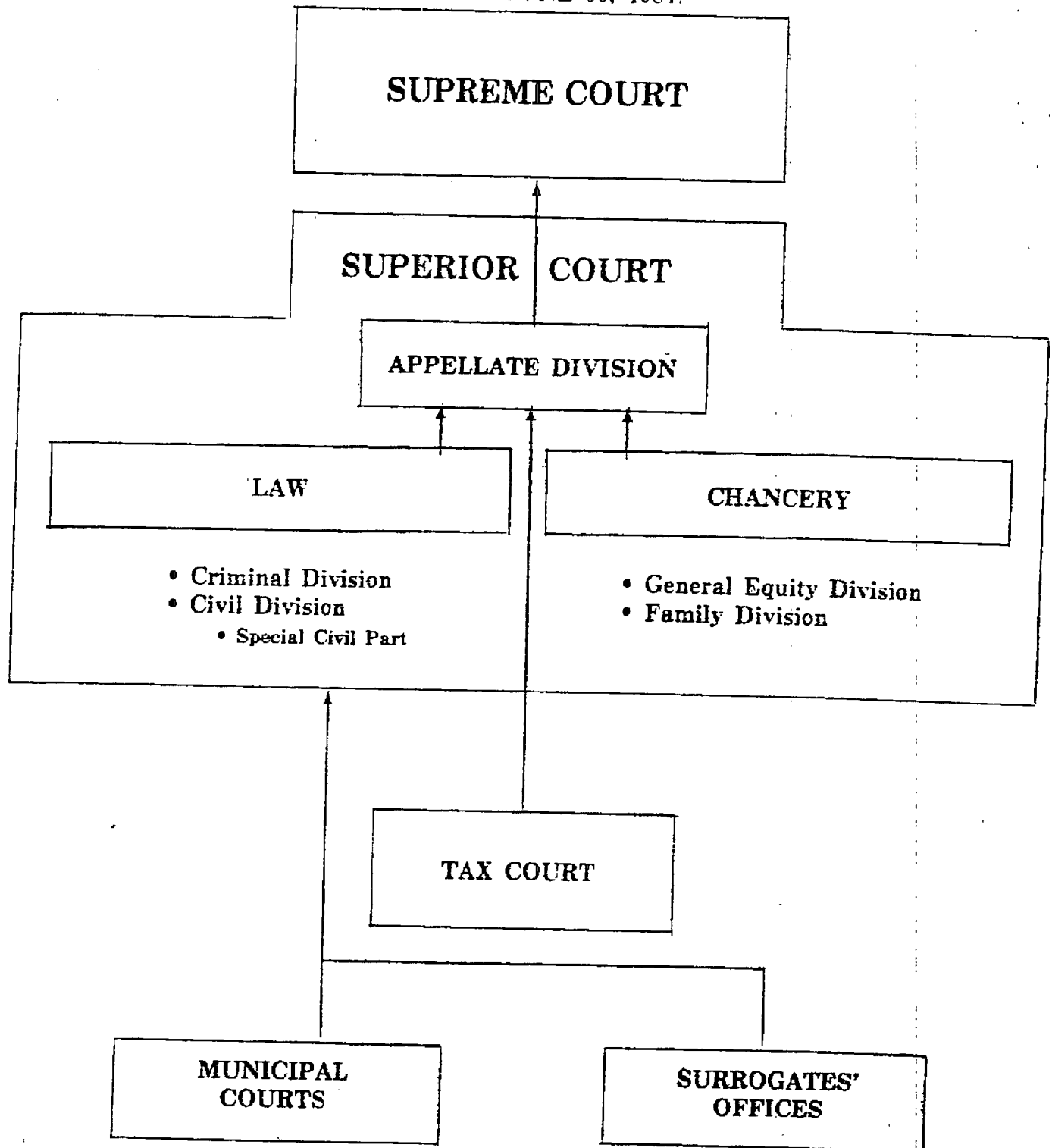
The governing body of each municipality, or the governing bodies of two or more municipalities, as the case may be, shall provide for the necessary accommodations and supplies for the municipal court of the municipality or municipalities. Where there is more than one magistrate of a municipal court of a single municipality, the governing body of such municipality may provide separate court rooms and other accommodations for each magistrate.

**2C:46-4. Fines and restitution; collection; disposition**

....c. All fines imposed by municipal courts on defendants convicted of crimes, disorderly persons offenses and petty disorderly persons offenses, and all fines imposed following conviction on appeal therefrom, shall be paid over by the officer entitled to collect same to the treasury of the municipality wherein the municipal court is located.

In the case of an intermunicipal court, fines shall be paid into the municipal treasury of the municipality in which the offense was committed, and costs, fees, and forfeitures of bail shall be apportioned among the several municipalities to which the court's jurisdiction extends according to the ratios of the municipalities' contributions to the total expense of maintaining the court.

(AS OF JUNE 30, 1984)



## JUSTICES, JUDGES AND JURISDICTIONS

**SUPREME COURT:** Chief Justice and 6 Associate Justices. Initial term of 7 years with tenure on reappointment. Mandatory retirement at 70.

### Final Appeal in:

1. Constitutional questions
2. Issues where dissent in Appellate Division
3. Capital causes
4. Certifications
5. In such cases as provided by law

**SUPERIOR COURT:** 345 Judges authorized. Term, tenure and retirement same as Supreme Court.\*

### APPELLATE DIVISION

#### Appeals from:

1. Law and Chancery Divisions
2. Tax Court
3. State Administrative Agencies
4. As provided by law

#### LAW

##### Criminal Division

1. General jurisdiction in all criminal causes

##### Civil Division

1. General jurisdiction in all civil causes
2. Appeals from Municipal Courts
3. Probate

##### Special Civil Part

1. Contract, penalty and tort actions up to \$5,000
2. Landlord and tenant actions
3. Small claims up to \$1,000

#### CHANCERY

##### General Equity Division

1. General jurisdiction in all equity causes
2. Probate

##### Family Division

1. Juvenile Delinquency
2. Dissolution (Matrimonial)
3. Non-Dissolution (Domestic Relations)
4. Adoptions
5. Juvenile and Family in Crisis

**TAX COURT:** 12 Judges authorized. Term same as Superior Court except for the 1979 appointments. Tenure and retirement same as Supreme Court. The Tax Court reviews the determinations of agencies and officials charged with administration of state and local taxes in particular:

1. Local property tax assessments
2. State tax assessments
3. Equalization tables promulgated by the director of the Division of Taxation or the County Boards of Taxation

**MUNICIPAL COURTS:** 359 Judges. Term. 3 years.

1. Traffic and motor vehicle violations
2. Ordinance violations
3. Disorderly persons offenses
4. Fish and game and navigation violations
5. Other specified crimes
6. Probable cause hearings on indictable offenses

**SURROGATES' OFFICES:** 21 Surrogates Elected. Term 5 years.

1. Uncontested probate matters
2. Deputy clerk of the Superior Court for probate matters

\*As of December 31, 1983. Judges formerly of the District Courts and Juvenile and Domestic Relations Courts are Judges of the Superior Court. Those with tenure retain tenure. Non-tenured Judges in this category hold office for the unexpired portion of their terms, and receive tenure on reappointment.

**SUMMARY OF RECOMMENDATIONS OF "MERGING MUNICIPAL  
COURTS", A REPORT PREPARED FOR THE NEW JERSEY  
ADMINISTRATIVE OFFICE OF THE COURTS IN APRIL, 1971**

To effect a merger of the present municipal courts in New Jersey with the County District Courts, it is recommended that:

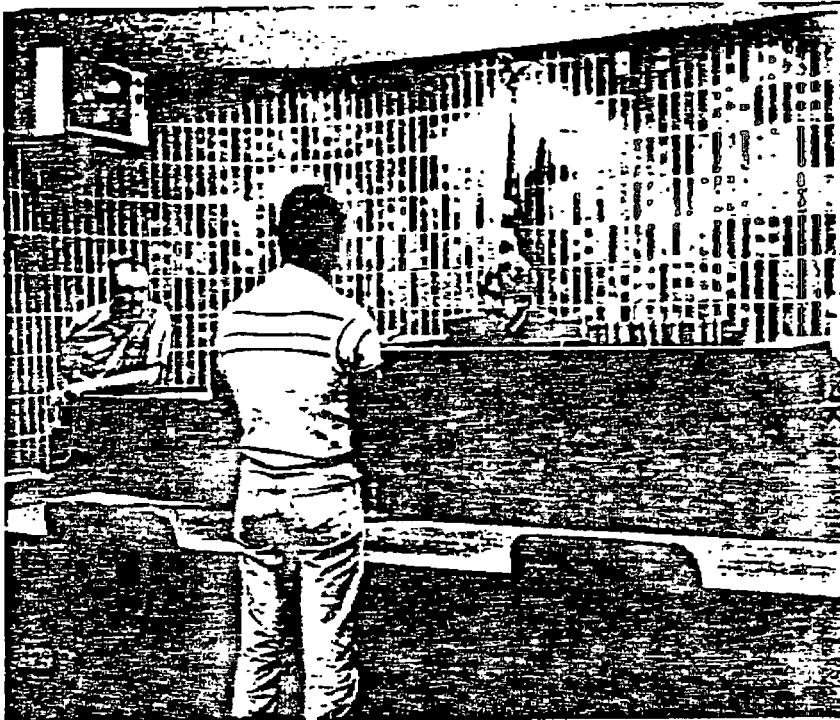
1. A state-supported division of the County District Courts be created to replace the present 523 municipal courts.
2. 108 full-time judges be appointed by the Governor with the advice and consent of the Senate to man the District Courts.
3. On the basis of caseload and population analyses, 66 districts be established as the judicial units of the new division.
4. Full-time, professional personnel, including District Court Administrators, be employed within each district.
5. Prosecuting attorneys be assigned to each District by the Office of County Prosecutor.
6. The Office of Public Defender be expanded to complement the increased prosecutorial staffs.
7. Daily and evening sessions of court be scheduled within each district.
8. The convenience of litigants, defense counsel, and law enforcement officers be considered in the selection of court sites and the calendaring of cases.
9. The reporting of data relevant to case actions be computerized.
10. Experimental programs be initiated, such as abolishment of selected mandatory appearances, driver improvement courses offered as sentence options, and rehabilitative programs provided as sentence alternatives.
11. Parking offenses be disposed of administratively by the municipalities and filed as court complaints only when delinquent.
12. Revision of the court's appeals procedures and the expansion of its criminal jurisdiction be studied by the Administrative Office.
13. Expenses of the District Court system be borne by the state with court costs and certain additional traffic fines allocated to the state.



## Municipal Court

# The 'People's Court' in New Jersey

by Harry F. Schmoll, Jr.\*



A typical day in Trenton's municipal traffic court.

**B**RIEFLY, the municipal court system was formed following the adoption of the 1947 State Constitution. It was designed to replace the old "system" of justices of the peace and police courts and to streamline local justice. The local courts were professionalized by requiring a newly-appointed judge to be a member of the Bar (effective January 1st, 1952).

It is commonly accepted that these courts have performed well. In fact, the municipal court often is referred to as the most important court in the state. Indeed it is the busiest; during the period from September 1, 1980 to

August 31, 1981 about three and one-half million complaints were disposed of. These included: parking, traffic, navigation, fish and game, local ordinance and disorderly persons complaints. This represents a huge workload. This workload is processed by judges, court clerks and staff members in 529 municipal courts, including 15 joint courts (courts serving two or more municipalities). Generally, judges serve on a part-time basis.

It should be noted that, except for joint courts, municipal judges and court personnel are appointed by local governing bodies. General supervision and guidance are provided by the State Administrative Office of the Courts and the Assignment Judge.

The municipal court can be considered a "people's court" in the sense that it is a local court and is the one with which citizens are most likely to come in contact. It has become an arena where people come to iron out domestic problems and neighborhood disputes. Also local merchants rely upon this court system

in matters relating to shoplifting and bad checks. Others seek restitution. The court really serves the people.

### The Winds Of Change

The fact that the municipal court is a branch of the local government brings it within the realm of "home rule." There are those that favor terminating this status and replacing it with so-called regional courts — a municipal court created to serve several towns instead of one. This move was recommended in 1971 by a study commissioned through the State Administrative Office of the Courts. Under this plan, the judge would serve full-time and would be appointed by the Governor. In all probability, fines and court costs would be collected by the state. So much for home rule!

Senate Bill No. 1042 was introduced on February 21, 1980. It is entitled "An Act Creating a Commission to Study the Present Municipal Court System and Making an Appropriation for the Expenses of the Commission." It provided for the creation of an 11 member commission, including only two municipal judges, to study the procedures and practices of the municipal courts. This panel would have a staff and be able to hold hearings. By the end of the last legislative session, this bill had been reported out of committee but no vote was taken. Therefore, it died. However, Assembly Bill No. 1031, with similar provisions, was introduced on March 1, 1982. The fate of this legislation is uncertain. If the proposed commission ever becomes a reality it would certainly entertain the question of regionalization of the municipal courts.

### Ask The Judges

From personal conversations with many people, including students, it is my impression that the great majority of citizens and law enforcement officers would favor the retention of the municipal courts in their home communities. It is a matter of convenience and economy. The local court is closer to home than a regional court. Travel time for police officers and witnesses is less. Whereas, a regional court probably would be a day court, presently many local courts have evening hours. People do not have to leave their jobs to attend. These factors strengthen the "people's court" concept.

*Continued*

\*This article was written as a result of a survey conducted by the author in conjunction with his duties as an Associate Professor of Criminal Justice at Burlington County College. The results of the survey were compiled prior to his appointment as Municipal Court Judge of Stafford Township in March, 1982.

## THE 'PEOPLE'S COURT' IN NEW JERSEY

*Continued*

How do our approximately 370 municipal judges feel about their court system? In order to find out I forwarded a survey form to 100 courts. They were sent to courts in each county. Cities, suburbs and rural areas throughout the state were targeted. However, judges were not requested to disclose their identity or municipality. Thirty four replies were received and would, in my opinion, constitute a representative sampling for the purposes of this article. Of the several questions posed by the survey, I will highlight those areas I feel to be of most significance. You may draw your own conclusions from the material presented.

In regard to the idea of scrapping the local court, I posed the following:

Are you in favor of retaining the present municipal court system?

Yes	No	Undecided
24	10	0

Are you in favor of replacing the municipal courts with regional courts?

Yes	No	Undecided
8	25	1

Would a regional court provide a more efficient system of justice than local courts?

Yes	No	Undecided
9	25	0

Twenty three of the 34 judges replied that practicing attorneys should continue to be permitted to serve as part-time judges. In response to whether part-time judges should be replaced with full-time judges who could serve more than one community, 12 said "yes," 15 replied "no" and seven were "undecided." These questions were asked because there has been criticism of a system that allows an individual to function as both a judge and a practicing attorney. Also, the proposed regional court system would require full-time judges. It is evident that the majority of those surveyed favor the present system.

At various times there have been intimations that municipal court operations are influenced by politics due to the appointment power of the governing body, i.e. local politicians. To address this charge, I asked the following questions:

Are municipal court operations influenced by local politics?

Yes	No	Undecided
13	21	0

Should municipal court judges continue to be appointed by the local governing body?

Yes	No	Undecided
22	10	2

Should local judges be elected in a non-partisan election?

Yes	No	Undecided
4	28	2

Should the Governor appoint local judges?

Yes	No	Undecided
5	28	1

Should local judges be chosen by a commission or similar body?

Yes	No	Undecided
5	25	3

From the replies received there seems to be little support for switching from the present method of selection of judges. Even though 13 of 34 judges acknowledged the existence of political influence, one would be too many. The questionnaire did not provide for a description or explanation of how the influence was exerted. This may cloud the validity of the answers. If there is a problem, it could be remedied by providing for longer terms and tenure. This was suggested by several participants in the survey.

Several additional questions addressed the municipal courts potential for expansion. There was some support for expanding the court's jurisdiction in the areas of family law services and small claims. It should be noted the recent passage of the Prevention of Domestic Violence Act empowers the municipal court judge to issue a Temporary Restraining Order in cases involving domestic violence. Also, the Governor recently signed A-527 allowing a consumer to sue in municipal court for a refund and damages not exceeding \$200.00 if a retailer fails to post a notice of its refund policy and refuses a request for a refund within 20 days of purchase (109 N.J.L.J. 458). On January 12, 1982 the Governor signed Senate Bill No. 3466 and Assembly Bill No. 2293 which, among many provisions, transfers jurisdiction of breathalyzer refusal adjudications from the Division of Motor Vehicles to the municipal courts.

It would appear, then, that a trend toward expanding the local court's jurisdiction is developing at a time when some are in favor of abolishing the court as we know it. It seems there is a recognition on the part of legislators and the Governor of the court's unique ability to deal with local problems. In

response to the question "Is a local court more responsive to the needs of a community than a county based Court?", 29 judges replied "yes," three "no" and two "undecided."

Attention has been given to the funds allocated to the local treasury through the collection of fines and court costs. Of course, a great deal of the fines collected by the courts are paid to the state and county. However, the municipalities' share would go to the state under the regional court plan. The present court system is not supposed to be a profit-making venture although some courts "gross" more than needed to meet expenses. In answer to the question: "Should the efficiency of a municipal court be determined by the amount of fines collected?", one judge said "yes," 32 replied "no" and one was "undecided."

Finally, two questions were asked in order to determine how the judges felt in regard to the performance of the municipal court.

In your opinion, does the community feel your court is doing a good job?

Yes	No	Undecided
26	0	8

Do you feel that the municipal court system is fulfilling its mission in New Jersey?

Yes	No	Undecided
28	2	4

### Judges' Comments

The judges were asked to make additional comments if they so desired. Some of these are as follows:

"It appears that despite the advantage of the local court to have empathy for local problems, the bureaucracy feels that state and regional control is better, but change for change-sake is not necessarily progress or improvement."

"The present system enables a disposition of cases without local police having to leave their respective municipalities."

"Municipal courts should be incorporated into the upper court system. Judges should be full-time. Present judges should be given the option of becoming full-time. That would take municipal court judges out of the practice of law for income purposes, lessen outside pressures on them, remove them from political pressures and criticism, and enable them to develop greater expertise."

"At some time, municipal judges should receive tenure."

"Making municipal judges full-time with the necessary staff would serve to 'bureaucratize' the system and make it

inefficient.

"My experience leads me to the conclusion that the local municipal court is a people's court, and that the handling of neighborhood disputes and peculiarly local problems are its most significant contribution to the criminal justice system. It is not possible to regionalize the system without taking away from citizens an opportunity to be heard in a forum familiar with neighborhood matters."

"The system as it presently exists, given the tremendous volume of our municipal courts, is one of which we may all be proud, although it is not perfect."

#### The Future

I predict that our municipal court system is here to stay. If the study commission is approved and it eventually recommends regionalization, such a change in the local court structure would be resisted vigorously in my opinion. I believe that the present system enjoys very strong "grass-roots" support from our citizens as well as support from law enforcement personnel, local elected officials and municipal judges themselves. This support cannot easily be ignored.

A further thought must be expressed. In traveling from court to court to observe the proceedings, I have been left with one outstanding impression. The

people of our state hold respect for our municipal courts. Almost always, absolute silence prevails; almost always, the decision of the judge is accepted; and almost always, the "client" of the system leaves the court-room feeling the decision was just. A system of justice cannot survive without the respect of those it serves. This great achievement of our municipal courts must not be abandoned injudiciously.

## Position 3.1

### Qualifications of Municipal Court Judges

Minimum standards of character, education, and admission to the bar should be set for municipal court judges. A candidate for judgeship should be.

1. An attorney admitted to the practice of law in the State of New Jersey for a minimum of five years.
2. Cleared through a confidential investigative/background security check developed by the Administrative Office of the Courts. This "four-way check" would entail inquiries into the applicant's background on the state, federal, county, and local levels. A confidential check would also be made upon a judge's reappointment.
3. Within 90 days of his appointment and prior to sitting a municipal court judge shall be certified as having satisfied the requirements of a prequalification education program.

## Commentary

Inherent in the judicial appointment process should be the aim to secure high-quality persons for judicial office. It has been noted on more than one occasion that

[t]he weakness in the system is that political influences often cloud the issue and affect the ultimate selection. Appointment to the judiciary has been a favorite means of satisfying political obligations and favors. It would be unrealistic not to recognize that many judicial appointments are primarily based on political considerations. The problem is that when political considerations become involved, the matter of judicial qualification fades into the background. It is a fact that judges have been appointed who have lacked the talent, ability, health, will to work, or integrity required. This is not to say that a person who has been active in politics should not be appointed to the bench. Many of our finest judges have had political backgrounds. Indeed, their political experience has been an invaluable help in the carrying out of their judicial duties.

The setting of minimum qualification standards for municipal court judges will enhance the integrity of the judicial appointing process by insuring appointment of the highest quality people to the position. For example, the five-year-minimum admission requirement provides the appointing authority with the opportunity to review the practical experience and professional competence of those under consideration for the position of municipal court judge.

Further, a four-way check on a candidate's background also aids in this endeavor. Currently, the municipal court judge is the only judge who is not required to cooperate in a background investigation upon nomination. This Position proposes that the appointing authority provide the Assignment Judge with a list of candidates under consideration for appointment. As noted in later Positions, the information obtained from the four-way investigation would be sent to and reviewed by the vicinage Assignment Judge. It would then be determined whether the information should be released to the appointing authority. In this

manner. any candidate who did not meet the highest qualifications could be passed over without having his or her deficiencies made public.

The requirements of a prequalification education program should be implemented by court rule. Just as Rule 1:39 provides for the certification of attorneys as civil or criminal trial attorneys upon establishing eligibility and satisfying requirements regarding education, experience, knowledge, and skill, so also should provision be made for municipal court certification.

The program, consisting of seminars, shall be held every 3 months, to familiarize the certification candidates with the responsibilities, including administrative requirements, of the position of municipal court judge. The education program should be developed in cooperation with the Administrative Office of the Courts and will be open to all interested attorneys. In addition to instruction in substantive legal matters and municipal court trial procedures, the course should provide a full explanation of the municipal court statistical report as well as a strong emphasis on the provisions of the Code of Judicial Conduct and Ethics Opinions applicable to municipal court judges.

The prequalification education program requirement may be waived upon application to the Assignment Judge and the Administrative Office of the Courts. Those who are currently municipal court judges will be "grandfathered-in" and not required to satisfy the prequalification education program.

Only one of the fifteen Local Advisory Committees considered the requirement for a confidential background check unnecessary. Almost all unanimously endorsed the aforementioned Position in its entirety, in particular the five-year prequalification for appointment to the the bench.

## References

<sup>1</sup> Hon. Mark A. Sullivan, then Judge, Superior Court of New Jersey, in "A Selective Appointment of Judges: A Key to A Qualified and Independent Judiciary." American Judicature Society. Selected Readings on the Administration of Justice and Its Improvement (Chicago, 1969), p. 24.

"Eligibility Requirements, Evaluations, and Tenure," Committee on Budgets, Personnel and Space, Appendix C.

President's Commission on Law Enforcement and Administration of Justice "The Judiciary: Personnel and Institutions." Task Force Report: Courts Commission on Criminal Justice Standards and Goals. (Washington, D.C.: Government Printing Office, 1973), pp. 145-149.

See also Exhibit 3. amended N.J.S.A. 2A:8-7.

## Related Positions

The following Positions may be applicable in implementing Position 3.1:

Position 1.5	Vicinage Presiding Judge - Municipal Courts
Position 3.2	Tenure of Judges
Position 3.3	Evaluation of Judges

## Position 3.3

### Evaluation of Judges

In order to ensure that the administration of justice is maintained at the highest possible level, all municipal court judges should be evaluated on at least an annual basis.

#### Commentary

An annual judicial performance evaluation prepared and conducted by an appropriate Judicial Committee and supported by the Administrative Office of the Courts would assist a judge in identifying and correcting existing or potential problems. For example, the judge who consistently grants continuances without good reason is not exercising efficient control of the court calendar, thereby creating added paper work for his staff. An annual evaluation can provide a method for ensuring efficient, consistent practices by individual judges and the effective operation of municipal courts throughout the state. It has been noted that,



"Rules and methods are unquestionably important, but they alone cannot create a highly regarded system. Since judges exercise enormous discretionary power, and since trial judges function without any kind of direct supervisions and perform their work alone rather than with colleagues, the quality of judicial personnel is more important than the quality of the participants in many other systems".

It is mandatory, therefore, that an evaluation program be instituted to ensure the highest quality of judicial performance.

Local Advisory Committees were supportive of this evaluation concept. It was stated by one committee that with fair and adequate criteria, the evaluation of municipal court judges would indeed benefit not only the judge but also the operations of that judge's court, and in turn the judiciary itself.

## References

"Eligibility Requirements, Evaluations, and Tenure" Committee on Budgets, Space and Personnel. Appendix C.

<sup>1</sup> President's Commission on Law Enforcement and Administration of Justice. "The Judiciary: Personnel and Institutions." Task Force Report: Courts. Commission on Criminal Justice Standards and Goals. (Washington, D.C.: Government Printing Office, 1973), p. 145.

## Related Positions

The following Positions may be applicable in implementing Position 3.3:

Position 3.1	Qualifications of Municipal Court Judges
Position 3.2	Tenure of Judges

## Position 3.5

### Judicial Compensation

Municipal court judges should be paid not less than \$150 a session. A session is defined as up to four hours, inclusive of both administrative and bench time. Full-time municipal court judges should be paid at an annual salary rate of 95 percent of the salary of a Superior Court Judge. This amount should act as a salary cap on the judicial earnings of a municipal court judge unless otherwise approved by the Assignment Judge.

#### Commentary

While the salaries of municipal court judges since 1947 are no longer dependent "on the costs they assessed against defendants they found guilty," 10 Rut.L.Rev. 659 (1956), the Task Force found that there were still considerable problems involving compensation. The Task Force found abuses such as the "bid-a-judge" concept, in which a municipality offers a municipal court judgeship to the lowest bidder rather than to the most qualified applicant.

Equally astounding and far more pervasive is the enormous disparity that characterizes judicial compensation. In order to gauge the magnitude of the problem, the Task Force authorized a study. The results revealed that even when controlling for court size and caseloads, there were substantial differences in judicial salary levels. (For details concerning the methodology and findings of this study, see the Task Force position paper entitled "Judicial and Court Employees' Salaries", Appendix C).

As more fully discussed in Position 3.2, one of the major goals of the Task Force was to encourage the development of a professional municipal court bench staffed by the most qualified people available. To assist in realizing this goal, the Task Force has recommended the promulgation of standards concerning uniform compensation levels for all municipal court judges. Achieving uniformity, however, was not the primary purpose of these proposals. Rather, the Task Force found that most judges receive inadequate salaries given the workload presented and time required by the position. It was concluded that only by establishing adequate minimum compensation levels (\$150 per court session) could municipalities hope to attract the best qualified candidates for the position. The figure of \$150 per court session is meant to be a minimum and is not meant to prohibit a municipality from paying a higher amount. To aid in the implementation of the minimum salary, the Assignment Judge, when reviewing municipal court budgets, should when the circumstances warrant, take appropriate action. Competitive salaries will also encourage judges to devote the required time to administrative matters connected with the position.

By simultaneously establishing a "cap" on judicial salaries, the Task Force has not attempted to inhibit the practice of holding [or accepting appointment to] multiple judgeships. However, it was decided that abuses might occur if judges were to over-extend themselves and consequently not devote sufficient time to

each court's management and administration. Therefore, the bar should not be absolute, and should be subject to waiver at the discretion of the Assignment Judge.

After balancing the competing interests in establishing minimum and maximum compensation levels, the Task Force has recommended that the salary for a full-time municipal court judge be equivalent to 95% of the salary of a Superior Court Judge i.e. 95% of \$70,000 = €66,500. It should be noted that a raise in the salary for the Superior Court would also result in an increase in the maximum allowed for a municipal court.

The reactions of the Local Advisory Committees to the original Task Force proposals concerning compensation issues were widely divergent. While generally not disagreeing with the concept that municipal court judges should receive adequate compensation, many of the LACs expressed concern over particular recommendations. The Task Force reconsidered the proposals in light of the LAC comments and substantially modified and amended many of the original positions but held to the requirement that absent Assignment Judge waiver, salaries for municipal court judges should be capped at 95% of a Superior Court Judge's salary.

## **References**

"Court Employees, Duties, Qualifications and Appointments," Committee on Budgets, Personnel and Space, Appendix C.

"Judicial and Court Employees Salaries" Committee on Budget, Personnel, and Space, Appendix C.

## **Related Positions**

The following positions may be applicable in implementing Position 3.5:

Position 1.1	Vicinage Presiding Judge - Municipal Courts
Position 3.4	Limitations on Practice
Position 4.1	Budget Reporting
Position 4.3	Impasse Procedure
Position 4.4	Revenue Distribution

## **Position 3.7**

### **Municipal Court Clerk/Administrator**

### **Qualifications and Compensation**

To reflect the differences in levels and amount of responsibilities and experience, the position of "Municipal Court Clerk" should be redesignated as "Municipal Court Clerk/Administrator" at three distinct levels with appropriate qualifications for each. Further, the title Municipal Court Clerk/Administrator should then be removed from the classified category of the Civil Service System (existing Court Clerks would not be required to meet the new qualifications).

#### **Commentary**

There are currently two distinct systems for selecting and appointing municipal court clerks in New Jersey. In approximately one-third of the state's local jurisdictions, including most of the larger municipalities, court clerks are hired through the Civil Service system. In these municipalities, the court clerk position is defined by a standardized job description. Candidates for this position are tested by use of standardized test instruments. Selection is then

made from a list of eligible candidates by following strictly controlled Civil Service rules and procedures. Under this system there is often no provision for input by a municipal court judge in the appointment of a court clerk.

The majority of municipalities, however, are not under the Civil Service system; instead, the selection process and appointment of court clerks is left to local personnel and is often unsystematic. In the non-Civil Service jurisdictions, appointments of court clerks usually are made by elected or appointed non-judicial municipal officials, who are not required to, and therefore rarely consult with the local municipal judge or any other judicial officer before hiring court personnel. Many, if not most, non-Civil Service jurisdictions do not state specific job descriptions for court clerks such as the required minimum education, prior experience or training, in other words, those items that would assure the appointment of qualified municipal court employees.

To ensure that qualified people are appointed and retained in Municipal Court Clerk/Administrator positions, there should be three distinct levels of Municipal Court Clerk/Administrator. The minimum qualifications recommended for each position and corresponding salaries are as follows:

<u>Municipal Court Clerk/Administrator I</u>	\$28,638.84 to \$38,665.08
--	----------------------------

#### **REQUIREMENTS**

##### Education/Experience

A baccalaureate degree from an accredited college and two years of municipal court or comparable office management and administrative experience. Experience may be substituted for academic credits on a year for year basis.

Municipal Court Clerk/Administrator II      \$23,559.17 to \$31,809.72

**REQUIREMENTS**

Education/Experience

Either: (i) a baccalaureate degree from an accredited college; or (ii) the equivalent of two years of credit from an accredited college and two years of municipal court experience; or (iii) a high school diploma or its equivalent and four years municipal court experience.

Municipal Court Clerk/Administrator III      \$19,381.29 to \$26,170.17

**REQUIREMENTS**

Education/Experience

At least a high school diploma or its equivalent plus a total of two years of either college credit or administrative experience

It should be noted, however, that the qualifications and salaries as recommended by the Task Force may require further review in order to ensure that the qualifications and concomitant salaries are consistent with recognized personnel standards and evaluation.

Court Clerks currently holding the position would not be required to meet the above education requirements. In part-time courts in which the Municipal Court Clerk/Administrator III title would be used, this salary would represent an annualized and not actual salary, amounting to an hourly rate.

The Municipal Court Clerk/Administrator I title emphasizes duties in a large size court in which other court employees would be delegated the responsibility of performing all daily court clerk functions. The Municipal Court Clerk/Administrator I would be the court manager, responsible for budgeting, staff training and evaluation, organization development, short and long range planning, and liaison with local, county, and state officials.

The Municipal Court Clerk/Administrator II would serve a mid-sized court with several court employees. While some functions would be delegated to these employees, given the limited size of the court staff, many court clerk functions would still be performed by the Municipal Court/Clerk Administrator.

The Municipal Court Clerk/Administrator III would serve, either full or part-time, in a court with no other court employees. The Municipal Court Clerk/Administrator would perform all required court administration functions but would not have staff training or personnel supervision and evaluation duties and would have only limited responsibility for planning and organization development.

The setting of eligibility requirements will help to ensure that the most qualified persons are employed in addition to discouraging nepotism and political favoritism. Current Municipal Court Clerks would be "grandfathered" into this provision.

The Local Advisory Committees felt that it was appropriate to set forth guidelines for salary ranges, that the court clerks as a whole have been grossly underpaid, and that a salary guide should indeed be adopted based on the size of the court and the length of the employee's service, including the particular municipality's right to negotiate within that frame or guide. A minority of LACs expressed concern that salary guidelines might infringe on the authority of municipalities to determine how their funds are to be spent. To avoid this infringement, one LAC recommended that any salary ranges developed be in the form of suggested guidelines.

Although the Task Force recognized the budgetary constraints in the implementation of this Position, it concluded that the best interests of the system mandates the establishment of a uniform salary structure for Municipal Court Clerk/Administrators. Methods for implementation may be found in the Budgets and Finance section of this Report, infra.



## References

"Judicial and Court Employees Salaries". Committee on Budgets, Personnel and Space, Appendix C.

"Court Employees, Duties, Qualifications and Appointments", Committee on Budgets, Personnel and Space, Appendix C.

"Nepotism in the Municipal Court" Committee on Budget, Personnel and Space, Appendix C.

## Related Positions

The following Positions may be applicable in implementing Position 3.7:

Position 3.8	Appointment of Municipal Court Clerk/Administrator
Position 3.9	Background Investigation for Municipal Court Employees
Position 3.10	Employment and Termination of Municipal Court Personnel
Position 4.1	Budget Reporting
Position 4.3	Impasse Procedure
Position 4.4	Revenue Distribution

## **Position 3.8**

### **Appointment of Municipal Court Clerk/Administrator**

The appointing authority for Municipal Court Clerk/Administrators should remain with the municipal governing body; however, consistent with Rule 1:33-4, all appointments should be made with the approbation of the Assignment Judge. Prior to appointment, as a Municipal Court Clerk/Administrator the applicant shall be required to attend and satisfactorily complete a prequalifying course which will be administered by the Administrative Office of the Courts every 90 days throughout the state.

Upon employment, and before being deemed "permanent", Municipal Court Clerks/Administrators shall satisfactorily complete a probationary period of between 6 to 12 months. After being appointed as "permanent" any termination shall be for "just cause" only.

## Commentary

As noted in earlier Positions, one of the largest problems pointed out by the 1983 Municipal Court Judges Conference was the inability of the Judiciary to attract and retain highly qualified persons. The Task Force was charged in its original mandate with the review, and where necessary, the setting of personnel standards. As such, Position 3.7 establishes title and salary structure for a Municipal Court Clerk/Administrator and this Position ensures judicial involvement in the selection procedure. In addition, all newly appointed Municipal Court Clerk/Administrators will be subject to a probationary period to allow the appointing authority to determine, based on the employee's performance, whether he or she merits permanent status. The probationary period shall commence with the first day of work and extend over a period of six to twelve months.

Furthermore, to protect a permanent court employee from arbitrary termination, the standard for firing a Municipal Court Clerk/Administrator should be for "just cause" only. Reasons for termination should be stated in writing and served upon the employee at least two weeks prior to the date of dismissal. The employee will have the right to make a direct appeal to the Assignment Judge, who, with the assistance of the Presiding Judge, will hold a hearing within twenty days to determine whether the dismissal was, for a just cause.

In addition, the Task Force recognizes the importance of the function of the appointing authorities of each municipality and is therefore recommending that the governing bodies retain responsibility for appointing Municipal Court Clerk/Administrators. However, the Task Force also recognizes the need for the Judiciary to be actively involved in this personnel process and the concomitant

need to ensure that the best qualified persons are appointed and retained. Hence, the recommendation for Assignment Judge review and approbation, the prequalifying course, and a probation period.

Reports from the fifteen Local Advisory Committees have uniformly supported this position. Comments expressed concern that court personnel have been subject to varied and inconsistent hiring practices--often being hired, fired, or promoted based on the political climate of the municipality rather than on any standard of merit or ability.

## **References**

"Court Employee's, Duties, Qualifications and Appointments", Committee on Budgets, Personnel and Space, Appendix C.

"Nepotism in the Municipal Courts," Committee on Budgets, Personnel and Space, Appendix C.

New Jersey Administrative Code, Civil Service Rules 4:1-13.2 and .3.

See also Appendix C for detailed descriptions of the three levels of Municipal Court Clerk/Administrator.

## **Related Positions**

The following Positions may be applicable in implementing Position 3.8.

Position 3.7	Municipal Court Clerk/Administrator--Qualifications and Compensation
Position 3.8	Appointment of Municipal Court Clerk/Administrator
Position 3.9	Background Investigation for Municipal Court Employees
Position 3.10	Employment and Terminations of Municipal Court Personnel

## **Position 3.10**

# **Employment and Termination of Municipal Court Personnel**

To assure the complete independence of the judicial branch of government, no person shall be hired in any part of the municipal court system if he or she is related by adoption, marriage, or blood to any elected official or other person who has appointive or hiring authority in the municipality, including the municipal court judge. This prohibition shall not extend to persons currently in the employ of any municipal court.

All municipal court employees shall serve an initial probationary period of three months, except Municipal Court Clerk/Administrators, who shall serve for six to twelve months. During their performance probationary period their performance will be evaluated prior to being granted permanent status.

### **Commentary**

Past practice in some municipalities has been for elected officials to attempt to repay patronage or political obligations by providing employment to relatives. This process has encouraged a steady turnover of court clerks and other

personnel after each election. Such hiring and firing practices have led to unqualified persons being placed in vital positions in the municipal court system, thereby causing disruption and other problems associated with rapid turnover. Additionally, when a relative of the mayor or other important official in the municipality serves as an employee of the court in that same municipality, it often creates an appearance of impropriety in the mind of the public.

We therefore recommend adoption of a general rule against nepotism as stated below.

No person employed in any part of a municipal court system shall be hired if he or she is related by adoption, marriage, or blood to any elected official or other person who has appointive or hiring authority in that municipality. "Relative" means any of the following relations by adoption, marriage, or blood: spouse, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece, or first cousin. Any persons currently in the employ of any municipal court system should be exempt from this prohibition. (See Exhibit 2.a)

It will be noted that a similar, although not as broad, prohibition applies also to the court vis-a-vis police departments. By Municipal Court Bulletin Letter 5-6-77, no court clerk or deputy court clerk of a municipal court may be appointed or designated if that person has a spouse, parent, or child who is or becomes a police officer serving on the force in that municipality.

Notwithstanding the foregoing, the Task Force does not wish to eliminate from the court system qualified people who happen to be related to employees of the municipality who would not in any way affect the operation or appearance of the court system. For example, the suggested rule would not apply to a relative

of a person employed in the road department, presuming, of course, that the candidate for a municipal court position was otherwise qualified.

To accommodate unforeseen events that may arise, this rule may be waived or relaxed on proper application to the Assignment Judge of the vicinage, who would review all of the facts and circumstances. Both the application and waiver will be filed by the Assignment Judge with the Administrative Office of the Courts, consistent with the existing procedure for county employees.

Both Position 3.8 and Position 3.10 have referred to the important role the Assignment Judge will play in the selection and termination of municipal court personnel. In order to more fully define this role, the Task Force has made the following recommendations:

1. Whenever possible, comity should be afforded to the governing bodies and Civil Service statutes and recognition should be made of existing negotiation units and negotiating history. The Task Force recognizes the delicate balance that exists between the separate branches of government and agrees that there should be no confrontation by the judiciary asserting its authority without good cause. The term "employee" should include all employees who are necessary and integral to the operation of the municipal court regardless of the authority by whom they are appointed.
2. The Administrative Director of the Courts should establish uniform minimum standards and conditions pursuant to the provisions of Rule 1:33-4(e) that will:
  - a. Establish criteria that will constitute a threshold for entry into this area by the Assignment Judge. It would be hoped that these criteria would determine the magnitude of the problem that must exist before the Assignment Judge becomes involved with personnel



problems of the court. For example, a vacancy in the post of Court Clerk with no appointment being made by the governing body or improper acts by court personnel without full appropriate action being taken by the governing body would be sufficient grounds for the Assignment Judge to act. Further, these criteria will also provide statewide uniformity in their application so there will not be a distinction between vicinages simply because there are different Assignment Judges.

- b. Once the Assignment Judge becomes involved pursuant to the above criteria, establish qualifications for appointment by using recognized personnel practices as discussed in the "Qualification and Appointment" section of this report and provide cause for discharge.
3. This Task Force recommends that whenever the Assignment Judge does choose to intervene in personnel problems, he should be assisted by the Presiding Judge. In the absence of the Presiding Judge, the municipal court judge should be involved.

The consensus of the LACs was that the municipal judge should have the responsibility and be involved in the hiring and firing processes of the court staff but, if a problem arises, the Assignment Judge, with the advice of the Presiding Judge, should have the necessary authority to resolve the situation. In addition, the LACs agreed that there was a need to develop uniform standards for determining the conditions that would justify an Assignment Judges' involvement in personnel problems on the municipal level.

## **References**

"Hiring and Firing of Court Employees," Committee on Budgets, Personnel and Space, Appendix C.

"Nepotism in the Municipal Courts", Committee on Budgets, Personnel and Space, Appendix C.

See also Exhibit 2.a Rule 1:17-5 Nepotism

See also Exhibit 2.c Rule 1:33-4(e) Assignment Judges

## **Related Positions**

The following Positions may be applicable in implementing Position 3.10:

Position 3.7	Municipal Court Clerk/Administrator--Qualifications and Compensation
Position 3.8	Appointment of Municipal Court Clerk/Administrator
Position 3.9	Background Investigation for Municipal Court Employees

## **Position 4.3**

### **Impasse Procedure**

The Assignment Judge should have the authority, pursuant to Court Rule, to ensure that each Municipal Court has sufficient funds to operate in an efficient and effective manner. Incorporated in this Rule should be a provision that allows the municipality to initiate an impasse procedure if there is a conflict concerning funding between the recommendation of the Assignment Judge and that of the governing body of the municipality.

#### **Commentary**

Assurance of adequate funding is the cornerstone process of improving the municipal courts. Earlier Positions set forth methods to prepare and compare municipal budgets for the purpose of setting minimum requirements for each court. This Position proposes a procedure for Assignment Judge review and effective recommendation of an adequate funding level for each municipal court within the vicinage.

Currently, municipal court judges submit their budgets to the Assignment Judge for review, recommendation, and approval. Upon approval, the municipal court judge then submits the budget to the governing body, which then adopts the budget after making any changes. These changes usually translate into budget cuts. Any discussions over disagreements between the needs of the court and the desires of municipalities are conducted on a haphazard basis. No uniform or formal procedure is followed, and the final budget is often the product of informal coaxing rather than of any objective, methodological approach. Unfortunately, negotiation of budget matters is currently subject to the final discretion of the municipal governing body, which frequently assigns a lower priority to court needs than to other municipal functions. The court has no effective method of compelling expenditures to maintain even barely adequate operation. This problem can be addressed by a fair and uniform impasse procedure similar to that currently operating at the Superior Court level.

Procedurally, the budget process would remain much the way it currently exists except that after the municipality has finished its budget review, the Assignment Judge could make an effective recommendation for change to the governing body no later than 14 days after the municipality has introduced the budget for first reading. The municipality would then have ten days to appeal the recommendation. Failure to appeal would result in the recommendation of the Assignment Judge becoming a final order. The filing of an appeal would trigger the impasse procedure -- procedure that is exactly the same as used by the Superior Courts to resolve budget conflicts with county governments. (See Rule 1:33-9 in Exhibit 2.d for complete details).

The procedure developed at the Superior Court level establishes a three member panel designated by the Chief Justice. Similarly, the panel for the impasse procedure proposed herein would consist of three members, including an Appellate Division Judge (sitting or retired) as chairman, plus two other members.

one of whom should be a Certified Municipal Accountant and the other, a judge or other qualified person. Upon review of all testimony, whether written or oral, the panel submits its findings to the Supreme Court.

This impasse resolution procedure was debated by members of some Local Advisory Committees. While most were strongly in favor of it and pointed to the need to maintain a separation of powers and to insure adequate funding for the court, a minority felt that there might be opposition to the Assignment Judges' exercise of such authority. The position of the Task Force, after due consideration of all LAC arguments, was that a reliable funding method is paramount importance to the municipal courts, and can be assured only by the adoption of this recommendation.

## **References**

"Budget Preparation and Approval." Committee on Budgets, Personnel and Space, Appendix C.

"Budget Ratio." Committee on Budgets, Personnel and Space, Appendix C.

"Revenues and Funding." Committee on Traffic and Computerization, Appendix D.

See also Exhibit 2.d. Rule 1:33-9. The Assignment Judge's Authority in the Review of Administrative Recommended Dispositions.

## **Related Positions**

The following Positions may be applicable in implementing Position 4.3:

Position 1.1	Vicinage Presiding Judge - Municipal Courts
Position 3.8	Appointment of Municipal Court Clerk/Administrator
Position 4.1	Budget Reporting
Position 4.2	Budget Caps
Position 4.4	Revenue Distribution

## **Position 7.1**

# **Minimum Standards for Municipal Court Facilities**

Adequate physical facilities should be provided for court processing of criminal and traffic cases. These facilities include the physical structure itself, such internal components as the courtroom and its adjuncts, and facilities and conveniences for witnesses, jurors, and attorneys.

### **Commentary**

As noted in the foregoing introduction, the courtroom is a symbolic extension of the concept of justice, and the overall appearance must support this. Court facilities should be designed to facilitate the adjudication of cases and the functioning of the participants in the process. This includes facilities that aid, not hinder, the conduct of trials as well as the work performed by court support staff.

The goal of the Task Force in this area is to foster and promote an atmosphere of dignity and respect for the municipal courts. Thus, justice should be properly housed. Unfortunately, however, research performed by the Task

Force revealed that approximately one out of five municipal courts is currently operating in physical facilities that can be defined as unsatisfactory.

The Task Force recommends that the following minimum standards be provided for in every court:

1. Location in a public building, preferably a municipal building or complex.
2. A judge's platform and bench.
3. A court clerk's work station and witness stand.
4. Two separate counsel tables with chairs in front of the judge's bench.
5. Adequate seating for all participants as well as spectators.
6. Sound recording system in accordance with Administrative Office of the Courts guidelines.
7. Adequate lighting, heating, and air-conditioning of the courtroom, as well as proper maintenance of same.

The issue of adequate facilities for the municipal courts is an important one. Each of the fifteen Local Advisory Committees concurred with that position. Those Committees did, however, voice concern about the capital outlay for the improvements. The Task Force has recommended several options, including adoption of the budgetary impasse procedures, for the gradual upgrading of court facilities.

The Task Force urges that any proposed renovation, redesign, or capital development of court facilities be reviewed, evaluated, and approved by the Assignment Judge and the Administrative Office of the Courts. To aid in this procedure and to insure the proper construction of future court facilities, the Administrative Office of the Courts should train a staff member or retain an architect to review all plans for renovation of new construction. The

recommendation of the Administrative Office of the Courts shall be binding on the municipalities.

### **Reference**

"Minimum Standards for Municipal Court Facilities," Committee on Budgets, Personnel and Space, Appendix C.

### **Related Position**

The following Position may be applicable in implementing Position 7.1:  
Position 7.2 Court Security



## **Position 4.4**

### **Revenue Distribution**

The current method of dispensing monies collected by the municipal court to the State, County, and municipality should be re-evaluated to provide for a more uniform distribution of revenue among municipalities. It is further recommended that the re-evaluation consider whether a portion of the revenues should be "earmarked" for municipal court operations prior to any other distributions. In addition, court costs should be increased to not more than \$25, to reflect more closely the actual costs incurred by the court in processing a case.

#### **Commentary**

During 1982 two pieces of legislation were enacted that have dramatically affected the revenues collected by the municipal courts and the distribution thereof to the state, county, and municipal governments. These modifications to Title 39 (New Jersey Motor Vehicle Code) increased the penalties for many motor vehicle offenses (effective September 12, 1983), and affected the distribution of revenues

collected providing to the municipality a portion of the revenues formerly distributed to the county.

Traditionally, the revenue-distribution scheme for traffic matters provided revenues to the municipality through court costs (a maximum of \$15.00) and fines that were assessed and collected from violations of municipal ordinances. If the complainant was a state trooper, fines were forwarded to the state. If the complainant was not a state trooper, the fines went to the county.

The 1982 revision to Title 39 attempted to give a greater share of the fine to the municipalities by reducing the amount paid to the county and by increasing motor vehicle penalties. Upon implementation, it was ascertained that the municipality did not benefit at the same rate as the state. In fact, an analysis of the revised revenue distribution schema (see chart below) reveals that although revenues distributed to the municipalities actually increased by 44% in 1983 (compared to 1981), the actual percentage share decreased by 1% from 62% in 1981 to 61% in 1983.

3 COUNTY TOTALS		<u>1981</u>		<u>1983</u>	
		<u>% Share of Total Collections</u>		<u>% Share of Total Collections</u>	
					<u>% Revenue Increase Since 1981</u>
STATE	1,074,000	9%	2,488,000	14%	132%
COUNTY	3,551,000	29%	4,598,000	25%	29%
MUNICIPALITY	<u>7,675,000</u>	<u>62%</u>	<u>11,052,000</u>	<u>61%</u>	<u>44%</u>
TOTAL	12,300,000	100%	18,166,000	100%	48%

In addition to the municipality not realizing its percent share of the increased revenue, the amount of court costs has remained static. For instance, prior to September 1982 (the effective date of the increase penalties), the typical

penalty for many moving violations such as careless driving, speeding, or disregard of a traffic signal was between \$20 and \$25, with court costs of \$10 being included. Thus, the municipality received between 40% to 50% of the total penalty with the balance being distributed to the state. After the increased penalties in September 1982, the typical penalty for the same offenses became \$60, with the municipality still retaining \$10 as court costs and the balance of \$50 being distributed to the state or the county. In other words, when penalties were lower, court costs represented about half of the total amount collected; when penalties increased, with court costs remaining frozen at \$10, these costs now represent a smaller percentage of the total payment (about 17%). Further, court costs do not accurately reflect the length and difficulty of cases that are brought to trial. A lengthy trial for a serious motor vehicle offense clearly costs the court more than a short trial on a minor motor vehicle offense.

The lack of consistency and predictability in the distribution scheme and court costs is troublesome. There needs to be a higher degree of uniformity in the distribution of revenues without regard to the philosophy behind the distribution scheme. Accordingly, it is the recommendation of the Task Force that the revenue distribution scheme for Title 39 revenue should be re-evaluated and amended so as to provide for the more uniform distribution of revenue among the municipalities. During re-evaluation, the Task Force recommends that consideration be given to "earmarking" specific revenues to help fund the municipal court. The Task Force takes note of legislative precedent used to fund other agencies such as:

1. N.J.S.A. 39:4-50 provides for a \$100 surcharge on DWI convictions to be used for an enforcement program and for administrative expenses.

2. N.J.S.A. 2C:43-3.1 provides for additional penalties to be imposed for all criminal convictions, to be used by the Violent Compensation Board in satisfying claims and for administrative costs.
3. N.J.S.A. 39:6B-3 provides for all revenues collected relating to driving without insurance to be deposited to a specific fund administered by DMV, to be used for enforcement of the compulsory motor vehicle law and for administrative expenses.

By earmarking funds for the administration of the municipal court, the court can be assured of a reliable and relatively constant source of funds. In addition, court costs, particularly for the more serious Title 39 offenses, should be increased to reflect more closely the actual cost incurred. It has been suggested that \$25.00 would be an appropriate amount.

The Local Advisory Committees supported increasing court costs, especially for more serious Title 39 offenses. It was indicated that although costs should more accurately reflect the length and difficulty of cases, the amount of time needed to dispose of DWI cases could amount to hundreds of dollars. Therefore, while it is not feasible to attempt to set court costs to reflect the real costs borne by courts in processing cases, an increase is warranted.

## References

"Budget Preparation and Approval." Committee on Budgets, Personnel and Space. Appendix C.

"Budget Ratio," Committee on Budgets, Personnel and Space. Appendix C.

"Revenues and Funding," Committee on Traffic and Computerization, Appendix C.

## Related Positions

The following Positions may be applicable in implementing Position 4.1:

Position 4.1	Budget Reporting
Position 4.2	Budget Caps
Position 4.3	Impasse Procedure

## INTERVIEW FOR EXISTING INTERMUNICIPAL COURT

\_\_\_\_ Municipal Court Clerk

\_\_\_\_ Municipal Court Judge

\_\_\_\_ Municipal Official ( \_\_\_\_\_ )

1. Approximately when was your Intermunicipal Court created?  
\_\_\_\_\_
2. How are the financial contributions of each municipality calculated? Is this method adequate?
3. By statute, the governor appoints your municipal court judge. Are the recommendations of the municipalities taken into consideration? Are these recommendations made separately or jointly by the municipalities?
4. Are there advantages of an Intermunicipal Court?
5. Disadvantages?
6. Are you in favor of retaining your Intermunicipal Court as it now exists?  
\_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_ undecided
7. Would you recommend small municipalities currently operating individual municipal courts to merge into Intermunicipal Courts?  
\_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_ unsure  
What advice might you give these municipalities?

8. As you are probably aware, there are only fourteen Intermunicipal Courts in New Jersey. In your opinion, why haven't more municipalities merged court operations?

**INTERVIEW FOR COURT ADMINISTRATIVE PERSONNEL**  
(E.G. Assignment Judges, Presiding Judges, Court Administrators, etc.)

1. What is your current position and to what extent does your position involve you with municipal courts?
  
  
  
  
  
  
  
  
  
  
2. As you are aware, Intermunicipal Courts (joint courts) are currently permitted by statute in New Jersey. Are you in favor of such courts?  
\_\_\_\_\_ yes \_\_\_\_\_ no (If yes, in what instances?)

(If no, why not?)

3. Currently there are only fourteen Intermunicipal Courts in the state. In addition to that which you may have already said, do you have any comments as to why so few municipalities have entered into such agreements?
  
  
  
  
  
  
  
  
  
  
4. In your opinion, would additional mandates placed upon municipal courts, such as those recommended by the Task Force, i.e., minimum salary requirements, minimum facility standards, etc., have any affect on municipalities possibly considering Intermunicipal Courts more favorably?

## INTERVIEW FOR POTENTIAL MUNICIPAL COURTS

\_\_\_\_ Municipal Court Clerk  
\_\_\_\_ Municipal Court Judge  
\_\_\_\_ Municipal Official(\_\_\_\_)

1. (Clerk & Judge):

How long have you been court clerk/judge of your municipal court?

(Municipal Official):

What is your position with the municipality?\_\_\_\_\_.

2. Are you aware that the New Jersey Statutes (2A:8-1, 2A:8-3) currently permit two or more municipalities to establish a single Intermunicipal Court?

\_\_\_\_ yes \_\_\_\_ no

3. To your knowledge, has your municipality ever considered the possibility of entering into an agreement with another municipality to create an Intermunicipal Court?

\_\_\_\_ yes \_\_\_\_ no \_\_\_\_ unsure

4. Do you feel your municipality, under the existing system, would consider entering into an Intermunicipal Court agreement?

\_\_\_\_ yes \_\_\_\_ no (Please Explain)

5. How do you feel additional mandates from recommendations of the Task Force for Municipal Court Improvement would affect your answer to question #4? (Explanation of possible mandates necessary)

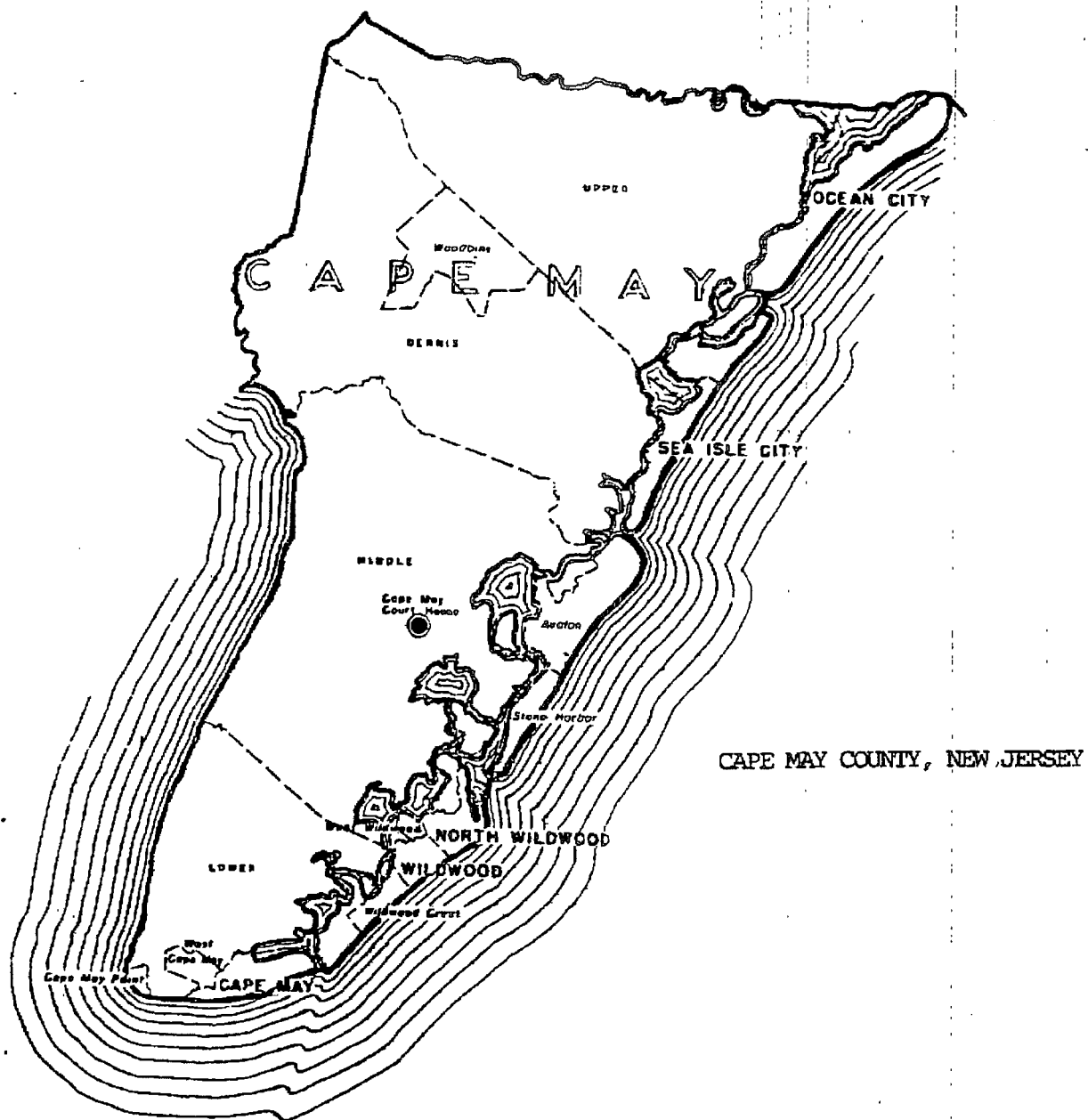
6. (Clerks & Judges) What would your major concern be if your municipality were to consider entering into such an agreement?

(Municipal Official) Would you be interested in obtaining information concerning existing Intermunicipal Courts?

\_\_\_\_ yes \_\_\_\_ no

7. Do you have any comment as to what the information being obtained will be used for?







# Neighbors May Share Police

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## Cape May Point, West Cape May Eye Courts, Too

By JACK SMYTH

Neighbors West Cape May and Cape May Point plan to share police and court facilities in order to provide better police coverage at no additional cost.

The Point's Borough Commission introduced an ordinance last Thursday to authorize an agreement with West Cape May, which had proposed a similar ordinance two days earlier.

Both will come up for public hearings early next month and the proposed cooperative agreement could go into effect shortly after that.

If implemented, both communities will have 24-hour police patrols on a year-round basis. Both boroughs have small police departments and are only able to have police on call on a round-the-clock basis during the summer when tourists swell the population.

NEITHER COMMUNITY will have to increase their police budget," said West Cape May Commissioner Marvin Morrell. "Both have enough money to provide ~~for~~ 12-hour coverage, but neither has enough for a 24-hour coverage."

Morrell said the proposed plan calls for the two communities to share on-the-road

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## Neighbors May Share Police

(From page 1)

patrol time, and to respond to any calls for assistance that may come in.

West Cape May currently employs two full-time policemen and five part-time officers to cover an area of about one square mile and serve a population of 1,074 in the 1980 census.

Cape May Point has one full-time officer, and five part-timers to cover an area of less than one-half square mile, and serve 255 year-round residents.

MORRELL SAID West Cape May spends "just over \$40,000" for police protection, and Cape May Point spends "close to \$50,000," according to Mayor Frank S. Rutherford, Jr.

Neither community has a police chief, operating under officers-in-charge instead. The cooperative agreement foresees no change in this command structure.

Both forces will continue to wear the same uniforms, and both boroughs will be responsible for the maintenance of two police cars that they will share.

Calls for police assistance in Cape May Point currently are handled by the Cape May City police switchboard, while calls for West Cape May police go through the Lower Township police switchboard.

"That shouldn't change," said Morrell.

MORRELL SAID cooperation between the two boroughs will result in a saving of administrative court costs "because the judge will only have to sit once a month in one community, instead of twice a month as he does now in two different communities."

Municipal Court Judge P. Martin Way currently serves both communities.

While it is not final, Morrell said he expects West Cape May's Municipal Building will be used for court hearings, and court

offices.

Cape May Point on Thursday appointed Emma Cordes as acting court clerk replacing Irene Monge, who resigned last month. Cordes serves as court clerk in West Cape May.

"Fines collected will go to the municipality where the complaint was generated," said Morrell.

Court costs will be returned to the municipalities based on a formula determined by where complaints originate, Morrell said.

CAPE MAY POINT Mayor Rutherford said the proposal to merge the two municipal courts was reviewed last Thursday by the regional administrator of courts in Atlantic City.

"We went over every aspect, and everybody was happy and pleased," reported Rutherford. "In fact, the state encourages this kind of thing."

Rutherford said officials of both boroughs have agreed to try cooperating for one year with both sides retaining the right to withdraw at any time.

"We're attempting to try something, and it should work," said Rutherford of the proposal.

"We think it's something that's really going to be good for both communities," said Morrell. "Both towns will provide 24-hour protection without any additional burden to the taxpayers."

RUTHERFORD SAID that currently police dispatchers call him, and he in turn, contacts a member of the borough police force.

"It all takes much more time than if we have someone on duty," the mayor said.

Resistance to the plan, Rutherford said, is based on some thinking "if the cops are over there (West Cape May), they won't come here. But that could happen, too," he

said, referring to occasions when Cape May Point calls for assistance from neighboring police and firemen.

The proposal is not new. It has been talked about a number of times in recent years.

"We've been trying for this thing for five years," said Morrell. He said a similar proposal was discussed five years ago

when he was appointed to the borough commission to complete the term of a member who resigned.

Early last July, Morrell revived the proposal, but nothing came of it.

"West Cape May was gung ho, but we just didn't move on it," said Rutherford.

The preparation of budgets for the coming year in both boroughs helped to revive the idea, both men said.