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North Central Regional Office

WISCONSIN MUNICIPAL COURT STUDY

Final Report

March, 1982

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The Municipal Court Study Advisory Committee met with National Center staff at various stages of this study. The Committee provided assistance in selecting pilot site courts, developing the survey questionnaire and reviewing drafts of the final report. The findings and recommendations contained in this report are those of the National Center and do not necessarily reflect the opinion of the Committee or any member of the Committee..

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SUMMARY OF STUDY RECOMMENDATIONS

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JUDICIAL QUALIFICATIONS, CODE OF ETHICS, AND CONFLICTS OF INTERESTS

1. A municipal judge should not be required to be an attorney by state statute.
2. The Supreme Court should review the judicial code of ethics to determine if all or portions of SCR 60.08 (Investments) or SCR 60.11 (Influence) should be applicable to part-time municipal judges.
3. The Financial Report Form that must be submitted annually to the Wisconsin Ethics Board pursuant to SCR 60.18 should specifically require the listing of any "Office of Public Trust."

JUDICIAL TRAINING AND LEGAL RESOURCES

4. New municipal judges should be required to attend a judicial orientation training program.
5. The municipal judge's training program being presented by the judicial education office in the areas of non-traffic juvenile cases, sentencing, rules of evidence, OWI cases, defendant's rights, office management, and conducting a trial should be given priority in future training sessions.
6. New training materials and programs should be developed and presented by the judicial education office in the areas of the judge's role when there is no prosecutor or defense attorney; how to prepare, present, and monitor a court budget; and, how municipal judges also practicing law can avoid conflicts of interest.
7. Legal dictionary, Wisconsin Motor Vehicle Laws, and the Instruction Manual for completing the State of Wisconsin Uniform Traffic Citation & Complaint, and Wisconsin Court Rules and Procedures should be added to the Municipal Judges Manual's list of legal sources that every judge should have access to.
8. The Judicial Education Office should review the statutes, court rules, and caselaw referenced or identified in this report to determine if there should be any changes or additions to the Municipal Judges Manual.

JUDICIAL ACTIVITY STATISTICS

9. The present annual municipal court judicial statistics form should be revised to include juvenile (non-traffic) cases, types of disposition, and instructions for completing the form.
10. Municipal courts should submit judicial activity reports at least quarterly or semi-annually with smaller courts collecting statistics daily on a standard worksheet.
11. Municipal courts should be required to submit a one-time list of all cases pending over a year old.

JUDICIAL FUNCTIONS AND SENTENCING ALTERNATIVES

12. Defendants in municipal courts should be informed that they may not be incarcerated for non-payment of a sentence if they are indigent, and that they have a right to a hearing to determine their ability to pay.
13. The Judicial Council should study the advisability of municipal judges being given the authority to order restitution or participation in work programs for juvenile and adult defendants.
14. Municipal court judges assigned to hear cases in another municipal court should at least be reimbursed for expenses.
15. An advisory opinion should be requested from the State Attorney General's Office regarding the legality of a municipal judge entering a default judgment when a defendant has not appeared before the court or filed a deposit.
16. Deposits or penalties should not be collected in the courtroom by a judge, clerk, or police officer.

FACILITIES, RECORDS, AND EQUIPMENT

17. Minimum municipal courtroom standards should be developed and distributed to municipal court judges.
18. Municipal courts should monitor and review closely all financial records created by a police department when monies are collected by the police.
19. Municipal courts with a caseload between 100 and 5,000 cases (not counting cases processed by police departments) should use a "one-write" peg board accounting system for all monies collected by the court.
20. Guidelines, standards and procedures should be developed for the purchase and use of electronic equipment for the recording of testimony taken under oath in municipal courts.

21. Municipal courts should be provided with an expanded list of municipal court forms (with statutory or court rule citations) and copies of sample forms used in other courts.
22. The Director of State Courts Office should design model forms for municipal courts and/or provide guidelines and training to municipal courts in forms design.
23. Municipal courts with a large caseload or storage problem should use a fixed open shelf filing system for storage of case files.
24. The Director of State Courts Office should review the records retention schedules developed in the Wisconsin Circuit Court Records Project to determine which schedules could be made applicable to municipal courts.

MUNICIPAL ORDINANCE CASES IN CIRCUIT COURT

25. The Director of State Courts Office should format WCIS output reports to reflect existing data regarding municipal ordinance violation caseloads and activity in circuit courts.

I. INTRODUCTION

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A. MUNICIPAL COURTS

The governing bodies of cities, villages, and towns are by statute authorized to establish municipal courts. The municipal judge is elected for a two to four-year term, as determined by the municipality, beginning May 1. There is no requirement that the office be filled by a lawyer, and the salary and qualifications are fixed by the individual local governing body.

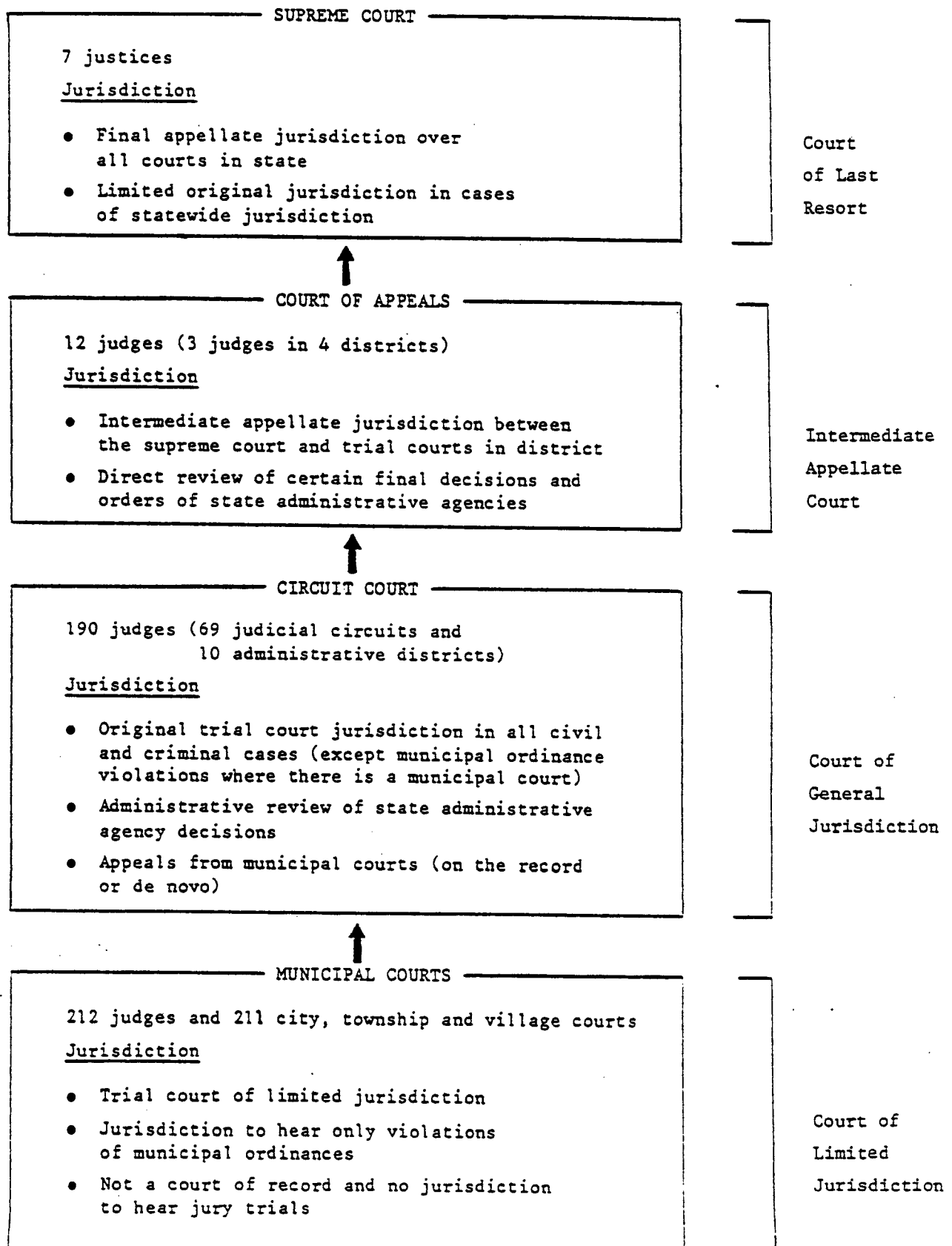
The municipal court is not a court of record. These courts have exclusive jurisdiction over offenses against ordinances of the town, village or city (including some juvenile matters) where legal relief only is sought. If equitable relief or a jury trial is demanded, the action must be brought in a court of record (circuit court). A municipal judge may render judgment by ordering payment of a forfeiture plus any costs of prosecution or by imprisonment in default of such payment. All revenues from municipal courts go to the local governmental unit except a 12% penalty assessment (on all violations forfeitures except non-moving traffic violations) which is forwarded to the state.* Judges may set or waive bail, issue arrest warrants to enforce matters under their jurisdiction, issue inspection warrants, and issue subpoenas throughout the state. Appeals from municipal courts are to the circuit court for the county where the offense occurred.

* Recent legislation now also requires municipal courts to collect \$150.00 in DWI cases for the state.

Circuit court judges or court commissioners hear ordinance violation cases where there is no municipal court and forward to the municipality all forfeitures collected in such cases. There is an appeal of right from a municipal court to the circuit court "on the record" or de novo (at the option of the prosecutor or defendant).

If a municipal judge is substituted or disqualified, the case is transferred to another municipal judge or, if none is available, to the circuit court where it is assigned by the chief judge of the judicial administrative district in which the municipality lies.

Chart 1 below illustrates the organizational structure of the Wisconsin court system.



B. STUDY BACKGROUND AND METHODOLOGY

The Wisconsin Supreme Court has final administrative authority over all trial courts including municipal courts. The authority is delegated and exercised on an operational level by the chief judge and district court administrator in each of the ten judicial administrative districts in the state. However, there presently is relatively little contact or working relationship between municipal courts and the state court administrative system, except for some training of municipal judges and the tabulation of annual case disposition data submitted voluntarily by some courts. This minimum administrative relationship does not provide adequate information to assess the current functions, problems, needs or relationship to the circuit court system. Without such information, the Supreme Court cannot carry out its administrative responsibility to develop and maintain an effective and efficient trial court system.

The Wisconsin Municipal Court Study Project was proposed by the Director of State Courts Office on behalf of the Wisconsin Supreme Court, to compile this needed data and information regarding municipal court operations. The study was conducted by the National Center for State Courts. The basic goals of the project were to:

- inventory and describe the municipal court system and caseload;
- compile and investigate existing statutes, rules, and procedures affecting jurisdiction and court operations;

- identify and analyze specific needs and problems in municipal courts; and
- recommend statutory and administrative changes necessary to the improvement of the municipal court system, including the identification of resources which must be made available to these local courts.

To accomplish these goals the National Center conducted a statewide in-depth analysis of municipal court operations.

Site Visits

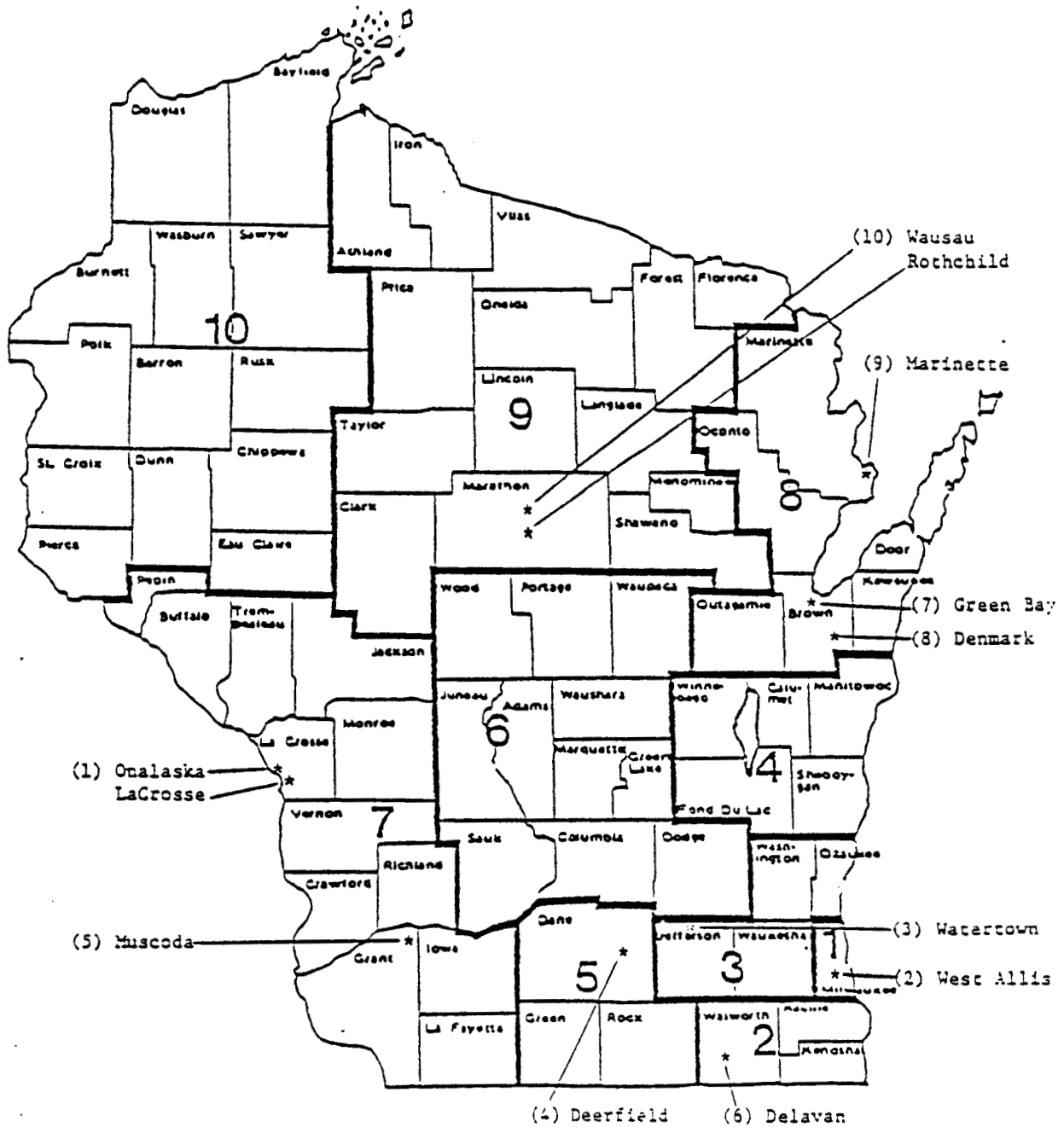
The National Center conducted site visits in ten (10) municipal courts to: observe court operations; interview judges, court personnel, and other individuals familiar with the court; and, field test a proposed survey instrument. The site courts include:

- | | | |
|-------------|-------------|--------------|
| • Deerfield | • Green Bay | • Muscoda |
| • Delavan | • LaCrosse | • Rothschild |
| • Denmark | • Marinette | • Watertown |
| | | • West Allis |

Project staff also interviewed the municipal judges in Onalaska and Wausau. The following map (Chart 2) identifies the location of the visited courts. Chart 3 below provides a profile of the site courts and lists the persons interviewed.

Chart 2

WISCONSIN MUNICIPAL COURT STUDY
SITE VISITS



WISCONSIN MUNICIPAL COURT STUDY

Site Visits

Municipality	1980 Population	1979 Caseload	Judge		Persons Interviewed	
			Attorney	On Bench	Name	Title
• LaCrosse	48,347	9,846	yes	21 years	Leonard R. Chojnacki David Lang Ron Quillin Patrick Zielke Ray Lichty Shirley Wrobel Connie Doerre	Judge Ass't. City Attn'y. Defense Attn'y. Mayor Chief of Police Clerk Clerk
• Onalaska	9,249	734	yes	2 years	Thomas M. Olson	Judge
• West Allis	63,982	48,919	yes	14 years	Nicholas F. Lucas Curt Meitz Bradley Luchini Floyd C. Andrich Ralph J. Machowski Jo Malone	Judge Ass't City Attn'y. Defense Attn'y. Chief of Police Inspector of Police Clerk/Sec'ty.
• Watertown	18,113	2,310	yes	2 years	Ronald W. Ziwiisky Tom Levi Patricia M. Barry	Judge Ass't City Attn'y. Clerk
• Deerfield	1,466	204			Vince Cordano	Judge
• Muscoda	1,331	339		28 years	Howard E. Jones	Judge
• Delavan (T)	4,182	811		17 years	James H. O'Connor	Judge
• Green Bay (C)	87,899	9,309	yes	13 years	Frank Van Laanen Orbie J. Bodart Alexander Grant Sue Pavlik	Judge Police Lt./Railiff Special Prosecutor Clerk
• Denmark (V)	1,475	236		2 years	Robert Sandberg	Judge
• Marinette	11,965	1,340		2 years	John B. Kerski Thomas P. Schwaba James E. Murphy Don Schuchart Judy Bailey	Judge City Attn'y. Def. Attn'y. Police Captain Clerk
• Rothschild	3,338	600	yes	2 years	Patrick M. Brady	Judge
• Wausau	35,800		yes		Arthur Ebelain Perry Mattes	Judge Financial Officer

Survey Questionnaire

The basic data to be collected from the survey questionnaire included the following:

- recordkeeping methods
- the availability of legal and procedural assistance on a statewide level
- judicial compensation
- educational qualifications of municipal judges
- judicial substitutions
- caseload measurements
- problems surrounding municipal court handling of juvenile matters
- the fiscal and judicial impact of municipal courts on circuit courts
- "such other issues as are of identifiable concern to municipal court judges themselves."

A preliminary draft of a questionnaire to collect this information was presented to the Advisory Committee for review and approval prior to the National Center's site visits.

After the 10 site visits were completed additional revisions were made to the questionnaire. Before the final questionnaire was mailed out the Municipal Judges Association sent a letter to every municipal judge describing the project and encouraging their support and cooperation in completing the questionnaire. The final questionnaire (see, Appendix A to this report) was mailed to all municipal judges with a cover letter from the Director of State Courts.

The completed questionnaires were mailed to each municipal court's respective district court administrator in a provided self-addressed stamped envelope. The district court administrator assisted municipal judges complete the survey and reviewed the completed questionnaire before forwarding them to the National Center.

II. SURVEY QUESTIONNAIRE AND RESULTS

II. SURVEY QUESTIONNAIRE AND RESULTS

One of the major objectives of the Wisconsin Municipal Court Study was the development of a comprehensive profile and inventory of municipal judges and court operations. The data from the statewide survey revealed information not previously available and provided information that could be compared to previous survey results. Detail tabulations for each survey question is present later in this report along with summary charts comparing previous survey results (Chart 4) and new information (Chart 5).

The most significant new information identified in this study (based upon 155 returned questionnaires) revealed the following:

- the approximately 434,449 cases disposed of by 155 municipal courts in 1980 were handled by 22 full-time equivalent (FTE) judges and 68 FTE court employees.
- Municipal judges spend a monthly average of 12 hours on the bench and 13 hours off the bench on court activities.
- Municipal courts collected approximately \$11 million dollars in revenue in 1980.
- The municipal court system will cost local governments approximately \$2 million dollars for 1981.

Municipal courts provide a cost effective judicial system to municipalities and defendants.

The majority of the information received from the Judicial Education Office's survey of 1980 continues to be the same for 1981. Most judges are male (92%), 1/3 are attorneys, most

judges are likely to receive a salary under \$3,000, most judges hold court 2-4 times a month, and 62% of trials prosecuted are handled by municipal attorneys. However, the 1981 survey data reveal the following trends or changes.

- Municipal judges are getting younger (the average age in 1980 was 55 versus 51.6 in 1981).
- Fewer municipal judges have prior police backgrounds (in 1980 27% had police backgrounds versus 12% in 1981)

The most immediately useful information from this study and survey was an updated roster of municipal judges.

Copies of all completed surveys are available from the Director of State Courts Office.

MUNICIPAL JUDGES QUESTIONNAIRE

Conducted by the Director of State Courts Judicial Education Office in 1980
Compared to 1981 Survey Results

	Responses	
	1980	1981
<u>Personal Profile</u>		
4. Age	55	51.6
5. Sex	93% (male)	92% (male)
8. Occupation	36% attorney	34% attorney (including retired attorneys)
9. Educational background	36% law degree	34% law degree
	8% other post-graduate education	10% other post-graduate education
	20% some college degree; school	22% some college or college degree
	33% high school	29% high school
	2% elementary	1% elementary
11. Have you held any other elective offices?	26% (village/town trustee; city council or village board alderman, school board.	10% (village/town trustee, city council or village board alderman, school board).
12. Have you held any non-elective governmental positions?	23% usually various municipal comm. or boards	(same as 1980)
13. Have you had any previous law enforcement experience, such as police or prosecutorial work?	27% (usually legal positions (like district attorney or police positions (regular, auxiliary, military)	12% usually legal positions (like district attorney or police positions - regular, auxiliary, military)
<u>Court Administration</u>		
1. How long is your term of office?	Two years-89% (range: 1-4 years)	Two years-79% (range: 1-4 years)
4. How often do you hold court?	43% once/week or more 37% 2-3/ month	42% once/week or more 41% 2-3/ month
5. During what hours and on which days of the week do you hold court?	Hours-usually evenings Days-Wednesday & Monday most common	Hours-usually mornings Days-Wednesday & Monday most common
9. During calendar year 1979, approximately how many cases were disposed of by your court?	Traffic - 78% Other - 12%	Traffic - 81% Other - 11%
NOTE: This question did not make clear whether non-appearances were included.		
10. Please estimate the percentages of all your 1979 traffic cases which were in the following areas:	Parking - 19%	Parking - 55%

Responses		1980	1981
12. During 1979, approximately how many juvenile cases did your court handle?	Non-traffic (small number of responses to this question) results not interpretable).	Non-traffic (5,179)	
What types of sentencing alternatives have you employed in dealing with juveniles?	Besides the \$25 forfeiture and suspension of driver's license for failure to pay, respondents mentioned suspension of other Wisconsin licenses, hold open for review, Traffic Safety School, work programs and restitution.	(same as 1980)	
15. Do you distribute an instructional handout to defendants at the time of arraignment?		29%	15%
16. Is the uniform deposit schedule used in your jurisdiction for traffic cases?		98%	83% (7% not state)
Do you use a similar uniform deposit schedule for non-traffic cases?		82%	82%
Has your municipality adopted a uniform deposit schedule for non-traffic cases?		74%	81%
21. If no additional personnel are employed, who does the Municipal Court's clerical work?	Municipal judges without clerical help indicated that they did all the clerical work themselves or made use of their wives, personal secretaries or employees from related services (such as police).	(same as 1980)	
22. How are your proceedings recorded?	78% tape record at least trials	92% tape record at least trials.	
23. In what type of facility is the Municipal Court located?	92% indicated some kind of municipal building. Other responses: public library, fire house police department	82% indicated some kind of municipal building. Other responses: home, fire house, police department	
24. Do you wear a robe?	19% Yes	(same as 1980)	
Educational and Informational Needs			
1. If you encounter problems or questions regarding your work as a Municipal Judge, where do you go for the needed information and/or solution? Please be as specific as possible, listing individuals, books, manuals or other resources you have found to be useful sources of information.	State statutes, municipal ordinances, manuals from conferences. (materials) Circuit court judges, district or municipal attorney, municipal judges. (people) Municipal Judges Association, Motor Vehicle Department. (organizations)	(same as 1980)	
2. Do you have access to a current copy of the Wisconsin Statutes?	93% current copy 3% outdated copy	92% (Access to)	

1 Based upon 155 questionnaires.

SUMMARY OF NEW DATA COLLECTED IN THE 1981 SURVEY OF WISCONSIN MUNICIPAL COURTS

Chart 5

INFORMATION	SOURCE QUESTION	FINDING
• Local Jurisdiction Limitations	32b	very few limitations
• Appeals	25	62% tried over and 26% reviewed on the record
• Additional Employment	51, 54	17 judges presently hold offices of public trust or jobs with possibly conflicts of interest
• Source of Legal Materials	43	usually in court or municipal attorney libraries
• Condition of Court Facilities	8,9	37% need improvement
• Needed Improvements to Court Facilities	9b	generally need separate facilities or a "bench"
• Number and Type of Staff	16	most employees are clerks in the courts' budget (total statewide FTE employees=68)
• Juvenile Non-Traffic Cases	22	5,179 cases in 1980
• Cases over one (1) year old	24	most cases over a year old are because of an inability to locate the defendant
• Actual judges' hours spent on and off the bench	10	average monthly hours on the bench (12 hours) and off the bench (13 hours)
• How do practicing attorney judges avoid conflicts of interest?	52c	Do not take cases involving police personnel or clients with pending cases before the court
• Should judge substitutes be eliminated?	31c	yes (10) no (124)
• Does the presence of defense attorneys affect court operations?	21	87% (favorably or no effect)
• Are default judgments entered when there is no deposit?	23	yes (72)
• Is credit given for time in jail?	27, 28, 29	usually
• How is revenue collected?	30	deposits and forfeitures are usually collected by the police - money is collected in the courtroom by 115 courts
• How much revenue was collected in 1980?	19	\$11 million
• What is the court's involvement in the budget process?	18	approximately 50% present budget, fewer prepare budget and only about 1/3 of the courts approve expenditures
• Are courts audited?	14	yes(86) no (64)
• How much does it cost to run the municipal courts?	15	\$1.8 million (1980) and \$2 million (est. for 1981)
• Who provides forms to the court?	42	usually local printers
• How are records managed?	39	51 courts store records outside the court, few have a storage problem, almost none microfilm records

A. DEVELOPMENT AND PROCESSING

All information provided by the municipal judges in the 155 completed questionnaires has been tabulated in the following charts with the exceptions of portions of Questions 15, 19, 22, 54 and 55.

- Questions 15, 19 and 22 dealt with expenses, revenue, and caseload respectively. Each of these questions contained directions that the judge could provide estimates or totals where data was not readily available. Many of the judges provided only summary totals, making it impossible to tabulate the detailed information requested.
- Questions 54 and 55 requested dates for when a judge was originally elected or appointed and previously employed. This information was not considered useful to this report.

Some of the questions (i.e., Questions 34, 35, 40, 41, 58, 59 and 60) were open-ended questions that asked for identification of problems and possible solutions. Comments from these questions have been tabulated and sorted by topic and reproduced at the end of each topic in this section as "Additional Observations or Suggestions by Municipal Judges."

The following charts summarize the tabulated data from the 155 returned questionnaires. The charts do not follow the sequence of questions in the survey instrument. They have been arranged by subject matter; however, the original source question number is identified at the lower right hand corner of each chart.

(A)

INVENTORY OF JUDGES, COURTS AND JURISDICTION

District	County	City	Village	Township	Judge	Address	Court	Home	Office
DISTRICT 1									
Milwaukee	Bayside	(V)	William E. Shaw	9075 Regent Rd, Bayside 53217	(414) 352-9092	271-5795			
		(V)	Frank W. Foster	4800 W.Green Brook Dr., Brown Deer 53223	(414) 354-4121	355-3600			
		(C)	Gregory P. Gregory	5050 S. Lake Dr., Cudahy 53110	(414) 744-8220	744-4545			
		(V)	Carl W. Backus	North Lombardy Road, Milwaukee 53217	(414) 352-8111	352-6915			
		(C)	Ronald Wambach	9229 W. Loomis Rd., Franklin 53132	(414) 425-7500	425-8744			
		(C)	Robert H. Suran	5909 N. Milwaukee River Pkwy,Glendale 53209	(414) 228-1100	541-6800			
		(V)	John J. Spindler	6600 Schoolway, Greendale 53129	(414) 421-2400	354-4140			
		(C)	John Foulks	5300 W. Layton Ave., Greenfield 53220	(414) 281-9480	421-3596			
		(V)	Ervin P. Topczewski	5635 S. New Berlin Rd., Hales Corners 53130	(414) 425-5432	282-1450			
		(C)	John Siefert	818 W. Wisconsin Ave., Milwaukee 53233	(414) 278-3809	463-2800			
		(C)	William Panagis	818 W. Wisconsin Ave., Milwaukee 53233	(414) 278-3809	545-7867			
		(C)	Kenneth McCool	7625 Howell Ave., Oak Creek 53154	(414) 762-8200	762-6612			
	Oak Creek	(V)	George R. Redmond	757 N. Broadway, Milwaukee 53202	(414) 481-2300	761-1001			
		(C)	George S. Berzowski	42355 Nicholson Ave., St. Francis 53207	(414) 332-4200	273-3939			
		(C)	Robert E. Hackett, Jr.	3936 N. Murray Ave., Shorewood 53211	(414) 762-1967	291-1168			
		(V)	Tom Bitters	921 Monroe Ave., S. Milwaukee	(414) 258-1340	771-1220			
		(C)	John A. Pfannerstall	7725 W. N Ave., Wauwatosa 53213	(414) 476-0777	476-6158			
		(C)	Nicholas F. Lucas, Jr.	7310 W. National Ave., West Allis 53214	(414) 645-2151	645-5883			
		(V)	James Beaudry	10809 W. Lincoln Ave., West Allis 53227	(414) 962-6690	271-5900			
		(V)	Robert E. Elliott	5300 Marlborough Drive, Milwaukee 53127					
		Kenosha	(T)	Floyd Timmons, Jr.	Bristol Town Hall, Bristol 53104	(414) 857-2721	857-7566		
			(C)	David M. Bastian	625 52nd Street, Kenosha 53140	(414) 656-6050	658-3777		
			(V)	Eithel A. Smith	P.O. Box 70, Salem 53168	(414) 843-2400	843-2779		
			(T)	Ronald L. Anderson	9915 39th Ave., Kenosha 53141	(414) 694-1400			
(T)	Thomas Johnson		35805 90th Place, Twin Lakes 53181	(414) 877-2701	886-0700				
(T)	Eugene W. Briggs		Route 3, Box K, Salem 53168	(414) 843-2313					
(V)	Martin G. Bilecki		P.O. Box 42, Silver Lake 53170	(414) 859-2825	551-9021				
(V)	Richard Lesko		7511 12th Street, Somers 53171	(414) 877-2191	877-2645				
(V)	Arthur V. Lentz		108 Main Street, Twin Lakes 53181	(414) 537-4340	537-4357				
(T)	Gerald Lake		P.O. Box 856, New Munster 55152						
Racine	(T)		David Paulson	6900 Nicholson Road, Caledonia 53406	(414) 878-3547	634-3366			
	(T)		Gordon Todd	2225 Lakeshore Drive, Kaukaunville 53139	(414) 878-3547				
	(T)	Raymond Bureczyk	6126 Durand Ave., Racine 53406	(414) 554-8750	633-8257				
	(T)	Jerry Steunmager	6419 Heg Park Road, Wind Lake 53185	(414) 895-6335					
	(C)	Robert Michelson	800 Center Street, Racine 53403	(414) 636-9263	637-7488				
	(T)	Stanley Albiniak	2255 76th Street, Caledonia 53108	(414) 835-4426	281-2920				
	(V)	Mary J. Johnson	2555 Wisconsin Street, Sturtevant 53177	(414) 886-2203	886-3168				
	(V)	Leopold K. Kerschitz	1015 State Street, Union Grove 53182	(414) 878-2404	878-1388				
	(V)	Gregory Miller	122 N. 2nd Street, Waterford 53185	(414) 534-2511	534-2251				
	(T)	Ronald Costa	7326 N. Tichigan Rd., Waterford 53185	(414) 514-2350	662-5324				
	Walworth	(T)	Richard M. Weber	Municipal Court, Pell Lake 53128	(414) 279-3454	653-2411			
		(C)	John N. O'Brien	123 South 2nd Street, Delavan 53115	(414) 728-5759	728-8800			
(T)		James H. O'Connor	P.O. Box 547, Delavan 53115	(414) 728-5300	728-2161				

WISCONSIN MUNICIPAL COURT JUDGES ROSTER (AS OF 1/82)

District County	City Village Township	Judge	Address	Court	Home	Office
DISTRICT 2						
Walworth	East Troy	(V) Daniel O. Ryan	2104 Church Street, East Troy 53120	(414) 642-5050		642-7301
	East Troy	(T) Sandra McCracken	2673 Main Street, East Troy 53120	(414) 642-5863		248-9163
	Fontana	(V) Gerald E. Ames	Route 3, Box 73, Fontana		(414) 275-3995	279-3117
	Genoa City	(V) Fredrick Gale	715 Walworth Street, Genoa City 53128	(414) 279-6472		248-3333
	Lake Geneva	(C) Emil JohnJack	626 Geneva Street, Lake Geneva	(414) 248-4654		728-5591
	Williams Bay	(V) David B. Williams	Williams Bay, 53191	(414) 245-5455		473-3887
	Whitewater	(C) Sam Soffa	146 W.N. Street, Whitewater	(414) 473-6510		475-5105
DISTRICT 3						
Jefferson	Fort Atkinson	(C) John F. Lampert	111 W. Sherman Ave., Fort Atkinson 53538	(414) 563-5511	563-5800	(414) 563-5800
	Jefferson	(C) Deane C. D'Aoust	317 S. Main Street, Jefferson	(414) 674-3441	674-2537	674-5414
	Lake Mills	(C) W.E. Kieselring, Jr.	140 E. Lake Street, Lake Mills 53551	(414) 648-8385		
	Oakland	(T) David Hagberg	P.O. Box 130, Cambridge 53523	-NONE-	(608) 423-3512	423-3512
	Palmyra	(V) Donald Preusse	P.O. Box 200, Palmyra 53156	(414) 495-2114	495-2603	495-2603
Waukesha	Brookfield	(C) Richard J. Steinberg	2000 N. Calhoun, Brookfield 53005	(414) 782-6200	783-4447	257-3322
	Butler	(V) Robert F. Schneider	Village Hall, 12902 W. Lancaster, Butler53007	(414) 781-9696	781-0122	781-7991
	Delafield	(C) Jerome Boyer	500 Genesee Street, Delafield 53018	(414) 646-3395	367-7374	
	Eagle	(T) Lyman E. Wheeler	Route 2, Box 172, Eagle 53119	(414) 594-2458	594-2458	784-6900
	Elm Grove	(V) Gerard J. Flood	13600 Juneau Blvd., Elm Grove 53122	(414) 782-6700	786-7062	567-6524
	Lac LaBelle	(V) Dee Ann Litacher	340 Lac LaBelle Drive, Oconomowoc 53955	(414) 567-8593		
	Lannon	(V) George D. Wysock	10399 Main Street, Lannon 53046		(414) 255-4891	
	Menomonee Falls	(V) Joseph J. Esser	N. 79 W. 14833 Appleton Ave, Menomonee Falls			
	Mukwonago	(V) Charles E. Dewey	625 N. Rochester Street, Mukwonago 53149	(414) 363-4900	363-3933	363-7711
	Muskego	(C) Richard Wittbrot	182 S. 8200 Racine Ave., Muskego 53150	(414) 679-2660	679-0337	384-1610
	New Berlin	(C) Frank A. Murn	16300 W. National Ave., New Berlin 53151	(414) 782-6640	425-4654	774-0133
	North Prairie	(V) Kenneth Robert	215 E. State Road, North Prairie 53153	(414) 392-2700	392-2227	547-1701
DISTRICT 4						
Calumet	New Holstein	(C) David Ditter	2110 Washington Street, New Holstein 53061	(414) 898-4681		898-4255
	Kiel	(C) Dean M. Dietrich	621 6th Street, Kiel 53042	(414) 894-2909	894-2566	458-8363
	Manitowoc	(C) Steven R. Alpert	817 Jay Street, Manitowoc 54220	(414) 684-3331	682-2737	682-6361
	Reedsville	(V) Robert Rutherford	533 Manitowoc Street, Reedsville 54230	(414) 754-4249	754-4249	793-1364
	Two Rivers	(C) Steve Winter	East Park, Two Rivers 54241	(414) 793-1191	793-1364	793-1364
Winnebago	Menasha	(T) Leroy H. Schaefer	1000 Valley Road, Menasha 54952	(414) 731-9146	722-8569	346-7388
	Omro	(C) Richard Crane	205 S. Webster, Omro 54963	(414) 685-5534	685-2237	424-0015
	Winneconne	(V) Donald Sleik	224 W. Main Street, Winneconne 54986	(414) 582-4381	582-4235	
DISTRICT 5						
Dane	Albion	(T) Ronald W. Dye	88 Beave Ave., Route 3, Edgerton 53534			
	Belleville	(V) Sharon Rauschenberger	20 W. Pearl, Belleville 53508			
	Black Earth	(V) Clayton Garfoot	818 Center Street, Box 28, Black Earth 53531	(608) 767-3949	767-2241	262-3188
	Blue Mounds	(V) Harold Swenson	Blue Mound 53517		437-8223	437-5197
	Cambridge	(V) Mary S. Raymond	P.O. Box 89, Cambridge 53523			
	Cross Plains	(V) Ralph W. Fenske	2107 Julius Street, Cross Plains 53528	(608) 798-3241	798-2448	266-3657

District	County	Township	City	Judge	Address	Court	Home	Telephone	Office				
DISTRICT 5 (cont.)													
Dane	(cont)	Dane	Deerfield De Forest Dunn Fitchburg Madison Marshall Mazomanie McFarland Middleton Monona Mt. Horeb Oregon Oregon Shorewood Hills Stoughton Sun Prairie Verona Waunakee	(V)	Barry Clapper	P.O. Box 23, Dane 53529		(608) 849-4923	221-8459				
				(V)	Vince Cordano	P.O. Box 21, Deerfield 53531							
				(V)	Dale Van Buren	205 Cora Street, De Forest 53532							
				(T)	James Scherneck	11y. B. McFarland 53575	(608) 835-5611	(608) 846-5255	257-1431				
				(T)	Andrew L. Somers	5791 Lacy Road, Madison 53711	(608) 274-3622	835-3638	226-1249				
				(T)	Gerald Nichol	2120 Fish Hatchery Road, Madison 53713	(608) 257-4558	273-4871	226-8913				
				(V)	Daniel G. James	126 S. Pardee Street, Marshall 53559	(608) 655-3617	255-9854	256-9046				
				(V)	Phil H. Endres	133 Gresant Street, Mazomanie 53560	595-2678	595-2678					
				(V)	James J. McCann	5915 Milwaukee Street, McFarland 53558	(608) 838-3151	838-9723					
				(C)	Harold Meyer	7426 Hubbard Ave, Middleton 53564							
				(C)	Donald Pressentin	5011 Monona Drive, Monona 53716	(608) 831-3323	836-4609					
				(V)	Albert R. Graham	501 Parkview Drive, Mt. Horeb 53572							
				(V)	James J. Meylor	127 Park Street, Oregon 53575							
				(T)	Laverne Warner	Union Road, Oregon 53575	(608) 835-3909	835-7122	836-7291				
				(V)	Kenneth M. Orchard	1008 Shorewood Boulevard, Madison 53705	(608) 835-3200	835-3032	835-3032				
				(C)	Carl G. Pieper	176 W. Main Street, Stoughton 53589	(608) 233-9724	233-6175	255-7919				
				(C)	Frank Wilkom	124 Columbus Street, Sun Prairie 53590	(608) 873-3373	873-7332					
				(V)	James F. Donovan	111 Lincoln Street, Verona 53593	(608) 837-8338	837-7435	837-8338				
				(V)	John Radernmacher	802 S. Division Street, Waunakee 53597	(608) 845-7623	845-9377	266-7394				
Green		Albany Broodhead Brooklyn Jordan Monticello New Glarus	Elmer Runaas Duane Youngblood Wayne A. Gilmour William J. Figi Gabrielle Glover John D. Christoffel	(V)	205 N. Water, Albany 53502	(608) 862-3248	862-3734						
				(C)	1103 W. 2nd Ave. Brodhead 53520	(608) 897-4018	897-4186						
				(V)	102 N. Rutland Ave, Brooklyn 53521	(608) 455-2131	455-7276		266-6246				
				(T)	R.R. 1, Argyle 53504								
				(V)	537 Lincoln, Monticello 53570								
				(V)	P.O. Box 548, New Glarus 53574								
				Rock		Beloit Clinton Edgerton Evansville Footville Milton Newark Orfordville Turtle	Gerald J. Berres O. Allan Nimz David D. Love Robert C. Raymond Roger Butts Robert A. Armstrong Dirk Veneman David Runaas Charles E. Reynolds	(T)	Beloit Town Hall, 2871 Afton Road, Beloit 53511	(608) 362-2543		(815)389-1920	
								(V)	427 Church St., Box 318, Clinton 53525				
								(C)	16½ Burdick St., Edgerton 53534	(608) 884-3391	884-6425		755-2130
								(C)	42W Grove Street, Evansville 53536				
(V)	P.O. Box 184, Footville 53537	(608) 876-6116	876-6878						754-5566				
(C)	116 Parkview Drive, Milton 53563	(608) 868-7679	868-2083						868-3700				
(T)	Rt. 2, Hwy 81, Box 93, Beloit 53511												
(V)	407 N. Main Street, Orfordville 53576	(608) 879-4919											
(T)	Rte. 1, Box 195, Creek Road, Beloit 53511												
Dodge		Fox Lake Fox Lake Watertown	Dennis Forsyth Helen M. Hartman Ronald W. Ziwiaky					(C)	103 We Go Trail, Fox Lake 53933	(414) 928-2280	928-3669		
				(T)	R.R. 1, Fox Lake 53933		(414) 928-2548		928-2425				
				(C)	106 Jones Street, Watertown 53094	(414) 261-4411	261-0375		261-1626				
				Waupaca	Marion	Harland Dietz	(C)	402 W. Main Street, Marion 54950					
Wood	Port Edwards	Donald Carl	(V)				1531 4th Street, Port Edwards	(715) 887-3511	887-3879		887-5344		

District County	City Village Township	Judge	Address	Telephone		
				Court	Home	Office
DISTRICT 7						
Grant	Muscoda	(V) Howard E. Jones	206 North Wisconsin Ave., Muscoda 53573	(608) 739-3270	739-3255	
Iowa	Arena	(V) Emma White	P.O. Box 35, Arena 53505			
	Barneveld	(V) Jack Parman	P.O. Box 94, Barneveld 53507		(608) 924-5691	
	Highland	(V) Thomas A. Benish	Municipal Building, Highland 53543	(608) 929-4848	(608) 929-4589	(608) 929-4816
	Ridgeway	(V) Otto Tesch	310 W. Farewell Street, Ridgeway 53582	924-2241	924-3652	
La Crosse	La Crosse	(C) Leonard R. Chojnacki	505 N. 6th Street, La Crosse 54601	(608) 785-2130	784-1387	782-2722
	Onalaska	(C) Thomas M. Olson	415 Main Street, Box 339, Onalaska	(608) 783-5666	783-5992	784-7299
La Fayette	Belmont	(V) Roger Adler	105 Mount Ave., Belmont 53510		(608) 762-5670	762-5475
	Benton	(V) Eldon Kruser	P.O. Box 441, Benton, 53803			
	Blanchardville	(V) Martha Chandler	208 Mason Street, Blanchardville 53516	(608) 523-4250		523-4225
	South Wayne	(V) Dwight L. Allmon	P.O. Box 171, South Wayne 53587	(608) 439-5395	439-5234	966-3208
Monroe	Cashton	(V) Rita Byers	Municipal Court, Cashton 54619	(608) 386-7828	386-5470	388-2218
	Kendall	(V) Ernest Huschka	Rte. 1, Box 164, Kendall 54638		463-7422	
	Sparta	(C) Donald L. Goodman	P.O. Box 216, Sparta 54656	(608) 269-2117	269-4113	269-2117
	Tomah	(C) Lawrence S. Clark	819 Superior Ave., Tomah 54660	(608) 372-5948	372-7574	
	Warrens	(V) John A. Waters	R.R. 1, Box 85, Warrens 54666			
	Wilton	(V) Corwin Denter	P.O. Box 206, Wilton 54670	385-6666	385-6658	
Richland	Lone Rock	(V) Clarence O. Moeller	P.O. Box 163, Lone Rock 53556		(608) 583-5824	
	Viola	(V) William L. Brown	Municipal Building, Viola 54664			
Trempealeau	Arcadia	(C) Ernest T. Reck	854 E. Jefferson Street, Arcadia 54612	(608) 323-3359	323-3322	
Vernon	Coon Valley	(V) Dale Nelson	P.O. Box 141, Coon Valley 54623		(608) 648-3355	
	De Soto	(V) Ralph Glynn	P.O. Box 75, De Soto 54624			
	Hillsboro	(C)	836 Prairie Avenue, Hillsboro	(608) 489-2521		
	La Farge	(V)	P.O. Box 924, La Farge 54639	(608) 625-2326	625-2326	
	Ontario	(V)	420 Monroe Street, Ontario 54651		(608) 387-4754	
	Stoddard	(V)	180 N. Main Street, Stoddard 54658		475-2357	
	Weatby	(C)	Randy Dahlen	104 1st Street, Weatby 54667	(608) 634-3214	634-4258
DISTRICT 8						
Brown	Allouez	(T) James Pressentin	1649 S. Webster, Green Bay 54301	(414) 432-5291	336-8986	432-1468
	Ashwaubenon	(V) James Basten	580 Cormier Road, Green Bay 54304	(414) 435-3751	494-5774	
	Denmark	(V) Robert W. Sandberg	118 E. Main Street, Denmark 54208	(414) 336-5761	(414) 863-2248	863-2176
	De Pere	(C) Raymond Staszak	335 S. Broadway, De Pere 54115	(414) 497-3744	336-6737	336-1613
	Green Bay	(C) Frank Van Lannen	301 S. Adams, Green Bay 54301	(414) 497-4478	499-5995	432-2295
	Howard	(V) Thomas Farr	2456 Glendale, Green Bay 54303	(414) 822-5182	434-1078	497-1557
	Pulaski	(V) Robert Betley	421 S. St. Augustine St., Pulaski 54162	(414) 822-5182	822-3328	494-4571
Marinette	Coleman	(V) Ronald L. Brigham	107 E. Main, Coleman 54112	(414) 897-4400	897-4229	
	Crivitz	(V) Ed A. Erickstead	P.O. Box 86, Crivitz 54114	(715) 654-2056	854-2056	854-2030
	Goodman	(T) Leonard E. Laabs	Goodman 54125		336-2440	
	Marinette	(C) John B. Kerski	1905 Hall Ave., Marinette 54143	(715) 735-7427	735-6584	

District County	City Village Township	Judge	Address	Court	Telephone Home	Office
DISTRICT 8(cont)						
Marquette(cont)	Niagara	(V) Terrill Thibert	Municipal Court, Niagara	(715) 251-3122	251-3621	
	Peshtigo	(C) Terry Guay	528 French Street, Peshtigo	(715) 582-4137	582-4137	
	Silver Cliff	(T) Robert D. Berken	Star Route, Box 121, Athelstane		(715) 757-3641	757-3641
	Stephenson	(T) Robert A. Konopka	Route 3, Crivitz	(715) 854-7172	854-7664	897-2295
Oconto	Gillett	(C) Leon E. Riemer	P.O. Box 206, Gillett	(414) 855-2020	855-2665	855-2020
	Lena	(V) Robert McNurlen	117 E. Main Street, Lena	(414) 829-5226	829-5444	829-6023
	Oconto	(C) Eugene H. Belongia	1210 Main Street, Oconto	(414) 834-2844	834-2176	
	Oconto Falls	(C) R.M. Trudel	P.O. Box 70, Oconto Falls	(414) 846-2822	846-3579	
	Riverview & Doty	(T) Richard T. Bentz	Rt. 1, Mountain		(715) 276-6959	276-6959
	Surging	(V) Alice M. Barber	827 Main Street, Surging	842-2333	842-2486	842-2486
	Townsend	(T) Daniel Tucker	P.O. Box 24, Townsend	(715) 276-6856	276-7145	276-7636-
Outagamie	Bear Creek	(V) Donald M. Pfalz	105 Prospect Street, Bear Creek	54922		
	Black Creek	(V) Vernon Zuleger	P.O. Box 52, Black Creek	54106	984-3496	
	Combined Locks	(V) James Wellhouse	Wallace Street, Combined Locks	54113	788-3047	
	Ellington	(T) William Utke	Route 1, Hortonville	54944	(414) 757-6489	
	Grand Chute	(T) James R. Larson	2920 W. Highview, Appleton	54911	(414) 734-4996	735-6240
	Hortonville	(V) Richard J. Schwan	P.O. Box 69, Hortonville	54944	(414) 779-6165	779-6111
	Kaukauna	(C) Clarence P. O'Connor	2nd Street, Kaukauna	54130	(414) 766-4682	766-3477
	Kimberly	(V) Harry Valentine	515 W. Kimberly Ave., Kimberly	54136	(414) 788-1164	788-1730
	Little Chute	(V) Raymond J. Sanders	Grand & Main, Little Chute	54140	(414) 788-1511	788-1891
	Nichols	(V) Ed Lorenz				
	Seymour	(C) Donald O. Hoff	421 N. Main Street, Seymour	54165	(414) 833-2366	833-6095
	Shiocton	(V) Wallace Schoepke	P.O. Box 224, Shiocton	54170	986-3664	833-2324
DISTRICT 9						
Ashland	Mellen	(C) Thomas E. McCarthy	P.O. Box 363, Mellen	54546	274-5962	
Clark	Abbotsford	(C) Bernard Klinkhammer	Rte. 1, Abbotsford	54405	23304241	
Florence	Florence	(T) W. Sherman Kuehn	P.O. Box 38, Florence	54121		
Forest	Laona	(T) Alex Carter	P.O. Box 174, Laona	54541	(715) 674-3521	
Marathon	Wabeno	(T) Willard Ehlinger	P.O. Box 126, Wabeno	54566		
	Franzen	(T) Victoria Omernick	Rt. 1, Box 143, Wittenburg	54499		
	Rothschild	(V) Patrick M. Brady	507 Clark Ave., Rothschild	54474	(715) 359-8601	359-7272
	Schofield	(C) Harland Kamke	200 Park Street, Schofield	54476	359-3616	359-3616
	Wausau	(C) Arthur Eberlein	407 Grant Street, Wausau	54401	(715) 845-5279	842-4340
Vilas	Boulder Junction	(T) Richard Wolcott	P.O. Box 21, Boulder Junction	54512	385-2276	
	Manitowish Waters	(T)	P.O. Box 1, Manitowish Waters	54545		

District County	City Village Township	Judge	Address	Telephone		
				Court	Home	Office
<u>DISTRICT 10</u>						
Barron	Barron	(C) Elizabeth Christianson	Barron City Hall, Barron	(715) 537-5631	537-3085	537-5633
	Chetek	(C) Kenneth G. Sannes	806 3rd Street, Chetek	(715) 924-3686	924-4425	
	Cumberland	(C) John H. Haley	1356 2nd Ave., Cumberland	(715) 822-2754	822-4727	822-8852
	Rice Lake	(C) Bruce H. Dalrymple	P.O. Box 192, Rice Lake	(715) 224-9074	234-7714	234-9074
	Turtle Lake	(V) Jack Bartels	P.O. Box 11, Turtle Lake	(715) 986-2241	986-2427	986-2216
Chippewa	Cornell	(C) Jack R. Dickinson	Municipal Court Building, Cornell	(715) 239-6522	239-6548	
	New Auburn	(V) Lowell D. Trowbridge	Municipal Court Building, New Auburn	(715) 644-5578	644-5261	644-5715
	Stanley	(C) Russell Judnic	116 3rd Avenue, Stanley	(715) 378-2235	374-2162	374-2162
Douglas	Solon Springs	(V) Clyde Nelson	P.O. Box 327, Solon Springs			
Dunn	Colfax	(V) Eugene Dunnagan	Municipal Court Building, Colfax	54730		
	Sand Creek	(T) Glenn Anderson	Route 2, New Auburn	54757		
Eau Claire	Augusta	(C) Harry Daniels	106 E. Lincoln Street, Augusta	(715) 286-2555	286-2505	
Pierce	Prescott	(C) Bernard M. Hovel	233 Broad Street, Prescott	(715) 262-5544	262-5665	425-2405
	River Falls	(C) George C. Banta	City Hall, River Falls	54022	(715) 425-5733	
Polk	Frederic	(V) Charles W. Anderson	P.O. Box 216, Frederic	54837		
St. Croix	Glenwood	(V) Walter Waters, Sr.	City Hall, Glenwood City	265-4455	265-4393	
	Hudson	(C) Douglas Zilz	619 2nd Street, Hudson	54016		
	North Hudson	(V) Herbert Barker	400 7th Street W., Hudson	(715) 386-5141	386-5430	
	New Richmond	(C) James F. Utecht	P.O. Box 262, New Richmond	54017	(715) 246-6472	
	Somerses	(V) Bernard T. Peterson	P.O. Box 166, Somerses	(715) 247-3395	247-5257	

Number of Municipal Courts by Judicial District, County and type of Municipality

<u>DISTRICT 1</u>	City	Village	Township	TOTAL
• Milwaukee	10	9		19
(sub-total)	10	9		19
<u>DISTRICT 2</u>				
• Kenosha	1	3	6	10
• Racine	1	3	6	10
• Walworth	3	4	3	10
(sub-total)	5	10	15	30
<u>DISTRICT 3</u>				
• Jefferson	3	1	1	5
• Waukesha	4	7	1	12
(sub-total)	7	8	2	17
<u>DISTRICT 4</u>				
• Calumet	1			1
• Manitowoc	3	1		4
• Winnebago	1	1	1	3
(sub-total)	5	2	1	8
<u>DISTRICT 5</u>				
• Dane	5	15	5	25
• Green	1	4	1	6
• Rock	3	3	3	9
(sub-total)	9	22	9	40
<u>DISTRICT 6</u>				
• Dodge	2		1	3
• Waupaco	1			1
• Wood		1		1
(sub-total)	3	1	1	5
<u>DISTRICT 7</u>				
• Grant		1		1
• Iowa		4		4
• La Crosse	2			2
• La Fayette		4		4
• Monroe	2	4		6
• Richland		2		2
• Trempealeau	1			1
• Vernon	2	5		7
(sub-total)	7	20		27
<u>DISTRICT 8</u>				
• Brown	2	4	1	7
• Marinette	2	3	3	8
• Oconto	3	3	1	7
• Outagamie	2	8	2	12
(sub-total)	9	18	7	34
<u>DISTRICT 9</u>				
• Ashland	2			2
• Clark	1			1
• Florence			1	1
• Forest			1	1
• Marathon	2	1	1	4
• Vilas			2	2
(sub-total)	5	1	5	11
<u>DISTRICT 10</u>				
• Barron	4	1		5
• Chippewa	2	1		3
• Douglas		1		1
• Dunn		1		1
• Eau Claire	1		1	2
• Pierce	2			2
• Polk		1		1
• St. Croix	2	3		5
(sub-total)	11	8	1	20
TOTAL	71	98	42	111

A map of Wisconsin showing its judicial administrative districts. The state is divided into 9 counties, each labeled with a number. The counties are: 1 (Milwaukee), 2 (Kenosha), 3 (Waukesha), 4 (Sheboygan), 5 (Dane), 6 (Monroe), 7 (Vernon), 8 (Door), 9 (Lincoln), and 10 (Polk). The map also shows the names of all 9 counties: Bayfield, Douglas, Iron, Vilas, Ashland, Price, Oneida, Forest, Florence, Burnett, Wasburn, Sawyer, Taylor, Langlade, Marinette, Polk, Barron, Rusk, Lincoln, Oconto, St. Croix, Dunn, Chippewa, Marathon, Menominee, Pierce, Eau Claire, Clark, Shawano, Pepin, Wood, Portage, Waupaca, Outagamie, Brown, Buffalo, Trempealeau, Jackson, Juneau, Adams, Waushara, Winnebago, Calumet, Manitowoc, La Crosse, Monroe, Marquette, Green Lake, Sheboygan, Vernon, Sauk, Columbia, Dodge, Fond Du Lac, Crawford, Richland, Grant, Iowa, Dane, Jefferson, Waukesha, Milwaukee, La Fayette, Green, Rock, Walworth, Racine, and Kenosha.

Are there any locally imposed limitations on the municipal court's jurisdiction? Should these limitations be eliminated?

Number of Courts
Indicating Local
Limitations

Limitations*

Number *

4

- Board does not adopt state statutes required for proper governing.
- Some juvenile jurisdiction has not been adopted by the city.
- Cannot put people in jail for failure to pay.

2

1

1

(Not additional local limitations)

- Can hear only violations that occur within township or village boundaries.

3

* Some courts listed more than one (1) "limitation". Three (3) of the courts felt the "local" limitations should be eliminated. One (1) court recorded a "?" with reference to lack of "state statutes required for proper processing".

Question 32b

How many cases were appealed in 1980?

Judge	Tried Over	Reviewed on Record	Not Listed	Total
• Attorney	157*	44	22	223
• Non-Attorney	15	27	11	53
(Total)	172	71	33	276 *

*Fifty-nine (59) were from Milwaukee municipal court which had a total of 70,895 dispositions in 1980.

Question 25

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

<u>Topic</u>	<u>Number of Judges</u>
• Transferring cases to circuit court results in delays and plea bargaining tactics. There should be restrictions making jury trials harder to get.	7
• State statutes should require circuit court to remand cases back to municipal court if defendant wishes to change plea to guilty instead of having a jury trial [see, § 800.14(4)].	4
• Municipal courts should have equity jurisdiction (see, § 755.045).	3
• There should be county-wide municipal courts to relieve the burden on circuit courts.	2
• Appeals from municipal court [§ 800.14(4)] should be repealed.	2

(B)

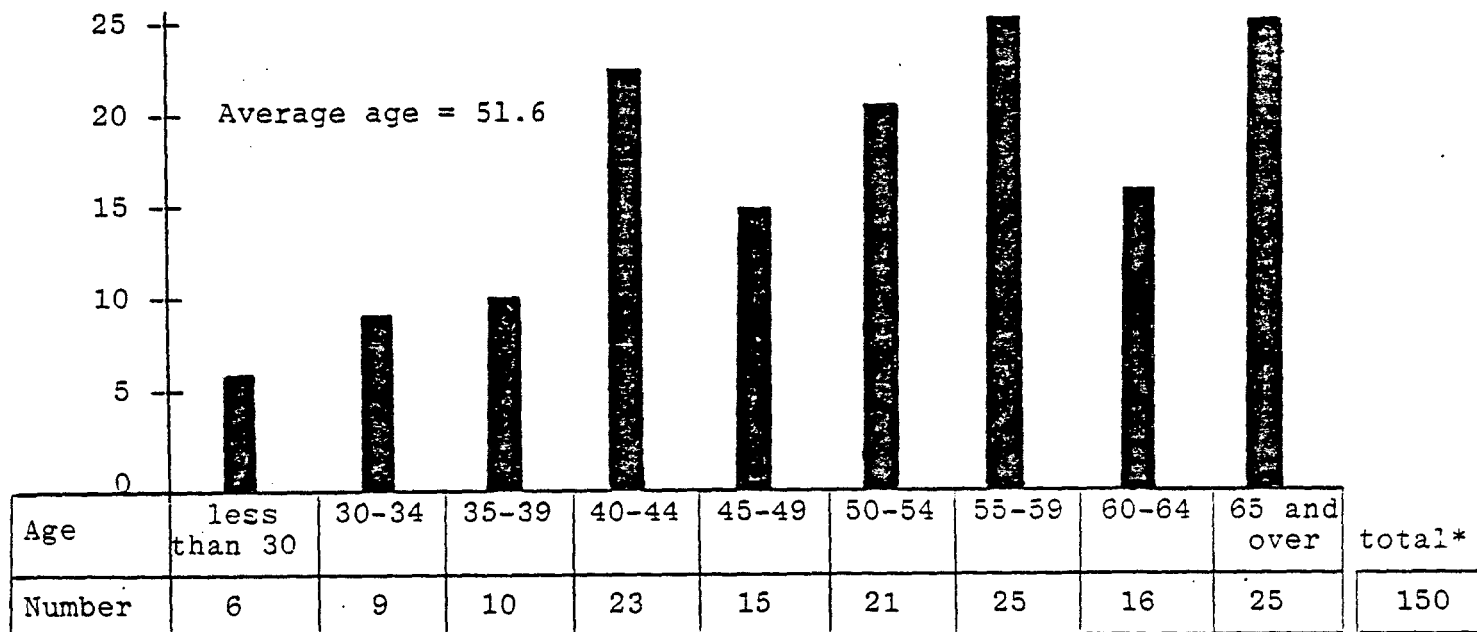
MUNICIPAL JUDGE'S PROFILES

Source of Data	JUDGES			
	Male	Female	Vacant	Total
• Questionnaire	143	11	-	154
• Existing Roster	51	4	2	57
	194	15	2	211*

*Thirty-four (34) were originally appointed (prior to 1978) to their municipal judge position. One hundred fifteen (115) judges indicated that they were originally elected to their positions.

(Question 6)

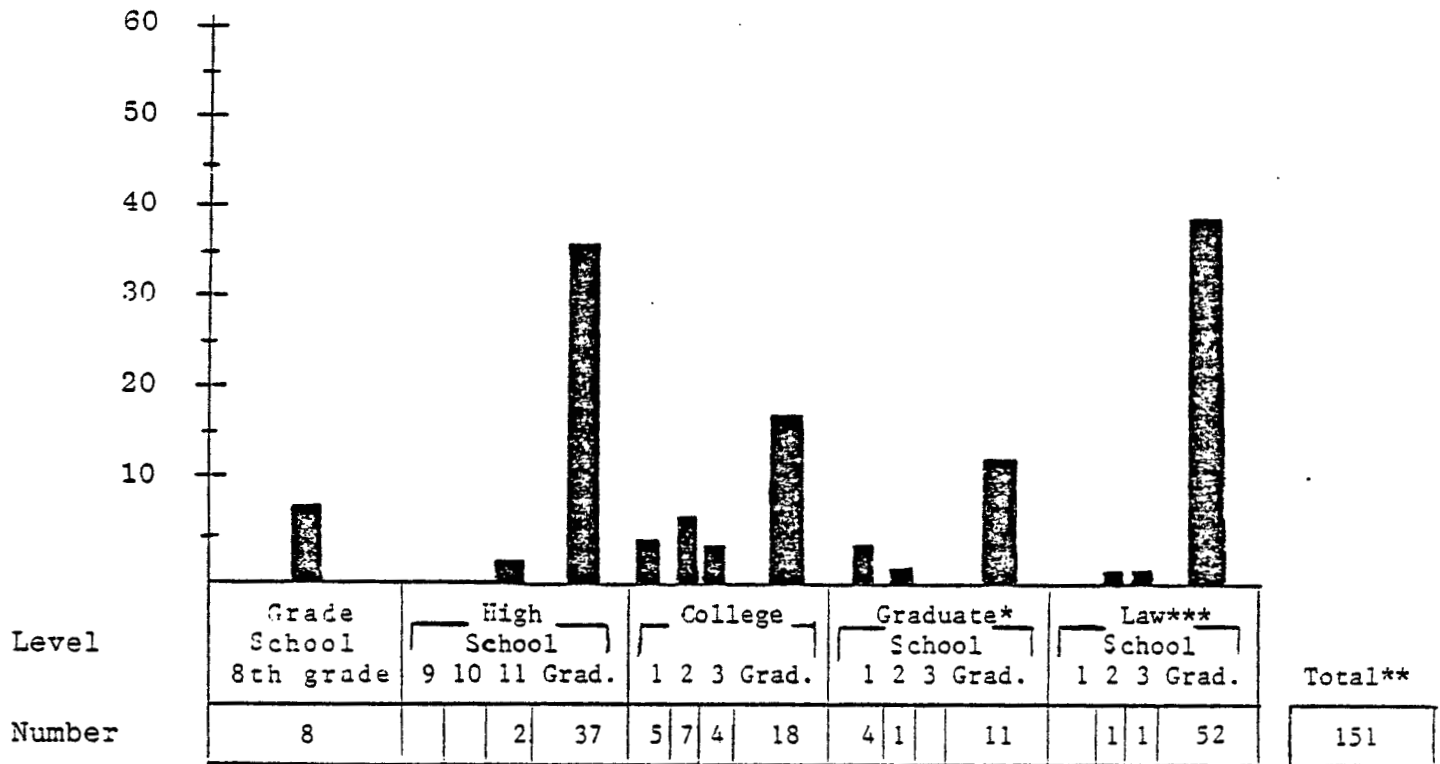
What are the ages of municipal court judges?



*Five (5) did not reply to this question.

(Question 7)

What are the educational levels of municipal judges?



* Masters degrees in Education (5), Criminal Justice (1), Management (1), Engineering (1), Chemistry (1), and Social Studies (1).

** Four (4) did not reply to this question.

***One (1) Law school graduate may not be licensed to practice in Wisconsin. Responses to question 52 indicate that 51 judges are licensed to practice in Wisconsin.

(Question 49)

What were your previous three (3) occupations before present occupation?

5 Judges

- Policemen
- Armed Forces
(one in JAG)

3 Judges

- Teachers
- Farmers
- Salesmen

1 Judge

- Air Traffic
Controller
- Law Professor
- Auto Factory
- Heavy Equipment
Operator
- Plant Inspector
- Telephone Company
- Carpenter
- Legal Secretary
- Truck Driver
- Appraiser
- Mechanic
- CAP Director
- Bartender
- Barber

(TOTAL)

10

9

14

Question 55

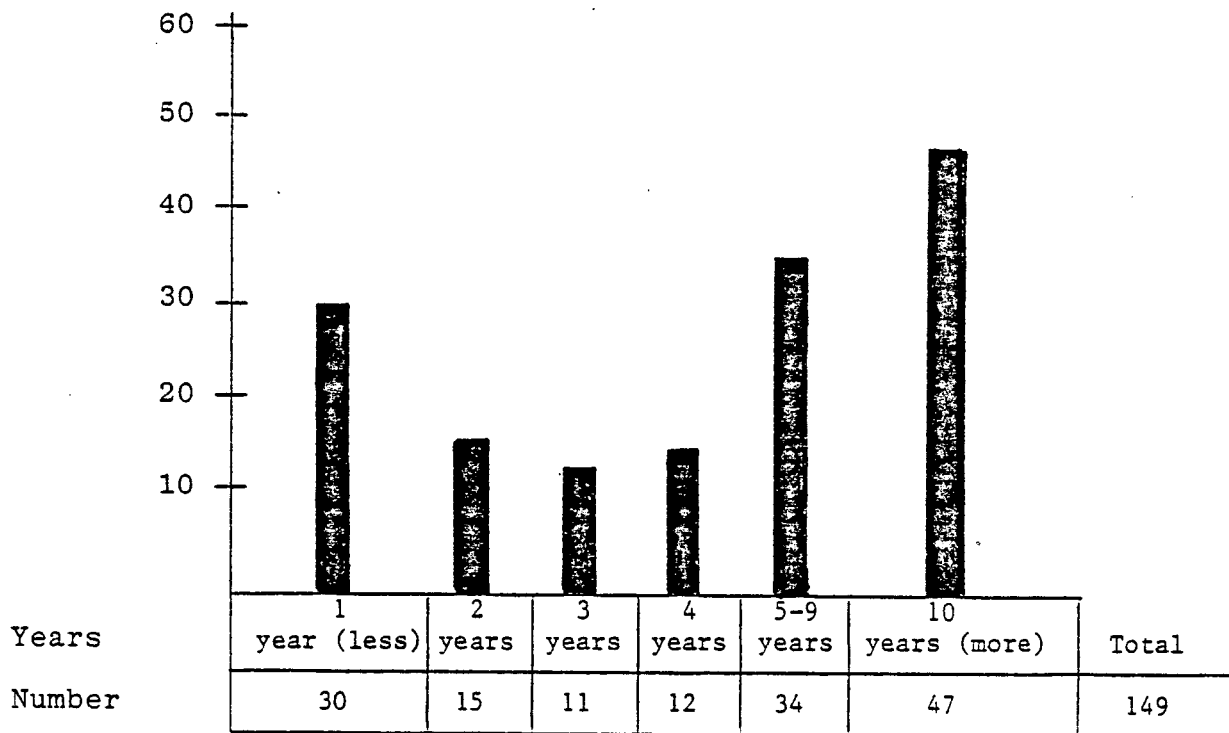
What elective or appointed public office have you held or presently hold?

<u>State</u>	NUMBER	
	<u>Previous Positions</u>	<u>Present Position</u>
• Highway Safety Comm.	1	1
• Attorney General's Office	1	1
(Total)	<u>1</u>	<u>2</u>
<u>County Official</u>		
• District Attorney	4	
• Library Board	1	
• Deputy Sheriff	1	
• County Assessor	1	
• Court Commissioner		1
(Total)	<u>7</u>	<u>1</u>
<u>Municipal Officials</u>		
• Alderman/Councilman	9	
• Municipal Attorney	1	2
• Mayor	3	
• Village Trustee	3	1
• Village Clerk	2	
• Fire Chief		1
• Village Marshall	1	
(Total)	<u>19</u>	<u>4</u>
<u>Other*</u>		
• Planning Commission	2	1
• Zoning Board	2	1
• School Board	4	
• Park Board	1	
• Court Clerk	1	
• Police Commissioner	2	
• Water and Light Commissioner		1
• Transit Commissioner	1	
• Building Inspector		1
• School District Attorney		1
(Total)	<u>13</u>	<u>5</u>

*It could not be determined whether these offices should be listed under state, county, or municipality.

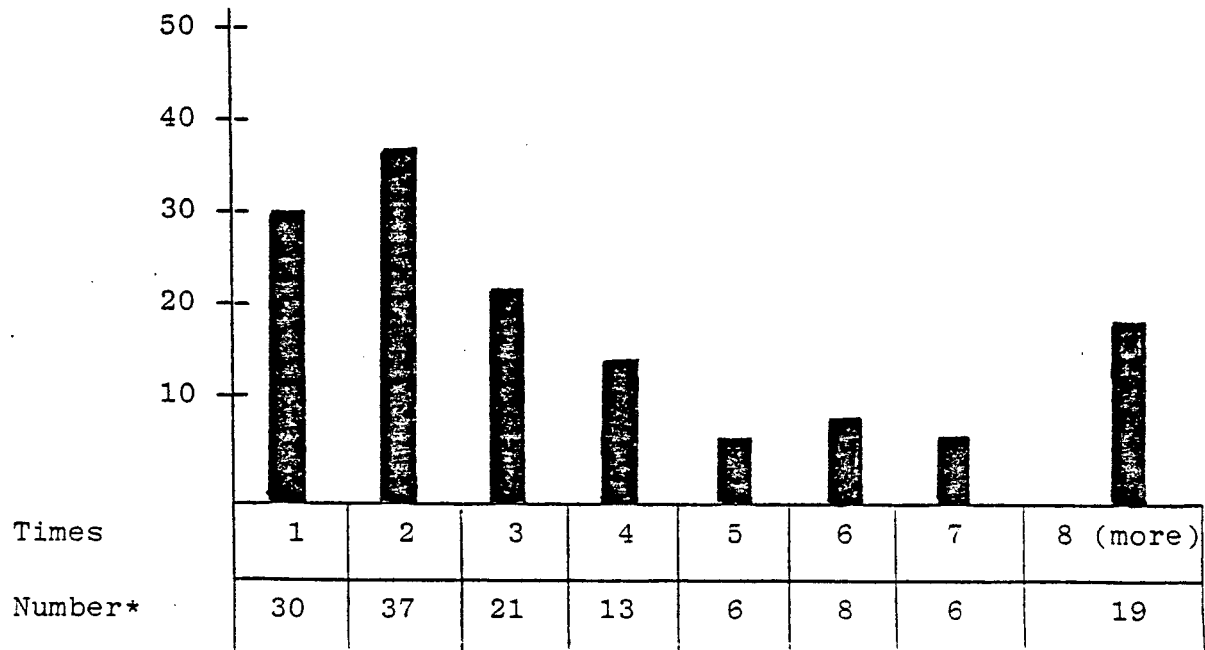
Question 54

How long have you been a municipal judge?



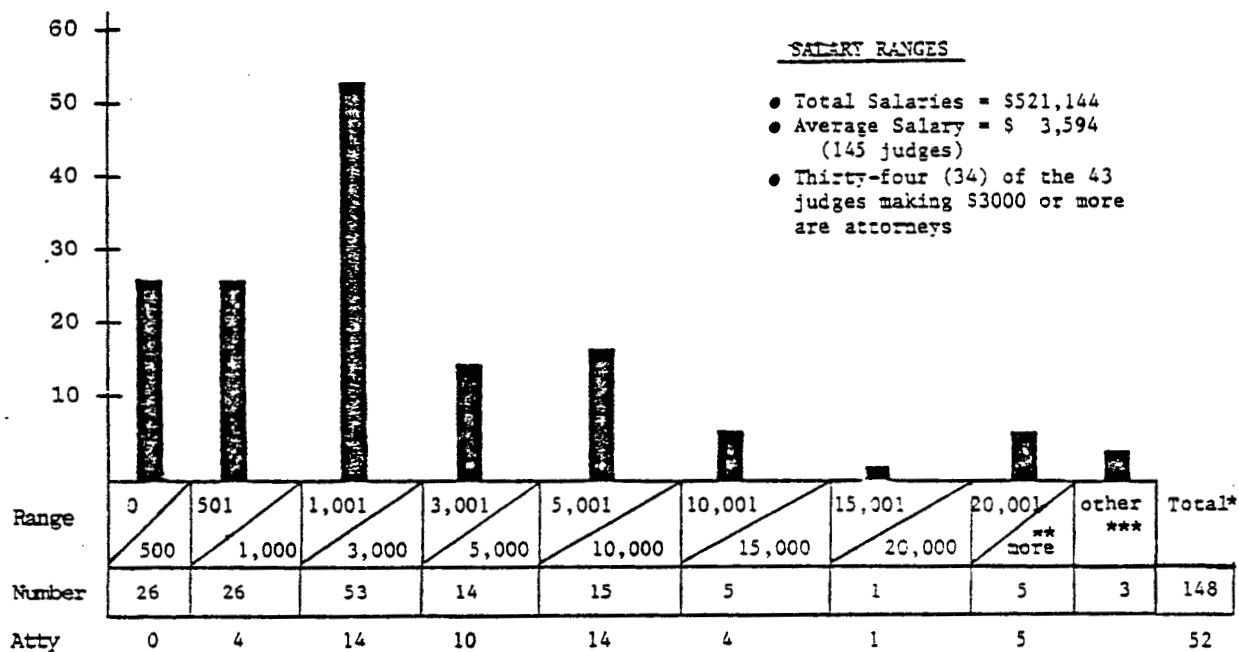
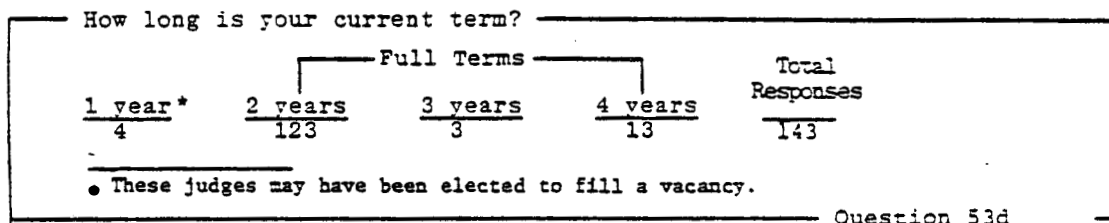
Question 53b

How many times have municipal judges been elected



*Total responses = 140.

Question 53c



* Seven (7) gave no answer

** The highest paid judge makes \$48,706

***One (1) judge said he got "\$25 (per)," another judge said he got "\$10 (per)," and one (1) judge said he got "\$10 per session."

(Question 56)

If you are a part-time judge, list other occupations or employment.

• Retired	25
• Practice Law	48
• Teacher	10
• Businessman	7
• Insurance Agent	5
• Plant Manger	4
• Law Enforcement Officer	1
• Real Estate Broker	3
• "Administration"	2
• Machinist	2
• Accountant	2
• Photographer	2
• <u>Other*</u>	<u>29</u>
 TOTAL	 140

* "Other" include, "welder, fireman, painter, carpenter, electrician, bailiff, street department, mechanic, secretary, housewife, restaurant owner, barber, law student, radio operator, farmer, tire dealer, Wisconsin Department of Justice, meat cutter, warehouse distributor, security guard, insurance investigator, forklift operator, maintenance, millworker, architect, city worker, abstractor, ambulance attendant, and student."

Question 51

When will current judge's terms expire?

Month	YEAR				Total
	1982	1983	1984	1985	
• March	1	1			2
• April	47	30	1		78
• May	30	25	2	2	59
• October			1		1
 <u>TOTAL</u>	 78	 56	 4	 2	 140*

* Fifteen (15) of the judges did not respond to this question

Question 53e

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

<u>Topic</u>	<u>Number of Judges</u>
• Municipal judges should be attorneys.	2
• Municipal judges salaries should be commensurate with comparable municipal employees.	1

(C)

JUDICIAL TRAINING, ADVISE, AND LEGAL RESOURCES

If you became a judge within the last five (5) years, how soon after becoming a judge did you attend your first judicial training program?*

NONE ATTENDED	Within				
	1st Year	2nd Year	3rd Year	4th Year	5th Year
31**	38	2	2	1	

* Seventy-four (74) have become judges within the last five [5] years (of those responding to survey).

** Includes six (6) attorneys.

Question 46

What judicial training programs have you attended during the last five (5) years?*

<u>TRAINING PROGRAM</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>TOTAL</u>
<u>Supreme Court</u>						
• Muni. Ct. Institute	5	11	5	17	6	44
• Muni. Ct. Procedures		2		3	2	7
• Muni. Ct. Graduate Sem.	12	12	10	28	16	78
• Alpine Judicial Educ.				4	1	5
• Madison Judicial Educ.	3	10	5	17	16	51
(Sub-total)	<u>20</u>	<u>35</u>	<u>20</u>	<u>69</u>	<u>41</u>	<u>186</u>
<u>Municipal Judges Assoc.</u>						
• Orientation and Review	7	8	9	12	11	47
<u>Wisconsin State Bar</u>						
• CLE courses		2	1	2	2	7
• Muni. Ct. Procedures		2				2
(Sub-total)		<u>4</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>9</u>
<u>College/University</u>						
• National Judicial College			1		2	3
• "Traffic Seminar"				2		2
(Sub-total)			<u>1</u>	<u>2</u>	<u>2</u>	<u>5</u>
TOTAL	<u>27</u>	<u>47</u>	<u>31</u>	<u>86</u>	<u>56</u>	<u>247</u>

* A five (5) year period was picked because there were few judicial training programs available to municipal judges before 1977.

Question 45

What are the five (5) most serious problems affecting municipal courts?

Problems	RANKING*					Total
	1	2	3	4	5	
• Juvenile Cases (non-traffic)	(41)	(23)	10	8	7	89
• Sentencing	9	17	17	(16)	14	73
• Rules of Evidence	12	11	15	11	(15)	64
• OWI Cases	11	16	17	14	2	60
• Defendant's Rights	5	3	(20)	11	9	48
• Office Management	14	8	8	8	9	47
• Conducting a Trial	12	9	5	6	11	43
• Court Decorum	2	8	6	11	6	33
• Relationship with Police	9	6	2	4	9	30
• Traffic Cases	2	5	2	7	7	23
• Judicial Ethics	2	4	1	2	6	15

*The circled numbers identify the single highest priority problem for each of the five (5) rankings

Question 57

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

<u>Topic</u>	<u>Number of Judges</u>
• Need more training regarding new OWI law.	27
• Municipal judges lack adequate legal background or competence and need more judicial training.	24
• Office management, administration, and procedures is a major problem. More training and staff are needed.	21
• Need training in conducting a trial	14
• Do not understand § 800.04 (initial appearance; stipulation of guilt; deposit)	2
• State statutes should be in layman's language.	2

Which individuals or groups have you requested advice or assistance from, and what assistance was provided?

REQUESTED LEGAL ASSISTANCE FROM:*	NO ASSISTANCE PROVIDED	ASSISTANCE PROVIDED		TOTAL
		VERY HELPFUL	SLIGHTLY HELPFUL	
Municipal Attorney	2	89	15	106
Other Municipal Judges	2	80	5	87
Motor Vehicle Department	2	65	10	77
Police	2	60	11	73
Municipal Judges' Assoc.	2	48	7	57
Circuit Judge	3	33	5	41
District Attorney	4	23	13	40
District Chief Judge	4	26	7	37
Director of State Courts	2	26	4	32
District Court Administrator	3	24	5	32
State Attorney General	2	4	5	11
County Health Department	2	3	3	8
State Bar	3	2	2	7
Local Bar	3	1	2	6

* The individuals or groups are listed from the highest number of requests to the lowest number.

Question 48

What legal materials are available to municipal judges and where they are located?

LEGAL MATERIALS*	Have Access To	LOCATION (Libraries)								
		Municipal Court	Municipal Attorney	Police	District Attorney	Circuit Court	Local Bar	Public	Private Law Office	Personal
Municipal Ordinances	143	(111)	29	29	1	1	-	2	6	29
Wisconsin Statutes	142	(113)	28	21	11	11	4	4	17	26
State Motor Vehicle Code	132	(83)	18	34	4	7	-	2	17	21
Legal Dictionary	88	21	25	1	3	9	5	2	(26)	16
Attorney General Opinions	69	12	(23)	8	5	12	2	2	8	4
State Digests	66	7	23	2	4	11	4	3	(25)	10
Wisconsin Case Reporters	64	8	22	-	3	9	1	1	(24)	11
State Bar Journal	60	5	2	-	3	4	1	-	(24)	13
Wisconsin Law Review	54	3	(20)	2	4	11	2	2	16	7

* Listed in order of accessibility. Circled numbers indicate the most frequent location of each item.

Question 43

What materials or manuals do municipal judges find most useful?

<u>Prepared by</u>	<u>Materials/Manuals</u>	<u>Number</u>
• Supreme Court	• Judicial Education handouts	13
• State of Wisconsin	• Legislative bulletins	1
	• Uniform Traffic Deposit Schedule	10
	• Wisconsin Motor Vehicle laws	2
	• Municipal Judges Handbook	3
	• Point values for traffic violations	1
	• Driver licensing abbrev. code	1
	• Procedures in Municipal Courts	9
• State Bar	• Commencing an action in Municipal Court	1
• American Bar Assoc.	• Traffic Court procedures	1
• <u>Other</u>		
- Northwest University	• Vehicle Traffic Law	1
- Municipal Services Corp.	• New procedures for Municipal Ct.	8
- (private)	• Defense of drunk driving cases	1
- John E. Conway	• Layman's Guide to Procedures and Evidence	3

Question 47

What legal materials or resources do you presently not have access to and believe are important to the operation of the municipal court?*

<u>ITEM</u>	<u>NUMBER</u>
Statute books specifically for municipal judges	7
Attorney General Opinions	6
Wisconsin Reports	5
Legal Dictionary	4
Wisconsin Law Review	4
State Bar Journal	3
State Digest	3
Visual aids to help in court (traffic diagrams)	2
Motor Vehicle Department Rules	2

* Four (4) judges indicated that they would like prompt notification of statute changes.

Question 44

(D)

COURT FACILITIES

Where are municipal courts located and what are their conditions?

TYPE OF FACILITIES	Number*	CONDITION	
		Good	Needs Improvement
• Municipal Bldg.	113	75	38
• Council Chambers	14	8	5
• Police Building	9	6	3
• Firehouse	6	4	2
• Home	2	2	
• Courthouse	1	1	
• Other	<u>5</u>	<u>3</u>	<u>1</u>
TOTAL	150	99	49

* Five (5) courts said they had no cases.

Questions 8 and 9

What is wrong with present court facilities?

<u>PROBLEMS</u>	<u>Number</u>
• Court should have permanent separate facilities. (All the judges making this recommendations had courts in the municipal building. It is assumed that these judges shared space and were suggesting more space, <u>not</u> a separate building.)	20
• Judge should have a bench. (A number of these judges presently sit at a table with parties.)	19
• Existing building is old and in poor condition (especially in the area of acoustics).	6
• Courtroom is too small	4
• <u>Other suggestions</u> include "need new recording equipment, no American flag, no record storage space, arrangement of courtroom inadequate, and antiquated clerk/business office".	7

Questions 9b

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

Topic

Number of Judges

- What does "suitable" public building (for a courtroom) mean in § 755.17(2)?

1

(E)

SUPPORT STAFF

Support Personnel

Although there are 202 individuals employed by the municipal court or working on court functions (of the 155 courts repoding to this survey) there are only the equivalent of 68 full-time "employees" (FTE) running these 155 courts.

If the FTE employees for the City of Milwaukee Municipal Court were subtracted from this figure there would remain only 39 FTE employees staffing all of the remaining 154 municipal courts. The following charts illustrate the type, number, and funding allocation of these employees:

COURT EMPLOYEES
(with
Milwaukee)

• Clerk

• Bailiff

• Secretary

TOTAL EMPLOYEES 88

TOTAL HOURS 8605.5

COURT	POLICE		SHARED BY COURT AND POLICE		FUNDED BY MUNICIPALITY		FUNDED PRIVATELY*		UNFUNDED**		TOTAL	
No. Month	No. Month	Hours/ Month	No. Month	Hours/ Month	No. Month	Hours/ Month	No. Month	Hours/ Month	No. Month	Hours/ Month	No. Month	Hours/ Month
78 7169.5	22 418	6 382.75	4 75	4 97	5 12	119 8,154.25						
2 354	53 1987	- -	- -	1 8	1 1	57 2,350						
8 1082	6 35	2 31	3 20	7 136	- -	26 1,304						
	81	8	7	12	6	202						
	2440	413.75	95	241	13	11,808.25						

* Private staff used on court activity and not funded by municipality

** Donated time (usually wife)

(Question 16)

FULL TIME EQUIVALENT (FTE) EMPLOYEES* (including Milwaukee)

	COURT	POLICE	SHARED BY COURT AND POLICE	FUNDED PRIVATELY	FUNDED BY MUNICIPALITY	UNFUNDED	TOTAL
• Clerk	41.36	2.41	2.21	.56	.43	.07	47.04
• Bailiff	2.04	11.46	-	.05	-	.01	13.56
• Secretary	6.24	.20	.18	.78	.12	-	7.52
TOTAL	49.64	14.07	2.39	1.39	.55	.08	68.12

* FTE's were calculated by using a 40 hour week (2,080 hours annually) and dividing the monthly equivalent (173.33 hours) into the average hours worked in a month.

COURT EMPLOYEES (without Milwaukee)	COURT		POLICE		SHARED BY COURT AND POLICE		FUNDED BY MUNICIPALITY		FUNDED PRIVATELY		UNFUNDED**		TOTAL	
	No.	Hours/ Month	No.	Hours/ Month	No.	Hours/ Month	No.	Hours/ Month	No.	Hours/ Month	No.	Hours/ Month	No.	Hours/ Month
• Clerk	56	3,363.5	22	418	6	382.75	4	75	4	97	5	12	97	4,348.25
• Bailiff	1	8	50	1,468	-	-	-	-	1	8	1	1	53	1,485
• Secretary	6	736	6	35	2	31	3	20	7	136	-	-	24	958
TOTAL EMPLOYEES	63		78		8		7		12		6		174	
TOTAL HOURS		4,107.5		1,921		413.75		95		241		13		6,791.25

* Private staff used on court activities and not funded by municipality.

** Donated time (usually wife). (Question 16)

FULL TIME EQUIVALENT (FTE) EMPLOYEES* (without Milwaukee)

	COURT	POLICE	SHARED BY COURT AND POLICE	FUNDED PRIVATELY	FUNDED BY MUNICIPALITY	UNFUNDED	TOTAL
• Clerk	19.40	2.41	2.21	.56	.43	.07	25.08
• Bailiff	.05	8.47	-	.05	-	.01	8.58
• Secretary	4.25	.20	.18	.78	.12	-	5.53
TOTAL	23.70	11.08	2.39	1.39	.55	.08	39.19

* FTEs were calculated by using a 40 hour week (2,080 hours annually) and dividing the monthly equivalent (173.33 hours) into the average hours worked in a month.

(F)

JUDICIAL ACTIVITY

		1980 DISPOSITIONS						
District County	Municipal Court	City Village Township	Traffic	Parking	Non- Traffic	Juvenile Non-Traffic	Not Identified	TOTAL
<u>DISTRICT 1</u>								
Milwaukee	Bayside	(V)						
	Brown Deer	(V)						
	Cudahy	(C)	937	8,552	853	103		10,445
	Fox Point	(V)						
	Franklin	(C)	2,600	915	339	117		3,870
	Glendale	(C)	1,538	1,985	769			4,292
	Greendale	(V)						
	Greenfield	(C)	1,078	415	884			3,367
	Hales Corner	(V)						
	Milwaukee	(C)	42,943	9,515	18,437			70,895
	Oak Creek	(C)	1,971			450		2,421
	River Hills	(V)						
	St. Francis	(C)	596	2,698	239	8		3,541
	Shorwood	(V)	1,243	16,222	210	58		17,733
	South Milwaukee	(C)	502	6,521	631			7,754
	Wauwatosa	(C)	4,267	1,251	1,438			6,956
	West Allis	(C)	7,400	35,114	1,223	1,765		45,502
	West Milwaukee	(V)						
	Whitefish Bay	(V)						
<u>DISTRICT 2</u>								
Kenosha	Bristol	(T)						
	Kenosha	(C)					9	9
	Paddock Lake	(V)						12,620
	Pleasant Prairie	(T)						613
	Randall	(T)			16			690
	Salem	(T)	394	28	139	31		16
	Silver Lake	(V)						
	Somers	(T)			4			4
	Twin Lakes	(V)	523	31	592	60		1,206
	Wheatland	(T)	209		7			216
								1,200
Racine	Caledonia	(T)						1,200
	Dover	(T)		5	46			51
	Mt. Pleasant	(T)	85	341	18			444
	Norway	(T)						
	Racine	(C)						8,900
	Raymond	(T)	1		1			2
	Sturtevant	(V)						1,800
	Union Grove	(V)	444	537	42	15		1,038
	Waterford	(V)						
	Waterford	(T)	121	22	25	7		175
Walworth	Bloomfield	(T)	233	3	8	1		245
	Delavan	(C)	835	1,356	357	82		2,630
	Delavan	(T)					839	839

Question 22

1980 DISPOSITIONS								
<u>District County</u>	<u>Municipal Court</u>	<u>City Village Township</u>	<u>Traffic</u>	<u>Parking</u>	<u>Non- Traffic</u>	<u>Juvenile Non-Traffic</u>	<u>Not Identified</u>	<u>TOTAL</u>
<u>DISTRICT 2</u>								
Walworth	East Troy	(V)						
	East Troy	(T)	641	58	350	115		1,164
	Fontana	(V)	376		300	6		682
	Genoa City	(V)						
	Lake Geneva	(C)					3,500	3,500
	Williams Bay	(V)	662	4	101	2		769
	Whitewater	(C)	510	542	623	75		1,750
<u>DISTRICT 3</u>								
Jefferson	Fort Atkinson	(C)	990		183	48		1,221
	Jefferson	(C)					500	500
	Lake Mills	(C)					600	600
	Oakland	(T)						
	Palmyra	(V)					248	248
Waukesha	Brookfield	(C)	2,209	529	495	353		4,073
	Butler	(V)						
	Delafield	(C)						389
	Eagle	(T)						
	Elm Grove	(V)						
	Lac LaBelle	(V)						
	Lannon	(V)						
	Menomonee Falls	(V)						
	Mukwonago	(V)	425	595	183	76		1,279
	Muskego	(C)	2,160	60	250	50		2,520
	New Berlin	(C)						
	North Prairie	(V)	280	14	16	3		241
<u>DISTRICT 4</u>								
Calumet	New Holstein	(C)	258	10	45	14		318
Manitowoc	Kiel	(C)	220	2	211	50		483
	Manitowoc	(C)	2,066	159	639	315		3,179
	Reedsville	(V)						
	Two Rivers	(C)	746	290	215	44		1,295
Winnebago	Menasha	(T)						
	Omro	(C)	141	224	41	4		410
	Winneconne	(V)					255	255
<u>DISTRICT 5</u>								
Dane	Albion	(T)						
	Belleville	(V)						
	Black Earth	(V)	123	2	9			134
	Blue Mounds	(V)						
	Cambridge	(V)	148	9	6	1		164
	Cross Plains	(V)	160	146	19	8		333

1980 DISPOSITIONS								
<u>District County</u>	<u>Municipal Court</u>	<u>City Village Township</u>	<u>Traffic</u>	<u>Parking</u>	<u>Non- Traffic</u>	<u>Juvenile Non-Traffic</u>	<u>Not Identified</u>	<u>TOTAL</u>
<u>DISTRICT 5(cont)</u>								
Dane (cont)	Dane	(V)						
	Deerfield	(V)						
	De Forest	(V)	205	22	11	12		250
	Dunn	(T)	2		40			42
	Fitchburg	(T)	856	577	160	17		1,610
	Madison	(T)	589	977	84		1,650	
	Marshall	(V)					104	104
	Mazomanie	(V)					253	253
	McFarland	(V)	802	218	78	16		1,114
	Middleton	(C)						
	Monona	(C)						
	Mt. Horeb	(V)						
	Oregon	(V)						
	Oregon	(T)						
	Shorewood Hills	(V)	110	184	20			314
	Stoughton	(C)						
	Sun Prairie	(C)	623	61	98	161		1,161
	Verona	(V)	291	155	45	12		503
	Waumakee	(V)	205	703	16	15		939
Green	Albany	(V)					306	306
	Brodhead	(C)	262	81	62	48		453
	Brooklyn	(V)	35	15	15			65
	Jordan	(T)						
	Monticello	(V)						
	New Glarus	(V)						
Rock	Beloit	(T)						
	Clinton	(V)						
	Edgerton	(C)	490	43	174	11		718
	Evansville	(C)						
	Footville	(V)	22	1				23
	Milton	(C)	219	153	77	7		456
	Newark	(T)						
	Orfordville	(V)						
	Turtle	(T)						
<u>DISTRICT 6</u>								
Dodge	Fox Lake	(C)	500	25	25			550
	Fox Lake	(T)					66	66
	Watertown	(C)	1,599	188	459			2,276
Waupaca	Marion	(C)						
Wood	Port Edwards	(V)	132	1	16			149

1980
DISPOSITIONS

<u>District</u> <u>County</u>	<u>Municipal</u> <u>Court</u>	<u>City</u> <u>Village</u> <u>Township</u>	<u>Traffic</u>	<u>Parking</u>	<u>Non-</u> <u>Traffic</u>	<u>Juvenile</u> <u>Non-Traffic</u>	<u>Not</u> <u>Identified</u>	<u>TOTAL</u>
<u>DISTRICT 7</u>								
Grant	Muscoda	(V)	150	295	24	16		485
Iowa	Arena	(V)						
	Barneveld	(V)						
	Highland	(V)						
	Ridgeway	(V)						
La Crosse	La Crosse	(C)	6,956	283	2,581	491		10,311
	Onalaska	(C)					1,418	1,418
La Fayette	Belmont	(V)					134	134
	Benton	(V)						
	Blanchardville	(V)	55	79	18	2		154
	South Wayne	(V)	31		10	7		48
Monroe	Cashton	(V)					132	132
	Kendall	(V)						
	Sparta	(C)					469	469
	Tomah	(C)						
	Warrens	(V)						
	Wilton	(V)					6	6
Richland	Lone Rock	(V)					4	4
	Viola	(V)						
Trempealeau	Arcadia	(C)	310	62	4			376
Vernon	Coon Valley	(V)						
	De Soto	(V)					9	9
	Hillsboro	(C)						
	La Farge	(V)	63	4	16			83
	Ontario	(V)					6	6
	Stoodard	(V)					310	310
	Westby	(C)						
<u>DISTRICT 8</u>								
Brown	Allouez	(T)	286		175	10		471
	Ashwaubenon	(V)						
	Denmark	(V)	45	217	1	1		264
	De Pere	(C)	1,226	399	391	35		2,051
	Green Bay	(C)	4,451	3,247	1,536	341		9,575
	Howard	(V)	480	135	157			772
	Pulaski	(V)	246	41	30	22		339
Marinette	Coleman	(V)	325	10	15			340
	Crivitz	(V)					55	55
	Goodman	(T)						
	Marinette	(C)	1,059	6	521	38		1,624

1980
DISPOSITIONS

<u>District County</u>	<u>Municipal Court</u>	<u>City Village Township</u>	<u>Traffic</u>	<u>Parking</u>	<u>Non- Traffic</u>	<u>Juvenile Non-Traffic</u>	<u>Not Identified</u>	<u>TOTAL</u>
<u>DISTRICT 8(cont)</u>								
Marinette(cont)	Niagara	(V)					213	213
	Peshtigo	(C)						
	Silver Cliff	(T)						
	Stephenson	(T)					20	20
Oconto	Gillett	(C)	41		7	4		52
	Lena	(V)	320	12	4	3		339
	Oconto	(C)	136	13	63	26		238
	Oconto Falls	(C)					212	212
	Riverview & Doty	(T)					65	65
	Suring	(V)	39	10				49
	Townsend	(T)						
Outagamie	Bear Creek	(V)						.
	Black Creek	(V)	95	10	15			120
	Combined Locks	(V)	557	200	34	23		808
	Ellington	(T)						
	Grand Chute	(T)	467	16	173	26		682
	Hortonville	(V)					25	25
	Kaukauna	(C)	754	250	201	50		1,285
	Kimberly	(V)	707	2,009	136	68		2,920
	Little Chute	(V)						
	Nichols	(V)						
	Seymour	(C)	390	81	101	3		575
	Shiocton	(V)					82	82
<u>DISTRICT 9</u>								
Ashland	Mellen	(C)	49					49
Clark	Abbotsford	(C)					309	309
Florence	Florence	(T)						
Forest	Laona	(T)	43	10				53
Marathon	Franzen	(T)						
	Rothschild	(V)						
	Schofield	(C)	168	22	45	3		238
	Wausau	(C)	3,065	1,303	375	186		4,929
Vilas	Boulder Junction	(T)						
	Manitowish Waters	(T)						

1980
DISPOSITIONS

<u>District County</u>	<u>Municipal Court</u>	<u>City Village Township</u>	<u>Traffic</u>	<u>Parking</u>	<u>Non- Traffic</u>	<u>Juvenile Non-Traffic</u>	<u>Not Identified</u>	<u>TOTAL</u>
<u>DISTRICT 10</u>								
Barron	Barron	(C)	332		21	4		357
	Chetek	(C)	202	91	11			304
	Cumberland	(C)	68		44			112
	Rice Lake	(C)	760	6	423	14		1,203
	Turtle Lake	(V)					83	83
Chippewa	Cornell	(C)	89	132	36			257
	New Auburn	(V)						
	Stanley	(C)	162	141	57	22		382
Douglas	Solon Springs	(V)						
Dunn	Colfax	(V)						
	Sand Creek	(T)						
Eau Claire	Augusta	(C)	88	4	10			102
Pierce	Prescott	(C)	414		186			600
	River Falls	(C)	900	150	300	150		1,500
Polk	Frederic	(V)						
St. Croix	Glenwood	(V)						
	Hudson	(C)						
	North Hudson	(V)	241	69	30	14		354
	New Richmond	(C)						
	Somerset	(V)						
(TOTAL)			112,675	238,194	39,095	5,179	38,766	434,449

What are the total number of cases disposed of in 1980 by municipal courts by major types of cases?

<u>Municipal Courts *</u>	<u>DISPOSITIONS</u>					<u>TOTAL</u>
	<u>Traffic</u>	<u>Parking</u>	<u>Non- Traffic</u>	<u>Juvenile Non-Traffic</u>	<u>Not Identified***</u>	
• Milwaukee	42,943	146,843	18,437**			208,223
• All others	69,732	91,351	20,658	5,719	38,766	226,226
<u>TOTAL</u>	<u>112,675</u>	<u>238,194</u>	<u>39,095</u>	<u>5,179</u>	<u>38,766</u>	<u>434,449</u>

* One hundred fifty-five (155) municipal courts (74% of all municipal courts).

** Includes juvenile (non-traffic) cases.

*** Thirty-six (36) of the 150 questionnaires (indicating a caseload) provided only a total figure for dispositons.

Question 22

How many courts have cases pending that are over one (1) year old and why?

<u>Court Delay</u>	<u>Number</u>
• Waiting for trial	5
• "Postponements"	1
• Failure of City Attorney to prosecute	1
 <u>Other Reasons*</u>	
• Failure to locate defendant	13
• Transferred to circuit court or another municipal court	3
• Failure to pay	2
• Unable to collect penalty	1
• Companion case in Circuit Court	1
	—
(TOTAL)	27

* These cases already have dispositions or are outside the control of the municipal court.

Question 24

When is the court open?*

<u>Never**</u>	<u>As Needed</u>	<u>MONTHLY***</u>			<u>WEEKLY***</u>				
		<u>1 day</u>	<u>2 days</u>	<u>3 days</u>	<u>1 day</u>	<u>2 days</u>	<u>3 days</u>	<u>4 days</u>	<u>5 days</u>
5	2	29	52	11	41	4	2	1	7

* One (1) court had a caseload but gave no response to this question.

** No caseload. One judge indicated that he has not held court in 22 years. One judge stated, "I am holding this position only because someone had to, because the state said the village has to have a municipal judge. I have never done anything. All cases go to the city." The other three (3) courts show no caseload.

*** Not necessarily all day.

Questions 11 & 12

Which days and times are courts with weekly schedules open?*

	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>	<u>Sunday</u>	<u>Total</u>
Morning	9	7	11	4	6	2		39
Afternoon	2	2	2	1				7
All Day	4	4	5	8	4			25
Evening	5	5	8	2	1			21
TOTAL**	20	18	26	15	11	2		

* A court with a regular weekly schedule is listed only once for each day.

** This figure represents the number of courts (with regular weekly schedules) that will be open sometime during that day.

Questions 11 & 12

Weekly Court Hours

<u>Range of Court Hours</u>	<u>Number of Courts</u>
• As needed	7
• 5 hours or less	33
• 6 - 10 hours	7
• 11 - 20 hours	2
• 21 - 30 hours	1
• 31 - 40 hours	4
TOTAL	54*

* One (1) court listed no hours.

Questions 11 & 12

How many hours per week are municipal courts with weekly schedules open?

<u>District</u>	<u>No. of Courts With Weekly Schedules</u>	<u>Total Hours/Week</u>
1	7	106
2	5	75.5
3	3	10
4	4	13
5	5	14
6	2	10.5
7	8	35
8	7	77
9	1	7
10	5	14.5
TOTAL	47*	362.5

* Seven (7) courts indicated they had a weekly schedule but listed no hours.

Questions 11 & 12

How many hours (average per month) do you spend on the bench and working on court activities?

<u>District</u>	<u>Number of Judges</u>	TOTAL MONTHLY AVERAGE FOR ALL JUDGES		
		<u>On the Bench</u>	<u>Other Activities</u>	<u>TOTAL</u>
1	13	356	119	475
2	27	319	535	854
3	10	83	130	213
4	7	58	71.6	129.6
5	23	212	346	558
6	4	36	44	80
7	20	198	164	362.5
8	26	279	397.5	677
9	5	37	48	85
10	15	198.5	134	332.5
TOTAL	150	1,777.5	1,989.1	3,766.6 **
AVERAGE* (per judge)		11.85	13.26	25.1

* One hundred fifty (150) judges used to calculate average since five (5) have no caseload.

** The 150 judges responding to this question equal approximately 22 full time equivalent (FTE) judges. This number is calculated by multiplying the total monthly judges hours (3,766.6) by 12 months and dividing the result by 2,080 hours (annual hours for state judicial employees) for a total of 21.73 FTE judges.

Question 10

The following chart illustrates how court hours compare to judges time on the bench and off the bench by judicial districts. The judges responding to the survey indicated that they spent twice as much time on and off the bench as the court is open.

<u>District</u>	<u>Monthly Court Hours*</u>	<u>JUDGE TIME**</u>		<u>TOTAL</u>
		<u>On the Bench</u>	<u>Other Activities</u>	
1	480.8	356	119	475
2	377.65	319	535	854
3	63	83	130	213
4	73.9	58	71.6	129.6
5	114.7	212	346	558
6	53.15	36	44	80
7	166	198	164	362.5
8	383.1	279	397.5	677
9	37.1	37	48	85
10	100.35	198.5	134	332.5
<u>TOTAL</u>	<u>1,849.75</u>	<u>1,777.5</u>	<u>1,989.1</u>	<u>3,766.6</u>

* These hours were calculated by multiplying the weekly court hours by 4.3 (Average weeks in a month)

** These hours will be greater than "Monthly Court Hours" because it may include hours when the court is not open.

(G)

COURTROOM AND LEGAL PRACTICES

If you are licensed to practice law in Wisconsin, how do you limit your practice to avoid potential conflicts of interest?

<u>Precaution</u>	<u>Number</u>
• Do not handle criminal or ordinance cases involving the city police department	12
• Do not represent anyone that has a case pending before municipal court	9
• Take no cases against the city	7
• Request substitution of judge	5
• Take no cases involving police or municipal officer if conflict could arise	5
• No conflict*	2
• City ordinance forbids practice of law by judge	<u>1</u>
TOTAL	41**

*One judge works in the Attorney General's Office (not as an attorney), and the other judge is a hearing examiner for the State Department of Health and Social Services.

**There are 51 judges licensed to practice law in Wisconsin. Only 41 responded to this question, the remaining 10 are either retired (6) or failed to respond (4).

Question 52c

How many times in 1980 did you substitute (preside over) for another judge?

<u>District</u>	<u>Number of Judges*</u>	<u>Substitutes</u>
1	10	669 **
2	17	172
3	4	12
4	3	4
5	11	42
6	1	1
7	7	44
8	8	44
9	1	2
10	2	17
(TOTAL)	54	1,007

*Number of judges that substituted for another judge.

**Judge Panagis (Milwaukee) presided over 614 of these substitutions

Question 31a

Should judge substitutions be eliminated?

<u>Yes</u>	<u>Reason</u>	<u>Number</u>
Attorney 5	• No valid reasons given and creates extra work, delay, and expense.	8
Non-Attorney 5	• Should be used only where there is a conflict of interest.	1
(Total) 10	• Cases should be tried where the offense took place.	1
	• It would eliminate judge shopping.	1
	• Not practical for judges to travel to hear cases	1
<u>No</u>		
Attorney 45	• (No reason given)	66
Non-Attorney 79	• Important for defendant to feel he is receiving fair treatment	25
(Total) 124	• Allows judges vacations, illness, and emergencies.	19*
	• Should be allowed where there are conflicts of interests	10
	• Holds down costs and provides for speedier conclusion of cases.	3
	• Protects judges independence from city politics.	1

*These types of substitutions were not supposed to be considered in answering the question.

Question 31c

Have your judge substitution assignments created a problem for your court or municipality?

<u>Yes</u>	<u>Reason</u>	<u>Number</u>
9	• Statutes do not provide for payment of costs to assigned judge.*	5
	• Assignment creates extra paper work.	3
	• Creates greater caseload and backlog for trials.	1

*Some municipalities have adopted local agreements to reimburse a neighboring municipality costs associated with substitution.

Question 31b

Do you wear a robe?

Judge

	<u>Yes</u>
• Attorney	9
• Non-Attorney	20
(Total)	29

Question 17

What effect (if any) does the presence of defense counsel at court proceedings have on the operation of municipal court?

<u>Judge</u>	<u>No Effect</u>	<u>Longer Trials</u>	<u>Expedites Court Proceedings</u>	<u>Other**</u>
• Attorney*	22	10	16	4
• Non-Attorney	53	3	16	14
(Total)	75	13	32	18

*One (1) judge is a law school graduate but not licensed to practice in Wisconsin.

**Other comments included "more plea bargaining (4), averts unnecessary trials (3), proceedings are recorded (2), more professional atmosphere (2), and improves communication between the court and all parties."

Question 21

Who appears before the municipality at initial appearances and trial court proceedings?

<u>Initial Appearance</u>	<u>Municipal Attorney*</u>	<u>Other Attorney**</u>
• Never	97	0
• Sometimes	24	2
• Always	19	0

Trials

• Never	12	1
• Sometimes	29	4
• Always	97	5

* Generally, the larger the caseload the more likely a municipal attorney would be present at the initial appearance or trial. In larger jurisdictions the municipal attorney was an assistant municipal attorney.

**Other attorneys were employed when there was a conflict of interest with the municipal attorney. In some very small municipalities, an attorney had to be hired when there was a trial.

Question 20

Do you provide defendants with information regarding the following items?

<u>Legal Rights</u>	<u>Not Provided</u>	<u>Provided</u>			<u>Total</u>
		<u>Each Def.</u>	<u>As a Group</u>	<u>Both*</u>	
• Written		22	X	X	22
• Orally		48	28	5	81
• Both		<u>13</u>	<u>4</u>	<u>6</u>	<u>23</u>
(Total)	13	83	32	11	126**
<u>Court Prodecures</u>					
• Written		24	X	X	24
• Orally		40	37	4	81
• Both		<u>12</u>	<u>6</u>	<u>5</u>	<u>23</u>
(Total)	9	76	43	9	128**
<u>Wisconsin Point System</u>					
• Written		14	X	X	14
• Orally		65	12	2	79
• Both		<u>4</u>	<u>3</u>	<u>1</u>	<u>8</u>
(Total)	25	83	15	3	101**

*"Both" individual written handouts and oral instructions individually and as a group.

**Nearly one-half of the judges that provide information regarding legal rights, court procedures, and the Wisconsin point system are attorneys. All 52 of the "attorneys" provide information regarding legal rights and court procedures. Forty-eight of the attorneys provide information regarding the Wisconsin point system (4 do not).

Question 13

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

<u>Topic</u>	<u>Number of Judges</u>
• Judges should have the following personal characteristics: ability to listen, impartiality, self-confidence, use of personal approach, firmness, ability to self-criticize, and patience.	29
• Municipal courts should be separate from police departments.	15
• Judges should possess judicial dignity and maintain a proper courtroom decorum.	13
• Defendants are not being informed of their rights and therefore, their rights are not being protected.	8
• The public generally lacks respect for municipal courts.	2
• State statute § 345.23(2)(c) should allow for the deposit of a valid drivers license from another state in lieu of a deposit for court appearance.	1
• The judge should be allowed to amend a citation at an initial appearance.	1
• State statute should provide for time and mileage payments for substitute judges.	1

(H)

SENTENCING PRACTICES

What type of sentencing alternatives are you using in juvenile cases?

<u>Original Penalty</u>	<u>Number of courts using</u>	<u>Not Listed</u>	<u>Percent of Time</u>			
			<u>0 - 25%</u>	<u>26- 50%</u>	<u>51- 75%</u>	<u>76- 100%</u>
• Forfeiture (up to \$25)	110	8	10	14	8	70
• Counseling	75	5	26	11	4	29
• Restitution	39	6	15	4	1	13
• Work Program	20	1	15	2	2	--
• Other	17	--	10	2	1	4
<u>If Juvenile Fails to Pay</u>						
• Suspend Drivers License	79	20	21	3	5	30
• Finding of Ability to Pay	41	6	10	1	2	22
• Adjourn payment	43	8	13	5	4	13
• Suspend Hunting License	20	8	9	--	--	3
• Suspend Fishing License	20	8	10	--	--	2
• Other	4	--	2	1	--	1

Question 33

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

<u>Topic</u>	<u>Number of Judges</u>
• Judges should have greater sentencing authority or alternatives in juvenile cases, including the following:	40
- larger fines	30
- ability to order restitution	24
- assignment to work programs	13
- access to referral services or counseling	7
- mandatory revocation of drivers license for traffic violations	3
• Judges need more education and reference materials regarding juvenile cases.	36
• Probation officers should be assigned to municipal courts.	8
• Newspapers should be allowed to publish juvenile offenders names.	7
• Municipal courts should not have jurisdiction to hear juvenile cases.	6
• Municipal courts should have jurisdiction to hear <u>all</u> juvenile cases.	2
• Municipal courts should have juvenile jurisdiction to hear only traffic violations.	2
• Juvenile hearings should not be recorded.	2
• Parents should be required to appear with juveniles.	2

Do you enter a default judgment when a defendant fails to appear if no deposit has been made with the court?

<u>Judge</u>	<u>Yes</u>	<u>No</u>	<u>No Response</u>
• Attorney	22	24	6
• Non-Attorney	<u>50</u>	<u>41</u>	<u>12</u>
(TOTAL)	72	65	18

Question 23

If a person is unable to pay a penalty, do you determine if the party is indigent?

<u>Judge</u>	<u>No</u>	<u>Yes*</u>	
		<u>Automatically</u>	<u>On Request</u>
• Attorney	10	12	28
• Non-Attorney	<u>18</u>	<u>32</u>	<u>37</u>
(TOTAL)	28	44	65

* The Supreme Court of Wisconsin has held, "...the defendant has the burden to raise and prove his inability to pay the fine where a commitment is ordered for his failure to do so." See, State et rel. Pederson v. Blessinger, 201 N.W. 2d 778 (1972). However in Balderas, Dietz and Dietz v. Thorgeard, et. al., (No. 73-C-290), the Federal District Court for the Eastern District of Wisconsin entered (in 1975) a consent judgment requiring the Milwaukee Municipal Court to notify all defendants that they have a right to a hearing regarding indigency. The judgment was not on the merits of the case and, therefore, did not determine that a defendant had a legal right to such a notice or hearing before they could be incarcerated for non-payment of a penalty.

Question 27

Do you give credit for time spent in jail?

	<u>Yes</u>	<u>No</u>	<u>No Responses</u>	<u>Total Responses</u>
<u>Toward payment of a penalty?</u>				
Attorney	34	12	6	52
Non-Attorney	<u>48</u>	<u>32</u>	<u>23</u>	<u>103</u>
(TOTAL)	82	44	29	155
<u>Before a conviction toward time if a person cannot pay a penalty?</u>				
Attorney	27	17	8	52
Non-Attorney	<u>43</u>	<u>27</u>	<u>33</u>	<u>103</u>
(TOTAL)	70	44	41	155

Questions 28 & 29

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

<u>Topic</u>	<u>Number of Judges</u>
• Judges should be provided a pamphlet outlining sentencing alternatives.	20
• There is a disparity of impact from imposed penalties between indigents and persons able to pay a penalty. Some judges felt that indigents got off "light". Other judges felt that poorer defendants received harsher penalties.	13
• Penalties are ineffective (no solution offered).	6
• State statute § 800.04(3) does not permit entry of a default judgment if a defendant has not filed a deposit and fails to appear. The judge can only issue a summons.	1

(I)

COURT REVENUE

Does your court use uniform deposit schedules?

Type of Cases	Uniform Schedules?		If yes, State Schedule?		Approved by Municipality	
	No	Yes	Yes	No	Yes	No
• Traffic	11	139	128	11	-	-
• Non-Traffic	23	127	-	-	126	1

Question 26

How are court funds collected and processed?

	Police	Court	Both	Other	No Answer
• Who Collects...					
- Deposits when citations issued?	98	10	30	4	2
- Stipulations?	58	34	36	8	2
- Penalties at court appearance?	30	99	12	6	
• Who Deposits...					
- Deposits?	26	73	7	33	
- Stipulations?	26	67	6	31	
- Penalties?	21	75	3	35	
• In Whose Account is Cash Deposited?	13	61	1	59	
• Who Maintains Bookkeeping Records?	12	74	15	40	
• Are Monies Collected In the Courtroom?	YES 115	NO 32	BOTH 1		
- If yes, by whom?	Clerk 60	Judge 18	Police Office 37		

Question 30

How much revenue was collected by the municipal court or local police department in 1980?

District County	1980 REVENUE		
	Court	Police	Total
<u>DISTRICT 1</u>			
• Milwaukee*	\$4,021,895.58	\$2,496,903.51	\$6,518,799.09
(sub-total)	4,021,895.58	2,496,903.51	6,518,799.09
<u>DISTRICT 2</u>			
• Kenosha	532,839.67	81,230.83	614,070.50
• Racine	91,345.90	375,323.39	466,669.29
• Walworth	245,073.99	119,957.58	365,031.57
(sub-total)	869,259.56	576,511.80	1,445,771.36
<u>DISTRICT 3</u>			
• Jefferson	42,690.10	26,805.00	113,536.10
• Waukesha	155,215.50	17,483.70	172,699.20
(sub-total)	197,905.60	44,288.70	242,194.30
<u>DISTRICT 4</u>			
• Manitowoc		49,047.00	192,214.47
• Calumet		14,974.00	14,974.00
• Winnebago	130.00	56,562.50	56,692.50
(sub-total)	130.00	120,583.50	120,713.50
<u>DISTRICT 5</u>			
• Dane	180,483.22	33,149.95	213,633.17
• Green	21,391.00	6,161.60	27,552.60
• Rock	7,007.50	44,850.31	51,857.81
(sub-total)	208,881.72	84,161.86	293,043.58
<u>DISTRICT 6</u>			
• Dodge	26,295.00	83,324.00	109,619.00
• Waupaca**			
• Wood	5,648.80		5,648.80
(sub-total)	31,943.80	83,324.00	115,267.80
<u>DISTRICT 7</u>			
• Grant	5,428.80	4,048.50	9,477.30
• Iowa	15,122.40		15,122.40
• La Crosse		516,331.96	555,697.46
• La Fayette	1,885.00	2,408.00	4,293.00
• Monroe	5,026.00	377.40	5,403.40
• Richland	178.00	20.00	198.00
• Trempealeau**			
• Vernon	2,732.80	20.00	2,752.80
(sub-total)	30,373.00	523,205.86	553,578.86
<u>DISTRICT 8</u>			
• Brown	426,207.32	50,057.90	476,265.22
• Marinette	97,726.65		97,726.65
• Oconto	44,506.22	39,505.80	84,012.02
• Outagamie	60,649.30	141,234.70	201,884.00
(sub-total)	629,089.49	230,798.40	859,887.89
<u>DISTRICT 9</u>			
• Ashland	1,625.00		1,625.00
• Clark**			
• Florence**			
• Forest	2,170.50		2,170.50
• Marathon	5,367.80	274,195.34	279,563.14
• Vilas**			
(sub-total)	9,763.30	274,195.34	283,958.64
<u>DISTRICT 10</u>			
• Barron	7,879.40	81,873.60	89,753.00
• Chippewa	960.00	14,528.40	15,488.40
• Douglas**			
• Dunn**			
• Eau Claire	2,585.20	570.20	3,155.40
• Pierce	16,000.00	34,000.00	50,000.00
• Polk**			
• St. Croix	4,993.00	700.00	5,693.00
(sub-total)	32,417.60	131,672.20	164,089.80
<u>TOTAL</u>	<u>\$6,378,306.42</u>	<u>\$4,565,875.17</u>	<u>\$10,944,181.59</u>

*The Milwaukee Municipal Court Revenue amounted to \$4,298,892.40 in 1980. The Court collected \$2,699,875.58 and the police department collected \$1,599,016.82.

**No figures given.

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

Topic

Number of Judges

- Fines, assessments and penalties should be collected by someone other than the court.

1

(J)

COURT BUDGET PRACTICES

What is the court's involvement in the budget process?

YES

• Prepare the court's budget request	65
• Discuss request with municipal staff	73
• Present request to municipal governing unit	78
• Approve expenditures from budget	49
• Maintain record of court expenditures	62

Question 18

Are municipal court financial records audited, and if so, by whom and when?

Audited?	
<u>Yes</u>	<u>No</u>
86	64

If yes	
<u>By Whom?</u>	<u>Number</u>
• Municipality	34
• Private Firm	26
• State	23
• (No Response)	3

• When?*	Last Time			
	<u>Annually</u>	<u>Semi-Annually</u>	<u>Year</u>	<u>Number</u>
	51	1	1976	1
			1978	1
			1979	2
			1980	6
			1981	12

*Twelve (12) gave no answer, said they didn't know, or gave responses like "various years."

Question 14

What was the total 1980 (actual) and 1981 (estimated) cost to operate the municipal court?

District * County	1980 (Actual)			1981 (Estimate)		
	Court Budget	Other Budgets	TOTAL	Court Budget	Other Budgets	TOTAL
<u>District 1</u>						
• Milwaukee	1,019,340.17	21,100	1,019,551.17	1,230,688	23,300	1,253,988
Sub-total	1,019,340.17	21,000	1,019,551.17**	1,230,688	23,300	1,253,988
<u>District 2</u>						
• Kenosha	67,035.28	5,990.20	73,025.48	72,663	6,589.22	79,252.22
• Racine	81,863.35		81,863.35	86,330		86,330
• Walworth	64,764.38		64,764.38	74,420	1,250	75,670
Sub-total	213,663.01	5,990.20	219,653.21	233,413	7,839.22	241,252.22
<u>District 3</u>						
• Jefferson	11,866	682.89	12,548.89	7,600	100	7,700
• Waukesha	59,931.07	650	60,581.07	83,758	2,075.55	85,833.55
Sub-total	71,979.07	1,332.89	73,129.96	91,358	2,175.55	93,533.55
<u>District 4</u>						
• Manitowoc	15,369	3,000	18,369	17,800	2,200	20,000
• Calumet	1,500	100	1,600	1,500	100	1,600
• Winnebago	8,300	900	9,200	11,900	950	12,850
Sub-total	25,169	4,000	29,169	31,200	3,250	34,450
<u>District 5</u>						
• Dane	54,747	15,871	70,618	61,800	15,771	77,571
• Green	2,481.58		2,481.58	2,686.58		2,686.58
• Rock	7,225	400	7,265	7,275	40	7,315
Sub-total	64,453.58	16,271	80,724.58	71,761.58	15,811	87,572.58
<u>District 6</u>						
• Dodge	16,220	6,389	22,609	15,111	7,013	22,124
• Waupaca						
• Wood	1,230			1,336		1,336
Sub-total	17,450	6,389	23,839	16,447	7,013	23,460
<u>District 7</u>						
• Grant	2,300		2,300	2,465		2,465
• Iowa	9,735		9,735	10,940		10,940
• LaCrosse	52,374.47	2,468.68	54,843.15	54,316.50	3,000	57,316.50
• Lafayette	1,670		1,670	1,675		1,675
• Monroe	10,236.48	500	10,736.48	10,734.50	650	11,384.50
• Richland	100		100	100		100
• Trempealeau	50		50	50		50
• Vernon	2,085		2,085	2,290		2,290
Sub-total	78,550.95	2,968.68	81,519.63	82,571	3,650	86,221
<u>District 8</u>						
• Brown	96,715.35		96,715.35	116,140.75		116,140.75
• Marinette	27,736.48		27,736.48	31,987		31,987
• Oconto	8,140.38		8,140.38	12,356		12,356
• Outagamie	33,366.67	1,650	34,716.67	36,165.50	1,950	38,115.50
Sub-total	165,958.88	1,650	167,608.88	196,649.25	1,950	198,599.25
<u>District 9</u>						
• Ashland	659		659	650		650
• Clark	500		500	650		650
• Florence						
• Forest	1,200		1,200	1,280		1,280
• Marathon	25,900	10	25,910	28,000		28,000
• Vilas						
Sub-total	28,259	10	28,269	30,580		30,580
<u>District 10</u>						
• Barron	11,866.63	5,345.58	17,212.21	13,476.88	5,968	19,444.88
• Chippewa	1,820		1,820	1,820		1,820
• Douglas				1,300	200	1,500
• Dunn	260		260	260		260
• Eau Claire	1,450		1,450	970		970
• Pierce	13,160		13,160	13,350		13,350
• Polk	3,642	815		3,765	918	4,683
Sub-total	32,198.63	6,160.58	38,359.21	34,941.88	7,086	42,027.88
(TOTAL)	1,716,480.29	65,872.35	1,782,712.64	2,019,609.71	72,074.77	2,091,684.48

* Six (6) judges provided figures for 1980, but not for 1981; five judges provided figures for 1981, but not for 1980 to determine average cost per court. See page 22 for number of municipal courts in each county.

** Milwaukee Municipal Court had actual expenditures of \$852,651 (court budget) and estimate 1981 expenditures at \$1,016,190 (court budget).

(K)

RECORDS AND FORMS

Which governmental agency or company provides forms to the municipal court?

<u>NAME</u>	<u>NUMBER</u>	<u>ADDRESS</u>
• H. C. Miller	12	P.O. Box 1759, Milwaukee
• Department of Transportation	10	Madison
• State of Wisconsin	7	Madison
• Wisconsin Legal Blank	2	Milwaukee
• T. J. Printing	2	New Berlin

(The remaining were listed only once:)

<u>COMPANY</u>	<u>ADDRESS</u>
Sum More Office Supply	Cudahy, Wisconsin
Reminder Enterprise Press	Cudahy, Wisconsin
Moore Business Forms, Inc.	New Jersey
Titely Business Forms	Menominee Falls
Moore Business Forms	Milwaukee
H. H. West	Milwaukee
Marks Paper Co.	4407 N. Oakland Avenue
	Milwaukee, Wisconsin 53211
Gail Business Forms	P.O. Box 23226
	Milwaukee, Wisconsin 53223
Forms, Systems & Services	P. O. Box
	Green Bay, Wisconsin 54305
City of Milwaukee	841 N. Broadway St.
	Milwaukee, Wisconsin 53202
T & M Office Supply	South Milwaukee
Franklin Press	Milwaukee
Burgess, Anderson, Tate	2501 Deborah Ave.
	Zion, Illinois 60099
Smith Printing	Kenosha, Wisconsin
Johnson Printers	Bassett, Wisconsin
Johnson Business Forms	P. O. Box 757
	Twin Lakes
Reynolds & Reynolds	Cilina, Ohio
Municipal Service Corp.	121 S. Prockney St.
	Madison, Wisconsin 53701
Belle City Press	Racine, Wisconsin
Document Sales	Madison, Wisconsin
Walworth Co. Chiefs Ass.	Williams Bay, Wisconsin
Police Department	
Niedecken	Milwaukee, Wisconsin
Eastern Office Supply	Racine, Wisconsin
Graphic Printing	408 Broad Street
	Lake Geneva, Wisconsin
Martin Office Supply	Lake Geneva, Wisconsin
McCarthy Printing	Williams Bay, Wisconsin
Parker Printing	Hartland, Wisconsin
Zillmans Office Supply	Waukesha, Wisconsin
Office Essentials	14100 W. Cleveland
	New Berlin, Wisconsin
Fricks Printing	Manitowoc, Wisconsin
Scharpfs Office Supply	Oskosh, Wisconsin 54901
Wayside Press	7521 Elmwood Avenue
	Middleton, Wisconsin 53572
Edgerton Reporter Co.	211 W. Fulton
	Edgerton, Wisconsin
Stationers Looseleaf Co.	Milwaukee, Wisconsin
Minars Office Supply	Watertown, Wisconsin
Government Marketing Service	
Webco Printing	Watertown, Wisconsin
Quill Corporation	
Brown Co. Pub.	Denark, Wisconsin
Wojoyha Printers	Crimitz, Wisconsin
Law Enforcement Systems	Corsicaha, TX
Pestigo Times	Peshtigo
Stuebe Company	Box 3248
	Green Bay, Wisconsin 54303
Eau Claire Book & Stationary	Eau Claire, Wisconsin
Steube Company	Green Bay, Wisconsin

Are initial appearances and trials tape recorded?

	<u>YES</u>	<u>NO</u>	<u>TOTAL RESPONSES</u>
• Initial Appearances	31	112	143
• Trials	142	8	150

Question 36

Does your court regularly record all required information specified in state statute 800.11?

<u>RECORD</u>	<u>YES</u>	<u>NO</u>	<u>TOTAL RESPONSES</u>
• Dockets	129	5	134
• Judgments	126	3	129
• Are they combined into one form?	115	18	133

Question 37

Are your court records or files...

	<u>YES</u>	<u>NO</u>	<u>NOT APPLICABLE</u>	<u>TOTAL RESPONSES</u>
• A storage problem?	37	106	2	145
• Stored in court facilities?	90	51		141
• Destroyed per a schedule?	25	108	8	141
• Microfilmed?	3	130	8	141
• Destroyed after microfilmed?	2	87	49	138

Question 39

ADDITIONAL OBSERVATIONS OR SUGGESTIONS BY MUNICIPAL JUDGES

Topic

Number of Judges

- Recording in Municipal Courts (§ 800.13) should be eliminated since attorneys request a new trial when they appeal a case to circuit court.

1

III. FINDINGS AND RECOMMENDATIONS

III. FINDINGS AND RECOMMENDATIONS

The Wisconsin municipal court system plays an important role in the state judicial system. The public's impression of courts is most likely to occur from an appearance in a municipal court. Project staff's impressions are that municipal judges are sensitive to and concerned about local problems. In addition, municipal courts work closely with the local police department (but are not perceived as a "police" court) and have very little court delay. It is equally apparent that the municipal court system is the least understood in the state and deserves additional attention and assistance.

The following 25 recommendations and observations are based upon project staff's site visit interviews, survey results, input from the Advisory Committee, and review of existing studies, statutes, and court rules. The recommendations do not address all the problems affecting municipal court operations. Some of the recommendations will require further review and analysis.

A. Judicial Qualifications, Code of Ethics, and Conflicts of Interest

The National Center's project staff made three (3) recommendations in these areas.

- A municipal judge should not be required to be an attorney by state statute.
- Some provisions of the Supreme Court Judicial Code of Ethics should be reviewed to determine if they should be made applicable to part-time municipal judges.

SCR 60.03 provides that a "judge (including part-time) shall not participate in any matter in which he or she has a significant financial interest" SCR 60.04 specifically prohibits any municipal judge from holding ". . . any (other) office of public trust" Some judges responding to the survey listed other part-time positions that might be offices of public trust. These possible conflicts are not always identified from a review of a municipal judge's annual financial report. The report requires only a listing of the "source" of other income (over \$100). This income could be from a spouse's employment. Judges also frequently do not list specifically the title of other positions or sources of income. Therefore, possible conflicts may go undetected even with a review of these financial reports. Revisions to the report form would facilitate the identification of possible conflicts.

- The annual financial report form should be revised to require a specific listing of any "office of public trust".

Twenty-nine (29) states including Wisconsin, authorize the use of lay judges in local courts. Nevertheless, in Wisconsin there are at least 51 municipal judges that are attorneys. Sixteen (16) of these municipalities have local ordinances requiring the judge to be attorney. Notwithstanding, the American Bar Association's belief that all judges should be admitted to the bar, project staff does not believe this should be mandated by the state in Wisconsin. As long as municipal courts have their present limited jurisdiction, there are no complicated legal issues a judge must decide that cannot be learned from proper judicial training. Municipal judges need not be licensed attorneys. Municipalities have authority to impose this qualification if they deem it appropriate.

Supreme Court Rules 60.08 (Investments) and 60.11 (Influence) are presently not applicable to part-time municipal judges. SCR 60.08 prohibits a judge from making or retaining "any personal investments in enterprises which are likely to be involved in litigation or proceedings in the court." SCR 60.11 provides in part "a judge shall not personally solicit funds for any purpose, charitable or otherwise." Similiar ABA Judicial Canon provisions prohibit such investments or conduct by part-time judges. Therefore, it is recommended that the Supreme Court determine if SCR 60.08 and 60.11 should be made applicable to part-time municipal judges.

RECOMMENDATION 1

A MUNICIPAL JUDGE SHOULD NOT BE REQUIRED TO BE AN ATTORNEY BY STATE STATUTE.

Although, the state does not presently require municipal judges to be attorneys, the question regarding such a requirement has been raised during this study.

The American Bar Association strongly believes that all judges and judicial officers assisting judges who perform judicial and quasi-judicial functions should be admitted to the practice of law.¹ Even with the increase in the number of attorneys, the relative ease of transportation and the increasing density of populations, most states still allow for lay judges.

Only six states -- California, Hawaii, Illinois, Kentucky, Maine, and Massachusetts -- as well as the District of Columbia -- require all judges to be attorneys. The states of Florida, Minnesota, and New Jersey do require all new judges to be attorneys although, existing lay judges have been grandfathered in and may be reappointed or re-elected. Additionally, Indiana will abolish its non-attorney judges in 1983.

Some states allow for lay judges when necessary or give preference to attorneys. The state of Washington allows cities with populations less than 5,000 to use lay judges. New Mexico has a similiar provision for counties with populations less than 200,000.

¹See, also Standards Relating to Court Organizations, Sections 1.21 and 1.26, prepared by, the American Bar Association on Standards of Judicial Administration (1974).

The states of Iowa [Iowa Code Ann. § 602.55 (1979)] and New Hampshire [N.H. Rev. Stat. Ann. 502-A:3 (1968)] give a preference for attorneys. In North Dakota a non-attorney can be appointed a judge only when no attorney will serve. See, N.D. Cent. Code §§ 27-18-02, -06 (1974).

Nevertheless, the use of "lay judges in many communities make possible the settling of disputes within the community without the need for extensive travel by the litigants and without requiring adjudication by attorney judges outside the community." See, Appendix C [Non-Attorney Justice in the United States: An Empirical Study by, the Institute of Judicial Administration and the National Center for State Courts (1979)]. The low pay (105 Wisconsin Municipal judges make under \$3,000) and requirement of an election to fill a municipal judge vacancy (see, s. 8.5) may make it difficult to attract an attorney to be a municipal judge in some communities.

Nevertheless, some Wisconsin Municipalities have for various reasons required their municipal judges to be attorneys.² Therefore, where there are not the above noted problems, a community can chose to require municipal judges to be an attorney.

²Sixteen (16) judges responding to the survey indicated that their municipality required the judge to be an attorney.

In addition, as long as municipal court's jurisdiction is limited to forfeitures of deposits (even if municipal courts are given the authority to order restitution or assign a defendant to a work program) the legal questions in such cases are relatively uncomplicated and do not require a law school training. "Offenses which carry limited fines and minimal prison sentences are a class of cases which can be committed to lay courts."³

The survey also reveals that most lay judges are not intimidated by the presence of defense attorneys in court. Fifty-three (53) of the lay judges stated that their presence had "no effect" on them, 16 felt that court proceedings were expedited, three (3) felt it "averts unnecessary trials," two (2) indicated that "proceedings were recorded," and two (2) felt there was a "more professional atmosphere." Only seven (7) felt that the presence of defense attorneys hindered court operations.

Therefore, there is no clear evidence in Wisconsin that municipal judges should or need to be required to be attorneys by statute. Local municipalities already have that option.

³Non-Attorney Justice in the United States: An Empirical Study (1979), by Institute of Judicial Administration and National Center for State Courts, at page 105.

RECOMMENDATION 2

THE SUPREME COURT SHOULD REVIEW THE JUDICIAL CODE OF ETHICS TO DETERMINE IF ALL OR PORTIONS OF SCR 60.08 (INVESTMENTS) OR SCR 60.11 (INFLUENCE) SHOULD BE APPLICABLE TO PART-TIME MUNICIPAL JUDGES.

The appearance of impartiality and justice is crucial to the public's confidence in the municipal court system. Sections 60.08 and 60.11 of the Code of Judicial Ethics assures this impartiality. These sections are presently not applicable to part-time judges, although they are applicable to full-time municipal judges. See, SCR 60.19. Although the statewide survey did not reveal any examples of lack of impartiality resulting from part-time judges investments or solicitation of funds, project staff's research indicates that the American Bar Association and other states make similar judicial codes of ethics provisions found in SCR 60.08 and 60.11 applicable to part-time judges.

SCR 60.08

Supreme Court Rule 60.08 provides,

A judge shall not make or retain any personal investments in enterprises which are likely to be involved in litigation or proceedings in the court.

This provision is similar to ABA Canon 5C(3) which prohibits part-time judges from having any financial or business dealings that ". . . involve him in frequent transactions with lawyers or persons likely to come before the court in which he serves. (Emphasis provided). A part-time judge should be able to invest in enterprises, as long as those enterprises are not ". . . likely to be involved in litigation or proceedings in the court."

SCR 60.11

Supreme Court Rule 60.11 provides in part,

A judge-shall not personally solicit funds for any purpose, charitable or otherwise.

This provision is the same as ABA Canon 5B(2) which prohibits part-time judges from soliciting "funds for any educational, religious, charitable, fraternal, or civic organization. . ."

According to SCR 60.02 the two Wisconsin Code of Judicial Ethic provisions noted above "are of sufficient gravity to warrant sanctions if they are not obeyed." It is unclear why SCR 60.08 and 60.11 are not applicable to part-time judges. It may be because of a concern for the possible financial hardship resulting from restrictions on personal investments (SCR 60.08), or because the prohibition regarding solicitation of funds (SCR 60.11) was contained in a code provision also dealing with the use of his/her name or prestige. Nevertheless, both types of conduct described herein are recognized nationally by the American Bar Association as unethical judicial conduct.

Although it is true that under SCR 60.03, a part-time judge ". . . shall not participate in any matter which he or she has a significant financial interest. . ." it is equally true that lay judges reading the code of Judicial Ethics may not disqualify themselves even when they have a "significant" investment or personal interest in the matter before them because SCR 60.08 and 60.11 does not apply to them. Therefore, the surest way of preserving the appearance of impartiality in lay judge courts is to make these sections applicable to all municipal judges.

is to make these sections applicable to all municipal judges.

According to the American Judicature Society, all states (except, Illinois, Maryland, Montana, Rhode Island, and Wisconsin have made ABA Canons 5B(2) and 5C(3) applicable to part-time judges.

If these two (2) provisions are not made applicable to part-time municipal judge, it is true that some judges could be sensitized with training to the importance of impartiality in connection with personal investments or solicitation of funds. However, at present, municipal judges are not required to participate in any judicial training. In fact 31 judges (who became a judge within the last 5 years) responding to survey question 46 indicated that they had not had any judicial training since becoming a judge.

RECOMMENDATION 3

THE FINANCIAL REPORT FORM THAT MUST BE SUBMITTED ANNUALLY TO THE WISCONSIN ETHICS BOARD PURSUANT TO SCR 60.18 SHOULD SPECIFICALLY REQUIRE THE LISTING OF ANY "OFFICE OF PUBLIC TRUST".

All municipal court judges are required by SCR 60.18 to file by April 30 of each year a financial report. The report "shall include the source of all income from personal services other than judicial (not including reimbursed expenses). . . if the item of income. . . exceeds \$100." See, SCR 60.18(5) (emphasis provided). According to the Wisconsin Municipal Judge's manual (at page 6), "The purpose of the financial disclosure statement is to provide information as to potential conflicts of interests."

SCR 60.03 (conflicts of interests) states that a "judge shall not participate in any matter in which he or she has a significant financial interest. . . ." In such a situation, a judge must be aware of the possible conflict, determine how serious the conflict is, and in appropriate cases disqualify himself or herself. SCR 60.04 specifically prohibits any municipal judge from holding ". . . any office of public trust except a judicial office during the term for which he or she is elected." These possible conflicts of interests or prohibited offices of public trust should be identifiable by a review of the Financial Reports (the section dealing with the source of income from personal services) each municipal judge must file annually with the Wisconsin Ethics Board. However, many judges do not presently list the specific title of other employment or offices of public trust.

When the responses to question 51 (part-time employment) and question 54 (present elective or appointed public office) from the survey questionnaire were reviewed, it became apparent that 17 part-time judges may presently be holding either offices of public trust, or employment where there may be conflicts of interest.⁴ Therefore, some of these judges may be in violation of SCR 60.03 or 60.04.

⁴Those judges that are also employed by their municipalities could be fired from or promoted in their second job by the governmental unit they are working for as a municipal judge.

Although municipal judges attending training program presented by the Director of State Court office are frequently provided with copies of the code of Judicial Ethics, such participation is not manditory and, therefore, some judges may be unaware of the provisions of SCR 60.03 and 60.04. Municipal judges are also likely to be mislead by a typing error in the recently distributed Wisconsin Municipal Judges Manual (at page 6) which states that a "full-time municipal judge cannot hold another office of public trust." As authority for this statement the manual cites SCR 60.07. This code provision deals with a "position of trust" not "office of public trust" for which no judge may hold. See, SCR 60.04 (The Judicial Education Office is in the process of correcting this typing error).

Therefore, if any of the present positions listed in response to survey questions 51 and 54 are "offices of public trust" or present conflicts of interests contemplated by SCR 60.03, municipal judges should at least be notified that such positions are in violation of SCR 60.03*. Secondly, the typing error in the Municipal Judges Manual should be corrected. Finally, if SCR 60.18 (Financial Report) is in fact supposed to provide a process for identifying these situations, the report form should be revised by the Supreme Court to require a judge to list by title any "office of public trust". The Supreme Court should also review the Financial Report Form to determine if any other changes should be made to assure that the form does in fact "provide information as to possible conflicts of interests".

* This notification could be accomplished by a general notice to all municipal judges that these types of positions are "offices of public trust." Another alternative would be to notify the Chief Judge of each Judicial District which judges may be holding "offices of public trust."

B. Judicial Training and Legal Resources

Project staff generally found that the Judicial Education Office is presenting a wide range of training to many municipal judges. However, this study revealed that many new judges have never had any judicial training, certain areas of existing training continue to be a problem for municipal judges, state training programs in certain problem areas are not available, municipal judges should have access to additional legal resource materials, and municipal judges need an extensive outline of all statutes, court rules, regulations, and case law relating to municipal courts. Consequently, the National Center believes the following five (5) recommendations should be implemented.

- New municipal court judges should be required to attend a judicial orientation training program.
- The municipal judge's training programs being presented by the judicial education office in the areas of non-traffic juvenile cases, sentencing, rules of evidence, OWI cases, defendant's rights, office management, and conducting a trial should be given priority in future training sessions.
- New training materials and programs should be developed and presented by the Judicial Education Office in the areas of the judge's role when there is no prosecutor or defense attorney, how to prepare, present and monitor a court budget, and, how municipal judges also practicing law can avoid conflicts of interest.
- Legal dictionary, Wisconsin Motor Vehicle Laws, the Instruction Manual for completing the State of Wisconsin Uniform Traffic Citation & Complaint, and Wisconsin Court Rules and Procedures should be added to the Municipal Judges Manual's list of legal sources that every judge should have access to.

- The Judicial Education Office should review the statutes, court rules, and case law referenced or identified in this report to determine if there should be any changes or additions to the Municipal Judges Manual.

At least 31 municipal judges elected within the last five (5) years have had no judicial training. Even licensed attorneys need some minimum judicial training when they become a judge. For this reason, 20 of the 28 states that have lay judges require mandatory attendance at a judicial orientation training program. Wisconsin should also have this requirement for new municipal judges.

Even with the extensive training programs developed in the last two (2) years by the Judicial Education Office, many judges continue to have problems in areas covered by these programs. The areas listed in the second recommendation above were rated as high priority problem areas (even though covered in previous training programs) and should be covered in future state training programs. The third recommendation above covers new areas identified by municipal judges in the survey as high priority problem areas for which state training programs have not been presented in the past.

The Judicial Education Office recently prepared and distributed to all municipal judges a Municipal Judges Manual as a guide to the law and listed a number of legal resource materials that every municipal judge should have access to in addition to state statutes. Project staff's research resulted in the identification of additional important legal resource materials and requirements or procedures for municipal courts not outlined or listed in the manual. These additions should be made to the manual.

RECOMMENDATION 4

NEW MUNICIPAL COURT JUDGES SHOULD BE REQUIRED TO ATTEND A JUDICIAL ORIENTATION TRAINING PROGRAM.

Thirty-one (31) of the judges responding to question 46 of the survey indicated that they had become a judge within the last five (5) years and had never attended any judicial training programs (six of the judges were attorneys). There may be even more judges that have never had any training since 56 either did not respond to the survey or submitted surveys (10) too late to be tabulated.

Even those judges that have attended some training indicated that they needed more training in very basic areas. For example, in response to survey question 57, forty-three (43) judges indicated that "conducting a trial" was a serious problem. Twenty-four (24) judges (in response to other questions) indicated that "municipal judges lack adequate legal background and competence and need more judicial training." Voluntary participation in available judicial training programs apparently is not meeting the minimal training needs of many municipal judges. The only way of assuring this type of training for all municipal judges is by requiring mandatory attendance at a judicial orientation training program for new municipal judges.⁵ Such a requirement should also apply to attorneys.

⁵The Wisconsin Municipal Judge's Association does provide orientation programs for new judges on a voluntary basis.

Mandatory Judicial Education for Lay Judges

Of the 28 states (listed on Chart 6 below) with mandatory judicial education programs for lay judges, 20 require such judges to attend an orientation training program. National studies have recommended that "(a)ll lay judges should successfully complete a mandatory training and certification program as a condition of office. . . ." See, Appendix C [Non-Attorney Justice in the United States: An Empirical Study (1979)-(Recommendation 7)].

An orientation program for municipal judges need not and should not be a substitute for a three (3) year formal law school education. The limited nature of municipal court jurisdiction makes such extensive legal training unnecessary. The program should deal with the skills and functions of being a judge, and the basic evidence and legal elements of the specific types of cases that will come before a municipal court judge. Such a program should be required of attorneys and lay judges. Even though municipal judges that are also attorneys may know the evidentiary and legal requirements of the cases coming before them, they have no prior training regarding the duties of a judge.

Judicial Attendance

One of the problems project staff heard from judges during site visit interviews was that they could not get away from their other jobs or afford to take time off without pay. Many second employers will not pay a judge's salary while he/she attends such training programs. In addition, most municipal

Mandatory Judicial Education
for Lay Judges (1981)*

<u>State (28)</u>	<u>Number of Lay Judges</u>	<u>Orientation</u>	<u>Annual Judicial Conference</u>	<u>Continuing Education</u>
Alaska	48	X	X	X
Arizona	116		X	
Colorado	73			X
Delaware	74			X
Georgia	602	X		X
Idaho	22	X		
Iowa	83			X
Kansas	373	X	X	
Michigan	130	X		
Mississippi	644	X		X
Missouri	219	X		
Montana	141	X		X
Nebraska	43			X
Nevada	73	X		
New Hampshire	12			X
New Mexico	186	X	X	X
New York	2,250	X		X
North Carolina	600	X		
North Dakota	145	X		X
Oregon	230	X		X
Pennsylvania	565	X		X
South Carolina	605	X		X
South Dakota	150			X
Texas	1,678	X		X
Utah	160			X
Virginia	400	X		X
Washington	70	X		
West Virginia	150	X		X
(TOTAL)	9,842	20	4	20

*Taken from Survey of State Mandatory Judicial Education Requirements
(March 1981), prepared by the American University Law Institute. See Appendix D.

court budgets make no provision for training. Therefore, the only alternative is to lose a day's pay or take vacation time off. Both alternatives appear to keep some judges from attending existing training programs. Some judges also are unaware that expenses resulting from attendance at a judicial training program sponsored by the Director of State Courts is reimbursed. For these reasons, any requirement that new municipal judges attend an orientation program will have to consider the limited funds and time limitation of such judges.

RECOMMENDATION 5

THE MUNICIPAL JUDGE'S TRAINING PROGRAMS BEING PRESENTED BY THE JUDICIAL EDUCATION OFFICE IN THE AREAS OF NON-TRAFFIC JUVENILE CASES, SENTENCING, RULES OF EVIDENCE, OWI CASES, DEFENDANT'S RIGHTS, OFFICE MANAGEMENT, AND CONDUCTING A TRIAL SHOULD BE GIVEN PRIORITY IN FUTURE TRAINING SESSIONS.

The Judicial Education Office of the Director of State Courts Office regularly presents training seminars for municipal judges covering a wide range of topics. In fact 75% of the training programs attended by the judges responding to the survey were presented by the Judicial Education Office. See, survey question 45.⁶ The handouts from these programs were also noted as the most useful by municipal judges. See, question 47.⁷

⁶Only five (5) judges indicated they had attended any training out of state.

⁷The recently distributed Municipal Judges Manual prepared by the Judicial Education Office was not available at the time the survey was conducted.

Even with the training being provided by the Judicial Education Office there are many municipal judges needing assistance in non-traffic juvenile cases (89), sentencing (73), rules of evidence (64), OWI cases (60), defendant's rights (48), office management (47), and conducting a trial (43). See, question 57. It is not clear from the data whether all of the judges were interested in training or were concerned about substantive matters. However, a large number of the judges did specifically note a need for additional training in some of the areas [e.g., OWI (27), Office Management (21), and conducting a trial (21)]. Twenty-four (24) judges indicated they needed more legal background training. It may also be that some of these judges have not attended available programs in these areas. As noted earlier, some judges are unable to attend because of time and/or financial constraints. Nevertheless, it appears as if a substantial number of judges are interested in training in these noted areas. Any training being provided in these areas should be continued.

Municipal Judges Practicing Law

Full-time municipal judges⁸ may "not engage in the practice of law." (See, SCR 60.06 and 60.19). There are at least 41 part-time municipal judges in Wisconsin that also practice law. (See, survey question 52C). These judges were

⁸Only the two municipal judges in the city of Milwaukee Municipal court are full-time judges.

asked how they limit their law practice to avoid potential conflicts of interest relating to their position as a part-time municipal judge. None of them indicated that they would refuse to "appear as counsel or attorney before any action which has been previously determined before the person as a judge. . . ." See, SCR 11.08 (see, also SCR 20.49). It may be that such a conflict was so obvious that the 41 judges assumed that it need not even be stated.

It is true that 12 judges indicated that they would not handle criminal or ordinance cases involving the city police department. However, some judges interviewed by project staff did indicate that they would and did frequently represent local police officers in circuit court civil or domestic cases. Some judges (5) did respond to survey question 52C by indicating that they would not take any cases involving police or municipal officers if a conflict could arise. Five (5) other judges indicated they would request a substitution if a conflict arose. Certainly, a judge that disqualified himself or herself would not be in a conflict situation. However, there appears to be no clear prohibition against a part-time judge representing a local police officer (although they may appear before him/her in municipal court) in another court. Nevertheless, some judges interviewed by project staff indicated that they would not represent a local police officer. There appears to be varying opinions from municipal judges on this question. In addition, are there any other situations where there are similar uncertainties or actual conflicts?

Under Article IV, Section 5 of the State Bar By-Laws the Committee on Professional Ethics could express an opinion regarding professional conduct in this area, upon written request from any member or officer of the State Bar. However, they will render no opinion regarding a specific state bar member unless requested by the Grievance Committee or Board of Governors of the State Bar. Even then such an opinion would be confidential. Therefore, if it is determined that there is a need for clarification in this area, one approach could be to have a member of the state bar request a general opinion from the Committee on Professional Ethics to provide guidance to part-time municipal judges that also practice law. If such an advisory opinion is rendered, it should at least be distributed to all municipal judges. If guidelines were developed, a recommended approach would be to present this information in a training program for these judges.

Municipal judges licensed to practice law in Wisconsin are required to complete a minimum of 15 hours of approved continuing legal education each calendar year. See, SCR 31.02. According to SCR 31.04(5) this "credit may be earned by a lawyer for participation in an education activity approved by the judicial education committee if participation in the activity is related to a part-time judicial or parajudicial position held by the lawyer." Likewise, SCR 32.02(2) provides that the Judicial Education Committee may sponsor educational programs

for municipal judges. . . ." Therefore, these municipal judges could earn credit toward their continuing legal education requirements by attending an approved education activity relating to this question (if approved by the Judicial Education Committee). If the Committee felt such a program should be developed and approved it could be presented by the Director of State Courts. See, SCR 70.01(2)(e).

RECOMMENDATION 6

NEW TRAINING MATERIALS AND PROGRAMS SHOULD BE DEVELOPED AND PRESENTED BY THE JUDICIAL EDUCATION OFFICE IN THE AREAS OF THE JUDGE'S ROLE WHEN THERE IS NO PROSECUTOR OR DEFENSE ATTORNEY; HOW TO PREPARE, PRESENT AND MONITOR A COURT BUDGET: AND, HOW MUNICIPAL JUDGES ALSO PRACTICING LAW CAN AVOID CONFLICTS OF INTEREST.

The Municipal Court Study also identified a number of problem areas or topics where new training materials and programs should be developed and presented by the Judicial Education Office.

Presentation of Cases

State statute (§ 800.08) provides in part that "(i)n a trial before a municipal court, the municipality may provide a prosecutor who is an attorney authorized or licensed to practice law in this state" (emphasis provided). Municipalities are not required to provide a prosecutor for trials. Nevertheless, 97 judges indicated that a municipal attorney is present at trial and 29 judges stated that a municipal attorney was present "sometimes." It appears as if most cases are

prosecuted by municipal attorneys. Nevertheless, 12 judges of the 155 responding to the survey, indicated that a prosecutor never was present at a trial. This figure would no doubt be greater if the practices in the remaining 57 courts were known. It is also true that many defendants in municipal court are not represented by counsel at the initial appearance or trial. When these situations occur, a municipal judge must take precautions regarding his role and the presentation of the case.

The Municipal Judges Manual (at p. 16) cautions judges that "it is preferable to have a municipal attorney prosecute all cases". However, if one is not available, "you should never act as a prosecutor, . . . police officers should not act as prosecuting attorneys . . . (and) let the witnesses identify themselves and give their testimony in narrative form." The manual does not advise a judge what to do when a defendant is unrepresented and unskilled in presenting their case. Some guidance is provided in Judge Van Lannen's material entitled "Conducting a Trial in Municipal Court" which has been used by the Judicial Education Office in past training programs. However, as Judge Van Lannen states, "(a)n experienced Judge can, in my opinion, elicit testimony favorable to one side or the other. This could lead to a biased trial that would be over turned on appeal " An inexperienced judge could unknowingly make the same mistake.

Municipal judges should not appear to be representing the city, police or a defendant at a trial. The appearance of neutrality is crucial to any concept of justice. This is especially true (and sometimes difficult) in municipal courts. For these reasons, it is the Center's recommendation that special attention should be given to this problem by the Judicial Education Office.

In addition to written materials and presentations, one recommended training technique would be the use of role playing and video recording. It is easy to discuss precautionary steps or procedures, but much harder to put them into practice. Allowing judges to conduct a mock trial where there is no prosecutor or defense attorney before a video recording will give the judge a chance to review his performance (the Judicial Education office has used mock trials and role playing in previous training sessions but not with video recordings). This approach will also give others a chance to critique his/her performance and provide constructive advice.

Budget Preparation, Presentation, and Monitoring

The 155 courts responding to the survey reported 1981 estimated expenditures of \$2.09 million. The City of Milwaukee Municipal Court alone will spend approximately \$1.01 million. This leaves \$1.08 million funding for the remaining 154 courts. This general amount is further reduced when the larger budgets for courts like West Allis, LaCrosse, and Green Bay are subtracted from the \$1.08 million. This amount is only a 1/10 of the revenue generated annually by municipal court opera-

tions. Nevertheless, many of the courts visited had inadequate facilities and judges frequently were not provided any funds to even cover their attendance at state training programs. A judge actively involved in the budget process has a greater chance of persuading a funding unit to appropriate sufficient funds to meet the needs of the court.

Many municipal judges are not involved in the preparation, presentation, or monitoring of their court's budget. Less than 50% of the judges prepare or discuss the budget needs of the court before the budget is presented to the municipality. Only 78 judges make any presentation and even fewer approve expenditures (49) or maintain records of expenditures (62). Only with full involvement in each of these stages can a court expect to adequately understand the budgetary requirements of the court or hope to receive adequate funds to meet the needs of the court.

The Municipal Judges Manual does not have a section dealing with court budgets. A review of the Judicial Education Office's Municipal Court Materials - Index, dated April 21, 1981 shows no training program materials dealing with court financing or budgeting. Although it does appear as if the topic is touched upon in training sessions dealing with the Role of the Municipal Judge. It may be that because of the smallness of most municipal court operating costs, this topic has not been given much attention. Even where professional

assistance has been given to a municipality in planning for a court, certain important types of funding needs have been missed. For example, none of the following planning studies involving the creation of municipal courts addressed the cost of providing adequate courtroom facilities, expenses for substitute judges, or the salary of part-time judges attending judicial training programs.

- Study of the Feasibility of a Municipal Court for Manitowoc (1978) by the League of Women Voters.
- Municipal Court Feasibility Study for New Berlin, by T. Michael Schober, New Berlin City Attorney, and City of Brookfield Municipal Court Judge Richard J. Steinberg.
- Municipal Court Operations for Whitefish Bay and Shorewood (1979) by Arthur Young & Company.

Municipalities and new judges do not appear to anticipate or provide for various basic expenditures. With budgetary checklists, guidelines and training in the preparation, presentation and monitoring of court budgets, these expenditure items will have a greater chance of being funded by municipalities.

RECOMMENDATION 7

LEGAL DICTIONARY, WISCONSIN MOTOR VEHICLE LAWS, THE INSTRUCTION MANUAL FOR COMPLETING THE STATE OF WISCONSIN UNIFORM TRAFFIC CITATION & COMPLAINT, AND WISCONSIN COURT RULES AND PROCEDURES SHOULD BE ADDED TO THE MUNICIPAL JUDGES MANUAL'S LIST OF LEGAL SOURCES THAT EVERY JUDGE SHOULD HAVE ACCESS TO.

The statewide survey questionnaire asked a series of questions designed to determine what existing legal resource materials are available to courts, which resources are most useful to the judge, and which materials judges wished they had copies of. Chart 7 below illustrates the responses received from municipal judges.

Most of the judge's responding to the survey indicated that they at least had access to a copy of Wisconsin Statutes (142), local ordinances (143), and the Wisconsin Motor Vehicle Laws (132). It should be noted that only 113 judges have personal copies of Wisconsin Statutes, even though Wisconsin Statutes § 35.85(3) provides that "(e)ach town, village and city shall purchase from the department for the municipal judges such number of copies of the statutes as are needed within its boundaries." Municipalities have no responsibility to provide any other specific legal materials to the court or judges. Nevertheless, judges certainly need to at least have access to other legal resource materials.

Chart 7

WISCONSIN MUNICIPAL COURT STUDY
LEGAL RESOURCE MATERIALS

Recommended in Municipal Judge's Manual	Question 43*		Question 47	Question 44
	Have Access to	Court has copy**	Most Useful	Want Copy
• Wisconsin Statutes	142	113		
• Current Copy of Local Ordinances	143	111		
• State of Wisconsin Revised Uniform Traffic Deposit Schedule			10	
• Municipalities Uniform Deposit Schedule for Non-Traffic Offenses				
• The State of Wisconsin Uniform Schedule for Conservation, Boating and Snowmobile Forfeiture Violations				
• The Published Decisions of the Wisconsin Supreme Court and Court of Appeals	64	8		5
• Wisconsin Attorney General Opinions	69	12		6
<u>Other Possible Resources</u>				
• Legal Dictionary	88	21		4
• Wisconsin Motor Vehicle Laws	132	83	2	
• State Digest	66	7		3
• State Bar Journal	60	5		3
• Wisconsin Law Review	54	3		4
• Uniform Traffic Citation & Complaint: Instruction Manual				2

* Resources without a response to this question were not listed on survey questionnaire

** If the court did not have a copy of a particular item, the judges frequently had access to the resource material from the libraries of the Municipal Attorney, Police Department, Private Law Office or personal library.

The Municipal Judge's Manual recommends that each judge should have access to and be familiar with the following legal sources.

- Wisconsin Statutes
- Local Ordinances (Current Copy)
- State of Wisconsin Revised Uniform Traffic Deposit Schedule
- Local Uniform Deposit Schedule for Non-Traffic Offenses
- State of Wisconsin Schedule for Conservation, Boating or Snowmobile Forfeiture Violations
- The Published Decisions of the Wisconsin Supreme Court and Court of Appeals
- Wisconsin Attorney General Opinions

The survey responses and comments from municipal judges support the need for access to this publications.

The survey and site visit interviews also revealed a need for and desire to have copies of a legal dictionary, Wisconsin Motor Vehicle Laws (separate volume), and Wisconsin Court Rules and Procedures. The Instruction Manual for Completing the State of Wisconsin Uniform Traffic Citation & Complaint (1978) is another resource that would be extremely helpful to municipal judges. Therefore, it is recommended that these publications be added to the list in the Municipal Judge's Manual.

The list of recommended legal resources in the Municipal Judges Manual may not even be seen by the municipality. Even the statutory requirement that municipalities provide a copy of the state statutes to each municipal judge, has resulted in only 113 of the 115 judges responding to the survey receiving a

personal copy. An informational letter from the Supreme Court or Director of State Courts Office to each municipality regarding the importance of each judge at least having access to the items listed in the manual and recommended herein, may help municipal courts acquiring these important resources.

If after further review, any of these recommended items are determined to be essential to municipal court operations (e.g., local ordinances, and Wisconsin Court Rules and Procedures), consideration should be given to the possibility of enacting legislation requiring local governmental units to purchase the legal resources for the court. Another alternative is to have the Department of Transportation (DOT) send copies of the Motor Vehicle Code to all municipal judges (local police agencies are already provided with a copy by DOT). The Municipal Court Study Advisory Committee also felt that a copy of the Wisconsin statutes should be mailed directly to each municipal court.

RECOMMENDATION 8

THE JUDICIAL EDUCATION OFFICE SHOULD REVIEW THE STATUTES, COURT RULES, AND CASE LAW REFERENCED OR IDENTIFIED IN THIS REPORT TO DETERMINE IF THERE SHOULD BE ANY CHANGES OR ADDITIONS TO THE MUNICIPAL JUDGE'S MANUAL.

When judges were asked what legal materials or resources were important and they did not have, seven (7) judges suggested statute books specifically for municipal courts. This request was repeated by a number of judges during site visit

interviews. Lay judges are generally unskilled in researching statutes, court rules and caselaw. They also are likely not to even have copies of the necessary publications. Even if they do have a copy of Wisconsin Statutes, some judges suggested that they have trouble understanding which sections were applicable to the Municipal Court.

The new Municipal Judge's Manual is the type of compendium or benchbook that addresses this problem. It was designed to be a guide to the law. As the law changes and additional relevant information is identified, the manual will have to be revised. However, if the manual is perceived or intended to be the basic resource or benchbook for municipal judges, it should include all statutes, court rules, regulations, or caselaw applicable to municipal courts.

National Center project staff compiled copies of statutes relating to municipal courts as part of this study. Project staff also prepared a brief outline of this material. See, Appendix E. Any citations to statutes, court rules or caselaw in this outline or this project report should be reviewed for possible inclusion in the Municipal Judge's Manual. See, Appendix O for copies of statutes and court rules cited in this report.

The Judicial Education Office is presently considering possible updates or additions to the manual based upon information contained in this Report.

C. Judicial Activity Statistics

The State of Wisconsin presently requests judicial statistics for municipal courts on an annual voluntary basis. The survey for 1980 resulted in responses from 178 of the 209 municipal judges statewide. A comparison of 1974 - 1980 annual surveys indicate an ever increasing caseload for municipal courts. See, the chart below for comparison of municipal court activity for 1974 - 80.

<u>Year</u>	<u>Number of Judges</u>	<u>DISPOSITIONS</u>					<u>TOTAL</u>
		<u>Parking</u>	<u>Other Traffic</u>	<u>Ordinances Other Than Traffic</u>	<u>Warrants Issued</u>	<u>Any Other Cases</u>	
1974	150	46,576	51,736	13,121	2,992	584	115,009
1975	154	57,785	82,274	20,801	10,268	645	171,773
1976	136	69,676	79,694	25,044	15,249	1,579	191,238
1977	190	108,488	129,812	29,464	25,629	4,340	297,733
1978	163	116,711	79,373	19,615	14,750	2,318	232,767
1979	163	136,123	107,777	53,376	34,180	6,718	338,174
1980	178	164,456	131,859	50,832	34,005	2,105	383,257

However, these statistics do not contain data regarding juvenile (non-traffic cases) or information about types of dispositions. The data is collected only at the end of the year without adequate instructions and for these reasons may be inaccurate. Finally, no information is presently collected regarding case delay.

For these reasons, project staff recommend the following changes and additions regarding the collection of court activity statistics by WCIS.

- The present annual municipal court judicial statistics form should be revised to include juvenile (non-traffic) cases, types of dispositions, and instructions for completing the forms.
- Municipal courts should submit judicial activity reports at least quarterly or semi-annually with smaller courts collecting statistics daily on a standard worksheet.
- Municipal courts should be required to submit a one-time list of all pending cases over a year old.

The proposed revisions and additions to the present annual municipal court activity report will collect data for all of the major types of cases and provide data regarding how cases are disposed. Only with this type of information can municipal courts and the Supreme Court accurately understand municipal court workloads. The proposed reporting form can also be used on an ongoing basis to collect statistics as they are occurring instead of waiting till the end of the year to reconstruct data from court records. With these procedures statistics could be submitted to the Supreme Court on a quarterly or semi-annual basis with no extra work for most municipal courts.

If instructions for completing the proposed forms are developed by WCIS and provided to all municipal courts it is likely the submitted statistics will be more accurate.

Although survey responses do not indicate that municipal courts have a case delay problem, the Supreme Court should at least once require municipal courts to submit a list of pending cases over a year old and the reason for the delay in disposition of the case.

RECOMMENDATION 9

THE PRESENT ANNUAL MUNICIPAL COURT JUDICIAL STATISTICS FORM SHOULD BE REVISED TO INCLUDE JUVENILE (NON-TRAFFIC) CASES, TYPES OF DISPOSITIONS, AND INSTRUCTIONS FOR COMPLETING THE FORM

Annual judicial statistics are presently collected in the following format.

<u>Type of Case</u>	<u>Cases Disposed</u>
Parking	_____
Other Traffic	_____
Ordinance (other than traffic)	_____
Warrants Issued	_____
Any Other Cases	_____

This format combines a type of disposition (i.e., "Warrants Issued") with case types (including "any other cases"). The chart also does not provide a separate listing for non-traffic juvenile cases. Such a statistical collection format does not identify all of the major type cases heard in municipal court or provide any information regarding types of disposition.

Expanded or more detailed statistics would provide municipal courts with workload information crucial to an accurate presentation of their needs to the municipality. Existing judicial statistics do not illustrate the volume of work involved relating to juvenile cases or the number of trials heard by a judge. Both of these situations may require additional resources from a municipality.

Proposed Judicial Activity Report Form

The present form basically records only how many cases were disposed. The form does not distinguish between cases disposed of by forfeitures, pleas, trials, etc. Each type of disposition reflects a different amount of work for a judge. Without this type of information, there is no way to equate workloads between judges or courts. The following chart illustrates a proposed format that would collect this type of information.

CHART 9

<u>Type of Case</u>	DISPOSITIONS				Total
	Forfeiture of Deposit by Non-Appearance	Plea of Guilty or No Contest (Before A Judge)	Dismissal	Trial	
Parking					
Traffic					
Non-Traffic					
Juvenile (Non-Traffic)					
TOTAL					

This format does identify all major categories of cases heard in municipal court, and the type of judicial activity required to dispose of the case.

Additional Information

The Advisory Committee and some municipal judges suggested the collection of data regarding jury trials requested and the number of warrants pending for non-appearance. This information needs to be collected to determine the total number of cases filed with the court or transferred to circuit court (jury trials). The number of warrants pending for non-appearance also provides the court with an inventory of outstanding warrants. Some judges were also interested in knowing how many trials resulted in guilty and not guilty verdicts. All of this additional information could be collected on a single collection instrument.

An expanded Judicial Activity Report like the one illustrated in Chart 10 below would collect the information in Chart 9 and the additional data discussed above. This report format would provide the maximum information regarding municipal court activity.

Chart 10

Type of Case	MUNICIPAL COURT DISPOSITION						Jury Trial Request	Pending Warrants for Non-Appearence	Total Cases Filed
	Forfeiture of Deposit by Non-Appearence	Plea of Guilty or No Contest Before A Judge	Dismissal	Guilty Verdict	Not Guilty Verdict	TOTAL			
PARKING									
TRAFFIC									
NON-TRAFFIC									
JUVENILE									
(Non-Traffic)									
TOTAL									

INSTRUCTIONS

Without detailed instructions municipal courts will report judicial activity or court workload differently. Municipal judges were confused as to what constitutes a disposition. Is a case disposed of in the municipal court if it is transferred to circuit court as a jury case? What about when a case is transferred to another municipal judge as a result of a substitution? Do you count a case as disposed of when the defendant has failed to pay a penalty? These questions should be clarified.

Instructions should be developed by the office of Court Information Systems (WCIS) regardless of the format of the judicial statistics forms. The instructions should be provided to all municipal courts.

RECOMMENDATION 10

MUNICIPAL COURTS SHOULD SUBMIT JUDICIAL ACTIVITY REPORTS AT LEAST QUARTERLY OR SEMI-ANNUALLY WITH SMALLER COURTS COLLECTING STATISTICS DAILY ON A STANDARD WORKSHEET*

Much of the problem with getting annual judicial activity reports from all judges may be that the information is not collected on an ongoing basis. At the end of the year, some have to go through all of their dockets, cases files or records to compile the requested information. This task would be less of a burden if requested at least quarterly or semi-annually.

* The required WCIS programming would require approximately \$2,925. See Appendix P for a copy of an analysis of WCIS programming costs.

Such an approach would remind judges earlier in the year that they should be collecting case disposition data. This change would also minimize the burden on a new judge who has to compile case data for the previous judge.

Many smaller courts could avoid the task of even reviewing dockets to tabulate case dispositions if they recorded dispositions on a worksheet as they occur. The proposed municipal court activity report form (see, Chart 10) could be used for this purpose. Each disposition would be entered by type of case and disposition. At the end of a given period (week or month), the individual "hash-marks" could be tallied and the totals transferred to a new chart, and dated. The dated charts would be saved and added together for a given reporting period. This proposed process would relieve many courts of the annual task of reviewing a year's worth of records. This procedure would also likely increase the number and data accuracy of activity reports.

With a minimum of training or instruction, the worksheets could be easily maintained by a clerk or judge on a daily basis.

RECOMMENDATION 11

MUNICIPAL COURTS SHOULD BE REQUIRED TO SUBMIT A ONE-TIME LIST OF ALL PENDING CASES OVER A YEAR OLD.

Based upon observations made during site visits and conversations with municipal judges, there appears to be very little delay in case processing. Cases are filed and generally disposed of quickly by forfeiture, plea, or trial.

Only seven (7) judges indicated that they had any cases over a year old because of court delay. However, 20 other judges indicated that they had cases "pending" that were over a year old. These cases appeared not to lack "dispositions" because of court inaction. A single one-time inventory of all cases "pending" over a year would, however, bring to light any unknown problems or misconceptions regarding delay.

The inventory should include the date the case was filed, the name of the defendant, and why the case was pending. The report should be submitted to the Director of State Courts for review and follow-up.

D. Judicial Functions and Sentencing Alternatives

A municipal judge's sentencing authority is limited to ordering payment of a forfeiture plus any costs of prosecution or in default of such payment, suspension of driving privileges for up to six (6) months (if 16 or older) or incarceration (unless a hearing determines that a defendant is indigent). The judge may also enter a default judgment if a defendant has made a deposit and does not appear in court as ordered or instructed. If equitable relief is demanded, the municipal court does not have jurisdiction and the action must be brought in the circuit court.

Even with these well defined sentencing powers, municipal judges are imposing sentences not clearly within their authorization. Interviews and survey responses indicate that municipal judges are ordering restitution and assigning defendants to work programs. Judges are also entering default judgments when a defendant has not made a deposit with the court or even appeared before the court. Some indigent defendants are being incarcerated for non-payment of penalty because they are not provided a hearing. In response to these situations, the National Center submits the following recommendations.

- Defendants in municipal court should be informed that they may not be incarcerated for non-payment of a forfeiture if they are indigent, and they have a right to a hearing to determine their ability to pay.
- The Judicial Council should study the advisability of municipal judges being given the authority to order restitution or participation in work programs for juvenile and adult defendants.
- An advisory opinion should be requested from the state attorney general's office regarding the legality of a municipal judge entering a default judgment when a defendant has not appeared before the court or filed a deposit.

Because of a lack of resources and training, some municipal court judges are utilizing courtroom practices that may affect the public's impression of their impartiality or neutrality. In at least 116 municipal courts penalties are collected in the courtroom by clerks (60), police officers (37), and even judges (18). In most cases, this practice is for the convenience of the defendant or because the court has limited facilities or staff. In either case, the public may get the impression that the judge is only interested in collecting a penalty. For this reason, deposits or penalties should not be collected in a courtroom. Other acceptable alternatives are available.

The final problem identified by project staff in this area involves the expenses municipal judges are personally incurring when they are assigned to hear a case for another municipal judge. All expenses resulting from such an assignment should be reimbursed to the judge.

RECOMMENDATION 12

DEFENDANTS IN MUNICIPAL COURT SHOULD BE INFORMED THAT THEY MAY NOT BE INCARCERATED FOR NON-PAYMENT OF A SENTENCE IF THEY ARE INDIGENT, AND THAT THEY HAVE A RIGHT TO A HEARING TO DETERMINE THEIR ABILITY TO PAY

One hundred twenty-six (126) judges indicated that they provided defendants with a written copy of their rights or informed them orally of those rights. The samples of such hand-outs collected by project staff during their site visits and those submitted with completed surveys vary considerably in substance and format. Therefore, all defendants are not presented with the same statement of their rights. Forty-eight (48) judges stated that they told each defendant individually of their rights. This practice may also result in substantial variances. For these reasons, a recommended pamphlet or notice should be developed and made available to all municipal courts.

Most defendant's rights pamphlets reviewed by project staff did not include any reference to a right to have a hearing to determine inability to pay a penalty. Although the Wisconsin Supreme Court has held that a " . . . defendant has a burden to raise and prove his inability to pay the fine where a commitment is ordered for his failure to do so,"⁹ a defendant still has a right to have a hearing.¹⁰

⁹ State ex rel. Pederson v. Blessinger, 201 N.W. 2d (1972). (See, Appendix E for copy of the decision).

¹⁰ State Statute § 800.04 presently does not require a municipal judge to inform the defendant of this right.

The Milwaukee City Municipal Court now provides every defendant a written notice of the right to such a hearing. See, Chart 11 below. This practice was the result of a partial consent judgment agreed to by the court in settlement of a class action suit regarding the constitutionality of incarceration for failure to pay a fine in the municipal court without a notice and opportunity for a hearing regarding ability to pay the fine. See, Leo Balderas, Mamie Dietz, and Richard Herzig, and all other persons similarly situated v. Donald N. Thorgaard, et al, United States District Court, Eastern District of Wisconsin (No. 73-C-290) (July 22, 1975). See, Appendix for copy of the Opinion.

Although a municipal court is not presently required by state statute or caselaw (except the Milwaukee Municipal Court) to provide a defendant with a notice of his/her right to a hearing, it is possible another federal court could rule on the merits of the question and require such a notice. As long as a defendant has a right to such an indigency hearing there is no reason why he/she should not be so informed.

Chart 12 below is a copy of a hand-out the City of South Milwaukee Municipal Court hands out to all defendants. The form does advise defendants that if they fail to tell the court why they have not paid a fine they can be sent to jail. The statement does at least inform the defendant that he can explain his inability to pay. Nevertheless, it does not specifically state that he/she has a right to hearing (as required and provided in the City of Milwaukee Municipal Court Notice).

PAYMENT NOTICE AND NOTICE OF RIGHT TO JUDICIAL HEARING

CITY OF MILWAUKEE VS.

DEFENDANT(S) - NAME AND ADDRESS - (LAST NAME FIRST)

CASE NO.

M

NOTICE OF DEFAULT JUDGMENT AND POSSIBLE JAIL SENTENCE

ON _____, YOU WERE SCHEDULED TO APPEAR BEFORE THE HONORABLE
JUDGES, TO-WIT: _____
PURSUANT TO AN ALLEGED VIOLATION OF THE MILWAUKEE CODE OF
ORDINANCES, TO-WIT: _____
YOU DID NOT APPEAR IN COURT ON THE DATE. THEREFORE, A DEFAULT JUDGMENT WAS TAKEN AGAINST YOU
YOUR ABSENCE. YOU WERE FOUND GUILTY AND ASSESSED A FINE OF \$ _____ INCLUDING COURT
STS. THIS AMOUNT MUST BE PAID BY _____ IF THE FINE IS NOT PAID BY THAT
DATE YOU ARE SENTENCED TO _____ DAYS IN THE

IF YOU CANNOT PAY THE FINE WITHIN THE TIME PERIOD ALLOWED INFORM THE COURT
IMMEDIATELY.

IF YOU DO NOT PAY THIS FINE BY THE ABOVE DATE YOU CAN BE ARRESTED AND
SENT TO JAIL. IF YOU ARE UNABLE TO PAY THE FINE BY THE ABOVE DATE YOU MAY REQUEST
AN EXTENSION OF THAT TIME. YOU ALSO HAVE THE RIGHT TO A JUDICIAL HEARING TO DETERMINE
WHETHER OR NOT YOU ARE ABLE TO PAY THE FINE. A JUDICIAL HEARING WILL BE HELD AT YOUR
REQUEST AND:

1. You will have the opportunity to present evidence on your own behalf concerning your ability to pay the fine within the time imposed;
2. You will have the opportunity to confront and cross-examine any adverse witnesses;
3. You will have the right to be represented by counsel;

If you wish to request an extension of time or a judicial hearing, please notify the court immediately by:

- a. Informing the Judge at the time of your court appearance that you do not have enough money to pay the fine; or
- b. By coming in person, Monday through Friday, 9:30 - 11:00 A.M. and 1:30 - 4:00 P.M. to the Office of the Clerk of Municipal Court at

MUNICIPAL COURT OF MILWAUKEE
818 WEST WISCONSIN AVENUE (1st Floor)
MILWAUKEE, WISCONSIN 53233

You should keep this notice and bring it with you for identification purposes. All payments are to be made by mail or in person at the Municipal Court. Please send check or money order only; do not send cash. Put the above case number on any check or money order. Part payments accepted.

IF YOU HAVE ANY OTHER QUESTIONS CONCERNING YOUR CASE YOU SHOULD GO TO THE OFFICE OF THE CLERK OF MUNICIPAL COURT.

STATE OF WISCONSIN

MUNICIPAL COURT

CITY OF SOUTH MILWAUKEE

TOM G. BITTERS
MUNICIPAL JUDGE

Ladies and Gentlemen:

Since most people are concerned or perhaps upset about appearing in court, I offer the following rules and procedures to help you understand how the court functions.

This court is not a criminal court and, therefore, many of the rules of criminal procedures do not apply. The court has jurisdiction over traffic and non-traffic ordinances in the City of South Milwaukee and county parks.

INITIAL APPEARANCE

You have a right to be represented by an attorney or you may go ahead without one. If you want an attorney, you must retain one at your own expense. The Court will not provide you with an attorney.

Unless a defendant deposits a stipulated amount and waives his right to trial prior to the date designated on the citation or complaint for initial court appearance, the defendant must appear. At the initial appearance the defendant will enter a plea. Only those cases where the defendant enters a Guilty or No Contest plea will be disposed of at the initial appearance. Where the defendant enters a Not Guilty plea, the case will be scheduled for trial at a later date. At the trial, the City Attorney will be present along with witnesses.

RIGHT TO JURY TRIAL

Any defendant, instead of submitting to the jurisdiction of this Court, may request a jury trial before the Milwaukee Circuit Court. However, a timely written request and payment of the required fees must be made within ten (10) days of the initial appearance to transfer the case.

COURT PROCEDURES

At the initial appearance when the Clerk calls your name, please respond with your plea. You must enter one of the following pleas: GUILTY, NO CONTEST, or NOT GUILTY.

If you plead GUILTY, it is an admission that the charges against you are true. I will then review the facts of the matter. You will be given an opportunity to tell me about the circumstances surrounding the charge. After that, I will make my judgment.

A plea of NO CONTEST, is similar to a plea of guilty and I will treat it the same as a guilty plea. By pleading No Contest you will be admitting the charge but will not be admitting your civil liability for use in other litigation, which should be expected where personal injury and property damage is involved. Where pleas of Guilty or No Contest are made, a money judgment (forfeiture) is entered.

If you plead NOT GUILTY, it means that you feel that the charge against you is not correct. If you are in doubt as to which plea to enter, I urge you to plead NOT GUILTY. Based on this plea, the City must prove your guilt by "clear and convincing evidence." In short, the facts proven by the City must indicate that it is highly probable that you committed the ordinance violation.

After all defendants on the docket have responded with their pleas, those pleading Not Guilty will then be given a trial date and released on bond. The remainder of the defendants, pleading Guilty or No Contest, will remain.

When your name is called, please advance promptly to a position in front of the bench. I will then inform you of the consequences of your plea of Guilty or No Contest; i.e., traffic demerit points, maximum forfeiture etc. I will give you an opportunity to make a statement explaining the incident. I will then review your past record, if any, and render my judgment.

PAYMENT OF JUDGMENTS (FORFEITURES)

Upon a finding of guilty, a money forfeiture plus costs may be imposed. Generally, judgment is paid to the City of South Milwaukee. The Court has no authority to order restitution for damage to persons or their property. Generally they are payable immediately, however, I may for good reason defer payment for a reasonable time. However, if you fail to pay your judgment and do not advise me as to reasons for non-payment, you may be committed to the House of Correction, or in traffic cases, your driver license shall be suspended for up to 6 months.

TRAFFIC ORDINANCE VIOLATIONS

If you are found guilty of a traffic offense, in addition to any judgment made by the Court, the State Department of Transportation in most cases will assess demerit points against your driving record, which may result in the suspension or revocation of your driver license. The assessment of 12 demerit points in one year, 18 points in two years and 24 points in three years shall result in the loss of your license. Any person holding a probationary license will be assessed double the customary number of demerit points for the second and all subsequent violations. Juveniles cited for traffic ordinance violations are subject to the same forfeitures and court procedures as adults.

JUVENILES

The Municipal Court also has jurisdiction over persons between 14 and 18 years of age charged with non-traffic ordinance violations. Juveniles have the same right with respect to pleas. In addition these JUVENILES must appear in Court with a parent or guardian. They have a right to a private (closed) hearing, but may waive this right. A money judgment may be entered against a juvenile found guilty of a non-traffic ordinance violation. Such judgments are less than those authorized for adults. If the Juvenile fails to pay the judgment, his/her driver license shall be suspended for up to 90 days. If the juvenile has no driver license, the State will not issue one to the Juvenile until the judgment is paid.

COURT CONDUCT

This is a court of law and the rules of proper decorum and evidence will be followed. Please remain quiet while the Court is in session and give others the courtesy to be heard and present their case. Smoking is prohibited in the courtroom. Persons who fail to conduct themselves in an orderly manner shall be cited for contempt.

The National Center recommends that the Municipal Judge's Manual includes a statement regarding a defendant's right to a hearing, and include a copy of the City of South Milwaukee defendant's rights hand-out and the Notice used in the City of Milwaukee. In response to question 27 of the survey, 44 judges indicated that they automatically make a determination of indigency before a defendant is incarcerated for non-payment of a penalty.

The Wisconsin Municipal Judge's Association might wish to consider the development of a proposed model defendant's rights pamphlet with assistance from the Director of State Courts Office.

RECOMMENDATION 13

THE JUDICIAL COUNCIL SHOULD STUDY THE ADVISIBILITY OF MUNICIPAL JUDGES BEING GIVEN THE AUTHORITY TO ORDER RESTITUTION OR PARTICIPATION IN WORK PROGRAMS FOR JUVENILE AND ADULT DEFENDANTS

Pursuant to state statute "(a) municipal court has exclusive jurisdiction over an action in which a municipality seeks to impose forfeitures for violation of municipal ordinances of the municipality which operates the court . . . If equitable relief is demanded, the municipal court does not have jurisdiction and the action must be brought in a court of record." See, § 755.045(1).

There presently is pending a bill in Wisconsin to empower municipal courts with the authority to grant injunctions and temporary restraining orders. See Appendix H. Project staff asked municipal judges during site visits whether they felt a need for such jurisdiction. Some indicated that it might be helpful. None of the judges volunteered any interest in such power. However, a number of judges did suggest that they felt they should be able to order restitution or assign juveniles to work programs. This same concern was noted in the survey responses. Twenty-four (24) judges felt they should be able to order restitution or assign work programs in non-traffic juvenile cases (13). In fact, 39 judges are already ordering restitution and 20 judges are assigning juveniles to work programs. Even though such sentencing alternatives are presently not authorized, it does appear as if municipal judges believe they should have this authority.

Municipal courts cannot legally order restitution or assign defendants to work programs without statutory authorization. Legislation has been introduced in the Wisconsin Senate that would grant municipal courts dispositional alternatives equal to those of circuit courts in ordering children who violate ordinances to participate in work programs or make restitution. See, SB 669. If municipal courts are going to be authorized to hear juvenile cases, they should be provided with the power to impose reasonable dispositional alternatives. Such alternatives may be equally appropriate for adult offenders.

Authorizing such sentencing alternatives would not present lay judges with additional complicated legal questions. Such authorization would merely make legal an existing practice. Such powers would allow the court to help a victim recoup damages and an indigent defendant work off a penalty. Since indigent defendants cannot be incarcerated for failure to pay a penalty, the use of work programs will assure that such a defendant will not totally avoid any liability for their actions. It may even be that some defendants participation in a work program will be rehabilitating and improve their work habits.

There are some additional factors or problems that should be considered before municipal courts are authorized to use these proposed sentencing alternatives.

If a municipal judge is authorized to assign indigent defendants to work programs, he/she should consult with their municipal attorney regarding possible liability that might result from an injury to a defendant while assigned to a work program. Should a judge's authority to order restitution be limited to the amount of penalty that can be assessed for the particular type of case? Is there an equal protection question because some defendants can pay a penalty and do not have to participate in a work program, or are persons with full-time jobs denied the opportunity to participate in such a program? Should defendants with more serious offenses (e.g., OWI cases) be given the opportunity to participate in a work program?

The advantages and disadvantages of these sentencing alternatives should be considered before municipal judges are authorized to use these equitable remedies. It may be that such sentencing alternatives should also be available for adult defendants. Certain limitations or guidelines may have to be developed before such alternatives are made available to municipal judges.

RECOMMENDATION 14

MUNICIPAL COURT JUDGES ASSIGNED TO HEAR CASES IN ANOTHER MUNICIPAL COURT SHOULD AT LEAST BE REIMBURSED FOR EXPENSES.

Most judges (124) believe that the right to substitute a judge should not be eliminated. Even with this absolute right, there were only 54 judges who had to hear a case for another judge.¹¹ With the exception of one (1) judge (who heard 614 cases), the remaining 53 judges substituted for other judges a total of 393 times in 1980. Some of these judges heard the case in their own court. Therefore, they had minimum additional expenses. However, five (5) judges indicated that such assignments were costly to their municipality. Other judges interviewed by project staff indicated that they absorbed any expenses associated with the assignment to help a colleague judge. Some municipalities have entered into local agreements with nearby municipal courts to pay the expenses associated with a judge assigned to hear a case in their court.

Some judges have suggested that the parties should travel to the new judge's court. This approach appears to place a burden on the party exercising a legal right. The only certain conclusion is that the assigned judge should not be required to absorb any expenses associated with an assignment. This type of expense should be provided for in municipal court budgets.

¹¹Supreme Court rule 70.24 (assignment of municipal judges) presently makes reference to repealed state statutes [i.e., 300.05, 300.06, 345.315, and 757.19(5)] and therefore, should be amended to cite the correct state statutes.

RECOMMENDATION 15

AN ADVISORY OPINION SHOULD BE REQUESTED FROM THE STATE ATTORNEY GENERALS OFFICE REGARDING THE LEGALITY OF A MUNICIPAL JUDGE ENTERING A DEFAULT JUDGMENT WHEN A DEFENDANT HAS NOT APPEARED BEFORE THE COURT OR FILED A DEPOSIT.

Municipal judges may enter a "default judgment" when a defendant has filed a deposit with the police or court, and there has been a plea of no contest or not guilty (and the defendant fails to appear for trial).¹² In these situations the judge may forfeit the deposit and enter a default judgment on the complaint or citation.

The survey revealed that at least 72 Municipal judges (22 attorneys and 50 non-attorneys) are entering default judgments when a defendant fails to appear even though, no deposit has been made by the defendant. See, survey question No. 23. Some of the judges may have included defaults for subsequent non-appearance after an initial appearance. In either case, default judgments are being entered where the defendant has not filed a deposit. Sixty-five (65) judges responding to this question indicated that they did not enter a default judgment when there had been no appearance or deposit. Most of the judges interviewed indicated that they would issue an arrest warrant when this situation occurred. Nevertheless, there appears to be confusion among municipal judges regarding the court's authority when a defendant has not filed a deposit with the court.

¹² See, Wisconsin Statutes §§ 800.04 (3)(b), 800.09(2)(a), and 800.09(2)(b) (except moving traffic violations.) See, § 345.37(2) regarding violations of traffic regulations.

With regard to non-moving violations, Municipal Court Procedure § 800.02(2)(a)(9) seems to infer that a municipal court can enter a default judgment when a "defendant does not make a deposit and fails to appear in court at the time fixed in the citation...." However, this section only describes the notice that must be included on the citations. Other sections in chapter 800 do not seem to authorize this practice. In traffic regulation violations § 345.37 provides in part that "If the defendant fails to appear in court at the time fixed on the citation... (and) (i)f he has not made a deposit under § 345.26 or a stipulation of no contest under § 345.27, the court may issue a warrant under chapter 968 "(explanation and emphasis provided). In traffic violation cases there appears to be no authority to enter a default judgment when there has been no appearance or deposit. Nevertheless, since a large number of municipal judges are in fact entering default judgments in these cases, it is recommended that an advisory opinion be requested from the State Attorney General's office.

RECOMMENDATION 16

DEPOSITS OR PENALTIES SHOULD NOT BE COLLECTED IN THE COURTROOM BY A JUDGE, CLERK, OR POLICE OFFICER.

Many courts (116) are collecting monies in the courtroom. The money is being collected by clerks (60), police officers (37), and judges (18). Such a practice may be practiced as a "convenience" to defendants or because of perceived problems with collecting these monies outside of the court. In some cases, the only person present is the judge. In other cases,

there is an employee in the courtroom and there is no other room available to collect the money.

Some courts have made arrangements for staff to use a portable cash box and collect monies in an area out of the view of the public. If necessary, this could be accomplished with a portable partition. For other judges, the only solution may be to ask defendants to wait until after a court session is finished. In small courts, the waiting time would be minimum because of the small case load. The collection of money in a courtroom may give the public the impression that the judge is only interested in collecting penalties, and in some cases a suspicion that the judge may be getting a fee or "pocketing" the money.

If money must be collected in the courtroom and there is any other employee in the courtroom, that person should collect the money and not the judge. Even in this situation the money should be collected as far away from the judge as possible.

It is the opinion of project staff that many of the existing situations could be improved with guidance and assistance from the Director of State Court Office. The Municipal Judges Association should also make every effort to discourage municipal judges from collecting monies in the courtroom.

E. Facilities, Records and Equipment

Municipalities must provide a judge with a courtroom. However, many existing courtrooms do not "promote the proper atmosphere of dignity and decorum for the operation of the court." One way to improve the quality of municipal courtroom is to educate judges and municipalities as to the minimum requirements of a courtroom. Chart 13 lists 10 minimum courtroom standards that should be found in all municipal courts.

In the area of forms and records practices, project staff has identified a number of areas the Director of State Courts Office could be of assistance to municipal courts. The Municipal Judges Manual does not provide samples or citations to all forms required or used in municipal courts. Judges attempting to design their own form need forms design guidelines. Existing financial recordkeeping practices in many small courts is unnecessarily time consuming. Many municipal judges have minimal control over court revenues collected by police agencies or municipal offices. Municipal courts do not know what records can be destroyed or when they can be destroyed. The following Center recommendations address these problems.

- Municipal courts should be provided with an expanded list of municipal court forms (with statutory or court rule citations) and copies of sample forms used in other courts.
- The Director of State Courts should design model forms for municipal courts and/or provide guidelines and training to municipal courts in forms design.

- Municipal courts with a caseload between 100 and 5,000 cases (not counting cases processed by police departments) should use a "one-write" peg board accounting system for all monies collected by the court.
- Municipal courts should monitor and review closely all financial records created by a police department when monies are collected by the police.
- The Director of State Courts Office should review the records retention schedule developed in the Wisconsin Circuit Court Records Project to determine which schedules could be made applicable to municipal courts.

Municipal courts have generally purchased required audio recording equipment to record sworn courtroom testimony. However, these courts have not been provided any guidelines to determine what equipment will best meet the needs of the court. Some courts have purchased equipment that does not monitor whether the proceedings have actually been recorded on the tape. A number of judges interviewed admitted that they knew the tape was inaudible. Finally, project staff found a number of courts storing court records in police garages, at home, or in stacked boxes. Both of these problems can be resolved if the following recommendations are implemented.

- Guidelines, standards and procedures should be developed for the purchase and use of electronic equipment for the recording of testimony taken under oath in municipal courts.
- Municipal courts with a large caseload or storage problem should use a fixed open-shelf filing system for storage of case files.

RECOMMENDATION 17

MINIMUM MUNICIPAL COURTROOM STANDARDS SHOULD BE DEVELOPED AND DISTRIBUTED TO MUNICIPAL COURT JUDGES.

"Every judge shall keep his or her office and hold court only in the municipal hall. . . or if no room is available in the municipal hall, the governing body may authorize him or her to temporarily keep office and hold court elsewhere in the municipality." See, § 755.09(1). State statute § 755.17 further provides that "(t)he courtroom for a municipal judge shall be provided by a municipality. The courtroom shall be in a public building if a suitable public building is available within the municipality. The courtroom shall be designed and furnished to create and promote the proper atmosphere of dignity and decorum for the operation of the court." Some courtrooms do not even meet these basic requirements.

Courtrooms range from sharing a desk with defendants in a community library (outside the police chief's office) to modern courtrooms in a separate courthouse. Two (2) judges hold court in their homes. Even with limited resources, there are minimum courtroom requirements that any municipality should be able to find. The following page (Chart 13) outlines the minimum design requirements of a municipal court room if it is to "create and promote the proper atmosphere of dignity and decorum.

.MINIMUM
MUNICIPAL COURTROOM STANDARDS

- There should be a separate table, desk, or bench for the judge (preferably raised).
- There should be separate entrances to the courtroom for the judge and the public.
- There should be a table and chairs for the prosecutor and defendant.
- There should be separate seating areas and chairs for the public.
- There should be a tape recorder microphone for the judge, and preferably a separate microphone for the prosecutor, defendant and witness.
- The courtroom should not be shared with other activities during court sessions.
- When court is in session, there should be a sign at the public entrance to the courtroom identifying the name of the court and judge.
- The tape recorder should be within reach of the judge if not being operated by a clerk or reporter.
- There should be a chair and microphone near the judge for any person giving sworn testimony.
- The courtrooms should be capable of being closed so the public cannot see or hear non-traffic juvenile court proceedings or hearings.

RECOMMENDATION 18

MUNICIPAL COURTS SHOULD MONITOR AND REVIEW CLOSELY ALL FINANCIAL RECORDS CREATED BY A POLICE DEPARTMENT WHEN MONIES ARE COLLECTED BY THE POLICE.

State statute § 800.10(4) (Municipal Court Procedures) provides,

All forfeitures, fees, penalty assessments and costs paid to a municipal court under a judgment before a municipal judge shall be paid to the municipal treasurer within 7 days after receipt of the money by a municipal judge or other court personnel. At the time of the payment, the municipal judge shall report to the municipal treasurer the title of the action, the offense for which a forfeiture was imposed and the total amount of the forfeiture, fees, penalty assessments and costs, if any.

When the court imposes and collects a penalty, most courts create and maintain their own financial records before they transfer the collected revenues to the municipal treasure.

The creation and maintenance of such fiscal records is not always under the direct control of the court when monies are paid in the police department of other municipal office. In 12 courts the police department maintains all bookkeeping records for the court. In 40 courts such records are maintained by a municipal officer such as the treasurer. In either case, the court is ultimately responsible for the proper collection of penalties or depositis ordered by the court. When this situation occurs, all of the judges interviewed stated they received and signed a summary or list of revenues received (for

their signature) before the monies were transferred to the municipality (except when collected originally in treasure's office). However, it should be noted that many of the judges interviewed indicated that they routinely signed the forms without reviewing them in any detail.

If the court does not review and monitor this process (and related records) closely, there is a chance that the court's record may not show that a defendant has paid a forfeiture or penalty, and the court might issue an arrest warrant. Guidelines should be developed for municipal courts to assure that such a situation does not occur. Where the court does not have a clerk the direct control over the recordkeeping process will have to be done by the judge. This does not mean that the fiscal records have to be created by the judge, only under his/her control.

These guidelines or warnings should be part of any judicial training program.

RECOMMENDATION 19

MUNICIPAL COURTS WITH A CASELOAD BETWEEN 100 AND 5,000 CASES (NOT COUNTING CASES PROCESSED BY POLICE DEPARTMENTS) SHOULD USE A "ONE-WRITE" PEG BOARD ACCOUNTING SYSTEM FOR ALL MONIES COLLECTED BY THE COURT.

The accounting systems observed by project staff involved the preparation of individual receipts, multiple ledgers, and deposit slips. The use of a "one-write" system similar to the one described in Appendix I by the National Center for State

Courts would generate all of these items in a single process using a multi-part peg board system. Such a system would make it easier for most municipal courts to maintain their own records while saving staff time and expenses.

RECOMMENDATION 20

GUIDELINES, STANDARDS AND PROCEDURES SHOULD BE DEVELOPED FOR THE PURCHASE AND USE OF ELECTRONIC EQUIPMENT FOR THE RECORDING OF TESTIMONY TAKEN UNDER OATH IN MUNICIPAL COURTS.

Although, municipal courts are not "courts of record," they must record testimony taken under oath "by electronic means for purpose of appeal."¹³ Since the enactment of this requirement in 1977, most courts have obtained some type of recording equipment and do in fact attempt to record sworn testimony during a trial (8 courts said they did not record trial proceedings). In addition, 31 courts indicated that they tape recorded initial appearances.

Requiring municipal courts to record testimony taken under oath was basically done to create a record that could be reviewed on appeal. However, this requirement does not assure that an appeal will be reviewed on the record, because both parties (or the circuit court's own motion) may, within 20 days after filing an appeal, request that a trial de novo without jury be held in circuit court. See, s. 800.14(4). Even with this option, 71 cases (out of 243 appeals in 1980) were reviewed on the record.

¹³ See, §. 800.13. See also § 800.14(5) which provides in part, "If there is no request or motion under sub. (4), an appeal shall be based upon a review of a transcript of the proceedings."

Why are more appeals not reviewed on the record? Eight (8) courts indicated that they do not use tape recorders and, therefore, their appeals could not be on the record. A number of municipal judges indicated to project staff that they know the tape recording is inaudible and a transcript could not be prepared for review on appeal. When an appeal is filed "the municipal attorney always requests a trial de novo." Some judges indicated they did not have staff to type the transcript. Even with staff, many courts would have difficulty locating the recorded case on the tape or be able to identify who was speaking. Other courts have indicated that they do not have funds in the court budget to pay for transcripts .

Without proper guidelines, standards, or procedures, appeals from municipal courts will continue to be heard over in circuit court. More cases would be appealed on the record if municipal courts have the right type of equipment and used proper procedures to create a transcribable record. Municipal courts are also going to have to be encouraged to request the necessary funds to cover the cost of preparing transcripts. This item should be listed in any letter sent to municipalities regarding the budgeting needs of municipal courts.

See, Appendix J, which is an article entitled Selecting Audio Equipment, from the Court's Equipment Analysis Project Report prepared by the National Center for State Courts. The article describes the type of audio equipment necessary to create an accurate record of court proceedings.

RECOMMENDATION 21

MUNICIPAL COURTS SHOULD BE PROVIDED WITH AN EXPANDED LIST OF MUNICIPAL COURT FORMS (WITH STATUTORY OR COURT RULE CITATIONS) AND COPIES OF SAMPLE FORMS USED IN OTHER COURTS.

The Director of State Courts Office of Judicial Education has recently prepared a Wisconsin Municipal Judges Manual that contains a comprehensive section on sample forms. These forms cover many of the records and forms requirements for municipal courts. However, these materials might be more useful if they were grouped in a topical sequence and provided references to statutes, court rules or case law mandating the use of the form or record. It also appears as if there are a number of additional forms or records (not contained in the manual) that should be considered for use by municipal courts.

The following list (Chart 14) outlines a format for listing required or recommended forms along with reference to some statutes, court rules and case law requiring such forms or records. See, Appendix J for samples of new forms (marked with an * on the chart).

RECOMMENDATION 22

THE DIRECTOR OF STATE COURTS OFFICE SHOULD DESIGN MODEL FORMS FOR MUNICIPAL COURTS AND/OR PROVIDE GUIDELINES AND TRAINING TO MUNICIPAL COURTS IN FORMS DESIGN.

Many of the forms or records used in municipal courts do not group information in a logical sequence or require clerks to insert (fill-in) information in many places on the form.

MUNICIPAL COURT FORMS AND RECORDS

NAME OF DOCUMENT	REQUIREMENT			Prepared by	For
	Statute	Court Rule	Caselaw		
<u>New Judge</u>					
Oath of Office	19.01			Judge	Circuit Court
Financial Statement	19.59				
<u>Commencing a Case</u>					
Traffic citation	800.02(2)			Police	Def., Court
Juvenile citation				Judge	Court
Complaint	800.02(3)			Complainant	Court
				or City Atty	
Order for deposit of bail				Court	
Personal Recognizance bond				Court	File
Subpoena (witness)*	885.01			Court	Witness
Summons*	800.02(4)			Court	Defendant
Warrant	800.02(5)			Court	
<u>Defendants Rights</u>					
Handouts*				Court	Defendant
Request to determine indigency				Defendant	Court
<u>Bonds</u>					
Schedule	345.26(2)(a)			Court	Defendant
Posting bond by card				Defendant	Police
<u>Pretrial Motions</u>					
Notice of motion				Atty/Def.	Court
Motion for discovery	800.07			Atty/Def.	Court
Motion allowing discovery and inspection	800.07			Judge	Defendant
Motion to dismiss		<u>State v. Williams</u>	<u>Barnes v. State</u>	Atty/Def.	Court
			<u>Wauwatosa v. Collect</u>		
Motion to dismiss (in limines)					
Request for transfer	345.315			Defendant	Court
Motion to exclude			<u>State v. Bander</u>		
Request for substitution of judge	800.05			Defendant	Court
Jury demand*	800.04(1)(d)			Defendant	Court
<u>Judgment</u>					
Judgment of conviction				Court	Court file
Writ of commitment				Court	Police
Adjudication of contempt of court	800.12			Court	Court file
Juvenile conviction				Court	Court file
Order remanding to Municipal Court				Circuit Court	Municipal Court
<u>Dockets</u>					
Sample docket	800.11			Court	Permanent record
<u>Appeals</u>					
Statement of transcript				Court	Circuit Court
Notice of appeal	800.14			Defendant	Court
<u>Department of Transportation</u> (MUD 3025)					
Order of issuance					
Temporary occupational operator's license					
Court order of revocation					
Court order of suspension					
Driver Control					
abbreviation codes					
Reporting form form for violations of laws					
regulating sale of liquor to persons under 18					
Request for certified records					
Request for forms					
Notice of unpaid judgment	345.47(1)(d)			Court	Dept. of Motor Vehicles
Notice of forfeiture paid					
<u>Accounting Forms</u>					
Procedures*					
One-write system					

With an improved forms design program, considerable clerical time could be saved in creating the record or locating information at a later date. See, Appendix L for a copy of a monograph report which provides a checklist of forms design techniques that could be used to develop model forms or train municipal judges.

RECOMMENDATION 23

MUNICIPAL COURTS WITH A LARGE CASELOAD OR STORAGE PROBLEM SHOULD USE A FIXED OPEN-SHELF FILING SYSTEM FOR STORAGE OF CASE FILES.

Thirty-seven (37) courts believe they have a storage problem with court records or files. Project staff did observe incidents where court files were stored in pull-out filing cabinets or in assorted type/size boxes (some merely stacked on top of each other). Some courts (51) do not store their records or files in the court. One judge stores such records at his home. Frequently, such records are stored in the police department (in one case they were stored in a corner of the police department garage).

Many municipal courts do not have an area that belongs to them exclusively. Nevertheless, these courts could and should have a filing/storage system and space. The most effective and low cost system is standard warehouse open steel shelving. Court records and files should be placed in standard-size storage boxes (15" x 12" x 10") and stored on the fixed shelving. See, Appendix M for a copy of a monograph describing such a system.

RECOMMENDATION 24

THE DIRECTOR OF STATE COURTS OFFICE SHOULD REVIEW THE RECORDS RETENTION SCHEDULE DEVELOPED IN THE WISCONSIN CIRCUIT COURT RECORDS PROJECT TO DETERMINE WHICH SCHEDULES COULD BE MADE APPLICABLE TO MUNICIPAL COURTS.

Few courts (25) responding to this survey presently destroy court records per a schedule. It is not known if some courts are destroying records without a schedule. It is more likely that most municipal courts are not destroying court records because they have a small case load and no storage space problem. Some of the courts interviewed indicated that they still have every case filed in the court (sometimes in a single cabinet or box).

However, for those courts presently destroying court records (or those that may in the future) it is important that such records be destroyed per an accurate retention schedule.

A proposed records retention schedule has been developed as part of the Wisconsin Circuit Court Records Project by the National Center for State Courts. Some of the records described in the schedule are also found in municipal courts. The proposed schedule should be reviewed to determine which schedules are applicable to municipal courts. If the circuit court schedule is revised for municipal courts, copies should be distributed as part of the Municipal Judge's Manual. See, Appendix N for a copy of the proposed circuit court schedule.

F. Municipal Ordinance Cases in Circuit Court

One of the major objectives of this study was the determination of the judicial and financial impact on circuit courts having to hear municipal ordinance violations cases where the municipality has not created a municipal court. The data necessary to make a workload analysis is collected by or available to WCIS. However, this statistical information is not reported in any output reports prepared by WCIS. This information also could not be collected by a study or survey of municipal courts.

Project staff's research did reveal a number of other ways that a circuit court may hear a municipal ordinance case. These situations result from request for jury trials, demands for equitable relief, request for judge substitutions (when no municipal judge is available), when there is an appeal from a municipal court, and when a local police agency or municipal attorney persuades a county prosecutor to file the case under state law in the circuit court. All of these situations do have a judicial and financial impact on circuit court. However, there is no data available to access the extent of this impact.

To accurately assess this impact (including situations where there is no local municipal court), the National Center recommends that the Director of State Courts Office should format WCIS output reports to reflect existing data regarding municipal ordinance violation caseloads and activity in circuit courts.

With additional circuit court interviews by district court administrators, data could also be collected regarding the financial impact and practices being used in each court to handle municipal cases.

If this information reveals a significant impact on circuit courts then there are a number of alternative approaches to reducing this impact including the following:

- Authorizing municipal courts equity jurisdiction
- Eliminating the right to jury trials in municipal courts
- Allowing municipal judges to hear jury trials
- Encouraging circuit courts to give scheduling priority to serious ordinance violation cases
- Eliminating de novo appeals
- Increasing the utilization of circuit court commissioners in the area of municipal ordinance violations

Each of these alternatives will require further analysis to determine the appropriateness of these approaches.

RECOMMENDATION 25

THE DIRECTOR OF STATE COURTS OFFICE SHOULD FORMAT WCIS OUTPUT REPORTS TO REFLECT EXISTING DATA REGARDING MUNICIPAL ORDINANCE VIOLATION CASELOADS AND ACTIVITY IN CIRCUIT COURTS

Municipalities in the State of Wisconsin may under various state statutes¹⁴ enact regulatory ordinances. However, they need not create a municipal court to hear violations of these ordinances. If a municipality does enact such ordinances and does not provide for a municipal court, ordinance violation cases are heard in the county circuit court. This additional court workload will vary between counties depending upon the existence of municipal courts, the population of the counties, and the number of municipalities enacting ordinances.

Even where a municipality has created a municipal court there are various situations where a circuit court will be required to hear a municipal ordinance violation case including the following situations.

- Request for Jury Trials

Municipal courts are not courts of record and may not hear jury trials. Therefore, when a defendant requests a jury trial, it must be transferred to the circuit court (a court of record). See, § 800.04(1)(d).

¹⁴ § 349.06(1) (Traffic Regulations); § 30.77 (Use and Operation of Boats); § 66.035 (Code of General Ordinances); § 66.051(1) (Gambling); § 66.051(3) (Disorderly Conduct and Unlawful Use of Telephones); § 66.052 (Offensive Industry).

- Equitable Relief

Municipal courts have no authority to grant equitable relief. If a municipality is seeking equitable relief, the case must be heard in circuit court. See, § 755.045(1).

- Request for Substitution of Judge

Every defendant in municipal court has an automatic right to request another judge (within seven (7) days after his/her initial appearance) to hear the case. See, § 800.05(3). Usually another municipal judge is assigned to hear the case. However, if a municipal judge is not available, the case could be assigned to a circuit court judge. See, § 751.03(2).

- Appeals

All appeals from municipal court decisions are heard by the circuit court. These appeals will be heard on the record unless there is a request (by either party) for the case to be heard de novo. See, § 800.14.

- County Prosecution

A city attorney or local police agency may request a county prosecutor to file a complaint in circuit court where the offense could also have been heard in municipal court.

- I. Impact Of Municipal Ordinance Violation Cases Being Heard In Circuit Court

Existing judicial activity annual statistics prepared by the Director of State Courts Office (WCIS) for the circuit court identify only the number of forfeiture cases filed or transferred into the court. The data does not distinguish between

state forfeiture or municipal ordinance violations. - Therefore, the specific number of municipal ordinance violations heard in circuit court (or how they came to the circuit court) is not presently identified in the state's annual report.

Revenue data from the recently completed Wisconsin Circuit Court Project, conducted by the National Center for State Courts, does reveal that in 1980 the circuit courts collected and transferred to municipalities \$5,099,995 from penalties assessed in municipal ordinance violation cases heard in circuit court. Circuit courts estimated this municipal revenue would increase to \$5,142,093 for 1981. See, Chart 15 below for detailed revenue figures for each county.

These figures do not distinguish between where there is or is not a municipal court. However, using an average penalty of \$50 per municipal ordinance violation case, it is estimated that circuit courts heard approximately 102,840 municipal ordinance violation cases in 1981. Although, circuit courts can assess, collect, and keep court costs for these cases, there is no statewide data available to determine if these costs are sufficient to cover the expenses incurred by circuit courts in hearing these cases.

A. Jury Trials

Survey Question 20 from the municipal court study asked judges to provide statistics regarding types of dispositions in

1980

1981

COUNTY *	COLLECTED BY COURT FOR			
	State	County	Municipal	Subtotal
Adams	51,181	144,533	21,380	217,094
Ashland	45,274	59,969	57,126	162,769
Barron	120,791	122,564	7,182	250,537
Bayfield	69,973	61,288	8,869	140,132
Brown	267,963	328,154	3,818	599,935
Buffalo	78,180	375,510	13,180	466,950
Burnett	43,648	35,147	4,551	83,346
Calumet	95,195	207,854	27,590	330,639
Chippewa	233,252	204,086	85,560	522,898
Clark	107,497	135,595	45,855	288,947
Columbia	253,337	26,809	95,850	635,996
Crawford	77,893	83,813	41,361	203,067
Dane	1,311,134	1,277,106	426,630	3,014,870
Dodge	196,309	250,055	152,519	598,883
Dor	87,925	67,521	12,597	168,053
Douglas	230,247	182,626	170,518	583,391
Dunn	301,104	222,591	63,125	586,820
Eau Claire	335,009	300,471	302,388	937,868
Flora	20,616	47,413	0	68,029
Fond Du Lac	347,885	517,526	264,631	1,129,042
Forest	50,225	37,413	7,212	94,850
Grant	271,424	97,107	86,058	454,589
Green	159,894	123,891	44,140	327,925
Green Lake	70,622	80,328	29,385	180,335
Iowa	85,430	236,202	25,553	347,185
Iron	35,528	42,425	25,460	103,413
Jackson	337,923	75,611	32,104	445,638
Jefferson	243,214	255,786	17,099	516,099
Juneau	286,730	161,046	33,165	480,941
Kenosha	494,293	1,470,333	6,505	1,971,131
Kewaunee	36,092	65,532	20,874	122,498
La Crosse	395,498	758,418	4,500	1,158,416
Lafayette	107,783	84,085	11,954	203,822
Lansdale	85,274	34,334	32,122	151,730
Lincoln	101,859	88,312	33,634	223,805
Manitowish	181,356	682,559	13,821	877,736
Marathon	257,529	1,086,141	72,382	1,416,052
Martinet	118,361	99,564	0	217,925
Mattquette	46,534	62,664	19,478	128,676
Menominee	1,576	34,014	0	35,590
Milwaukee	750,184	3,700,793	37,915	4,488,892
Monroe	335,825	333,933	0	669,808
Oconto	135,113	51,401	355	236,869
Ondaga	218,160	134,072	59,810	412,042
Ozaukee	392,742	167,386	40,268	600,396
Ozaukee	233,094	116,581	227,202	576,877
Pepin	31,613	179,778	11,193	222,584
Pierce	97,850	402,782	36,385	536,017
Polk	157,254	74,075	44,877	276,206
Portage	203,303	165,953	166,386	535,642
Price	91,126	83,250	9,948	184,324
Racine	523,413	2,281,666	128,917	2,933,996
Richland	76,654	79,207	5,637	161,498
Rock	651,691	432,798	229,851	1,314,340
Rush	65,072	47,294	26,512	138,878
Sank	464,992	535,456	43,412	1,043,860
Sawyer	62,848	23,993	4,178	91,019
Shawano	212,086	120,615	19,526	352,227
Shenoygan	307,624	293,509	302,838	904,971
St. Croix	294,689	615,691	31,059	941,439
Taylor	50,140	352,057	0	402,197
Trempealeau	71,306	132,734	22,122	226,162
Vernon	119,698	266,433	16,062	402,193
Vilas	77,371	429,259	5,353	512,083
Walworth	244,563	632,213	47,420	924,196
Washburn	80,115	0,844	7,775	88,734
Washington	230,791	364,247	163,811	758,849
Waushara	871,153	641,037	632,033	2,144,223
Waupaca	185,733	110,341	50,021	346,095
Waushara	60,148	91,411	24,754	176,313
Winnebago	350,646	73,211	345,278	769,135
(Total)	11,373,865	22,516,424	5,099,995	33,990,284

COUNTY *	COLLECTED BY COURT FOR			
	State	County	Municipal	Subtotal
Adams	54,600	144,570	21,400	220,570
Ashland	44,650	60,350	58,000	163,000
Barron	126,000	123,400	7,500	256,900
Bayfield	72,250	62,875	9,000	144,125
Brown	272,450	337,500	4,000	613,950
Buffalo	79,225	393,862	13,791	486,878
Burnett	45,550	35,075	4,500	85,125
Calumet	106,700	217,405	31,000	355,105
Chippewa	236,730	205,800	90,000	532,530
Clark	126,300	152,834	51,500	330,634
Columbia	256,500	257,500	100,000	614,000
Crawford	68,970	83,885	42,000	194,855
Dane	1,464,700	1,238,100	450,000	3,152,800
Dodge	186,000	248,500	140,000	574,500
Dor	94,000	71,250	12,000	177,250
Douglas	233,700	187,500	175,000	596,200
Dunn	307,600	227,900	64,000	599,500
Eau Claire	347,800	312,500	310,000	970,400
Flora	18,700	40,700	0	59,400
Fond Du Lac	347,885	516,222	264,631	1,128,738
Forest	51,704	39,418	7,500	98,622
Grant	281,305	101,500	90,000	472,805
Green	173,750	123,950	45,000	342,700
Green Lake	75,500	79,400	30,000	184,900
Iowa	94,125	260,118	28,100	382,343
Iron	24,750	35,450	20,000	80,200
Jackson	364,788	81,167	34,672	480,627
Jefferson	244,200	247,000	15,000	506,200
Juneau	317,103	190,012	32,311	539,426
Kenosha	583,950	1,602,000	7,500	2,193,450
Kewaunee	39,300	69,400	22,000	130,700
La Crosse	420,802	801,563	5,000	1,227,365
Lafayette	108,220	84,750	12,000	204,970
Lansdale	85,050	34,650	33,000	152,700
Lincoln	130,379	107,604	43,051	281,034
Manitowish	217,785	796,290	18,500	1,032,575
Marathon	262,275	1,106,950	73,000	1,442,225
Martinet	120,100	103,000	0	223,100
Mattquette	47,600	62,900	20,000	130,500
Menominee	1,585	34,125	0	35,710
Milwaukee	750,184	3,637,322	37,915	4,385,421
Monroe	366,532	368,148	0	734,680
Oconto	195,600	56,500	350	252,450
Ondaga	239,976	150,851	65,791	456,618
Ozaukee	390,950	173,500	42,000	606,450
Ozaukee	255,919	138,347	245,000	640,266
Pepin	34,244	190,167	11,753	236,164
Pierce	97,850	402,904	36,385	537,139
Polk	161,800	76,812	46,000	284,612
Portage	216,350	169,591	170,000	555,941
Price	85,288	91,425	10,543	187,256
Racine	528,525	1,345,300	128,000	2,001,825
Richland	86,475	80,775	6,000	173,250
Rock	651,691	477,254	205,850	1,334,795
Rush	62,100	49,150	27,500	138,750
Sank	471,000	528,450	44,000	1,043,450
Sawyer	65,000	25,000	5,000	95,000
Shawano	214,800	112,450	20,000	347,250
Shenoygan	362,850	301,625	307,500	971,975
St. Croix	295,400	644,500	30,000	969,900
Taylor	55,250	354,000	0	409,250
Trempealeau	67,287	144,635	23,891	235,813
Vernon	137,638	306,398	18,471	462,507
Vilas	82,950	437,900	5,400	526,250
Walworth	217,305	632,458	47,500	897,263
Washburn	84,020	7,500	8,555	99,075
Washington	254,600	392,200	180,000	826,800
Waushara	927,100	675,000	500,000	2,097,100
Waupaca	187,550	111,000	91,000	389,550
Waushara	65,300	95,000	25,000	185,300
Winnebago	419,047	78,375	414,333	911,755
(Total)	16,673,319	22,649,481	3,112,293	32,435,093

*Does not include Wood County.

their courts including requests for jury trials. Unfortunately, most municipal courts were unable to provide any estimates of types of dispositions. Nevertheless, it is a perception of judges, police officers, and city attorneys interviewed during project staff site visits that many defendants (or their attorneys) request jury trials so that the case has to be transferred to circuit court. It is also their opinion that most of these cases are never heard as jury trials.¹⁵ Local police officers interviewed by project staff also noted that they frequently found out when they appeared in circuit court that a jury trial had been adjourned or the case had been disposed of without a jury trial.

B. Equity Jurisdiction

The council of the City of Green Bay, has by resolution dated August 5, 1980, stated that, "a substantial amount of time and expense is incurred by a municipality attempting to enforce provisions of its Code of Ordinances, such as, housing code violations through issuance of citations in municipal courts and commencement of equitable actions such as injunctive relief in circuit courts" Project staff also raised this type of concern to judges, prosecutors, and city officials during their site visits. Most individuals interviewed did not of their own volition identify the municipal courts' lack of equity jurisdiction as a problem. When the specific question

¹⁵ The minutes from the September 9, 1981 Wisconsin Municipal Judges Association meeting include a statement that of the 2,000 jury trials requested in Milwaukee County, only 12 were actually heard as jury trials.

was posed, some suggested such jurisdictions might be helpful. However, no judge responding to the survey identified this situation as a problem.

C. Interviews with Circuit Court Judges and Staff

National Center staff did interview circuit court judges and staff from the counties of Adams, Douglas, and Marathon regarding the processing of municipal ordinance violations in their courts. Chart 16 below summarizes information and comments received during these interviews.

In general, these circuit courts seem to rely heavily upon "court officers" or designated representatives of the police department to line up municipal ordinance cases and assist in "flowing" them through court, whether a commissioner or judge had responsibility for hearing the case. Judges indicated that they spend very little time on such cases. The main impact of such cases appear to be the expenses for staff salaries.

2. Additional Information Regarding Impact on Circuit Courts

The Wisconsin Court Information System (WCIS) presently collects or has available most of the data that would be required to analyze accurately the judicial and non-judicial workload resulting from circuit court handling of municipal ordinance violation cases.

<u>Item</u>	<u>Adams</u>	<u>Douglas</u>	<u>Marathon</u>
• Municipalities without municipal courts	City of Adams	Superior	9 outlying municipalities
• Ordinance violation caseload in 1980	467	3,408	1,982
• Number of trials	Average 3 per month	Average 8 per month. Note: 6 are usually scheduled each week, but most settle.	Estimated 5% 8 per month
• Amount of judge time associated with these cases	2 hours/month 3-4 in summer	Commissioner - 3 hrs/month Judge - 25 minutes per trial	3-4 hours per month (25 minutes per trial)
• Circuit court staff and time to process these cases	1 2 days per month	2 2 days for one 1 day for the other: 3 days total	2 30-35% of each plus accounting 25% of one person
• Cost of employees	(10% of salary)	(15% of salary)	Unknown
• Costs collected by circuit court for municipal cases	\$5.00 per case \$2,335	\$5.00 per case \$17,040	\$5.00 per case \$12,165 includes bench warrants and jury fee
• Other observations	Municipal cases are a small portion of workload	City attorney commended for good conferencing procedure and telling clerk statues of each case. Douglas County has a municipal court-Solon Springs	Municipal courts in larger towns including Wausau Schofield, Rothchild

WCIS already collects from circuit courts information regarding municipal ordinance case dispositions for contested traffic and non-traffic cases, and non-contested non-traffic cases. Information regarding non-contested traffic cases is available to WCIS from tapes provided to them by the Department of Transportation (DOT). However, the dispositions from DOT is not extracted or integrated into the WCIS system. In addition, the information from the circuit court is not isolated or reported separately as municipal ordinance cases in their annual report. WCIS does maintain data by county regarding non-contested non-traffic municipal ordinance cases. Municipal ordinance workload is presently included with state forfeiture statistics in the Supreme Court's annual report.

With some data processing reprogramming, WCIS could isolate by county municipal ordinance cases (including the name of the municipality), types of municipal cases, and types of dispositions. For non-contested traffic cases, WCIS would have to sort the DOT tapes to identify these types of dispositions and develop a program to integrate this information into the WCIS. Additional programs would be required to report out the desired information.* The only information that would not be available from DOT or circuit court would be the number of municipal ordinance cases transferred to circuit as a result of a jury trial request. However, if Recommendation 9 of this report is implemented, municipal courts would report such requests in their statistical reports.

* The total WCIS programming cost would be approximately \$3,750. See Appendix P for an analysis from WCIS and possible report format.

The Director of State Courts Office may also want to consider having District Court Administrators review and document each circuit court's practices or procedures for handling municipal ordinance violation cases including estimates of the amount of time (by judge, commissioner, and court staff) involved in handling these matters. This type of analysis would identify the various approaches being used in circuit courts. This information may also isolate efficient techniques or practices that could be recommended to other circuit courts.

3. Alternative Approaches to Reducing Circuit Court Impact

If an analysis of WCIS data reveals that there is a significant impact on circuit courts from their handling of municipal ordinance cases, then the following approaches should be reviewed as possible means of reducing the judicial or financial impact on circuit courts from these types of cases.

A. Equity Jurisdiction

Legislation is pending in Wisconsin to amend § 755.045(1) to authorize equity jurisdiction to municipal courts. See, Appendix H for a copy of the proposed legislation. § 755.045(3) of the proposed amendment provides as follows:

"a governing body which has adopted an ordinance or bylaw under § 755.01(4) may by ordinance or bylaw authorize its municipal court to issue equitable orders prayed for by the municipality if the court finds such orders necessary to remedy a condition which constitutes a continuous violation of one or more ordinances of that municipality specified in the ordinance or bylaw. An ordinance or bylaw under this subsection may authorize a municipal court to impose a specific daily forfeiture as a remedial sanction for contemptuous disobedience of such equitable orders. The amount of the forfeiture specified in the ordinance or bylaw shall not exceed \$50 for each day the contempt of court continues."

If municipalities are given the power to authorize their municipal court to hear such cases, there is no information as to how many municipalities will pass such an ordinance. These types of cases will raise legal issues not previously dealt with by municipal judges. Some of these new legal issues could be dealt with in judicial training programs. However, some municipalities may believe that such issues require formal legal education and require their municipal judges to be attorneys. If this occurs, some municipalities may have difficulty finding attorneys wishing to become a municipal judge.

On the positive side, such equity jurisdiction may encourage municipalities to increase enforcement of these types of ordinances, prosecution may be cheaper in municipal courts, and the circuit court will have fewer of these types of cases to hear. Unfortunately, project staff were unable to find any information regarding which states authorize municipal courts to hear equity cases.

B. Jury Trials

Wisconsin and 14 other states (i.e., Alabama, Alaska, Delaware, Georgia, Hawaii, Kansas, Louisiana, New Hampshire, New Jersey, New Mexico, North Dakota, Pennsylvania, Rhode Island, and Tennessee) do not allow jury trials in municipal courts. There are, however, 18 states (i.e., California, Colorado, Florida, Indiana, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, Ohio, Oklahoma, Oregon, South Carolina, Texas, Washington, West Virginia, and Wyoming) that do allow municipal courts to hear jury trials. All of these states [except

California and Minnesota (new judges) authorize lay judges to conduct jury trials. The experience in these states should be reviewed to determine the appropriateness of allowing jury trials in Wisconsin municipal courts.

Other suggestions made by municipal judges include the elimination of the right to a jury trial in municipal courts, or requiring circuit courts to remand jury trial cases to the municipal court when there has been a waiver of the jury trial request. Eliminating the right to a jury trial would be a significant change in defendant's rights. However, requiring a circuit court to remand a case back to municipal court when there has been a waiver, would not involve the loss of any basic rights. Nevertheless, some circuit judges have indicated a reluctance to send such cases back to the municipal court when all parties are present in circuit court. However, it is possible that fewer of these situations would occur if defendants knew in advance that their case would be returned to the municipal court if they chose not to exercise their right to a jury trial.

Hon. Gerald Ames, President, Municipal Judges Association states that the Association believes very strongly that requests for jury trials in municipal courts is a serious problem. Municipal judges indicate that less than 1% of all jury trial requests result in jury trials in circuit court. Such requests are merely a technique designed to encourage delay or plea

bargaining. Many municipal judges also believe jury fees should not be refunded when the case is disposed of without a jury trial. In addition, Judge Ames notes that some circuit judges are remanding such cases back to municipal court when a request for jury trial has been waived. The Municipal Judges Association supports the above noted approaches as means of reducing misuses of the right to a jury trial.

C. Priority for OWI Cases

If it is true that many of the jury trial requests in municipal court are for the more serious types of cases like OWI, then the circuit court could give such cases scheduling priority among municipal court cases. Such an approach would reduce the possibility of a defendant using a jury trial request as a means to achieve a delay in the case.

D. Eliminate De Novo Appeals

Municipal courts are required to tape record all sworn testimony. One hundred forty two (142) of the 150 judges responding to question 36 of the survey indicated that such testimony was tape recorded in their court. Therefore, most municipal courts could presently prepare a transcript for an appeal and there would be no technical reason for a retrial of the case on appeal. The data from survey question 25 indicates that approximately 62% of municipal court appeals result in new trials in circuit court.

Twenty-two (22) states provide for a new trial when a case is appealed from a municipal court. Eleven (11) of these states do not provide for jury trials in the municipal court¹⁶ and 11 do authorize jury trials¹⁷. There are three (3) states (with right to jury trial) that require all appeals from municipal courts to be on the record (i.e., Hawaii, Louisiana, and New Jersey). An additional five (5) states (without right to jury trials) require all appeals from municipal courts to be on the record (i.e., Colorado, South Carolina, West Virginia, Florida, and Oregon).

¹⁶ Appeals de novo from municipal courts without right to jury trials include Alabama, Alaska (discretionary with Supreme Court), Delaware, Georgia (if over \$50), Kansas, New Hampshire (criminal only), New Mexico, North Dakota, Pennsylvania, Rhode Island (criminal only) and Tennessee.

¹⁷ Appeals de novo from municipal courts with right to jury trials include California (small claims cases only), Massachusetts, Minnesota, Nebraska, Nevada, Ohio, Oklahoma (in municipal court), Washington (not if there was a guilty plea), Wyoming and Texas.

E. Circuit Court Commissioners

Commissioners in Wisconsin circuit courts have full powers of a judge "at chambers" in all civil actions.¹⁸ In Douglas County Circuit Court the commissioner does assist in the processing and taking of pleas involving municipal ordinance violations. Although project staff have no other information regarding commissioners handling of municipal ordinance cases in other circuit courts, it is assumed that this practice does occur in other circuit courts. The only thing commissioners cannot do is hear a jury or non-jury trial.

There are six (6) other states that authorize para-judges to handle matters similar those the heard by Wisconsin circuit court commissioners (i.e., Arizona, California, Massachusetts, Minnesota, Virginia and Wyoming).

Five (5) states empower para-judges to hear and dispose of contested cases including Connecticut (with consensus of parties), Michigan (non-jury trials if authorized by the court), New Hampshire (only non-jury trials), North Carolina (misdemeanor

¹⁸ Under general direction of the chief judge, court commissioners perform a variety of judicial duties in either family, juvenile, probate, traffic or criminal cases to expedite case processing. Duties include conducting initial appearances and probable cause hearings, taking pleas, and imposing monetary penalties, issuing summonses, subpoenas, arrest and search warrants; conducting conciliation conferences or detention hearings, ordering the release of detention of children, hearing petitions for commitment, examining and reporting on issues of fact and conclusions of law; prepares recommendations and orders to be reviewed by the judge. Requires graduation from law school, admission to the Wisconsin Bar and experience as a practicing lawyer.

cases with maximum sentence of 30 days and/or \$50 fine), and South Carolina (civil matters authorized by court and consented to by all parties).

If circuit judges are hearing uncontested municipal ordinance violation cases, they could transfer these matters to a court commissioner to handle. If a sufficient number of municipal ordinance cases are being disposed of by trial (jury or non-jury) the Supreme Court may wish to further study the experience of the five (5) states that allow para-judges to hear contested cases. Either or both of these alternatives would reduce the time and cost of circuit court judges hearing these cases.

APPENDIX A
SURVEY QUESTIONNAIRE

DIRECTOR OF STATE COURTS OFFICE

1981

WISCONSIN MUNICIPAL COURT

SURVEY

NATIONAL CENTER FOR STATE COURTS

North Central Regional Office, 2601 American National Bank Building
St. Paul, Minnesota 55101



Supreme Court of Wisconsin

Director of State Courts

213 N.E. State Capitol

Madison, Wisconsin 53702

Bruce F. Beilfuss
Chief Justice

Telephone (608) 266-6828

J. Denis Moran
Director of State Courts

Dear Judge:

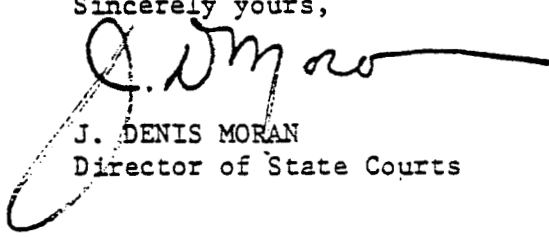
You may already be aware of the Municipal Courts Study Project being conducted by this office and the National Center for State Courts. As part of this study, we would like you to complete and return the enclosed questionnaire.

To carry out our functions -- judicial education, courts planning and research, information and advice for the courts and for the legislature -- we need reliable information about the Municipal Courts of Wisconsin. This study is the most comprehensive ever done on our municipal courts. It will not be repeated in the foreseeable future. Your cooperation now will provide information that will help to shape sound state policy for years to come.

Results from the study will be available to municipal judges and to all who are interested in municipal courts by early next year. We hope that you will be able to take the time to complete the enclosed questionnaire; complete and accurate results will ultimately benefit all the courts of Wisconsin.

Thanking you in advance for your cooperation, I am

Sincerely yours,


J. DENIS MORAN
Director of State Courts

JDM:nc

enc.

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IV. RECORDS MANAGEMENT	8
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GENERAL INSTRUCTIONS

- If you have any questions regarding this questionnaire, please call your District Court Administrator (see, attached list of Administrators), or Karen McKim, Court Operations Analyst at (608) 267-7336.
- Please answer all questions accurately. Your individual responses will not be included in the final report. No reference will be made to individual courts or judges.
- Some questions may require assistance from the police department or other municipal offices. Nevertheless, you are responsible for reviewing the completed questionnaire for accuracy before returning the survey.
- Responses to questions may be handwritten (if legible) or typed.
- If actual data or information is not known, provide best estimate.
- If a particular question does not fit your situation, record your best answer and explain in the margin. (An example might be the question regarding how often your court holds sessions each month. If you hold court on the average only every two or three months, record that answer in the margin.)
- Some questions will not apply to you (e.g., questions for judges who are attorneys). For these questions, write "N/A" (not applicable) next to the question number. This way we will know that you did not just miss answering the question.
- After you have completed the questionnaire, you may want to make a copy for yourself.
- Mail the completed questionnaire to your District Court Administrator in the enclosed self-addressed stamped envelope by Friday, September 25, 1981.
- Return only the questionnaire. Keep all cover materials and instructions.

DISTRICT COURT ADMINISTRATORS

DISTRICT I

Ronald Witkowiak
District Court Administrator
Room 500-A
Milwaukee County Courthouse
Milwaukee, Wi 53233
(414) 278-5113

DISTRICT II

Kathleen Murphy
District Court Administrator
Racine County Courthouse
Racine, Wi 53403
(414) 636-3133

DISTRICT III

Leone Isermann
District Court Administrator
Waukesha County Courthouse
Waukesha, Wi 53186
(414) 544-8235

DISTRICT IV

John Ferry
District Court Administrator
Manitowoc County Courthouse
Manitowoc, Wi 54220
(414) 682-8811 Ext. 10

DISTRICT V

Mary Kay Baum
District Court Administrator
Room 228D, City-County Bldg.
Madison, Wi 53709
(608) 267-8820

DISTRICT VI

Samuel Shelton
District Court Administrator
Dodge County Courthouse
Juneau, Wi 53039
(414) 386-4411 Ext. 246

DISTRICT VII

Steven Steadman
District Court Administrator
LaCrosse County Courthouse, Rm.1
LaCrosse, Wi 54601
(608) 785-9546

DISTRICT VIII

William Sucha
District Court Administrator
Brown County Courthouse
Green Bay, Wi, 54301
(414) 497-3915

DISTRICT IX

Norman Meyer
District Court Administrator
Marathon County Courthouse
Wausau, Wi 54401
(715) 842-0471 Ext. 280

DISTRICT X

Robert Frye
District Court Administrator
Suite 3
1102 Regis Court
Eau Claire, Wi, 54701
(715) 839-4826

1. Name _____
First Initial Last

2. Court Address _____

(Zip)

3. City / Village / Township _____
(Circle)

4. Sex F M _____
(Circle)

5. Age _____

6. Phone _____
Court () -
Home () -
Business () -

7. County _____

8. In what type of facility are court sessions held?

- (a) Courthouse (e) Your Home
- (b) Municipal Building (f) Your Place of Business
- (c) Police Building (g) Council Chambers
- (d) Firehouse (h) Other (specify) _____
-

(a) 1 Good

(b) Should be improved (Explain)

10. How many hours do you spend (in an average month) on the following municipal court activities? "Other" would include such things as working at home, attending training programs and performing administrative tasks.

- (a) "On the Bench"
(b) Other

TOTAL

	hours
	hours

11. When do you hold court and for how many hours?

When?

Hours?

•	_____	_____
•	_____	_____
•	_____	_____

12. If you have regular hours each week, list below when the court opens and closes for each day.

		DAY OF WEEK							
		S	M	T	W	TH	F	S	
(a)	Opens								TOTAL HOURS PER WEEK
(b)	Closes								

13. Do you provide defendants with information regarding the following items? (Check ☒ appropriate boxes)

	Not Provided	If yes, Check		Check	
		All that Apply Written	Orally	All that Apply Each Def.	As a Group
(a) Legal rights?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Court procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Wisconsin Point System?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Other? _____		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

14. Have your financial records ever been audited? YES ☐ NO ☐ If yes, by whom? _____ When? _____

15. Please indicate the total 1980 (actual) and 1981 (estimated) cost to operate the court. Include all expenses even if not in court budget. If amounts are not available for a type of expenditures, record best estimate.

TYPE OF EXPENSES	1980 ACTUAL		1981 ESTIMATE	
	COURT BUDGET	OTHER BUDGETS	COURT BUDGET	OTHER BUDGETS
(a) <u>All</u> salaries	\$	\$	\$	\$
(b) Operating Costs				
(c) Facilities				
(TOTAL)	\$	\$	\$	\$

16. List below the actual job title of each person doing court work under the appropriate general job title. In addition, list the average number of hours each person works for the court in a month. Then check how each person is funded. If the person is not paid, check "not paid". Finally, check the box at far right if that person is a relative or staff that also work for you privately.

JOB TITLES	Average Hours Per Month	CHECK ALL THAT APPLY				Check if Relative or Private Staff
		Court's Budget (Salary)	Police Budget (Salary)	Privately Funded	Not Paid	
(a) Clerk(s)						
(b) Bailiff(s)						
(c) Secretary						
TOTAL: Hours and checks✓						

17. Do you wear judicial robes while on the bench? YES ☐ NO ☐

18. Check (below) all the items that describe the court's or your involvement in the budget process.

- (a) ☐ Prepare the court's budget request
- (b) ☐ Discuss request with municipal staff
- (c) ☐ Present request to municipal governing body
- (d) ☐ Approve expenditures from budget
- (e) ☐ Maintain record of court expenditures

19. Please indicate below the amount of money collected in 1980 by the police department and/or the Court for each of the noted types of ordinance violations. After you have completed the first two columns, record in the last three columns how the monies were divided between penalty, assessment (12%) and cost. If the amount for each type of violation is not available, record only the total amount at the bottom of each column.

ORDINANCE VIOLATIONS	1980		TOTAL		
	COLLECTED BY POLICE DEPT	COLLECTED BY COURT	PENALTY	12%	COST
Traffic	\$	\$	\$	\$	\$
Non-Traffic					
Parking					
Juvenile (Non-Traf.)					
(Total)	\$	\$	\$	\$	\$

20. How often do the person(s) listed below handle arraignments and trial proceedings in your court?

	INITIAL APPEARANCE			TRIAL		
	Never	Sometimes	Always	Never	Sometimes	Always
MUNICIPAL ATTORNEY						
ASS'T MUNI. ATTORNEY						
OTHER ATTORNEY SPECIALLY EMPLOYED						
OTHER PERSON(S) SPECIFY TITLE, (below)						

21. What effect (if any) does the presence of defense counsel at court proceedings have on the operation of municipal court?

Explain: _____

CASELOAD

22. Record below the total number of cases disposed of during 1980 for each of the noted major types of cases. If actual figures are not available, provide best estimate.

TYPE OF CASES	1980 DISPOSITIONS						TOTAL
	FORFEI- TURE OF DEPOSIT	PLEA OF GUILTY OR NO CONTEST	DISMIS- SALS	TRIALS	JURY TRIAL REQUESTS (Cir. Ct.)	WARRANTS FOR NON- APPEARANCE	
TRAFFIC							
PARKING							
NON-TRAFFIC							
JUVENILE (Non-Traf)							
(TOTAL)							

23. Do you enter a default judgment when a defendant fails to appear if no deposit has been made with the court? YES ☐ NO ☐
24. Do you have any active cases over one (1) year old? YES ☐ NO ☐
If yes, why? _____
25. How many cases were appealed in 1980 to the circuit court? List below the number that were tried over (de novo) or reviewed on the record without a new trial.
- | Appeals | Number |
|------------------------|----------------------|
| (a) Tried over | <input type="text"/> |
| (b) Reviewed on record | <input type="text"/> |
| (TOTAL) | <input type="text"/> |
26. Does your court use a uniform deposit schedule for:
- | | | |
|-------------------|--|--|
| Traffic cases | YES <input type="checkbox"/> NO <input type="checkbox"/> | If yes, State schedule? YES <input type="checkbox"/> NO <input type="checkbox"/> |
| Non-traffic cases | YES <input type="checkbox"/> NO <input type="checkbox"/> | Approved by governing body? YES <input type="checkbox"/> NO <input type="checkbox"/> |
27. If a person is unable to pay a penalty, do you determine if the party is indigent?
- YES ☐ NO ☐ If yes, automatically? ☐, or
Only when the party says they are unable to pay? ☐
28. Do you give credit for time spent in jail toward payment of a penalty?
- YES ☐ NO ☐
29. Do you give credit for time spent in jail before a conviction toward jail time if a person cannot pay a penalty?
- YES ☐ NO ☐

30. List below how court funds are collected and processed.

Who Collects...

Police

Court

Both

Other

o Deposits when citations issued? ☐ ☐ ☐ ☐ _____

o Stipulations? ☐ ☐ ☐ ☐ _____

o Penalties at court appearance? ☐ ☐ ☐ ☐ _____

Who Deposits...

o Deposits? ☐ ☐ ☐ ☐ _____

o Stipulations? ☐ ☐ ☐ ☐ _____

o Penalties? ☐ ☐ ☐ ☐ _____

In Whose Account Is
Cash Deposited?

☐ ☐ ☐ ☐ _____

Who Maintains
Bookkeeping Records?

☐ ☐ ☐ ☐ _____

Are Monies Collected
In the Courtroom?

YES ☐ NO ☐

o If yes, by whom? Clerk ☐ Judge ☐ Police Officer ☐

31. The following three (3) questions pertain to judge substitutions requested by a party (not because of a vacation, illness, or absence of a judge).

(a) How many times in 1980 did you substitute for another municipal judge? _____

(b) Have these assignments created a problem for your court or

municipality? YES ☐ NO ☐ Explain: _____

(c) Should judge substitutions be eliminated? YES ☐ NO ☐
Why? _____

32. Are there any locally imposed limitations on the municipal court's jurisdiction?

(a) YES ☐ NO ☐

(b) If yes, what are the limitations? _____

(c) If there are limitations, should they be eliminated?

YES ☐ NO ☐ Why? _____

33. What type of sentencing alternatives have you employed in dealing with juveniles? Check each alternative that you have used and to the right record the percent of times you have used each alternative.

TYPE OF DISPOSITIONS

PERCENT OF TIME

☐ Counsel child, parent or guardian

☐ Impose (up to) \$25 forfeiture

☐ Restitution ordered

☐ Assign to work program

☐ Other _____

	%
	%
	%
	%
	%

IF JUVENILE FAILS TO PAY:

☐ Finding of ability to pay

☐ Adjourn payment up to 12 months

☐ Suspend driver's license

☐ Suspend hunting license

☐ Suspend fishing license

☐ Other _____

	%
	%
	%
	%
	%
	%

34. What statutory changes (if any) would you recommend in the juvenile law as it relates to municipal courts? _____

35. What other aids (if any), educational or otherwise, would you recommend be made available to municipal judges to help in handling juvenile cases? _____

RECORDS MANAGEMENT

36. Are arraignments and trials tape recorded? (check ☒ appropriate boxes)

(a) Initial appearance YES ☐ NO ☐

(b) Trials YES ☐ NO ☐

37. Does your court regularly record all required information specified in state statute 800.11 (see attached copy of statute) relating to:

(a) Dockets YES ☐ NO ☐

(b) Judgments YES ☐ NO ☐

(c) Are they combined YES ☐ NO ☐
into one form?

38. Should there be statewide uniform standards and procedures for keeping municipal court records? YES ☐ NO ☐

39. Are your court records/files...

(a) A storage problem? YES ☐ NO ☐

(b) Stored in court facilities? YES ☐ NO ☐

(c) Destroyed per a schedule? YES ☐ NO ☐

(d) Microfilmed? YES ☐ NO ☐

(e) Destroyed after microfilming? YES ☐ NO ☐

40. Does your court use any forms that you believe would be a good model for other municipal courts? YES ☐ NO ☐ (If yes, attach copy.)

41. Please describe any major improvements you would like to see in municipal court recordkeeping procedures or practices.
Describe: _____

42. List below the name and address of persons or companies from whom you purchase forms for the court.

Name

Address

• _____
• _____
• _____
• _____

LEGAL RESOURCES AND TRAINING

43. Check or list below which legal materials are available to you and where they are located.

LEGAL MATERIALS:

- ☐ Wisconsin Statutes
- ☐ Municipal Ordinances
- ☐ State Digests
- ☐ Legal Dictionary
- ☐ Wisconsin Law Review
- ☐ Wisconsin Case Reporters
- ☐ Attorney General Opinions
- ☐ State Motor Vehicle Code
- ☐ State Bar Journal
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

[illegible]

44. List any legal materials or resources you do not presently have access to and believe are important to the operation of the municipal court, if any.

- _____
- _____
- _____
- _____
- _____
- _____

45. List below any training programs you have attended in the last five (5) years that relate to your duties as a municipal judge.

TRAINING PROGRAM	YEAR	PRESENTED BY				
		STATE BAR	SUPREME COURT	MUNI. JUDGES ASSN.	COLLEGE OR UNIV.	OTHER

46. If you have become a judge within the last five (5) years, how soon after you became a judge did you attend your first judge training program? _____

47. List any manuals you find useful to you as a municipal judge.

DESCRIPTION OF MATERIAL/MANUAL	PREPARED BY

BACKGROUND INFORMATION

49. Check below the highest level of education completed.

GRADUATED FROM: (check one)

- ☐ Grade School
- ☐ High School
- ☐ College/Trade School
- ☐ Graduate School
- ☐ Law School

CIRCLE YEARS COMPLETED IF DID NOT GRADUATE		
1	2	3
1	2	3
1	2	3
1	2	3

50. List specialized degrees or training.

- o _____
- o _____
- o _____

51. IF YOU ARE A PART-TIME MUNICIPAL JUDGE, list other occupations/employment.

(a) Occupation: _____

(b) Employed with: _____

52. IF YOU ARE LICENSED TO PRACTICE LAW IN WISCONSIN, answer the following questions.

(a) Does your municipality require a judge to be an attorney?

YES ☐ NO ☐

(b) Do you practice law?

YES ☐ NO ☐

(c) In what ways do you limit your practice to avoid potential conflicts of interest? Explain: _____

53. Please check the appropriate answers to the following questions regarding your position as a municipal judge.

(a) How did you first become a judge? _____ Appointed _____ Elected

(b) How long have you been a judge? _____ Years

(c) How many times have you been elected? _____

(d) How long is your current term? _____ Years

(e) When does your current term expire? _____, 19 _____

54. List any other elective or appointed public office you have held or presently hold and when.

	Dates	
• _____	_____, 19__	to _____, 19__
• _____	_____, 19__	to _____, 19__
• _____	_____, 19__	to _____, 19__

55. List the last three (3) jobs (not present occupation or positions listed in question 51).

	Dates	
• _____	_____, 19__	to _____, 19__
• _____	_____, 19__	to _____, 19__
• _____	_____, 19__	to _____, 19__

56. What is your current annual judicial salary? \$ _____

PROBLEM AREAS

57. Rank below the five (5) most serious problem areas (in your opinion). List any additional areas not listed that would be among the five (5) most serious areas. Rank the five (5) areas from 1 - 5 with one (1) the most serious.

Rank:

<input type="checkbox"/>	Office Management
<input type="checkbox"/>	Conducting a trial
<input type="checkbox"/>	Relationships with police
<input type="checkbox"/>	OWI cases
<input type="checkbox"/>	Defendant's rights
<input type="checkbox"/>	Court Decorum
<input type="checkbox"/>	Judicial Ethics

Rank:

<input type="checkbox"/>	Rules of Evidence
<input type="checkbox"/>	Sentencing
<input type="checkbox"/>	Juvenile (non-traffic) cases
<input type="checkbox"/>	Traffic cases
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____
<input type="checkbox"/>	_____

58. From the above ranked problem areas, identify the top three areas of your concerns, (ranked 1, 2 and 3) and then discuss below the precise problem, potential remedies, and other insights regarding the problem.

Ranked	Problem and Proposed Solution
1	
2	
3	

59. Given your knowledge of municipal court and municipal judges, what personal characteristics or qualities do you feel judges need to improve on most? _____

60. List below any statutes or court rule requirements which could be changed to improve the operation of the municipal courts.

	Citation	Problem and Proposed Change
STATUTES		
COURT RULES		

(THANK YOU FOR COMPLETING THIS QUESTIONNAIRE)

APPENDIX B

RESULTS OF 1980 JUDICIAL EDUCATION OFFICE SURVEY

MUNICIPAL JUDGES SURVEY

Preliminary Report

A total of 128 completed surveys have been returned and tabulated. Not every municipal judge answered every question on the survey, but no question reported here had a sufficiently low number of responses to render it completely unrepresentative.

Municipal judges are overwhelmingly male (93%), their ages ranging from 30 to 79. The average age of a municipal judge is 55 years, with 15% being 65 or older. They have a wide range of occupations, including farmer, housewife, cheese maker, and insurance agent. About one-third of them are attorneys (36%), either active or retired. The attorneys usually have a general practice (81%), with the average length of practice 20 years. Municipal judges as a group have a wide range of educational backgrounds. While the lawyers have had an extensive education, only another 8% of the responding municipal judges have had post-graduate training. An additional one-fifth (20%) of the responding judges have had some college or are college graduates. Thirty-three percent have a high school education and 2% have an elementary education only.

The average length of service as a municipal judge is 8 years. Some municipal judges had been newly elected when they returned their questionnaires. The longest tenure mentioned was 38 years on the bench. Municipal judges are most likely to receive a salary of between \$900 and \$2500 per year (38%). Two percent receive no compensation at all, 10% receive between \$50 and \$300, and 22% get between \$300 and \$900. Judges in large urban areas with large caseloads cited higher salaries. They make up most of the 24% who receive more than \$2500 and the 6% who receive more than \$10,000.

Most municipal judges hold court at least two to three times a month. (Thirty-seven percent said 2-3 times per month, 33% said once a week, and 10% hold court more often than once a week.) Five percent of the judges responding to the survey said they never hold court, hold court less than once a year, or hold court only occasionally when necessary. It is probable, certainly, that most judges who are completely inactive did not bother to return the

questionnaire. Several inactive judges who did return their surveys wrote that their municipalities had never passed ordinances or created any law enforcement system.

The caseload of municipal judges ranges from 2 to 45,000 cases per year. The median* number of cases is 535. There was a problem in this survey question, however, in that it was not clear whether the response to the question should include parking tickets for which people never came before the court or should include only appearances. It was apparent from the responses that the question was interpreted both ways. Data on caseload is also distorted by the fact that judges holding court infrequently did not answer the caseload question.

The question about the proportion of non-convictions elicited a range of responses from 0% to 55% non-convictions. The mean non-conviction rate was 10%. Only a minority of municipal judges (17%) said that they always convicted, and many of these had very small caseloads. (A judge with a natural non-conviction rate of, say, 5% who sees only a few cases per year might not have served long enough to have seen someone he/she would see fit to not convict.) Judges responding to the survey indicated that charges are amended in their courts an average of 10% of the time, with the municipality moving for the amendment in about half these cases. Other moving parties cited were police (27%), the court/judge (11%), the defense (9%), and both attorneys (4%).

Most municipal judges do not distribute a hand-out in court (67%), although a small number (3%) distribute an information sheet at the time of arrest. Judges overwhelmingly use the Uniform Traffic Schedule. (Only 2% do not.) A large majority also use a non-traffic schedule which has been passed by the municipality (74%). A small number (8%) use a non-traffic schedule which has not been passed by the municipality, and 19% do not use a uniform non-traffic schedule.

The vast majority of municipalities (92%) have a municipal attorney. The remainder either use police as prosecutors in court (4%) or do not use prosecutors at all (3%). Of the courts who have prosecutors, 26% have them in court all the time or most of the time,

* The median is a more representative statistic than the more frequently cited mean, or average, as it is not artificially inflated by large scores.

while most use them only occasionally (7%) or only for trials (60%). A small number of municipalities who have municipal attorneys never use them in the municipal court (8%). There was a wide range of answers to the question about defense attorneys: in some courts there is never a defense attorney, while in others there would be defense counsel 80% of the time. The mean percentage of cases represented by a defense attorney was 11%.

About half the municipal courts employ some personnel, if only for several hours a week. A good number of municipal judges (47%), however, must do all the clerical work themselves or rely on occasional help from other municipal employees, their personal secretaries, or their wives. Most judges said that they tape-record at least their trials, but 22% made no mention of any audio recording equipment. The vast majority of courts are held in a municipal building of some kind (92%). Other locations mentioned include the public library, the fire house meeting room, and the police department (where no mention was made of whether this was within a municipal hall). One person said he held court at home.

On the issue of dress, the vote was against wearing robes. It is noteworthy, though, that more municipal judges thought that they and their colleagues should wear robes (37%) than the number indicating that they themselves wore robes (19%). The reasons given against robes were most often variations on the theme that robes would be ridiculous or pretentious in a small town.

The numbers in the spaces are means (averages). Where the question demands a yes/no answer, "yes" is implied and the percentage of "yes" responses given.

MUNICIPAL JUDGES QUESTIONNAIRE

Personal Profile

1. Name _____ 2. Address _____
3. Phone: Home _____
Work _____ 4. Age 55 5. Sex 93% male

6. Municipality _____ 7. Population of municipality _____

8. Occupation 36% attorney (including retired attorneys)

If you are an attorney, please indicate type of practice and length of practice:

general practice (81%); average length of practice 20 years

9. Educational background 36% law degree; 8% other post-graduate education;
20% some college or college degree; 33% high school; 2% elementary.

10. How long have you served as a Municipal Judge? 8 years (range 0-38 years)

11. Have you held any other elective offices? 26% If yes, please list: _____

village/town trustee, city council or village board, alderman
school board.

12. Have you held any non-elective governmental positions? 23% If yes, please list: _____

usually various municipal commissions or boards

13. Have you had any previous law enforcement experience, such as police or prosecutorial work? 27% If yes, please list: usually legal positions (like district attorney)

or police positions (regular, auxiliary, military)

Court Administration

1. How long is your term of office? 2 years (89%) (range: 1 year - 4 years)
2. When does your current term expire? _____
3. What was the level of compensation for Municipal Judge during the last term? usually \$900 - \$2500
4. How often do you hold court? 43% once/week or more: 37% 2-3/ month
5. During what hours and on which days of the week do you hold court?
 Hours usually evenings Days Wednesday & Monday most common days
6. Do you ever hold court in addition to the regularly scheduled days and hours? 82%
 If yes, approximately how frequently and under what circumstances do you hold special sessions? either to accomodate to defendants' schedules or for jailed defendants.
7. How much time per week do you spend on Municipal Court duties outside the courtroom?
 1-3 hours 56% 3-6 hours 25% 6-9 hours 8% 10 or more hours 11%
8. What percentage of your annual caseload in each of the areas listed below is disposed of via forfeitures of deposit, appearances by the defendant to plead guilty or no contest and trial?

TRAFFIC

	Speeding	OWI	Parking	Other
Forfeitures of deposit	<u>68 %</u>	<u>10 %</u>	<u>80 %</u>	<u>56 %</u>
Appearance: guilty or no contest plea	<u>29 %</u>	<u>72 %</u>	<u>16 %</u>	<u>31 %</u>
Trials	<u>3 %</u>	<u>18 %</u>	<u>4 %</u>	<u>13 %</u>
	<u>100 %</u>	<u>100 %</u>	<u>100 %</u>	<u>100 %</u>

NON-TRAFFIC

	Juvenile	Other
Forfeitures of deposit	<u>38 %</u>	<u>47 %</u>
Appearances: guilty or no contest plea	<u>58 %</u>	<u>42 %</u>
Trials	<u>4 %</u>	<u>11 %</u>
	<u>100 %</u>	<u>100 %</u>

9. During calendar year 1979, approximately how many cases were disposed of by your court?

Total: 535 (median) Traffic 78% Other 12%

Note: This question did not make clear whether non-appearances were included

10. Please estimate the percentages of all your 1979 traffic cases which were in the following areas:

Parking	<u>10</u> %
Speeding	<u>51</u> %
OWI	<u>6</u> %
Other	<u>24</u> %
	<u>100</u> %

11. Please estimate the percentages of all your 1979 non-traffic cases which were in the following areas:

Disorderly conduct/disturbing the peace	<u>47</u> %
Shoplifting	<u>7</u> %
Dog offenses	<u>13</u> %
Zoning/Building Code violations	<u>1</u> %
Boating	<u>4</u> %
Other (snowmobiling offenses frequently mentioned)	<u>28</u> %
	<u>100</u> %

12. During 1979, approximately how many juvenile cases did your court handle?

Small number of responses to this question: results not interpretable.

Traffic _____ Non-traffic _____

What types of sentencing alternatives have you employed in dealing with juveniles?

Besides the S25 forfeiture and suspension of driver's license for failure to pay, respondents mentioned suspension of other Wis. licenses, hold open for review, Traffic Safety School, work programs and restitution

13. Please estimate the percentage of trials in 1979 in which the defendant was not convicted. 10 % (mean) range: 0 - 55 %
14. Please estimate the percentage of cases during 1979 in which the original charge was amended. mean 10 % When charges are amended, who most frequently moves for the amendment? 49% municipality; 27% police; 11% judge; 9% defense.
15. Do you distribute an instructional handout to defendants at the time of arraignment? 29%
If yes, please enclose a copy of your handout with the completed survey.
An additional 3% distribute a hand-out at the time of arrest.
16. Is the uniform deposit schedule used in your jurisdiction for traffic cases? 98%
Do you use a similar uniform deposit schedule for non-traffic cases? 82%
Has your municipality adopted a uniform deposit schedule for non-traffic cases? 74%
17. On what do you base your decision when referring a person convicted of OWI for a rehabilitation plan? drinking and/or driving history; recommendation of other agencies; blood alcohol level; defendant's attitude; explanation of incident; other knowledge of defendant. Some
municipal judges always send to Group Dynamics or assessment.
18. Who acts as prosecutor in your court? municipal attorney (92%)
19. How frequently does the prosecutor appear in your court on behalf of the municipality?
In all cases 23% In over half the cases 3% Occasionally 7%
In trials only 60% Never 8% Note: The foregoing percentages include only those municipalities which employ a municipal attorney.
20. Please estimate the percentage of cases in which the defendant is represented by counsel. 11 %

21. Does the Municipal Court employ additional personnel such as clerks, bailiffs, and secretaries? 53%

If yes, please list the employees, their duties and the approximate number of hours they spend per week on Municipal Court duties. Also, please indicate if these employees work for another municipal agency as well.

If no additional personnel are employed, who does the Municipal Court's clerical work?

Municipal judges without clerical help indicated that they did all
the clerical work themselves or made use of their wives, personal
secretaries or employees from related services (such as police)

22. How are your proceedings recorded? 78% tape-record at least trials

23. In what type of facility is the Municipal Court located? 92% indicated some kind
of municipal building. Other responses: public library, fire house,
police department.

24. Do you feel Municipal Judges should wear judicial robes when conducting court? 37% yes

Do you? 19% no If you feel judicial robes should not be worn, what type of dress
standards do you think should be maintained? coat and tie, neat/conservative

Please give reasons for your responses to the above questions: _____

Pro-robe judges thought robes indicated distinction and commanded respect.

Anti-robe judges thought that robes were pretentious in a small town.

Educational and Informational Needs

1. If you encounter problems or questions regarding your work as a Municipal Judge, where do you go for the needed information and/or solution? Please be as specific as possible, listing individuals, books, manuals or other resources you have found to be useful sources of information.

State statutes. municipal ordinances. manuals from conferences (materials)
(people)
Circuit court judges. district or municipal attorney. municipal judges..
Municipal Judges Association. Motor Vehicle Department (organizations)

2. Do you have access to a current copy of the Wisconsin Statutes? 93% current copy
3% outdated copy
3. Within the following broad topics please indicate those specific areas which you feel present the major problems for Municipal Judges. After listing the problems, please go back over your list and use a numerical scale to indicate the importance or seriousness of each problem. Please place a number in parentheses, with (1) indicating the least and (5) the most serious problems from your perspective.

Traffic: Elements to establish cases; possible defenses; radar validity;
points; defendants who do not appear; problems in police duties.

OWI: Hearing a case (evidence, possible defenses, handling of amendments to
original charge); disposition (especially difficulty in use of Group Dynamics & assessment;

Juvenile: Limited sentencing alternatives; enforcing judgment; difficulty in
getting parents into court; need more knowledge of laws pertaining to juveniles.

Other ordinance violations: Problems between neighbors; difficulty in getting people
into court; difficulty in enforcing judgment; poorly constructed ordinances.

Sentencing: How to make use of the range of allowed forfeiture; when to incarcerate;
how to make a judgment of indigency; lack of authority to order restitution.

Rules of evidence: Guidelines needed; how to handle unrepresented defendants.
how to handle attorneys trying to buffalo the judge and the opposition; hearsay rule.

Defendants' rights: What specific rights apply in municipal court; protecting
defendant against police/prosecutor; handling self-incrimination; protecting
mentally incapacitated people.

Court decorum and judicial ethics: Promoting dignity without intimidating
defendants; location of courtroom; knowing many defendants; handling contempt.

Relationship with law enforcement personnel: Maintaining separation of powers between
judge and police dept.; how to be fair to defendant without offending officers.

Conducting a trial: Need for outline or dramatization of proper procedure; how
to handle unrepresented defendants; relationship with prosecutor

Office management: How to maintain proper records; record-keeping is too time-
consuming; insufficient personnel and/or facilities; uniformity of records.

Any other topics you think should be discussed at an Orientation and Review Institute
for Municipal Judges: Review of statutes affecting municipal court; community
attitude toward municipal court; transfer to another judge; appeals & transcripts.

4. What types of educational and informational tools or resources would best meet your
needs? Periodic report of changes in statutes which affect municipal court;
manual; guide to state statutes; guidelines for municipal ordinances; seminars.

5. What characteristics and personal qualities do you feel an individual should possess
in order to effectively serve as a Municipal Judge? Largest group of qualities was
characterological (impartial, honest, etc); next largest was attitude toward
people (willing to listen, respect for others, etc); knowledge and work qualities
also named.

6. Have you ever participated in a formal educational program for Municipal Judges? 68%

If yes, please list the program(s) and year(s): _____

Thank you for your cooperation.

APPENDIX C

NON-ATTORNEY JUSTICE IN THE UNITED STATES:

AN EMPIRICAL STUDY (Conclusions and Recommendations)

Non-Attorney Justice in the United States: An Empirical Study (1979),
by Institute of Judicial Administration and National Center for State
Courts.

Conclusions and Recommendations.

1. Lay judges in many communities make possible the settling of disputes within the community without the need for extensive travel by the litigants and without requiring adjudication by attorney judges outside the community.
2. Lay judge jurisdictional authority should be affected by population density, fiscal base, and attorney availability.
3. The criminal jurisdiction of lay judges should be narrowly defined to ensure that legal rights of defendants are within the control of attorney judges whenever possible. Restrictions on the jurisdiction of lay judges should be measured both in terms of the punishment which may be imposed and the complexity of the issues which are likely to arise. Offenses which carry limited fines and minimal prison sentences are a class of cases which can be committed to lay courts. Traffic offenses and ordinance violations are likely to fall within that category and are appropriate cases for lay jurisdiction. Misdemeanors, particularly when uncontested, can also be entrusted to lay judges if procedures safeguarding guilty pleas are instituted. Jury trial cases should be excluded from lay judge jurisdiction.

4. Lay judges should continue to handle such preliminary matters as arraignments, bail hearings, and probation hearings. More complicated matters, which may involve the application of legal standards, such as holding preliminary hearings in felony cases or issuing search and arrest warrants or writs of habeas corpus, should be a lay judge concurrent with that of an attorney judge on such matters would be desirable.
5. To ensure adequate protection to litigants in criminal matters, provisions for transfer to an attorney judge should be provided. An automatic transfer right to an attorney judge upon defendant's request with a subsequent record appeal is a more preferable procedural safeguard than trial by the lay court and a subsequent de novo appeal before an attorney judge. Under either procedure -- a transfer mechanism or de novo appeal -- defendants must be adequately advised of such rights and transcripts of the proceedings must be maintained. Additionally, trials before lay judges should be transcribed or tape recorded to allow for record appeals.
6. The civil jurisdiction of lay judges should be restricted to "simple" civil matters such as minor contract and tort claims where the amount in controversy is \$2,000.00 or less. Additionally, the use of lay judges in abbreviated small claims proceedings should be continued. All civil jurisdiction should be concurrent with that of an attorney-judge court, and litigants should retain the right to have their cases heard by an attorney judge. Cases in which a jury trial is requested should not be heard by lay judges.

7. All lay judges should successfully complete a mandatory training and certification program as a condition of office, and interim opportunities for continued education should be provided. Training and education goals must be well-defined and keyed to precise types of jurisdiction to be exercised by lay judges, as recommended. Manuals and benchbooks should be furnished to lay judges and communications among judges of these lower courts -- both attorney and lay -- should be encouraged. Some means of providing formal legal advisors to non-attorney judges should also be implemented.
8. Lay judges with specialized backgrounds may be valuable resources for specialized courts. Such specialized courts might be given jurisdiction over juvenile matters, guardianship proceedings, and domestic relations matters. No recommendation is forthcoming on this point at the present time, but further research and investigation is urged.
9. In some communities, lay judges play an important quasi-judicial roles. The stature and political base of lay judges in many communities contributes to their effectiveness as mediators and suggests an emerging role for the lay judge as mediator rather than adjudicator. Lay judge jurisdiction could be redefined to approximate jurisdiction used in other neighborhood-dispute resolution centers.

APPENDIX D

SURVEY OF STATE MANDATORY JUDICIAL EDUCATION

REQUIREMENTS (Summary Charts) (March 1981)

SURVEY OF
STATE MANDATORY
JUDICIAL EDUCATION REQUIREMENTS

MARCH 1981

Prepared by:

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LAW ENFORCEMENT ASSISTANCE ADMINISTRATION CONTRACT NO: J-LEAA-011-78

CHART I
MANDATORY JUDICIAL EDUCATION
BY STATE AND JURISDICTION LEVEL

State	Number of Judges		Mandatory Education by Jurisdiction Level					Mandating Instrument		
	Law Trained	Lay	None	Limited Juris. Law Tr.	Lay	Gen. Juris.	Appel- late	Stat.	Ct. Rule	Other
ALABAMA	436	69 ^{1/}	X							
ALASKA	68	48		X	X	X	X		X	Ch. Just. Policy
ARIZONA **	142	116		X	X	X	X			Ch. Just. Order***
ARKANSAS	174	78 ^{2/}	X							
CALIFORNIA	1,241	-	X							
COLORADO	410*	73* ^{3/}		X	Co. Ct.	X	X	X	X	
CONNECTICUT	190	59 ^{4/}				X		X 4a/		Ch. Just. Policy
DELAWARE	39	74* ^{5/}		X J.P.'s	X					Ch. Magis. Order
DISTRICT OF COLUMBIA	52	-	X	/ / /	/ / /					
FLORIDA	519	29 ^{6/}	X							
GEORGIA	247	620* ^{7/}			X			*** X		

• Estimated

** Annual Judicial Conference Only

*** Included in Appendix B

- 1/ These are Probate Judges. There are approximately 400 lay magistrates performing minor court-related duties serving municipal and general jurisdiction courts.
- 2/ Does not include police and city court judges, about whom no information was obtained.
- 3/ Includes 23 (of 109) county court judges and an estimated 50 (of 250) municipal court judges.
- 4/ 59 of Conn.'s 130 Probate Judges are lay judges; the remaining 71 are law trained and included in that column.
- 4a/ By statute, educational programs must be prepared for the judges of the "constituent" courts. By general policy of the Chief Justice and Chief Court Administrator attendance of all general jurisdiction judges at education programs is expected and realized.
- 5/ Includes 20 Alderman's Ct. judges who may or may not be lawyers and 54 J.P.'s.
- 6/ County Court judges still sitting due to "grandfather" clause.
- 7/ Does not include 1164 non-certified J.P.'s and 435 Municipal, Police and Mayor's Court Judges, of whom 35-40% are lawyers.

CHART I
MANDATORY JUDICIAL EDUCATION
BY STATE AND JURISDICTION LEVEL

State	Number of Judges		Mandatory Education by Jurisdiction Level					Mandating Instrument		
	Law Trained	Lay	None	Limited Juris. Law Tr.	Lay	Gen. Juris.	Appel- late	Stat.	Ct. Rule	Other
HAWAII	51	-		X		X	X			Admin. 8/ Directive
IDAHO	82	22		X	X			X		
ILLINOIS	726	3 ^{9/}				X	X		X	Const. ***
INDIANA **	317	44		X		X	X	X		
IOWA	228*	83 ^{10/}		X	X	X	X	X Lay Magis.	X	
KANSAS	151	373* ^{11/}		X	X	X	X			Ch. Just.
KENTUCKY	235	-	X							
LOUISIANA	292	685*	X							
MAINE **	42	-		X		X	X	X		
MARYLAND	204	69		X		X	X			Admin. Ord. Chief Judge
MASSACHUSETTS	280	-	X							
MICHIGAN	562	130* ^{12/}		X	X	X	X	Magis. X	X	
MINNESOTA	225	1 ^{9/}		X	X	X	X	X	X	
MISSISSIPPI	167	644 ^{13/}			X			X		

* Estimated

** Annual Judicial Conference Only

*** Included in Appendix B

8/ While not strictly "mandatory", continuing education of judges in Hawaii is required by Administrative Directive

9/ In Illinois, 3 lay Circuit Court Judges are still sitting and, in Minnesota, 1 lay County Court Judge is still sitting due to a "grandfather" clause.

10/ Of 166 part-time Magistrates, approximately one-half are non-lawyers.

11/ Includes 73 Magistrate Judges and approximately 300 Municipal Court Judges, most of whom are non-lawyers.

12/ These are magistrates who perform minor court-related functions for the district courts.

13/ Includes 415 Justice Court Judges and 229 Mayors who are municipal judges.

CHART I
MANDATORY JUDICIAL EDUCATION
BY STATE AND JURISDICTION LEVEL

State	Number of Judges		Mandatory Education by Jurisdiction Level					Mandating Instrument		
	Law Trained	Lay	None	Limited Juris. Law Tr.	Lay	Gen. Juris.	Appel- late	Stat.	Ct. Rule	Other
MISSOURI	514	219			X	X	X	*** X		
MONTANA	39	141*		X	X			*** X		
NEBRASKA	124	43			X			X		
NEVADA	32	73			X			X		
NEW HAMPSHIRE	111	12		X	X	X	X		*** X	
NEW JERSEY	659	-		X	/	X	X			Ch. Just. Policy/Ord.
NEW MEXICO	61	186		X	X	X		Magis. & Just.		S.Ct. Rec- ommendation
NEW YORK	1,038	2,250* ^{14/}		X	X	X		X Lay		Ch. Judge Policy 15
NORTH CAROLINA	221 ^{16/}	600*		Magistrates X	X			X		
NORTH DAKOTA	86	145		X	X			*** X		
OHIO	610	-		X	/	X	X		*** X	
OKLAHOMA	220	1 ^{17/}	X							
OREGON	149	230*		X	X	X	X	*** X		
PENNSYLVANIA	331	565*		Dist. X Just.	X			*** X		Const.

* Estimated

*** Included in Appendix E

^{14/} These are town and village justices, of whom approximately 20% are lawyers.

^{15/} While not "mandatory", continuing education of all state paid trial court judges (approx. 1,000) is required by an "announced policy" of the Chief Judge of the State of New York.

^{16/} Includes 7 lay district court judges still sitting due to a "grandfather" clause.

^{17/} Does not include approximately 150 municipal court judges, about one-half of whom are non-lawyers.

CHART I
MANDATORY JUDICIAL EDUCATION
BY STATE AND JURISDICTION LEVEL

State	Number of Judges		Mandatory Education by Jurisdiction Level					Mandating Instrument		
	Law Trained	Law	None	Limited Juris. Law Tr.	Law	Gen. Juris.	Appellate	Stat.	Ct. Rule	Other
RHODE ISLAND	49	-	X							
SOUTH CAROLINA	82	605*		X	X	X			*** X	Ch.J. Order for Magis.
SOUTH DAKOTA	59	150*		X	X	X	X	X		
TENNESSEE **	142	115 ^{18/}				X	X	X		
TEXAS	883 ^{19/}	1,678		X	X			X		
UTAH	71	160*		X	X	X	X	*** X		
VERMONT	27	47 ^{20/}	X							
VIRGINIA	281	400* ^{21/}		X	X	X		X		
WASHINGTON	330*	70*			X				*** X	
WEST VIRGINIA	60	150* ^{22/}		X	X			X		
WISCONSIN	214	215* ^{23/}				X	X		*** X	
WYOMING	30	155* ^{24/}				X	X		X	25/

* Estimated **Annual Judicial Conference Only ***Included in Appendix B

^{18/} Estimated number of General Sessions judges, approximately one-half of whom are non-lawyers.

^{19/} Includes 53 Co. Ct., 57 J.P.'s and 294 Municipal Court judges who are lawyers.

^{20/} Does not include J.P.'s, about whom no information was obtained.

^{21/} Magistrates, most of whom are non-lawyers.

^{22/} Does not include municipal, police and mayor's court judges, about whom no information was obtained.

^{23/} Municipal court judges, with extremely limited jurisdiction, approx. 75% of whom are non-lawyers, and all but 2 of whom are part-time.

^{24/} Includes 68 J.P.'s & 87 Muni. Court judges, approximately one-half of whom are non-lawyers.

^{25/} Judicial Nominating Committee Rule for Appellate judges; Court Rule for Supreme Court and District Judges. Court Rule will soon apply to all courts.

CHART II

STATE MANDATORY JUDICIAL EDUCATION REQUIREMENTS

State	New Judge Orientation/Certification			Annual Judicial Conference/College			Continuing Education			Monitoring/ Accrediting Body
	Gen. Juris.	Appellate	Limited Law Tr. Lay	Gen.	App.	Lim. Lay	Gen. Juris.	Appellate	Limited Law Tr. Lay	
ALASKA			1 week Magistrate Orientation	X	X	X			-----Magistrates----- -----1 week----- -----annually-----	Chief Justice /Court Admin.
ARIZONA				X	X	X				
COLORADO							45 units/ 3 yrs.	45 units/ 3 yrs.	1/ 45 units/ 3 yrs.	Bd. of Cont. Legal & Judicial Ed.
CONNECTICUT							Estimated 45 hours/ annually			Chief Justice /Ct. Admin.
DELAWARE									Effective 1/81 for J.P.'s Undetermined Req.	Chief Magistrate
GEORGIA			J.P.'s & Lay Small Claims - 40 hr. certification						J.P.'s & Lay Small Claims - 20 hrs./yearly	Ga. Justice Cts. Training Council
HAWAII	4 weeks/ Jud. College	2 weeks N.Y.U.	2 weeks Jud. Col.				1 week/ 3 yrs.	1 week/ 3 yrs.	1 week/ 3 yrs.	Chief Justice /Ct. Admin.

1/ Municipal Court lay judges not covered.

2/ By statute, educational programs must be prepared for the judges of the "constituent" courts. By general policy of the Chief Justice and Chief Court Administrator attendance of all general jurisdiction judges at education programs is expected and realized.

CHART 11

STATE MANDATORY JUDICIAL EDUCATION REQUIREMENTS

State	New Judge Orientation/Certification			Annual Judicial Conference/College				Continuing Education			Monitoring/ Accrediting Body
	Gen. Juris.	Appellate	Limited Law Tr. Lay	Gen.	App.	Lim. Lay	Gen. Juris.	Appellate	Limited Law Tr. Lay		
MARYLAND	10 days in Cir. + 8 days instruction		10 days in Cir. + 8 days instr.	X	X	X		2½ days- annually-			Chief Judge
MICHIGAN	5 days	5 days	Magis. 2 days								Chief Justice /Jud. Inst.
MINNESOTA				X	X	X		45 hrs./ 3 years	45 hrs./ 3 years	45 hrs./ 3 years	Supreme Court Continuing Education
MISSISSIPPI			3½ days J.P.'s - 12 hrs. Mayors & Muni.							J.P.'s 3½ days/ 4 years	Attorney General
MISSOURI			Muni. Ct. Cert. - 1½ days tr. ½ day exam	2½ X	days X 8/						Supreme Ct./
MONTANA			J.P.'s Orienta- tion					2½-3 days /semi- annually	2½-3 days /semi- annually	2½-3 days /semi- annually	Supreme Ct.

6/ By statute, Magistrates must complete 2 days of training prior to authorization by local District Court Judge to conduct civil infraction hearings.

7/ Annual Conference: Statute requires the Chief Justice to call an Annual Conference; no mention of mandatory attendance.
Continuing Education: Rule prescribes courses to be included in the 45 hours as follows: basic instruction and orientation for new judges, sentencing institute, and tour of institutions every 5 years.

8/ Meeting is by statute; training by Supreme Court Order.

CHART II

STATE MANDATORY JUDICIAL EDUCATION REQUIREMENTS

State	New Judge Orientation/Certification			Annual Judicial Conference/College			Continuing Education			Monitoring/ Accrediting Body
	Gen. Juris.	Appellate	Limited Law Tr. Lay	Gen.	App.	Limited Lay	Gen. Juris.	Appellate	Limited Law Tr. Lay	
IDAHO			Magistrates 1 day/ Orientation 3/							Supreme Ct./ A.O.C.
ILLINOIS	2½ days/ Seminar	2½ days/ Seminar		2½ days X						Supreme Ct.
INDIANA				---3 days X	4/ ---3 days X					Chief Justice /Bd. of Dir. of Jud. Conf. CLE Comm./ S.Ct./Commiss on Jud. Qual.
IOWA							15 hrs./ yearly	15 hrs./ yearly	15 hrs./ yearly	Supreme Ct.
KANSAS	3 days		Magis. Cert./2 days + 1 day test	X	3 days X	X				Supreme Ct.
MAINE				---2 days X	2 days X					Chief Justice

3/ Certification for non-lawyer magistrates (to increase their jurisdiction to include criminal proceedings involving incarceration requires 6 week course and an exam.

4/ Small claims, city and town judges not included.

5/ Municipal Court Judges not included.

CHART II

STATE MANDATORY JUDICIAL EDUCATION REQUIREMENTS

State	New Judge Orientation/Certification			Annual Judicial Conference/College			Continuing Education			Monitoring/ Accrediting Body
	Gen. Juris.	Appellate	Limited Law Tr. Lay	Gen.	App.	Lim. Lay	Gen. Juris.	Appellate	Limited Law Tr. Lay	
NEBRASKA									3 days/ annually	Supreme Ct.
NEVADA			2 week course be- fore taking office							State Court Administrator
NEW HAMPSHIRE				2½ days X			5 days/ annually	5 days/ annually	Probate-2 days Dist. & Muni.-6 days /annually	Supreme Ct.
NEW JERSEY	5 days Orienta- tion		2 days Muni. Orienta- tion	---3 days X	X	X				Supreme Ct.
NEW MEXICO	3 weeks N.J.C.		---2 to 5 days---	X	2½ days X	days X	Grad. Courses NJCAAJE		Magistrates & Muni. Ct. ---Annual--- ---Training---	Supreme Ct./ A.O.C.
NEW YORK			9/ X				9a/ 5 days/ annually		2 days/1st yr. + each subsequent term-4 yr.	Ct. Adm./ Ch. Admin. Judge

9/ All newly elected or appointed non-attorney justices are required by law and rules of the Chief Judge of the Court of Appeals to be certified by taking a 6 day basic course and passing a final exam.

a/ Announced policy of the Chief Judge. See fn. 15, supra, Chart I.

CHART II

STATE MANDATORY JUDICIAL EDUCATION REQUIREMENTS

State	New Judge Orientation/Certification			Annual Judicial Conference/College			Continuing Education			Monitoring/ Accrediting Body
	Gen. Juris.	Appellate	Limited Law Tr. Lay	Gen.	App.	Lim. Lay	Gen. Juris.	Appellate	Limited Law Tr. Lay	
NORTH CAROLINA			40 hours Magistrate Orientation 10/							A.O.C./ Inst. of Govt.
NORTH DAKOTA			Orientation						2 days annually	A.O.C.
OHIO								20 hours annually	11/	Supreme Court
OREGON			2 days Orientation	X	3 days X				2 days annually	Supreme Court
PENNSYLVANIA			12/ Certifi- cation						District Justices 32 hours annually	Supreme Court/ A.O.C.

10/ 40 hours by statute; 80 hours in practice.

11/ 10 hours annually for part-time judges (5 hours of the 10 or 20 must be at the Ohio Judicial College)

12/ Non-lawyer District Justices before taking office: 4 weeks class instruction and exam for certification.
Non-lawyer Philadelphia Traffic Court Judges: 20 hours minimum

CHART II

STATE MANDATORY JUDICIAL EDUCATION REQUIREMENTS

State	New Judge Orientation/Certification			Annual Judicial Conference/College			Continuing Education			Monitoring/ Accrediting Body
	Gen. Juris.	Appellate	Limited Law Tr. Lay	Gen.	App.	Lim. Lay	Gen. Juris.	Appellate	Limited Law Tr. Lay	
SOUTH CAROLINA			5 days Magis. Orient.				15 hours/ annually		15 hours/ annually 13/ 15 hours/ annually	Supreme Court /A.O.C.
SOUTH DAKOTA				---3 days X	X				---magistrates--- ---2½ days--- ---2 years---	Supreme Court
TENNESSEE				---4 days X	X					Supreme Court
TEXAS			8 hr. Muni. Ct. Orient.						Muni. Ct. 8 hours/ annually 14/	Court Administrator
UTAH			J.P.'s 40 hrs. Muni. Ct. 24 hrs.	---2½ days--- X	X	X			J.P.'s 2½ days annually	S.Ct. & Juv. Ct. Adm./Jud. Qual. & Remov- al Comm.

13/ Magistrates; court rule will soon include municipal court judges.

14/ Non-lawyer J.P.'s - 20 hours annually; non-lawyer municipal court judges - 8 hours annually.

CHART II

STATE MANDATORY JUDICIAL EDUCATION REQUIREMENTS

State	New Judge Orientation/Certification			Annual Judicial Conference/Colleg			Continuing Education			Monitoring/ Accrediting Body
	Gen. Juris.	Appellate	Limited Law Tr. Lay	Gen.	App.	Lim. Lay	Gen. Juris.	Appellate	Limited Law Tr. Lay	
VIRGINIA			-----magistrate----- -----certification----- 15/	3 days X					-----magistrates----- -----3 days----- -----annually-----	Chief Justice /Dir. of Ed. Services
WASHINGTON			16/							Non-attorney Judge Exam- ining Comm.
WEST VIRGINIA			-----magistrate----- -----training----- 17/						-----magistrates----- -----probably 3 days----- -----2 years-----	Supreme Court
WISCONSIN							60 credits 6 years	18/ N.Y.U. Seminar	under consider- ation for Muni. Court Judges	Supreme Court /Dir. of Jud. Education
WYOMING							15 hours annually		Court Rules will soon apply to all courts.	Supreme Court /Jud. Nomin- ating Comm.

15/ Magistrates appointed after 6/30/80: 19 hours training, exam and certification.
" before 6/30/80: 19 hours training.

16/ Non-attorney judges, before being elected or appointed, must pass a qualifying exam based upon syllabi prepared by the Non-Attorney Judge Examining Committee.

17/ 5½ days training after election; 2 days sitting in another magistrate's court; and 2 more days training.

18/ Supreme Court of Wisconsin Rules relating to details of the mandatory education requirement are included in Appendix B.

APPENDIX E

OUTLINE OF MUNICIPAL COURT STATUTES

I. Authority of Municipalities to Adopt Regulations

- 349.06 (1) A. Except for the suspension or renovation of motor vehicle operators licenses, any local authority may enact and enforce and traffic regulation which is in strict conformity with provisions of ch. 341 to 348 and 350 for which the penalty for violation is a forfeiture.
- 349.03 1. Chapters 341 to 348 and 350 shall be uniform in operation. No local authority may enact or enforce any traffic regulation unless such regulation:
- a. is not contrary or inconsistent with chs. 341 to 348 and 350, or;
 - b. it is expressly authorized by §.349.06 to 349.25 or some other provision of the statutes.
2. No local authority may enact or enforce any traffic regulation providing for suspension or revocation of licenses or requiring local registration of vehicles, except as authorized by s.341.35.
- 341.35 a. The governing body of a municipality may enact an ordinance imposing an annual flat municipal or county registration fee on all motor vehicles customarily kept in the municipality or county.
- 30.77 B. Any town, village or city may, in the interest of public health, safety or welfare adopt local regulation, not contrary or inconsistent with s. 30.60-30.71, relative to the equipment, use or operation of boats.
1. But no such local regulation is valid unless all towns, cities and villages having jurisdiction over the water have enacted an identical local regulation.
- a. If any county operates a marina development adjacent to any waters or lake, the authority vested by this paragraph, shall exclusively vest in said county with regard to regulations concerning the use of said facility and adjoining waters.

2. Each town, village or city must submit a copy of local regulations to the department of natural resources.
3. Proposed local regulations must be submitted to the department of natural resources 60 days prior to final.

66.035

- C. The governing body of any city, town, county or village may authorize the preparation of a code of general ordinances.
 1. The code may be adopted by ordinance.
 2. The code may be published in book or pamphlet form.
 3. A copy of the code shall be permanently on file and open to public inspection.

II. Power of Municipalities to Prohibit Criminal Conduct

- 66.051 (1) A. The Board or council of any town, village or city may prohibit all forms of gambling.

- 66.051 (2) 1. The municipality may seize anything devised or used for gambling and destroy the thing after a judicial determination that it was used for gambling.

- 66.051 (3) B. Prohibit conduct the same or similar to chs. 941. to 947, § 947.01 or 947.012.

- 947.01 1. Disorderly conduct.

- 947.012 2. Unlawful use of telephone.

- 66.052 C. Any city council or village board may license, regulate or prohibit offensive industry.

- 66.115 D. Where statute requires penalty under municipal ordinance to conform to penalty under statute, the ordinance may impose only a forfeiture and may provide for imprisonment if forfeiture not paid.

- 66.119 (3) 1. Procedure on the Violators Default, and the violators options.

- 66.119 (1) E. The governing body of a town, county, city or village may adopt and use a citation to be issued for ordinance violations.
- 66.119 (5) 1. If the action is to be in municipal court the citation under s.800.02 shall be used.
- 66.119 (2) 2. Citations may be issued by law enforcement officers of the county, town, city or village.
- 66.119 (2) (b) 3. The issuance of a citation by a person authorized to do so shall be deemed adequate process to give the appropriate court jurisdiction.
- 66.119 (3) (a) a. Person may make cash deposit and not appear in court or he may appear in court.
- 66.119 (3) (b) b. If person appears in court in response to violation, the citation may be used as the initial pleading and such appearance confers personal jurisdiction over the person. The person may plead guilty or no contest and the court shall enter judgment, or the person may plead not guilty and the matter shall be set for trial.
- 66.119 (3) (c) c. If the person makes a cash deposit and fails to appear in court, the citation will serve as the initial pleading, and a plea of no contest will be entered, and a forfeiture entered. The person has ten (10) days after the date set for appearance to withdraw the plea.
- 66.12 E. An action for violation of a municipal ordinance, resolution or by law is a civil action.
1. All forfeitures and penalties shall be collected in the name of the municipality.
2. In municipal court procedures under ch. 800 apply.

23.50 (3)

3. Provisions relating to citations, arrests, questioning, releases, searches, deposits and stipulations of no contest in ss. 23.51 (1), (3) and (8), 23.54, 23.56, to 23.64, 23.66 and 23.67 shall apply to violations of local ordinances enacted under authority of s.30.77.

66.12 (3)

4. All forfeitures and penalties recovered for the violation of any ordinance, resolution or by law of any city or village shall be paid into the city or village treasury for use by the city or village.

165.87 (2)

- a. Whenever a court imposes a fine or forfeiture for violation of state law or of a municipal or county ordinance except for those involving non-moving traffic violations, there shall be an additional penalty assessment of 12%.

165.87 (2) (c)

- b. If the fine or forfeiture is imposed by municipal court, the court shall collect and transmit such amount to the treasurer of the county, city, town or village who shall make payment to the state treasurer per s.66.12 (1) (b).

778.14

- c. Municipal judges shall pay to the town, city, or village treasurer all moneys received by the court in actions before it.

III. Chapter 755 Municipal Court Established

Art 7, §.2

- A. The judicial power of this state shall be vested in a unified court system consisting of one supreme court, a court of appeals, a circuit court, such trial courts of general uniform statewide jurisdiction as the legislature may create by law, and a municipal court if authorized by the legislature under §.14.

Art of §.14

- B. The legislature may authorize each city, village and town to establish a municipal court. Municipal court jurisdiction shall be limited to actions and proceedings arising under ordinances of the municipality on which established. Judges may receive compensation as provided by the municipality but may not receive fees of office.

- 755.01 (1) C. A municipal court is established in each city, town and village which shall become operational when the city council, town board or village board adopts an ordinance or by law providing for election of a judge and operation and maintenance of the court.
- 755.01 1. In this chapter judge is municipal judge.
- 755.01 (2) 2. The governing body may by ordinance or by law abolish the municipal court at the end of the judge's term.
- 755.01 (3) 3. A municipality may establish as many branches of municipal court as it deems necessary.
- 755.02 4. Judges shall be elected for terms of two (2) to four (4) years.
- 8.50 a. Procedure for electing Municipal Court Judges.
- 755.03 (1) b. Judges must take and file the oath prescribed in s. 757.02 (1) and no judge may act until his oath and bond have been filed as required by s.19.01 (4) (c).
- 19.01 1. Oaths and bonds must be in writing, sworn and subscribed to and filed with the Secretary of State.
- 755.03 (2) 2. Clerk of circuit court within ten (10) days of filing mail a copy of the oath and bond to the clerk of the city, town or village.
- 59.395 (2) 3. The clerk of court shall keep a list of judges.
- 17.02 (3) 4. Municipal judges give notice of resignation to the clerk of the circuit court for the county.
- 755.04 5. The governing body shall fix a salary for the judge.
- 19.58 6. A municipal court judge may be fined \$100 -- \$5,000, and up to one year in jail for intentionally violating the code of ethics.

19.59

- a. Municipal court judges are subject to the code of ethics local government officials.

D. Administration of Municipal Courts:

- 755.06 1. Municipal courts shall be open as directed by the governing body, or the governing body may allow the judge to determine.
- 755.09 2. Municipal court shall be held in the municipal hall of the town, city, or village, or elsewhere as authorized by the governing body.
- 755.09 (2) a. Judges may not hold court in taverns or anywhere where liquor is sold.
- 755.09 (3) b. Judges may not hold court or keep office with practicing attorney, unless the attorney is his partner. The partner may not act as attorney before the judge.
- 755.10 3. The judge, in writing, appoints clerks as authorized by the council or board.
 - a. Clerks must take oath under s.19.01 and give bond, which shall be paid by the municipality.
- 755.11 4. Judges shall file and keep all papers in an action.
- 755.12 5. When a municipal court ceases to operate all papers and books belonging to the court shall be delivered to the municipal clerk.
- 755.13 a. If materials are not delivered to the municipal clerk, he may demand and compel delivery by action.
- 755.14 b. The municipal clerk delivers the books to the clerk of circuit court.
- 755.15 c. An action pending in municipal court at the time it closes may be completed in the circuit court.

- 755.16 d. All actions undetermined or appealable are continued ten (10) days, the circuit court then gives three (3) days notice to the parties to the action.
- 755.17 6. A municipal judge shall be properly attired or robed, when presiding at court.
- a. The municipality shall provide a court room for the judge.
- 35.85 (3) 7. Each town, village and city shall purchase the necessary copies of statutes for its municipal judges.

IV. Jurisdiction of Municipal Courts

- 755.045 A. Municipal courts have exclusive jurisdiction over actions in which a municipality seeks to impose forfeitures for violations of municipal ordinances, unless the action is transferred under s.800.04 (1) or s.800.05 (3) to a court of record.
- 755.045 (1) 1. Municipal courts do not have jurisdiction to grant equity relief.
- 755.045 (2) 2. Municipal judges may issue civil warrants for matters under jurisdiction of the municipal court, and inspection warrants under ss.66.122 and 66.123.
- 66.122 a. Warrants to inspect real or personal property for electrical, plumbing, heating, gas, fire, and other safety violations.
- 66.123 b. Special inspection Warrant form.
- 755.05 B. Municipal courts have county-wide jurisdiction, if a city lies in more than one county, the court has jurisdiction in both counties.
- 800.01 (1) (see also 23.50(3)) C. A municipal court may get personal jurisdiction in three (3) ways:
1. The defendant is served with a summons and complaint, and such documents are filed with the court.
2. The defendant is arrested and brought before the court.

3. The defendant voluntarily appears before the judge.

V. Chapter 800 Municipal Court Procedure

- 800.02 A. An action in municipal court for violation of an ordinance, resolution or bylaw is a civil action, and the forfeiture or penalty imposed by the court may be collected in an action in the name of the municipality.
- 800.02 (2) 1. The governing body shall designate officials who may issue citations.
2. The citation must be signed by an officer and shall contain the following information:
- a. Name, address, birthdate of defendant.
- b. Name and department of issuing officer.
- c. The violation alleged, time and place.
- d. Date, time, and place of court appearance.
- e. Provision for deposit in lieu of court appearance.
- f. Notice that defendant may make deposit and be released if arrested.
- g. Notice that defendant may make a plea, if not guilty, by mail and request a jury trial.
- h. Notice that if defendant makes a deposit and doesn't appear, he submits to a forfeiture of the deposit.
- i. Notice that if defendant doesn't make a deposit and fails to appear, the court may issue a summons or warrant for his arrest or enter a default judgment.
- 800.02(3) B. Complaint Form
1. Must be signed by a complainant.

2. Contents - shall contain the following information:

- a. The name, address, and date of birth of the defendant.
- b. The department permit or license number of the defendant if applicable.
- c. The name and department of the issuing office.
- d. The title of the cause, specifying the name of the court and county in which the action is brought and the names and addresses of the parties to the action.
- e. A plain and concise statement of the violation.
- f. Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty, and may within 10 days after entry of the plea request a jury trial.

800.02(4)

C. Summons Form

1. Must be signed by a municipal judge.

2. Contents shall contain:

- a. The title of the cause, name of the court and county and all of the names of all parties to the action.
- b. A direction summoning and requiring the defendant to appear in a specified court on a particular date not less than 10 days following the service of the summons to answer the accompanying citation or complaint.
- c. A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the citation or complaint, or the court may issue a warrant for the defendant's arrest under s.968.09

800.02(5)

3. Service of citation or summons and complaint shall be as provided in s.968.04(3)(b) personal service of a law enforcement officer, mailing, or personal service by a municipal employee.

800.02(5)

D. Warrant Form

1. Must be signed by the municipal judge.
2. Must be in the name of the State of Wisconsin.
3. Shall be directed to all law enforcement officers in the state.
4. Contents - shall contain or have attached, the following information:
 - a. The name of the defendant.
 - b. The offense alleged.
 - c. A copy of the citation or complaint.
 - d. A finding of probable cause that the defendant committed the offense.
 - e. A command to arrest the defendant.
 - f. Bring him or her before the municipal judge or other municipal judge or judge of the circuit court.

800.02(6)

5. A person may be arrested without a warrant if the arresting officer has reasonable grounds to believe that the person is violating or has violated the ordinance.

885.04

6. A subpoena to require attendance before a municipal judge may be served anywhere in the state if authorized by the municipal judge and shall require the attendance of any witness so served.

E. Pretrial Pleading

800.03

1. A person issued a citation may stipulate no contest and deposit as follows:
 - a. Traffic regulation cases s.345.27.

- 345.27
1. Mail in a deposit in accordance with the schedule of s.345.26 (2)(a) to the clerk of court.
- 800.03 (1) (b)
- b. In boating violations in accordance with s.23.67.
- 800.03 (1) (c)
- c. In other cases stipulation may be made only if the governing body has approved a deposit schedule.
- 800.03 (2)
- d. If the person appears in court he may withdraw his no contest plea.
- 800.03 (3)
- e. Amounts of deposit shall be set by the municipal judge, it may not exceed the maximum penalties under s.165.87.
- 800.04
2. When the defendant appears before the court the judge shall read the charge, inform defendant of possible pleas, and the right to a jury trial the defendant may plead, and the judge shall enter judgment, and explain the range of possible penalties.
 - a. Plea of not guilty without request for jury, court shall:
 1. Have immediate trial if both sides agree, or
 2. Set a trial date, or
 3. Advise defendant that notice will be given later.
 - b. If defendant pleads not guilty and requests a jury trial, within 10 days the case shall be transmitted to circuit court for trial under s.345.43.
- 800.04 (1) (d)
- b. If defendant pleads not guilty and requests a jury trial, within 10 days the case shall be transmitted to circuit court for trial under s.345.43.
- 345.43
- c. Jury trial procedure for a case transferred under 800.04 (1) (d).
 1. In no jury of 12 demanded it is waived forever.
 2. Fee is \$2.00 per person on the jury, tax, and clerks fee.
 3. If a jury of 12 is demanded procedure for jury trials in civil action applies.

4. Juries shall be drawn from circuit court jury panel.

5. Jurors may be all from the municipality of the court unless a county-wide jury is demanded.

800.04 (2)

3. A judge may release a defendant without deposit.

800.04 (2) (c)

4. If the defendant has made a deposit and does not appear, he is deemed to have tendered a plea of no contest, submits to a forfeiture, and penalty under s.165.87, not to exceed the amount of the deposit.

800.04 (3)

5. If a default judgment is entered against the defendant, he has six (6) months to reopen the judgement, if failure to appear was due to mistake, inadvertance, surprise or excusable neglect.

a. Default judgment means a judgment where there's been a plea of no contest and a forfeiture of deposit.

800.05 (1)

6. A person charged with a violation may in writing request a different judge than the one assigned, within seven days after initial appearance. .

800.05 (3)

a. Upon written request a case may be transferred under s.751.03 (2).

751.03 (2)

1. The chief justice of the Supreme Court may assign another judge, transfer a case to another municipality or to circuit court.

801.57

b. On appeal from municipal court, the appellate court, on application of the defendant may change venue of the trial.

800.06

7. If the municipal judge becomes incapacitated temporarily another municipal court judge may perform his duties, upon written designation.

800.07

8. Neither party is entitled to pretrial discovery, except that if defendant moves within seven (7) days after initial appearance, the court may allow him to inspect documents and test devices used by plaintiff to determine violations.

F. Trial

800.08 (1)

1. The municipality may provide a prosecutor who is a licensed attorney.
 - a. The municipality may first offer evidence in support of the citation or complaint.
 - b. The defendant may offer evidence after the municipality has rested.
 - c. Witnesses are required to take an oath.
 - d. The standard of proof for conviction in municipal court is that the evidence shall be clear, satisfactory and convincing.
 - e. Municipal courts are bound by the rules of evidence in ch. 901 to 911.

800.08 (2)

800.08 (3)

800.08 (4)

911.01

1. Ch. 901 to 911 apply to municipal courts.

887.20

2. The municipal judge on any day on which a trial may be had, after an application for adjournment, on the application of either party, may proceed to take the deposition of any witness then in attendance, no prior notice is needed.

G. Judgment

800.09

1. If municipal court finds a defendant guilty, it may order payment of a forfeiture, penalty assessment, cost of prosecution, and imprisonment in default of payment.

800.09 (1)

- a. Confinement shall not be more than 90 days, and shall be at the expense of the municipality.
- b. Court may defer payment of a judgment for not more than 60 days.

- 800.09 (2) c. If defendant pleads no contest or guilty, the court shall convict the defendant and enter judgment.
1. If the person fails to appear he is deemed to have entered a plea of no contest, and any deposit is forfeit.
- 972.13 d. Municipal Court Judgment form.
- 800.10 2. Court Fees and Costs:
- 800.10 (1) a. Court costs are \$5 on each matter before the court.
- 800.10 (2) b. Fees of witnesses and interpretors are paid as specified in s.885.05.
- 885.05 1. Witness and interpreter fees before a municipal judge shall be \$4 per day.
- a. Traveling rate shall be at 10¢ per mile.
- b. The county board may establish a higher witness fee or traveling fee.
- 885.06 3. Except when subpoenaed on behalf of the state or a municipality in forfeiture actions no person shall be obliged attend as witness a civil action unless his fees are paid to him for attendance and travel.
- a. No witness in behalf of state, criminal action or municipality in a forfeiture shall be entitled to a fee in advance.
- 800.10 (3) 4. All fees and costs collected by the judge shall be paid to the municipality which brought the matter before the judge.
- 800.10 (4) 5. All forfeitures, fees, penalties, and costs paid to the municipal court under judgment shall be paid to the municipal treasurer within seven (7) days after receipt.
- 800.10 (5) 6. A municipal court shall not impose or collect attorneys fees.

800.10 (7)

7. On appeal from municipal court the filing fee of s.59.42(3) and the suit tax of s.814.21 are applicable.

a. Appellant shall pay a \$10 fee for a transcript.

800.11

8. Every municipal court shall keep a docket in which he shall enter for every action:

a. Title of the Action;

b. Process Issued;

c. Charges;

d. Every Adjournment;

e. Date and Time of Trial;

f. Names of Witnesses;

g. Judgment Rendered;

h. Record of Contempt Convictions;

800.11

i. Amount of bail and sureties;

j. Time of Stay of Execution if any;

k. Time of Issuing of execution;

l. Return of Execution;

m. Date and Reason for removal to another court;

n. Date of giving a transcript;

o. Date of appeal;

p. All motions made in the Action;

800.11 (2)

9. Failure to keep a proper docket will not affect the jurisdiction of the court or render the judgment void.

H. Contempt

800.12

10. A municipal court judge may impose a forfeiture for contempt not to exceed \$500 or not more than seven (7) days in jail. Contempt defined in s. 785.01.

- a. Contempt of Court means intentional:
- 785.01 (a) 1. Misconduct which interferes with the proceeding, administration of justice, or respect due the court.
- 785.01 (b) 2. Disobedience, resistance or obstruction of the authority, process or order of the court.
- 785.01 (c) 3. Refusal of a witness or appear, be sworn or answer a question.
- 785.01 (d) 4. Refusal to produce a record, document or other object.
- 785.01(2) b. Punitive sanction means a sanction imposed to punish past contempt of court for the purpose of upholding the authority of the court.
- 785.01(3) c. Remedial sanction is a sanction imposed to stop a continuing contempt of court.
- 785.06 d. A municipal court conducting an action or proceeding, or a party to the action or proceeding may petition the circuit court of the county for a remedial or punitive sanction specified in s.785.04 for conduct specified in s.785.01 in the action or proceeding.
- 785.04(1) 1. Remedial sanctions which a court may impose:
- a. payment of money to compensate a party for loss or injury suffered as a result of contempt of court.
- b. imprisonment if the contempt is of the type in s.785.01(1)(b), (c) or (d). The imprisonment shall be the length of time the person is committing the contempt or six months, which ever is shorter.
- 785.04 (1) (c) c. A forfeiture not to exceed \$2000 per day for each day the contempt continues.

- 785.04 (1) (d) d. An order designed to ensure compliance with a prior order.
- 785.04 (1) (e) e. A sanction other than those in (a)-(d), if the court finds that those sanctions would be ineffective.
- 785.04 (2) e. Punitive Sanctions:
- 785.04 (2) (a) 1. A court finding contempt in a nonsummary procedure under s. 785.03(1)(b) may impose for each separate contempt of court a fine of not more than \$5000 or imprisonment in countyjail for not more than a year or both.
2. A court, finding contempt in a summary procedure under s.785.03(2) may impose for each separate contempt of court a fine of not more than \$500 or imprisonment for 30 days, or both.
- 785.04 (3) f. A punitive sanction may be imposed for past conduct which was contempt of court even if similar present conduct is a continuing contempt of court.
- I. Appeal
- 800.13 1. Proceedings in municipal court shall be recorded by electronic means for purposes of appeal, notwithstanding the fact that it is not a court of record.
- 800.14 2. Appeal from municipal court maybe taken to the circuit court of the county where the offense occurred.
- 800.14 (4) a. The circuit court may order a trial de novo without a jury on its own or at the request of either party.
- 800.14 (6) b. The disposition of the appeal shall be certified to the municipal court within 30 days of judgment of the reviewing court.
- 806.12 c. The clerk of circuit court, upon production of a transcript of judgment for over \$10 from municipal court, file and docket the judgment. Every such judgment from the time of such filing shall be deemed the judgment of the circuit court and executed in like manner, with like effect.

806.13

- a. When a judgment is docketed as provided in s.806.12, it may be docketed in like manner in any other county, upon filing with the clerk of court a copy of the transcript.

889.13

- b. A transcript from municipal court is not admissible into evidence outside the county unless a certificate is attached by the clerk of circuit court, that the person who certified the transcript was a municipal judge.

885.04

- I. A subpoena to require attendance before a municipal judge may be served anywhere in the state if authorized by the municipal judge and shall require the attendance of any witness so served.

V. Vehicle Code

345.30

- A. Municipal courts shall have jurisdiction over traffic regulations enacted in accordance with s.349.06.

345.20 (2) (b)

- B. The trial of forfeiture actions in municipal court for violations of traffic regulations shall be governed by ch. 800.

1. Provisions relating to the uniform traffic citation and complaint in s.345.11, to arrests in ss. 345.21 to 345.24, to deposits and stipulations of no contest under ss.345.255 to 345.27, to the authority of the court under ss. 345.47, 345.48 and 345.50 and to guaranteed arrest bonds under s.345.61 apply to violations of ordinances to be tried in municipal court.

345.11 (1)

2. The uniform traffic citation created in this section shall be used by all law enforcement agencies in this state authorized to enforce all state traffic laws, violation under ch. 194, and any local laws enacted under s.349.06.

- 345.11 (5) 3. The use of the uniform citation by any peace officer in enforcement of state laws or any local traffic ordinances in strict conformity with state laws; shall be deemed adequate process to give the appropriate court jurisdiction.
- 345.11 (7) 4. Each law enforcement agency issuing uniform citations shall prepare and submit such records and reports as prescribed by the Secretary.
- 345.11 (8) 5. Any person who with criminal intent, solicits or aids in the disposition or attempted disposition of a uniform citation and complaint in any unauthorized manner is in contempt of the court having original jurisdiction of the cause of action.
- 345.21 C. A person arrested for a traffic violation with a warrant shall be brought without unreasonable delay before a court with jurisdiction or a judge.
- 345.21 (2) 1. In traffic regulation, the judge or municipal judge who issues the warrant may endorse upon it the amount of the deposit.
- a. if no endorsement is made, the deposit schedule of s.345.26 (2) shall apply, unless the judge directs that the person brought before the court.
- 345.22 2. A person may be arrested without a warrant if the traffic officer has reasonable grounds to believe a violation has been or is being committed.
- 345.23 3. If a person is arrested without a warrant for violation of a traffic regulation, the officer shall issue a citation under s.345.25 and may:
- 345.23 (1) a. Release him;
- 345.23 (2) b. Shall release him when;
- 345.23 (2) (a) 1. makes a deposit under s.345.26 or;
- 345.23 (2) (b) 2. makes a stipulation of no contest and deposit under s.345.27 or;

- 345.23 (2) (c) 3. deposits his Wisconsin license as defined in s.343.01 with the officer;
- 345.23 (2) (d) 4. presents a guaranteed arrest bond certificate under s.345.61.
- 345.23 (3) 4. Shall if violator is not released under (1) or (2) bring before a judge or municipal judge for ordinance violations.
- 345.23 (4) 5. Shall if violator is released under (1) or (2) specify a return date not later than 90 days after issue date.
- 345.24 6. A person arrested under s.346.63 or an ordinance, operating a motor vehicle under the influence, may not be released for four (4) hours after arrest unless a chemical test under s.343.305 (2) (b) shows there is .05% or less by weight, of alcohol in the blood.
- 345.255 7. A person arrested under s.345.22 for traffic violation, who is released under s.345.23(1) may make a deposit anytime prior to court appearance date.
- 345.26 8. The person may make a deposit by mailing it to the office of the municipal judge.
- 345.26 (1) (b) a. The person receiving the deposit shall notify the arrested person:
1. If he fails to appear he forfeits the deposit.
2. If he fails to appear and the court doesn't accept the deposit forfeiture, the court may summon him to answer the complaint.
- 345.26(2) (a) 3. See the green schedule.
- 345.27 9. A person issued a traffic citation may stipulate no contest and deposit accordance with 345.26(2) (a) at the office of the municipal court.
- 345.27 (1) a. The deposit shall include penalty under s.165.87, court costs and suit tax if applicable.

- b. Stipulations are not permitted for violations of s.346.62 (1) and s.346.63 (1) or a local ordinance in conformity with.

345.27 (2)

- 10. If a person makes a timely stipulation and pays the required deposit, he need not appear in court.

- a. The municipal judge shall record for all stipulations record a judgment of conviction enter fines and forfeitures and comply with s.343.28 and s.345.37 (3).

345.47

- D. If defendant is found guilty the court may enter judgment in an amount not to exceed the maximum forfeiture and penalty under s.165.87, for costs s.345.53, and may suspend or renoke her operating privilege under s.343.30.

345.47 (1) (a)

- 1. If the judgments not paid the court may order the defendant imprisoned until the fine is paid, but not to exceed 90 days.

345.47 (1) (b)

- 2. Suspend the defendant's operating privileges for 30 days to six (6) months.

345.47 (1) (c)

- a. If the court suspends or revokes an operating privilege the judge shall take immediate possession of the license and forward it to the department.

345.47 (2)

- 3. The court may allow payment of judgment to be suspended or deferred for not more than 60 days.

345.48

- 4. If defendant is found guilty, the court shall within 48 hours forward record of the conviction to the department.

345.53

- 5. In traffic regulations actions in all courts, costs may not be taxed against the plaintiff.

345.315

- E. In a traffic regulation case a person may request a new judge in accordance with ss.751.03 (2) and 800.05.

345.43

- F. Jury Trial see s.800.04.

APPENDIX F

STATE ex rel. PEDERSON v. BLESSINGER

pus and raising question of constitutionality of statutes relating to payment of fines and commitment to county jail until payment of a fine. The Supreme Court, Hallows, C. J., held that statute providing that a court may grant permission for payment of a fine to be made within a period not to exceed 60 days and statute providing that if a fine is not paid the defendant may be committed to county jail until the fine is paid but not for a period exceeding six months are constitutional, but that case would be returned for hearing to determine defendant's present ability to pay fines and costs.

Order set aside, and cause remanded for further proceedings.

1. Fines ⇨11, 12

One who has been convicted of a crime and fined is not to be imprisoned in satisfaction of the fine or in lieu thereof if he is unable to pay the fine.

2. Fines ⇨11

Jail sentence cannot be automatically substituted for a fine in the event defendant is unable to immediately pay the fine.

3. Criminal Law ⇨3, 7

Villages, cities and counties lack sovereignty necessary to make violation of an ordinance of theirs a crime involving the punishment of imprisonment.

4. Fines ⇨1

Statute providing that a court may grant permission for payment of a fine to be made within period not to exceed 60 days and statute providing that if a fine is not paid the defendant may be committed to county jail until the fine is paid but not for period exceeding six months are constitutional. W.S.A. 973.05(1), 973.07.

5. Fines ⇨11

When a person who is fined is unable to pay the fine, it would be discriminatory



56 Wis.2d 286

STATE ex rel. Michael PEDERSEN,
Appellant,

v.

Joseph BLESSINGER, Sheriff of
Racine County, Respondent.

No. State 97.

Supreme Court of Wisconsin.

Nov. 9, 1972.

Appeal by defendant-petitioner from an order of the Circuit Court for Racine County, Elmer D. Goodland, Reserve Circuit Judge, quashing a writ of habeas cor-

to imprison him to coerce a performance he is unable to give.

6. Criminal Law §1209

Statute providing if a fine is not paid that defendant may be committed to county jail until the fine is paid but not for period exceeding six months does not provide, even by implication, that such imprisonment is in satisfaction of the debt and thus does not impose double punishment. W.S.A. 973.07.

7. Fines §11

A defendant when given a period of time in which to pay a fine has the burden to apply to court for relief if he is unable to pay within the given time; lacking such an application by defendant, court may, under statute, commit the defendant to imprisonment as a collection method, and the defendant may seek a hearing and a determination of his ability to pay the fine if he has failed to apply to the court prior to commitment, but burden is on him to prove his inability and that application of such statute would be unconstitutional as applied to him. W.S.A. 973.05, 973.07.

8. Fines §11

For purpose of determining whether a defendant who has not paid fine within period of time given for payment is unable to pay so that statute, providing if a fine is not paid defendant may be committed to county jail until it is paid, will possibly be unconstitutional as applied to him, inconvenience, luxury commitments and non-essential priorities do not constitute inability, and payment of a fine is to be given high priority. W.S.A. 973.05, 973.07.

9. Criminal Law §982.5(1)

Instalment payment or payment of whole fine beyond 60-day limitation under statute, providing that a court may grant permission for payment of a fine to be made within period not to exceed 60 days, may be made a condition of probation. W.S.A. 54.15(1), 973.05(1, 2), 973.09(1).

10. Habeas Corpus §113(13)

Where defendant who pleaded no contest to charges of disorderly conduct and operating a vehicle without a license and who, upon failure to pay assessed fines and costs, was ordered to serve not more than 20 or 15 days in county jail or until he paid the fines and costs, but where it did not appear that at time of sentencing or at time commitment was issued there was a hearing at which defendant's ability to pay the fines was determined, and such a hearing was necessary to avoid unconstitutional application of statutes relating to payment of fines and commitment to county jail until payment of a fine, case would be returned for hearing to determine defendant's present ability to pay the fines and costs. W.S.A. 343.05(3), 947.01(1), 973.05(1), 973.07.

This is an appeal from an order quashing a writ of habeas corpus and raising the question of the constitutionality of sec. 973.05(1), Stats., which provides a court may grant permission for the payment of a fine to be made within a period not to exceed 60 days, and of sec. 973.07, Stats., which provides if a fine is not paid the defendant may be committed to the county jail until the fine is paid but not for a period exceeding six months.

Arthur B. Nathan, Racine, for appellant.

Robert W. Warren, Atty. Gen., Robert D. Martinson, Asst. Atty. Gen., Madison, for respondent.

HALLOWS, Chief Justice.

On July 20, 1971, Michael Pedersen pleaded no contest to a state charge of disorderly conduct (sec. 947.01(1), Stats.) and was fined \$50 and costs. He also pleaded no contest to a state charge of operating a vehicle without a license (sec. 343.05, Stats.) and was fined \$35 and costs and was given 60 days in which to pay the fines and costs. When he failed to do so

a commitment was issued in which he was ordered to serve not more than 20 and 15 days in the county jail or until he paid the fines and costs. The record is not clear whether these time limits were originally set at the time of conviction or at the time the commitment was issued.* The original sentence is not in the record. Pedersen was arrested and jailed and at a hearing for a writ of habeas corpus Pedersen claimed he was indigent and that the imprisonment for his inability to pay was unconstitutional as a denial of the equal protection of the laws. The trial court found the statutes constitutional and from the order quashing the writ, Pedersen appealed, and he was granted a stay during his appeal.

Pedersen claims it is unconstitutional to imprison him because of his inability to pay the fines and rests his argument upon *Tate v. Short* (1971), 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130; *Morris v. Schoonfield* (1970), 399 U.S. 508, 90 S.Ct. 2232, 26 L.Ed.2d 773; and *Williams v. Illinois* (1970), 399 U.S. 235, 90 S.Ct. 2018, 26 L.Ed.2d 586. The holding of these cases as distinguished from their language does not control this case, as the question here involved was expressly not decided in Pedersen's favor when in the *Tate Case* the court said, pp. 400-401, 91 S.Ct. p. 672:

"Nor is our decision to be understood as precluding imprisonment as an enforcement method when alternative means are unsuccessful despite the defendant's reasonable efforts to satisfy the fines by those means; the determination of the constitutionality of imprisonment in that circumstance must await the presentation of a concrete case."

[1] What these cases teach is that one who has been convicted of a crime and fined is not to be imprisoned in satisfaction of the fine or in lieu thereof if he is unable to pay the fine. The holdings go no farther. In *Williams*, the Illinois statute au-

thorized both a fine and an imprisonment. Williams was sentenced to the maximum of one year for petty theft and fined \$500 plus costs. The judgment provided that if Williams did not pay the fine and costs by the expiration of the imprisonment he was to remain in jail until the amount was satisfied at the rate of \$5 per day. The supreme court held the statute as applied to Williams, an indigent, worked an invidious discrimination solely because he was too poor to pay the fine and therefore violated the Equal Protection Clause. Actually, the holding was much narrower because Williams had served the maximum term and the court said imprisonment for failure to pay the fine could not exceed the maximum imprisonment term. And, it is to be noted that the imprisonment was in satisfaction of the fine and the maximum term had already been served. In the instant case, imprisonment is not in lieu of the fines but is a means to enforce their collection and is in no sense a punishment for the crime or in payment of the fines.

Although sec. 947.01, Stats., provides for a fine of not more than \$200 or imprisonment for not more than 90 days or both and also sec. 343.05(3), Stats., provides for a fine of not more than \$100 or imprisonment of not more than six months, or both, for the first offense, Pedersen's sentence was a fine only.

In *Morris v. Schoonfield*, remanded in light of *Williams*, Mr. Justice White wrote a concurring opinion in which he stated the principle of *Williams* applied to jailing of an indigent for failure to pay a fine although no accompanying prison sentence was involved. In *Tate v. Short*, *supra*, the Texas statute provided for a fine only for traffic offenses and also for imprisonment for the nonpayment of the fine at the rate of \$5 per day. Thus imprisonment on a predetermined formula was in satisfaction and in payment of the fine. The court in

*No question of counsel representation is raised on this appeal under the rule of

Argersinger v. Hamlin (1972), 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed.2d 530.

Tate adopted Justice White's view and stated as follows, p. 398, 91 S.Ct. p. 671:

"the same constitutional defect condemned in *Williams* also inheres in jailing an indigent for failing to make immediate payment of any fine, whether or not the fine is accompanied by a jail term and whether or not the jail term of the indigent extends beyond the maximum term that may be imposed on a person willing and able to pay a fine. In each case, the Constitution prohibits the State from imposing a fine as a sentence and then automatically converting it into a jail term solely because the defendant is indigent and cannot forthwith pay the fine in full."

[2,3] Thus a jail sentence cannot be automatically substituted for a fine in the event the defendant is unable to immediately pay the fine. This is the typical \$30 or 30 days sentence. We do not have this alternative; nor a predetermined equiv-

alency formula; nor do we have imprisonment in terms of payment of a fine, much less at a certain dollar rate per day. We do have in sec. 973.07, Stats., a six months' limitation on the enforcement method of collection of a fine by imprisonment, supposedly on the ground of public policy that if six months' incarceration will not induce payment, a longer period will be fruitless. In village, city and county ordinance violations, the sanction can be only a fine or a forfeiture as those units of government lack sovereignty which is necessary to make such violation a crime involving the punishment of imprisonment. *State ex rel. Keefe v. Schmiede* (1947), 251 Wis. 79, 28 N.W.2d 345.

The problem of imposing fines and their collection from indigents has been the subject of much consideration by scholars. The standards on sentencing alternatives and procedures of the American Bar Association¹ reflects the philosophy of rethinking the function of the fine as a

1. "2.7 Fines.

(a) The legislature should determine the offenses or categories of offenses for which a fine would be an appropriate sentence, and should state the maximum fine which can be imposed. Except in the case of offenses committed by a corporation, the legislature should not authorize the imposition of a fine for a felony unless the defendant has gained money or property through the commission of the offense.

(b) Whether to impose a fine in a particular case, its amount up to the authorized maximum, and the method of payment should remain within the discretion of the sentencing court. The court should be explicitly authorized to permit installment payments of any imposed fine, on conditions tailored to the means of the particular offender.

(c) In determining whether to impose a fine and its amount, the court should consider:

(i) the financial resources of the defendant and the burden that payment of a fine will impose, with due regard to his other obligations;

(ii) the ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the court;

(iii) the extent to which payment of a fine will interfere with the ability of the defendant to make any ordered

restitution or reparation to the victim of the crime; and

(iv) whether there are particular reasons which make a fine appropriate as a deterrent to the offense involved or appropriate as a corrective measure for the defendant.

Revenue production is not a legitimate basis for imposing a fine.

(d) It would be appropriate for the legislature to endorse in the penal code standards such as those specified in subsection (c). They are in any event commended to sentencing courts as guides to the exercise of discretion.

(e) The court should not be authorized to impose alternative sentences, e. g., 'thirty dollars or thirty days.' The effect of nonpayment of a fine should be determined after the fine has not been and after examination of the reasons for nonpayment. The court's response to nonpayment should be governed by the standards set forth in section 6.5.

(f) In fixing the maximum fine for some offenses, the legislature should consider the feasibility of employing an index other than a dollar amount in cases where it might be appropriate. For example, a fine relative to the amount of the gain might be appropriate in cases where the defendant has profited by his crime, or a fine relative to sales,

criminal sanction and when a fine is conceived as an alternative to a jail sentence, imprisonment following default in the payment of the fine is illogical and results in unfairness to those unable to pay because of their poverty. Two approaches have been suggested to alleviate imprisonment for nonpayment. This is in keeping with the credit way of doing business—even before the advent of our credit-card society. The Model Penal Code in sec. 302.1(1)² provides for instalment payments or the payment within a specified period of time. See also, Note, Fines and Fining—An Evaluation, 101 U. of Pa. Law Rev. 1013, 1022-1024 (1953); Note, Imprisonment of Indigents or Non-Payment of Fines or Court Costs: The Need for Legislation That Will Provide Protection for the Poor, 48 N.D.L.Rev. 109 (1971); Discriminations Against the Poor, 81 Harv.L.Rev. 435, 448 (1967); California Penal Code 1205, 1966 supplement; N.Y. Criminal Procedure, sec. 470-d(1)(b); Amended Session Laws (1967), ch. 681, sec. 61. Another approach is that fines be imposed only on those who are likely to be able to pay them and this determination should be made at the time of sentencing. See Model Penal Code, sec. 7.02(3)(a). However, a variation exists to cover cases where the defendant is unable to pay a fine imposed when his ability to pay has not been predetermined. In such a case he may at any time apply to the court for a resentence. See New York Code, Criminal Procedure, sec. 470-d(1)(b), Amended Session Laws (1967), ch. 681, sec. 61. This alternative we have in Wisconsin under the doctrine of *Hayes v. State*

(1970), 46 Wis.2d 93, 175 N.W.2d 623, if the application is made or the court moves *sua sponte* within 90 days of the sentencing.

Of course, if a court is to determine at the time of sentencing whether a defendant is able to pay a fine, the result may be, at least in state cases, although it would be impossible in ordinance cases, that all defendants would spend a short term confinement in jail as a punishment in order to avoid an inverse discrimination. In fact, Mr. Justice Blackmun in his concurring opinion in *Tate* has well put it in these words, p. 401, 91 S.Ct. p. 672:

"Eliminating the fine whenever it is prescribed as alternative punishment avoids the equal protection issue that indigency occasions and leaves only possible Eighth Amendment considerations. If, as a nation, we ever reach that happy point where we are willing to set our personal convenience to one side and we are really serious about resolving the problems of traffic irresponsibility and the frightful carnage it spews upon our highways, a development of that kind may not be at all undesirable."

[4] We consider sec. 973.05(1),³ Stats., to be constitutional. There may be isolated cases where the application of the section might work a discrimination but such an application is not required by the force of commands of these statutes. A period of 60 days is set in sec. 973.05(1). This is the equivalent timewise in most cases of instalment payment. We do not read *Tate*

profits, or net annual income might be appropriate in some cases, such as business or antitrust offenses, in order to assure a reasonably even impact of the fine on defendants of variant means.

(g) Legislative attention should also be devoted to the desirability of a special schedule of fines for offenses committed by corporations."

2. "Section 302.1. Time and Method of Payment; Disposition of Funds.

(1) When a defendant is sentenced to pay a fine, the Court may grant permis-

sion for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the fine shall be payable forthwith."

3. "973.05 Fines. (1) When a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a period not to exceed 60 days. If no such permission is embodied in the sentence, the fine shall be payable forthwith."

as requiring instalment payment, although courts seemed to be divided on this point. In *State v. De Bonis* (1971), 58 N.J. 182, 276 A.2d 137, the court took the view that a provision for instalment payment was required; but the court in *Rutledge v. Turner* (1972) (Okla.Cr.), 495 P.2d 119, held that a future date for total payment in lieu of payment in instalments was acceptable. Certainly, under our statute a trial judge can order instalment payments within the 60-day period. The question then remains is whether 60 days is a reasonable time for the payment of fines in all cases. We think that in most cases, especially those involving traffic offenses the time is reasonable and we hold this section to be constitutional on its face. This section does not provide for any automatic conversion to imprisonment; nor does it forthwith require the payment of a fine. Besides, this section does not prevent a trial court from exercising its inherent power to stay the sentence providing for payment within 60 days upon such terms as the court may then find to be just. This inherent power to stay a sentence to meet the needs of an individual case must be construed as part and parcel of the statute.

We hold also that sec. 973.07, Stats.,⁴ is constitutional, as the trial court found. This section, likewise, does not automatically require imprisonment for the failure to pay a fine. It is not directory on the trial courts but permissive. The language is "may be committed." In what cases a defendant should be committed depends upon the facts to be determined by the trial court. If the defendant has ability to pay the fine and will not, then imprisonment is a proper means of enforcement. In such case, the defendant has a key to his im-

prisonment and it is only his contumacy which keeps him from enjoying his liberty.

[5] But what about the person unable in fact and in truth to pay a fine? In such a case, we hold it would be discriminatory to imprison him to coerce a performance he is unable to give. Under such conditions he is imprisoned because of his poverty. The inability to pay a fine is not different than the inability to pay alimony and support in civil cases. The failure must be contumacious. *O'Connor v. O'Connor* (1970), 48 Wis.2d 535, 542, 180 N.W.2d 735, 739. But the inability to pay and the question of indigency are relative terms and in the case of a fine, the trial courts should take a long and hard look upon the argument of inability to pay in our affluent society.

[6] Too many people claim indigency when there is no indigency in fact. Too many claim an inability to pay when they consider the payment of a fine to be in the lowest order of priority. In traffic cases it is difficult to find inability to pay when a defendant owns an automobile and seemingly has money to buy gasoline or has the ability to borrow. Nevertheless, the constitution we believe forbids the imprisonment as a fine-collection method when the court knows it cannot work. Since Wisconsin does not have a sentencing alternative of imprisonment as the equivalent or in payment of a fine,⁵ other methods, perhaps civil, must be used to collect the fines as a last resort.

[7, 8] Since we hold that sec. 973.05, Stats., is prima facie constitutional, we think the defendant when given a period of time in which to pay a fine has the burden

4. "973.07 Failure to pay fine or costs. When a fine or the costs are not paid as required by the sentence, the defendant may be committed to the county jail until the fine and costs are paid or discharged for a period fixed by the court not to exceed 6 months."

5. Certainly, sec. 973.07, Stats., which contemplates imprisonment until the fine

and costs are paid, does not provide even by implication that such imprisonment is in satisfaction of the debt, and any argument of double punishment is not meritorious. See *City of Milwaukee v. Horvath* (1966), 31 Wis.2d 490, 143 N.W.2d 446, and *State ex rel. Keefe v. Schmiedege*, *supra*.

to apply to the court for relief, if he is unable to pay within the given time. Lacking such an application by the defendant, the court may under sec. 973.07, Stats., commit the defendant to imprisonment as a collection method. The defendant, if he has failed to apply to the court prior to commitment, may seek a hearing and a determination of his ability to pay the fine. But the burden is on the defendant to prove his inability and that the application of this section would be unconstitutional as applied to him. It must be remembered that courts generally, and traffic courts in particular, are not collection agencies and should not be made such. Our courts are overcrowded with cases and only the most streamlined procedure, consistent with constitutional demands, should be mandated. We repeat the defendant has the burden to raise and prove his inability to pay the fine where a commitment is ordered for his failure to do so. Inconvenience, luxury commitments and nonessential priorities do not constitute inability. The payment of a fine is to be given a high priority.

Much time could be saved if trial courts would follow the practice of ascertaining

the defendant's ability to pay a fine at the time of sentencing. In cases of crime, probation might be considered as an alternative (sec. 973.09, Stats.). We also point out that under *Hayes v. State*, *supra*, the trial court could within 90 days of sentencing if the facts warrant, change or modify the sentence. The courts' power under *Hayes* gives some flexibility to avoid unconstitutionally imprisoning a person because he is unable to pay a fine. The ABA Standards on Sentencing Alternatives and Procedures recommend trial courts be given the power to modify their sentences;⁶ so does the Model Penal Code, sec. 302.3.⁷ However contrary to Wisconsin's theory that imprisonment is a collection device and somewhat illogically, the American Bar Association's Standards consider imprisonment for nonpayment of a fine to be a discharge of the obligation to pay the fine. See sec. 6.05(b) and Commentary, p. 289. We still think imprisonment should be a sanction for the inexcusable failure to pay a fine—in ordinance traffic cases it can have no other function in this state.

[9] We do not in this opinion pass upon the constitutionality of sec. 54.15(1) of the

6. "6.5 Modification of sentence: fines; nonpayment.

(a) The sentencing court should have the power at any time to revoke or remit a fine or any unpaid portion, or to modify the terms and conditions of payment. When failure to pay a fine is excusable, such authority should be exercised.

(b) Incarceration should not automatically follow the nonpayment of a fine. Incarceration should be employed only after the court has examined the reasons for nonpayment. It is unsound for the length of a jail sentence imposed for nonpayment to be inflexibly tied, by practice or by statutory formula, to a specified dollar equation. The court should be authorized to impose a jail term or a sentence to partial confinement (section 2.3) for nonpayment, however, within a range fixed by the legislature for the amount involved, but in no event to exceed one year. Service of such a term should discharge the obligation to pay the fine, and payment at any time during its service should result in the release of the offender.

(c) The methods available for collection of a civil judgment for money should also be available for the collection of a fine, and should be employed in cases where the court so specifies.

(d) In the event of nonpayment of a fine by a corporation, the court should be authorized to proceed against specified corporate officers under subsection (b) or against the assets of the corporation under subsection (c)."

7. "Section 302.3. Revocation of Fine.

A defendant who has been sentenced to pay a fine and who is not in contumacious default in the payment thereof may at any time petition the Court which sentenced him for a revocation of the fine or of any unpaid portion thereof. If it appears to the satisfaction of the Court that the circumstances which warranted the imposition of the fine have changed, or that it would otherwise be unjust to require payment, the Court may revoke the fine or the unpaid portion thereof in whole or in part."

Youth Service Act.⁸ We see no problem with sec. 973.05(2), Stats.,⁹ relating to probation. Instalment payment or payment of the whole fine beyond the 60-day limitation may be made a condition of probation. Section 973.09(1) permits the court to "impose any conditions which appear to be reasonable and appropriate." The 60-day limitation for those not on probation should not be carried over to those on probation. This construction gives both sections full operation for their intent and purposes without doing violence to either and such a construction strongly follows since both sections are a part of the criminal code and were passed at the same time. *Brunette v. Bierke* (1955), 271 Wis. 190, 72 N.W.2d 702. See also *Harte v. City of Eagle River* (1970), 45 Wis.2d 513, 173 N.W.2d 683; *State ex rel. Thompson v. Gibson* (1964), 22 Wis.2d 275, 125 N.W.2d 636.

"54.15 Duty of court when person fails to pay fine; violation of probation. (1) If the court sentences a person who is less than 21 years of age at the time of his apprehension to the payment of a fine and the fine is not paid, the court may either remit the fine in whole or in part, or commit him to confinement for a length of time permitted by statutes relating to imprisonment for failure to pay fines. However, such confinement may be

201 N.W.2d—50

[10] The evidence of inability to pay on the part of Pedersen in the court below is unsatisfactory. It does not appear in the record that at the time of sentencing or at the time the commitment was issued there was a hearing at which the defendant's ability to pay the fine was determined. Such a hearing is necessary to avoid an unconstitutional application of the statutes. We think the case should be returned to determine whether Pedersen is now able to pay the fines. We say "now" because Pedersen has had about one year and four months' time to save or raise funds for the payment of this comparatively small fine.

The order dismissing the writ of habeas corpus is set aside, and the court ordered to hold a hearing to determine Pedersen's ability now to pay the fines and costs, and for such further action as is not inconsistent with this opinion.

only in a place approved by the department for confinement of such persons as come within the purview of sections 54.08 to 54.38."

9. "973.05 Fines . . .

(2) When a defendant is sentenced to pay a fine and is also placed on probation, the court may make the payment of the fine a condition of probation . . ."

APPENDIX G

LEO BALDERAS, MAMIE DIETZ, and RICHARD HERZIG,

and all other persons similarly

situated v. DONALD N. THORGAARD, et al

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LEO BALDERAS, MAMIE DIETZ, and
RICHARD HERZIG, individually and
on behalf of all other persons
similarly situated,

v.

No. 73-C-290

DONALD N. THORGAARD, et al.,

Defendants.

DECISION and ORDER

The plaintiffs and the defendants in the above class action have submitted an order for partial consent judgment for my approval. I hold that Rule 23(e), Federal Rules of Civil Procedure, requires that notice of this proposed course of action be given to members of the class represented by the plaintiffs.

Rule 23(e) states:

"A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs."


I believe that the proposed partial consent judgment constitutes a compromise under Rule 23(e), since the injunctive relief sought in the plaintiffs' complaint includes

an element not found in the proposed judgment. The complaint seeks the imposition of judicial hearings, defined to include the individual's right to a written statement of the reasons and evidence relied on, prior to incarceration for non-payment of fines for ordinance violations. There is no mention of such a written statement of reasons and evidence in the proposed judgment.

Accordingly, notice of the proposed compromise must be given to members of the class. Upon receiving the information necessary to assure the appropriate notice to the class, a hearing to consider the fairness of the proposed partial consent judgment will be scheduled.

Therefore, IT IS ORDERED that counsel for all parties submit to the court in writing not later than July 25, 1975, their views as to (1) what method of communicating the notice should be employed; (2) what the contents of the notice should be; (3) who should bear the costs of notice; and (4) any other pertinent matter. Counsel are directed to exchange all submissions.

Dated at Milwaukee, Wisconsin, this 3 day of July, 1975.


U. S. District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LEO BALDERAS, MAMIE DIETZ, and
RICHARD HERZIG, individually
and on behalf of all other
persons similarly situated,

Plaintiffs,

vs.

ORDER FOR PARTIAL
CONSENT JUDGMENT

Civil Action No.
73-C-290

DONALD N. THORGAARD, individually and
as Chief Deputy Clerk of Criminal
Court of Milwaukee County, HAROLD
A. BREIER, individually and as Chief of
Police of the City of Milwaukee;
MICHAEL S. WOLKE, individually and
as Sheriff of Milwaukee County,
ROSE C. NUGENT, individually and as
Court Administrator of the City of
Milwaukee Municipal Court, and their
agents, employes, assistants, successors
in office, and all others acting in
concert or cooperation with them or
at their direction or under their
control,

Defendants.

The plaintiffs brought the aforementioned action individual
and on behalf of a class consisting of all persons who are threatened
with incarceration because of their failure to pay fines upon
conviction of violations of the ordinances of the City of Milwaukee,
against the defendants individually and in their official capacity,
and their agents, employes, assistants, successors in office, and
all others acting in concert or cooperation with them or at their
direction or under their control.

In May, 1973, plaintiffs filed their complaint seeking declaratory and equitable relief against the defendants Raymond Fleming, Chief Deputy Clerk of Criminal Court of Milwaukee County, Harold A. Breier, Chief of Police of the City of Milwaukee, and Michael S. Wolke, Sheriff of Milwaukee County, for alleged violation of the Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

On August 17, 1973, the court issued an order certifying the maintainability of the action by the plaintiffs on behalf of the class and entered a preliminary injunction.

On October 16, 1973, the court issued an order substituting Donald N. Thorgaard, Chief Deputy Clerk of Criminal Courts of Milwaukee County as a party defendant for and in place of Raymond Fleming.

On April 9, 1975, the court ordered that Rose C. Nugent, Court Administrator of the Municipal Courts of the City of Milwaukee, be added as a party defendant and the caption be amended accordingly, and that a copy of the amended summons and complaint be served on Rose C. Nugent within 10 days after the entry of the court's order.

It now appears to the court that the parties to this order have waived hearings, findings of fact and conclusions of law with respect to issues pertaining to: i) judicial hearing, ii) notice of judicial hearing prior to incarceration of persons for non-payment of fines for conviction of violation of the ordinances of the city of Milwaukee, iii) the contents of the notice of judicial hearing, and iv) delivery of the notice of judicial hearing, and have therefore agreed to the entry of this order for a partial consent

judgment which will resolve all issues in relation thereto. The only issue which remains unresolved by this partial consent judgment is whether court-appointed counsel is required at any stage of the proceedings.

The judgment and decree shall not in any manner constitute findings on the merits of the case nor be construed as an admission by the defendants of any violation of the Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Defendants Donald N. Thorgaard, Chief Deputy Clerk of Criminal Courts of Milwaukee County, Harold A. Breier, Chief of Police of the City of Milwaukee, and Michael S. Wolke, Sheriff of Milwaukee County, and Rose C. Nugent, Court Administrator of the City of Milwaukee Municipal Court, their agents, employees, assistants, successors in office, and all others acting in concert or cooperation with them or at their direction or under their control, be and are hereby permanently enjoined from incarcerating or threatening to incarcerate persons who have failed to pay fines imposed upon conviction of city of Milwaukee ordinance violations unless such persons are first provided with the following:

a) a written statement containing the reason for the proposed incarceration and informing the individual of his right to a judicial hearing with respect to his ability to pay the fine imposed within the time limited for payment by his conviction;

b) a judicial hearing on request in which: i) the individual has an opportunity to present evidence on his own behalf concerning his ability to pay the fine within the time imposed, ii) the individual has the opportunity to confront and cross-examine any adverse witness; iii) the individual has the right to be represented by counsel, and iv) the individual has the right to a written statement of the reasons and evidence relied on.

2. In order to fully implement this judgment and decree, the defendants Donald Thorgaard and Rose C. Nugent, shall adopt as of this date the following procedures with respect to persons convicted of violation of the ordinances of the city of Milwaukee:

a) At the time of entry of judgment of conviction a document, which shall be as set forth in Exhibit "A" attached hereto, shall be delivered to persons who appear in court in person;

b) A document which shall be as set forth in Exhibit "B" attached hereto shall be delivered to persons who have a default judgment entered against them as follows: i) a copy of such document shall be mailed to such person by certified mail with instructions to deliver to the specific addressee only and delivery to such

person shall be complete upon return of a properly signed receipt,
ii) if delivery by mail cannot be completed in accordance with the
above procedures, then such document may be served upon such person
and delivery shall be complete upon proof of personal service of
such document.

3. In order to implement this judgment and decree, the
defendants Donald Thorgaard and Rose C. Nugent shall not issue
commitments for non-payment of fines for violations of City of Milwaukee
ordinances against persons to whom the requisite notice has not
been delivered in accordance with the above. Commitments issued
by the defendants Donald Thorgaard and Rose C. Nugent shall be stamped
so as to clearly indicate that the requisite notice has been delivered
and the opportunity for a judicial hearing meeting the requirements
of the judgment and decree have been accorded.

4. Defendants Harold A. Breier and Michael S. Wolke shall
not cause commitments for non-payment of fines to be served or executed
unless such commitments as issued by Donald Thorgaard and Rose C.
Nugent bear the requisite stamp referred to in paragraph 3 above.
Harold A. Breier and Michael S. Wolke shall be absolved from any
liability for contempt of this judgment and decree by the court
for service and execution of commitments bearing the requisite
stamp unless defendants Harold A. Breier and Michael S. Wolke have
actual personal knowledge that the commitments so stamped have been
issued without compliance with the above requirements.

Dated this 22 day of July, 1975.

BY THE COURT:

151 Myron L. Gordon
Federal District Judge

Dated: July, 1975

Approved by:

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APPENDIX H

PROPOSED AMENDMENT TO § 755.045

(Equity Jurisdiction for Municipal Courts)

AN ACT to amend 755.045 (1), to renumber 800.12 (2), and to create 755.01 (4), 755.045 (3) and 800.12 (2) (b) of the statutes, relating to authorizing certain municipal courts to issue and enforce equitable orders necessary to remedy conditions constituting continuous ordinance violations.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. 755.01 (4) of the statutes is created to read:

755.01 (4) The governing body may by ordinance or bylaw limit eligibility for the office of municipal judge to attorneys licensed to practice in this state but no such ordinance shall have the effect of removing a municipal judge from office during his or her term.

SECTION 2. 755.045 (1) of the statutes is amended to read:

755.045 (1) A municipal court has exclusive jurisdiction over an action in which a municipality seeks to impose forfeitures for violations of municipal ordinance of the municipality which operates the court, unless the action is transferred under s. 800.04 (1) or 800.05 (3) to a court of record. If equitable relief is demanded the municipal court does not have jurisdiction except to the extent provided in sub. (3) and the action must be brought in a court of record.

SECTION 3. 755.045 (3) of the statutes is created to read:

755.045 (3) A governing body which has adopted an ordinance or bylaw under s. 755.01 (4) may by ordinance or bylaw authorize its municipal court to issue equitable orders prayed for by the municipality if the court finds such orders necessary to remedy a condition which constitutes a continuous violation of one or more ordinances of that municipality specified in the ordinance or bylaw. An ordinance or bylaw under this subsection may authorize the municipal court to impose a specified daily forfeiture as a remedial sanction for contemptuous disobedience of such equitable orders. The amount of the forfeiture specified in the ordinance or bylaw shall not exceed \$50 for each day the contempt of court continues.

SECTION 4. 800.12 (2) of the statutes is renumbered 800.12 (2) (a).

SECTION 5. 800.12 (2) (b) of the statutes is created to read:

800.12 (2) (b) A municipality may authorize its municipal court to impose daily forfeitures as a remedial sanction for contemptuous violation of equitable orders under s. 755.045 (3).

(End)

APPENDIX I

"ONE-WRITE" ACCOUNTING SYSTEM

Accounting poses problems for courts

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

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

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

National Center for State Courts REPORT

Court Improvement Through Applied Technology (CITAT)

ACCOUNTING SYSTEMS IN THE COURTS

MARCH 1980

Pegboard accounting systems offer solutions for small courts

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

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

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

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

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

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

Automation streamlines accounting in large courts

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

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



"Intelligent" cash register

reconciling cash receipts for various accounts.

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

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

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

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

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

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Pegboard system pluses given

The pegboard accounting system offers courts the following advantages:

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

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

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

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

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

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

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

APPENDIX J

AUDIO/VIDEO TECHNOLOGY AND THE COURTS

(GUIDE FOR COURT MANAGER)

AUDIO/VIDEO TECHNOLOGY AND THE COURTS

GUIDE FOR COURT MANAGERS

Courts' Equipment Analysis Project

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Selecting Audio Equipment

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

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

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

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

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

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

AUDIO TAPES

Reels

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

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

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

Cassettes

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

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

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

MICROPHONES

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

Microphone Type

The dynamic microphone is most suitable for recording

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

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

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

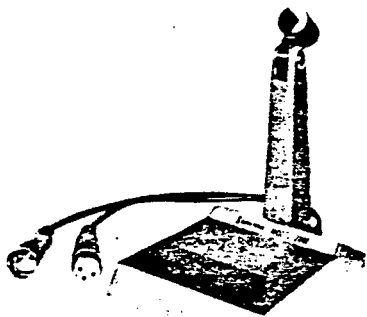


Figure 5.1. Spring-loaded microphone.

Output Impedance

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

Balanced Microphones

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

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

Microphone Frequency Range

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

Microphone Connections

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

Directivity

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

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

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

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

Microphone Stands

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

Microphone Mixer

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

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

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

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

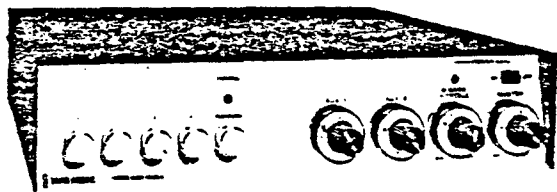


Figure 5.2. Microphone mixer.

AUDIO RECORDERS

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

Dimensions

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

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

Operating Conditions

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

Multi-Track (Channels)

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

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

Motors

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

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

device and more reliable than a single motor system.

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

Volume Control

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

Control Switches

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

Index Counter

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

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

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

Monitoring Equipment

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

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

The recorder, therefore, must have the following features:

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

Recording Quality

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

Many audio components affect audio quality.

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

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

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

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

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

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

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

Transcribers

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

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

monitoring for each track or any combination of recording tracks.

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

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

ACCESSORY EQUIPMENT

Bulk Erasers

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

Duplicators

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

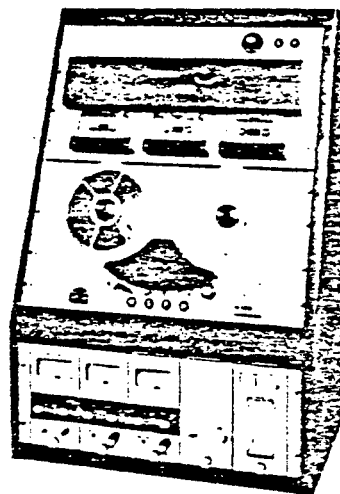


Figure 5.3 Duplicator.

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

A duplicator is a high-speed audio reproduction system

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

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

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

APPENDIX K

SAMPLE MUNICIPAL COURT FORMS

CITATION FORMS

Receipt #

2053

WAUSAU MUNICIPAL COURT
MUNICIPAL COURT, CITY OF WAUSAU, WISCONSIN

BOND	10% ASSESSMENT	COURT COST	TOTAL DEPOSIT

THE UNDERSIGNED, AN OFFICER FOR AND IN BEHALF OF THE CITY OF WAUSAU, WISCONSIN, STATES, ON OATH (UPON INFORMATION AND BELIEF) THAT SAID DEFENDANT DID,

<input type="checkbox"/> APPEARANCE VIOLATION <input type="checkbox"/> BAILING VIOLATION	ON _____ 19 ____ AT _____ AM PM, VIOLATE _____ TO WIT:
NAME, FIRST _____ MIDDLE INITIAL _____ LAST _____	DESCRIBE VIOLATION _____
ADDRESS (RESIDENCE) _____ POST OFFICE _____ STATE _____ ZIP _____	
DRIVER'S LICENSE _____ STATE _____	
EXP. _____ STATE _____ MAKE _____ TYPE _____	ON HWY./STREET _____
YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT	
ON _____ 19 ____ AT _____ AM PM	COUNTY OF MARATHON CITY OF WAUSAU
LOCATED AT _____ CITY HALL, 610 FIFTH ST., WAUSAU, WI	OFFICER'S SIGNATURE _____ BADGE NO. _____
PHYSICAL DESCRIPTION: SEX _____ RACE _____ EYES _____ HAIR _____ WT. _____ HT. _____	SWORN TO BEFORE ME:
PLACE OF EMPLOYMENT _____ ISSUE DATE _____	DATE _____
	TITLE _____

Blue Copy - For Court Record
Front

I HAVE RECEIVED A COPY OF THE WITHIN CITATION.

SIGNATURE _____

BAIL SET DATE _____

BAIL RECEIVED DATE _____

AMOUNT \$ _____

CONTINUANCES _____

WARRANT _____

DATE ISSUED _____

DATE RETURNED _____

CASE TRANSFERRED TO: _____

PLAN _____

DATE _____

☐ DISMISSAL☐ AMENDMENT

TRIAL _____

DATE _____

FINDINGS BY: _____

COUNT _____

DATE _____

THEREFORE THE COURT ENTERS THE FOLLOWING ORDER:

PENALTY \$	ASSESSMENT \$	COSTS \$	TOTAL \$	JAIL (DAYS)

COMMENTS: _____

Blue Copy - Reverse Side

CITATION FORMS

Receipt # WAUSAU MUNICIPAL COURT MUNICIPAL COURT, CITY OF WAUSAU, WISCONSIN		BOND <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	10% ASSESSMENT <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	COURT COST <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	TOTAL DEPOSIT <div style="border: 1px solid black; width: 100px; height: 20px;"></div>
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> Nº 2053 </div>					
THE UNDERSIGNED, AN OFFICER FOR AND IN BEHALF OF THE CITY OF WAUSAU, WISCONSIN, STATES, ON OATH (UPON INFORMATION AND BELIEF) THAT SAID DEFENDANT DID,					
ORDINANCE VIOLATION <input type="checkbox"/> WARNING TICKET <input type="checkbox"/>	ON _____ 19____ 11____ AM NAME: FIRST _____ MIDDLE INITIAL _____ LAST _____		TO WIT: _____		
ADDRESS (RESIDENCE) _____ POST OFFICE _____ STATE _____ ZIP _____		DESCRIBE VIOLATION _____			
BIRTHDATE _____ DRIVER'S LICENSE _____ STATE _____					
VEN. PLATE _____ EXP. _____ STATE _____ MAKE _____ TYPE _____		ON HWY./STREET _____			
YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT		AT _____			
ON _____ 19____ AT _____ AM PM		COUNTY OF MARATHON		CITY OF WAUSAU	
LOCATED AT _____ CITY HALL, 610 FIFTH ST., WAUSAU, WI		OFFICER'S SIGNATURE _____		BADGE NO. _____	
PHYSICAL DESCRIPTION: SEX _____ RACE _____ EYES _____ HAIR _____ WT. _____ HT. _____		SWORN TO BEFORE ME:			
PLACE OF EMPLOYMENT _____		DATE _____		TITLE _____	

Green Copy - For Defendant
Front

INSTRUCTIONS — READ CAREFULLY

For any charge, a plea of not guilty may be made by regular mail through the court. The court will inform you of the trial date. You also may request a jury trial within ~~30~~ (10) days of your plea.

Failure to appear in court as directed or to post a cash deposit may result in issuance of a summons or warrant for your arrest, or the court may enter a default judgement for the amount of the penalty.

The court may refuse to forfeit a cash deposit and order you to appear in court.

FOR MUNICIPAL CODE VIOLATIONS: If you do not wish to appear in court to answer this citation, you may satisfy this matter without appearing in court by following one of the two following procedures:

- A. Make a **STIPULATION AND A DEPOSIT**. To do this you must, **WITHIN 5 DAYS OF THE VIOLATION**, do the following:
 1. Sign the "Statement of Stipulation" on the back of your citation.
 2. Mail or deliver your copy of this citation, together with the required amount of deposit plus court costs to the justice agency that issued this citation. Remittance should be made payable to the Municipal Court of the City of Wausau.
- B. Make a **DEPOSIT ONLY**. (the "Statement of No Contest" required.) To do this you must, prior to the court date shown on the reverse side, mail the amount of deposit plus court costs to the Clerk of Court at the Clerk's address. Be advised that if you fail to appear in court at the time affixed on the citation, you will be deemed to have tendered a plea of no contest and submitted to forfeiture plus costs not to exceed the amount of the deposit which the court may accept. If you fail to appear in court at the time fixed on the citation and if the court does not accept the deposit as forfeiture for the violation, you will be summoned into court to answer the citation.

I HAVE READ THE ABOVE STATEMENT.

Signature _____

STIPULATION

I, the undersigned, do hereby stipulate no contest to the offense charged on the reverse side hereof and waive my right to a trial. I agree to pay the amount prescribed below:

SIGNATURE: _____	DATE: _____	AMOUNT: \$ _____
------------------	-------------	------------------

Green Copy - Reverse Side

CITATION FORMS

Appendix C

Receipt # WAUSAU MUNICIPAL COURT MUNICIPAL COURT, CITY OF WAUSAU, WISCONSIN		BOND	10% ASSESSMENT	COURT COST	TOTAL DEPOSIT
THE UNDERSIGNED, AN OFFICER FOR AND IN BEHALF OF THE CITY OF WAUSAU, WISCONSIN, STATES, ON OATH (UPON INFORMATION AND BELIEF) THAT SAID DEFENDANT DID,					
ON <u> </u> 19 <u> </u> AT <u> </u> AM NAME, FIRST <u> </u> MIDDLE INITIAL <u> </u> LAST <u> </u>		TO WIT: _____			
ADDRESS (RESIDENCE) <u> </u> POST OFFICE <u> </u> STATE <u> </u> ZIP <u> </u>		DESCRIBE VIOLATION _____			
BIRTHDATE <u> </u> DRIVER'S LICENSE <u> </u> STATE <u> </u>					
VEH. PLATE <u> </u> EXP. <u> </u> STATE <u> </u> MAKE <u> </u> TYPE <u> </u>		ON HWY./STREET _____			
YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT		AT _____			
ON <u> </u> 19 <u> </u> AT <u> </u> AM PM		COUNTY OF MARATHON		CITY OF WAUSAU	
LOCATED AT <u> </u> CITY HALL, 610 FIFTH ST., WAUSAU, WI		OFFICER'S SIGNATURE _____		BADGE NO. _____	
PHYSICAL DESCRIPTION: SEX <u> </u> RACE <u> </u> EYES <u> </u> HAIR <u> </u> WT. <u> </u> HT. <u> </u>		SWORN TO BEFORE ME: _____			
PLACE OF EMPLOYMENT <u> </u> ISSUE DATE <u> </u>		DATE _____			
		TITLE _____			

Hard Copy - For Officers Records
Front

SIGNATURE _____ DATE _____ AMOUNT \$ _____		DATE OF DISPOSITION _____ () If forfeiture () If penalty		AMOUNT \$ _____
		() Withdrawn by Agency () Denied by Prosecution () Dismissed - Reason _____		
		PLEA: () GUILTY () NOT GUILTY () NO CONTEST		
		FINDING: () NOT GUILTY () _____ DAYS IN JAIL/LEU OF PENALTY () GUILTY () RESTITUTION _____		
		INCIDENT REPORT: _____		

Hard Copy - Reverse Side

RALPH W. FENSKE
Municipal Judge

Date:

RE: Member: _____
 Card Number: _____

Citation: _____

Date of Violation: _____

Violation: _____

Court Date: _____

Forfeiture: _____

Court Costs: _____

Penalty Assessment: _____

Total Amount Due: _____

2 copies:
Original
Municipal Court

TOWN OF WHEATLAND
Municipal Court
WHEATLAND TOWN HALL
NEW MUNSTER, WISCONSIN

Clerk of Courts
Circuit Court
Courthouse
Kenosha, Wisconsin, 53140

In re: Town of Wheatland vs. _____

Docket No. _____ Citation No. _____

Alleged Violation _____

Appearance Date _____ Adjourned To _____

Enclosed you will find the court's check in the amount of _____
to cover the jury fee of _____ for a _____ man jury. The transfer
fee having been received and the request being in order, the matter is
herewith transferred to Circuit Court.

Please set this trial date at your earliest convenience and notify
the Town Attorney, R William Phenicie, 432 Milwaukee Ave., Burlington,
Wisconsin, 53105 of said date.

BY THE COURT:

Gerald D Luke
Municipal Judge
Town of Wheatland

Encs.

cc: Town Attorney R William Phenicie

City of Racine vs. _____

Date of Trial or Continuance _____ 19____

Time _____ M.

OFFENSE _____

MUNICIPAL COURT
CITY HALL ANNEX
800 CENTER STREET
RACINE, WISCONSIN 53403

YOU ARE ORDERED TO APPEAR AT THE TIME SET ABOVE.
IF YOU DO NOT APPEAR, THE COURT WILL ENTER A PLEA OF NO
CONTEST AND A FINE WILL BE IMPOSED.

MS-4

COPY

SUPPLEMENTAL DISPOSITIONAL ORDER TO
RESTRICT, SUSPEND OR REVOKE THE OPERATING
PRIVILEGE/OTHER LICENSES

1. Court Case No.	8619-4 and 5
2. County	Fond du Lac
3. Case Type	<input checked="" type="checkbox"/> Delinquent <input type="checkbox"/> Ordinance/Civil Law Violation
4. Intake Case No.	J1-440

5. In the Interest of: _____ a person under the age of 18.

I. ADDITIONAL FINDINGS

6. THE COURT HEREBY FINDS, in addition to other findings and orders,

- A. ☐ that the named Child was adjudicated delinquent under a violation of a law in which a motor vehicle was involved; or
- B. ☒ that the named Child, adjudged to have violated a civil law or ordinance, has failed to pay the forfeiture in the amount of \$ 50.00 within the time specified in an order issued on the 26th day of March, 19 81

II. FURTHER ORDERS

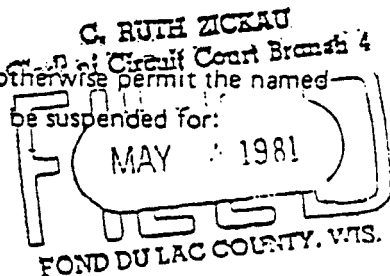
7. THEREFORE, IT IS ORDERED:

- A. that the named Child's motor vehicle operator's license No. the privilege to obtain a drivers license is hereby:
- 1) ☐ Restricted — (Specify restrictions and time period):
 - 2) ☒ Suspended — Until August 1, 19 81; or (90 days)
 - 3) ☐ Revoked — Until _____, 19 ____;

and any limitation of the operating privilege shall be endorsed upon the operator's license and a copy of this order shall be forwarded to the Wisconsin Department of Transportation to give it notice of said limitation.

- *B. that a license issued to the named Child under ch. 29 (Fish and Game) to otherwise permit the named Child to _____ shall be suspended for:
- 1) ☐ 30 days — Until _____, 19 ____; or
 - 2) ☐ 60 days — Until _____, 19 ____; or
 - 3) ☐ 90 days — Until _____, 19 ____;

and the suspended license shall be immediately surrendered to the Court to be forwarded to (name of department issuing the license): _____



NOTE: If the forfeiture is paid during the first 30 days after the license is suspended, the suspension shall be reduced to the minimum period of 30 days. If it is paid thereafter, the Court shall immediately notify the (issuing) department, which will thereupon return the license to the named Child.

8. Presiding Judge/Juvenile Court Commissioner

BY THE COURT:

[Signature]

9. Dated

May 4, 1981

NOTICE OF UNPAID JUDGMENT

Under Section 345.47(1)(d), Wisconsin Statutes

MVD-2458-81

Amount of Judgment \$		Date Judgment Entered	Court Case Number	JUDGMENT CASE NUMBER
Judgment against: Last Name, First, MI.			From: Court Name	
Last known address			Address	
City State Zip code			City State Zip code	
License Number of Vehicle State of Issue Year of Exp			Action on behalf of (City/Village/Town or County Name)	
Driver License Number State of Issue Date of Birth			Judgment may be paid at:	

This is to certify that a judgment for violation of Chapter 110, 194, or 341 to 350, Wisconsin Statutes; an administrative rule of the Wisconsin Department of Transportation; or an ordinance enacted in accordance with s. 349.06, including parking violations, has been entered against the person named above and remains unpaid following the serving of a warrant on the person.

Judge or authorized court representative

Date signed

X

Title of
person
signing**NOTICE OF SATISFACTION**

This is to certify that on this date
this judgment has been satisfied.

Date of Satisfaction

Judge or authorized court representative

Date signed

X

Title of
person
signing

Mail TO: Wisconsin Dept. of Transportation
UNPAID JUDGMENTS
P.O. Box 7909, Madison, WI 53707

Village of Cross Plains
2107 Julius Street
Cross Plains, Wisconsin 53528

ALPH W. FENSKE
Municipal Judge

Phone (608) 798-2448

Date:

Administrator
Motor Vehicle Division
Revocation & Suspension Unit
P. O. Box 7917
Madison, Wisconsin 53707

Dear Sir:

RE: Name: _____
Date of Birth: _____
Drivers License No: _____
Citation: _____
Date Suspended: _____

Above referenced individual has paid their forfeiture amount
and may have their drivers license reinstated after proper payment
of reinstatement fees.

Sincerely,

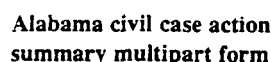
Ralph W. Fonske
Municipal Judge

RWF/jt

3 copies:
Motor Vehicle
Defendant
Municipal Court

APPENDIX L
FORMS DESIGN GUIDELINES

FEBRUARY 1979



Letter size paper becoming legal norm

Traditionally, court case file records have been prepared on legal size paper. Advocates of legal size paper claim that the extra paper length enables form information to fit on one side of a page and shortens the total number of pages of briefs and other long documents.

In contrast to the courts, the rest of the business community generally uses letter size paper (8½" x 11") for most communications. Letter size paper has become a standard for business and the general community (except for the federal government) because it is sufficiently large to meet user needs. It is also relatively inexpensive compared with other paper sizes because the paper industry can cut this size inexpensively due to the huge demand.

Besides the courts, the federal government has been the only significant group that has not adopted letter size paper as the standard. Since the 1920's, the federal government has used 8" x 10½" for government work. In December 1978, after much heated debate and research, the federal government finally decided to conform to the industry letter

size standard effective January 1, 1980. The switch to the letter size, according to some experts, will save the federal government between \$10 million and \$15 million a year in paper costs alone.

Should the courts also conform to the letter size paper standard? The facts are compelling. First, legal size paper, filing equipment, and supplies cost 20% to 30% more than letter size. Second, legal size filing equipment occupies 30% more floor space than comparable letter size equipment. This is particularly relevant for courts with limited filing and storage space. Often substantial space is wasted in a legal size filing system because 50% to 70% of the documents filed are actually letter size; yet, legal size filing equipment and supplies must still be provided. Third, most forms, orders, and letters can be conveniently prepared on letter size paper, provided proper forms design techniques are incorporated. (See Forms Design Checklist.)

As a result of the compelling cost and space benefits provided by letter size paper, some states have now mandated that all court case file records be on letter size paper. The following states have already adopted the letter size paper standard: Alaska, California, Connecticut, Kentucky, Massachusetts, New Jersey, Oregon, and Washington. (See California Rule 201. "Form of Papers Presented for Filing" below.) Several other states and individual courts have either adopted the letter size paper standard informally or are considering adopting the letter size standard. The transition to letter size paper normally is accomplished over several years to enable

courts and attorneys to exhaust their supply of legal size paper and forms, and to enable the courts to acquire the appropriate equipment and supplies to efficiently handle letter size paper.

Some courts wishing to convert to letter size paper have experienced resistance from groups clinging to traditional attitudes: "Letter size paper is just not legal!" Like any new system, the letter size paper standard must be sold to users by showing the substantial benefits of the new approach.

California Court Rule 201(b)

Rule 201(b) of the California Rules of Court is excerpted below as a good example of a court rule controlling the form of documents presented for filing. Rule 201(b) *Size of paper, pagination, etc.* All papers shall be typewritten or printed, or prepared by a photocopying process or other duplication process that will produce clear and permanent copies equally legible to printing, in type not smaller than pica size, on opaque, unglazed white paper of standard quality not less than 13 pound weight, 8-½" x 11" in size. . . . Only one side of the paper shall be used, and the lines of each page shall be one and one-half spaced or double spaced and numbered consecutively; provided, however, descriptions of real property may be single spaced and printed forms of corporate surety bonds and undertakings may be single spaced and have unnumbered lines if they comply generally with the space requirements of subdivision (c). Paper shall be numbered consecutively at the bottom. All pages shall consist entirely of original pages without riders, and shall be firmly bound together at the top. Exhibits may be fastened to pages of the specified size and, when prepared by a machine copying process, shall be equal to typewritten material in legibility and permanence of image. (As amended effective January 1, 1976 . . .)

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

Denver Project Office
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Denver, Colorado 80204
303/534-6424

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Deputy Project Director

Merrill J. Grumer
Staff Associate

Randy P. Wolfe
Staff Associate

Betty L. Hinds
Project Secretary

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MULTIPART FORMS

Continued from previous page

leaf to facilitate easy access while the case is open. The index cards are maintained in true alphabetical order in card filing equipment or as input to a computer data entry system.

The multipart Register of Action form was developed in response to severe problems caused by maintaining records in bound books. Bound books were once appropriate to ensure record integrity when case volumes were low. Docket books are now extremely expensive (costing up to \$600 per book) and must be stored on expensive roller shelving (costing \$800 to \$1,200). Books are extremely heavy and difficult to handle and all too often live up to the name "hernia books" given to them by the CITAT Project staff. The books are difficult to microfilm,

requiring the binding to be cut and a special planetary camera to accommodate the oversized pages (often as large as 18" x 22").

The Register of Actions sheet is much easier than books for the staff to handle and use. This sheet can also be rapidly microfilmed. In addition, substantial staff time is saved by simultaneously producing the index cards when the Register of Actions heading is typed, without additional staff effort. Courts using this system have been very pleased with the results.

(The Colorado multipart Register of Action system is described in the National Center publication *Manual Case Processing: A Model System*, E007. S3.25.)

APPENDIX M
RETENTION DISPOSITION SCHEDULE'S



De facto destruction

Inactive records present problems for courts

Courts throughout the country are experiencing difficulty with the management and maintenance of inactive records. Court space is expensive and often limited—especially easily accessible office space. With the increases in new cases and documents, retrieval time increases, and misfiling becomes more frequent. In order to free court space and alleviate filing congestion, closed or inactive case files should be removed from the main filing area and filed separately. Most courts, however, do not have adequate storage space or expertise in long-term records maintenance. As a result, many valuable court records may be damaged or destroyed through improper storage.

Courts records storage areas often have the following characteristics:

- Records are stored without any systematic control as to storage location or record content.
- Records are often maintained in a disorderly manner, with records lying loose on the floor or spilling off shelves.
- Records are stored under water pipes or in basements subject to flooding.
- Rats and other pests are often found in the records area.
- Unauthorized persons are given access to the records room, and valuable records are sometimes damaged or stolen.
- Records are deteriorating because of the passage of time, improper usage, or climate.

If these problems describe your inactive records storage, the development of a records retention or efficient inactive records storage program is needed immediately.

National Center for State Courts REPORT

Court Improvement Through Applied Technology (CITAT)

INACTIVE RECORDS: RETENTION AND DISPOSITION

August 1979

Retention and disposition schedule aids effective records management

Unlike wine and cheese, court records do not improve with age. A comprehensive records-retention and -disposition schedule facilitates the preservation of valuable records and the destruction of valueless records.

The development of an effective retention and disposition schedule begins with a complete list of all record types currently being maintained by the court. The legal, administrative, fiscal, or historical value of each record must then be determined. A retention period is then assigned, according to this value. This generally reflects the period during which the record may be required for a court proceeding or to verify an individual right. During the retention period, the record must be retained in some form (either on paper or microfilm), either in the court facilities or in some remote location.

At the conclusion of the retention period, the records should be destroyed or eliminated from the jurisdiction of the court according to the predetermined schedule. It is vital that destruction be not only allowed, but *required* if the records-management program is to be successful. The major reasons for developing a strong retention and destruction schedule are cost, space, and time savings, and these savings can only be realized if valueless records are regularly purged.

It is recommended that the records-retention and -destruction schedule be implemented and enforced through the use of court rule. It is important that court rule rather than statutes be developed, for statutes are far more difficult and time consuming to enact and revise. The Supreme Court, by exercising its statewide authority in this area, will be able to develop the records-management program faster and more uniformly, while



Warehouse open steel shelving and record center boxes

still allowing for future changes if necessary.

Once a records-retention and -disposition schedule has been established, inactive records can be effectively managed. Generally, records will be handled in one of the following three ways:

(1) **Destroy Valueless Records:** Destruction of records is the recommended way to eliminate records whose retention has expired. The cost is minimal, and the benefit in space savings and improved operation could be substantial. Some records may even be sold for recycling with the revenue used to help finance the records-management program.

(2) **Store Inactive Records in Low-Cost Storage Facility:** Records that are no longer needed for daily court operation but cannot be destroyed may be relegated to a remote, less accessible, low-cost records storage area.

(3) **Destroy Inactive Records After Microfilming:** Inactive records should be microfilmed only if the retention period is more than 10 years and if the paper records will be destroyed after the microfilm has been verified.

Guidelines given for inactive records storage

Warehouse Open Steel Shelving

☐ **Height:** Warehouse steel shelving should extend as high as the facilities permit or to a maximum height of 12 to 14 boxes. A clearance of 18 to 24 inches from the ceiling is generally required for lighting fixtures and water sprinklers.

☐ **Width:** Shelving units should be as wide as possible, because wider shelves provide the best cost-to-filing inches ratio and require fewer units to fill a given size records room. Generally a 42- to 48-inch shelf is recommended. Sufficient space (two to three inches per shelf) should be provided to insert and remove storage boxes.

☐ **Depth:** Warehouse shelving should be sufficiently deep to accommodate two boxes back-to-back on the shelf. Most storage boxes will be adequately supported two deep by a 30-inch shelf.

☐ **Number of Shelves:** Two storage boxes may be stacked on top of each other on each shelf, generally requiring a 23-inch separation between individual shelves. Boxes may also be placed on individual shelves (11 inches apart) without stacking to facilitate retrieval; this approach, however, is more costly in terms of equipment, since more shelves are required.

☐ **Side and End Panels:** No side or end panels should be used with warehouse

steel shelving.

☐ **Support Design:** "T"-shaped upright supports are preferred, since one support can be used to connect two units of shelving. These supports are recommended when the shelving unit will remain stationary. If the units will be moved, "L"-shaped supports that attach to all four corners of the shelving will be required.

☐ **Assembly:** Units should be acquired that require minimal assembly but provide the requisite strength and support.

☐ **Aisles:** Warehouse shelving requires only a 30-inch aisle between the units. Shelving rows should not extend more than 30 feet without an access aisle to facilitate movement within the files.

☐ **Accessories:** A mobile steel ladder will facilitate access to the higher levels of the filing tier, and movable carts are recommended to aid in the transfer and retrieval of the storage boxes.

Storage Boxes

☐ **Size:** A standard-size storage box measures 15" x 12" x 10". These boxes are designed to hold legal-size folders in one direction and letter-size folders in the other.

☐ **Material:** Boxes should be made from heavy-duty corrugated cardboard.

☐ **Strength:** The double wall 175#

strength is preferred, although a single wall 200# strength is acceptable.

☐ **Opening:** Top-opening storage boxes provide dense record storage at the lowest cost. When boxes are stacked on top of each other, it will be necessary to remove the top box in order to gain access to the lower one. Since these boxes will weigh 30 to 50 pounds when full, moving them can be difficult.

Front-opening storage boxes are designed to store side-tab file folders. Even when boxes are stacked on top of each other, records can still be accessed without the need to remove or relocate any box. Front-opening storage boxes, however, cost five to ten times more than the equivalent standard top-opening storage box and provide less protection for the records.

☐ **Acid Content:** For long-term records storage (100 years or more) acid-free boxes are recommended.

☐ **Hand hold:** Hand holds should be provided on two sides of the box. The cut-outs for the hand holds should swing down to enclose and protect the records when not in use.

☐ **Assembly:** Boxes should be easy to assemble, with instructions clearly marked on the box.

☐ **Construction:** No staples should be used on the boxes as they may injure users and rust with time. Seams should be glued with non-water-soluble glue.

Proper storage protects records from damage by fire and water

When adequate space is available within or near the court, the court-operated records center will generally prove to be the least expensive and most convenient means to store inactive court records. All records will remain under court control and can easily and inexpensively be retrieved.

Protection from fire is a primary concern when storing paper documents. Tests have shown that records packed tightly in corrugated cardboard storage boxes will not burn easily. A water sprinkler system should be installed equipped with sprinkler heads that will discharge independently to extinguish a localized fire without discharging the whole sprinkler system. A smoke detector should be installed in conjunction with the water sprinkler to give early warning of fire to enable the staff to extinguish the flames with fire extinguishers; the smoke detectors can be hooked directly to the fire department or to an alarm in the clerk's office. Fires can therefore be extinguished early, before the heat discharges the water sprinkler and possibly damages the records. Fire extinguishers

should be readily available and all staff trained in their use. A Halon gas system, which will automatically extinguish fires with minimal damage to the records, should also be considered by courts. Of course, the best way to combat fires is to prevent them. Smoking prohibitions should be enforced in the records area and in the surrounding areas.

Court records could also be damaged from water pipes or flooding. The storage facilities should never be located in a room that has water pipes overhead. In addition, the lowest shelf on the filing unit should be elevated at least four inches to allow for potential flooding.

Inactive records are best maintained at a temperature below 70° F and a low humidity (50-60 percent). Records should not be stored near a heat source, such as a furnace or hot-air vent.

Inactive records rooms should have lighting, preferably fluorescent, located over aisles. This is especially important for inactive records, since high filing equipment is used, which might obstruct the light.

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

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APPENDIX N

PROPOSED WISCONSIN CIRCUIT COURT RECORDS
RETENTION SCHEDULE AND DISPOSITION PROCEDURES

WISCONSIN STATE COURTS RECORDS RETENTION SCHEDULE
AND DISPOSITION PROCEDURES

SCOPE:

The following contains information concerning the preservation, retention and destruction of papers, books and records filed with the clerk of the circuit court and the register in probate.

STATUTORY REQUIREMENTS:

Clerk of Circuit Court

The clerk of the circuit court shall file and keep all papers properly deposited with him or her in every action or proceeding unless required to transmit such papers and keep other court papers, books, and records as specified in section 59.39.

Registers in Probate

The register in probate shall file and keep all papers properly deposited with him or her unless required to transmit such papers. [§ 851.72(1)].

DESIGNATION OF CASE PAPERS THAT DO NOT HAVE LONG TERM
RETENTION VALUE:

Certain case papers have value only as long as the case is active. They do not have long term retention value.

These papers include:

1. Correspondence not pertaining to the substance of the case e.g. transmittal letters, letters dealing with scheduling and affidavits of mailing.

2. Receipts.
3. Briefs, memorandum of law, memorandum of briefs.
4. Copies of documents for which the court is not the primary office of record, e.g. police reports, probation reports.
5. Duplicate copies of proceedings.
6. Copies of documents attached to an affidavit of service.
7. Judge's bench notes.
8. Typed or hand written notes of court personnel.
9. Interrogatories.

These papers are date stamped upon receipt and may also be stamped "Received" if the clerk or register wishes to do so. At case disposition, these papers are discarded from the file folder.

AUTHORITY TO DESTROY COURT RECORDS:

Counties with less than 500,000 persons:

Records of any court of record in counties of less than 500,000 which have been photographed or microphotographed under section 59.715(20) or deemed obsolete and useless and ordered destroyed by the judge of the court may be destroyed if title is not accepted by the historical society within 60 days after a written offer is made under sections 59.716, 59.717, 59.716. It should be noted, however, that the State Historical Society waives the right to notification for the following record numbers as set forth on pages 7-13 below: 4, 7, 8, 9, 16, 18-21, 23, 25, 27, and 28. No prior notification of

intent to destroy these records is required to be sent to the State Historical Society.

Counties with 500,000 or more population:

Counties with a population of 500,000 or more may provide by ordinance for the destruction of obsolete public records without regard to sections 59.715 to 59.717 provided that the period of time any public record is kept before destruction fulfills the specific time periods expressed with section 59.715. [§ 19.21(6)]

METHODS OF RECORDS DESTRUCTION:

When records are approved for destruction, the clerk of court or the register in probate should destroy the records promptly and effectively. The primary purpose of such destruction shall be to reduce the records to an illegible condition. Burning, pulping, shredding or using for land fill are the most effective methods for accomplishing that purpose.

Pursuant to appropriate authorization from the Court Records Management Committee, a court may destroy records by reselling them for recycling purposes, under the following conditions:

1. The prompt destruction of the record shall be ensured and responsibility for such destruction shall continue to be that of the agency until effectuated.
2. Records shall not be kept in unattended or unprotected storage awaiting their destruction.
3. The person or entity to whom the records are sold provides evidence of the destruction of such records in the form of a destruction certificate.

A certificate of destruction should be prepared indicating the records destroyed.

Confidential records should be destroyed only by court personnel.

COURT RECORDS MANAGEMENT COMMITTEE:

A state court records management committee will oversee records management issues and make recommendations as to when certain types of court records should be declared obsolete and useless. The committee will meet at least annually and consist of:

- 2 Judges designated by the Chief Judges Conference;
- 2 Clerks of Court designated by the Clerks of Court Association;
- 1 Representative designed by the State Court Administrator;
- 1 Representative of the State Historical Society;
- 1 Representative of the Judicial Conference, Juvenile Section;
- 2 Representatives of the Registers in Probates Association.

The specific duties of the committee shall be to:

- 1. Recommend to the Supreme Court when court records should be deemed obsolete and useless under the provisions of section 59.715(20)(c).
- 2. Recommend any statutory or rule changes related to records management, retention and destruction.
- 3. Establish standards, procedures and techniques for effective management of records.
- 4. Designate papers that do not have long term retention value for each case type.
- 5. Develop standards to ensure the proper and efficient utilization of microfilming services.

COURT RECORDS LIASON OFFICER:

Each court should designate a court records liason officer to implement the standards, procedures and techniques of the court records management program. The court records liason officer should cooperate with and assist the courts records management committee in the performance of its duties.

FORMS:

Several forms are available to assist the courts in carrying out their records retention and disposition responsibilities. (See Appendix) Courts should use forms substantially in the same format as these forms.

1. Stipulation and order for return/destruction of exhibits and/or unopened dispositions
2. Stipulation and order releasing exhibits
3. Order for destruction of exhibits
4. Order and notice to Wisconsin State Historical Society
5. Order for transfer of records to the Historical Society
6. Order for destruction (after microfilming)
7. Order for destruction (obsolete and useless)
8. Order to transfer records to repository (University of Wisconsin)
9. Receipt of records.

RECORDS RETENTION SCHEDULE:

The following records retention schedule outlines for each clerk of court and register in probate the required retention periods for each record series. Current statutes require the permanent retention of almost all court records either in hard copy or microfilm form unless a judge deems the record "obsolete and useless".

[§ 59.715(20)(c)] The schedule recommends when each record series should be deemed obsolete and useless. The recommended time periods are based on an analysis of the useful legal life of the record. The research value of the record may extend beyond its legal life. As its resources permit, the State Historical Society will selectively retain records of permanent research value. It will not be possible for the State Historical Society to retain all records of potential research value, particularly where the records have not been locally microfilmed.

WISCONSIN CIRCUIT COURT RECORDS RETENTION SCHEDULE

<u>Type of Record</u>	<u>When Deemed Obsolete & Useless*</u>
1. CASE FILES	
1.1 Civil	
a. Dismissed cases (including stipulations)	10 years after final order excluding time on appeal or 10 years after case becomes dormant ¹
b. Cases not disposed by dismissal	20 years after final order excluding time on appeal or 10 years after case becomes dormant ²

* The paper copy of all court records may be destroyed after ten years if microfilmed. [§ 59.715(20)]

- 1 Various states allow for destruction of dismissed civil cases in even less than 10 years. See California Gov't. Code § 69503.1(c) for destruction after seven (7) years.
- 2 Courts wishing to maintain some record of the case beyond its legal life may elect to retain the judgment and order record series. This approach parallels the approach in Idaho. Rule 79(d) of the Rules and Civil Procedure allow for the "destruction of all pleadings, motions, affidavits, orders, exhibits and documents of every nature, kind and description pursuant to order of the court" one year from expiration of the time for appeal provided the final order, judgment or decree is preserved indefinitely. The 20-year period fulfills the requirements of abstractors to include in abstracts judgments and state tax warrants docketed for more than 10 years. (Abstracting Standards Approved by the Real Property, Probate and Trust Section Abstract Standards Committee of the State Bar Association, August 19, 1975.) Section 893.40 states "An action upon a judgment or decree of a court of record of any state or of the United States shall be commended within 20 years after the judgment or decree is entered or be barred."

<u>Type of Record</u>	<u>When Deemed Obsolete & Useless</u>
1.2 Small Claims	
a. If service is not obtained	60 days after filing of complaint ³
b. Cases not disposed by dismissal	20 years after final order excluding time on appeal or 10 years after case becomes dormant
1.3 Family, paternity, civil commitment, adoption probate and guardianship	
a. Dismissed cases	10 years after final order excluding time on appeal or 10 years after case becomes dormant
b. Cases not disposed by dismissal	75 years after final order
1.4 Felonies	
a. Dismissed cases	10 years after final order or after case becomes dormant
b. Cases not disposed by dismissal	75 years after final order
1.5 Misdemeanors	
	10 years after final order excluding time on appeal or 10 years after case becomes dormant ⁴

³ A court having subject matter jurisdiction may render a judgment against a party personally only if a summons is served upon the person pursuant to 801.11 or if service is dispensed with under 801.06 (§ 801.04). Therefore, without service the court has no jurisdiction and there is no action.

⁴ This time period parallels the retention periods adopted by several states (Arizona; California although California Rule of Court 55 requires that minutes, the register of action [court record], and the original reporter's transcript in cases where judgment is affirmed be retained; New Mexico; Minnesota which requires five year retention after last activity).

Type of Record

When Deemed Obsolete
& Useless

1.6	Criminal traffic, non-criminal traffic, non-traffic ordinance violations, conservation violations, county ordinance violations other than traffic	10 years after final order excluding time on appeal or 10 years after case becomes dormant ⁵
2.	COURT RECORD/DOCKET	Same as case file
3.	INDEXES	Same as case file
4.	JUDGMENT AND LIEN DOCKET	
	Civil, Family, State tax warrants, transcript, foreign judgments, liens, hospital liens, condominium liens	10 years after docket entry ⁶
5.	JUDGMENT AND ORDER BOOK	10 years after last entry
6.	INFORMATION/INDICTMENT BOOK	10 years after last entry
7.	CLAIMS FOR LIENS	10 years after filing
8.	HOSPITAL LIENS	10 years after filing
9.	WARRANTS	
	Delinquent income tax, unemployment compensation, and others	10 years after docket entry ⁷

⁵ The 10 year minimum retention period for traffic records as required by section 59.715(20) exceeds the retention requirements of almost every state researched, e.g. Minnesota (3 years), Washington (7 years).

⁶ No liens under Chapter 779 have any legal effect after two years unless an action is commenced. Our recommendation for ten years recognizes that if an action is commenced it may take several years for resolution. Judgments when docketed are liens against real estate for ten years. [§ 806.15(1)]

⁷ Tax warrants and unemployment compensation warrants, when properly docketed, have the same legal effect as a final judgment creating a perfected lien upon the person's right, title and interest in all of the real and personal property of the taxpayer against whom it is issued in the county where the warrant is docketed. [§§ 71.13(3)(b), 108.22(2)]

Type of Record

When Deemed Obsolete
& Useless

10. MINUTE RECORDS

- | | |
|-------------------------------|---------------------------|
| a. Bound books | 10 years after last entry |
| b. Minutes not in bound books | Same as case file |

11. EXHIBITS

- | | |
|---|---|
| a. Civil | 10 years unless the parties stipulate to their return or destruction prior to the completion of 10 years ^{8,9} |
| b. Small Claims | 10 years unless the parties stipulate to their return or destruction prior to the completion of 10 years ⁹ |
| c. Family, Paternity,
Probate, Adoption | 10 years unless the parties stipulate to their return or destruction prior to the completion of 10 years ⁹ |
| d. Felonies | |
| (1) when defendant <u>not</u>
incarcerated | 10 years unless the parties stipulate to their return or destruction prior to the completion of 10 years ⁹ |

⁸ Hawaii allows for the destruction of exhibits one year after the closing order or expiration of the appeal period if the party fails to retrieve the exhibit after notice. Hawaii Revised Statutes 606-4. California requires exhibits to be maintained for three years and then a notice of destruction given or for five years without notice of destruction. California Gov't. Code § 1952.3.

⁹ Parties should be requested to stipulate to the return of exhibits after expiration of appeal time whenever possible. (See Form No. GF 102, in the Forms Manual, and Section 11.3, General Standards.)

Type of Record

When Deemed Obsolete
& Useless

(2) when defendant <u>is</u> incarcerated	75 years after final order, unless defendant's prison term expires. If prison term expires, standard in 11.d.(1) applies ¹⁰
11.5 Misdemeanors	10 years unless the parties stipulate to their return or destruction prior to the completion of 10 years ¹¹
11.6 Criminal traffic, non-criminal traffic, non-traffic ordinance violations, county ordinance violations other than traffic	10 years unless the parties stipulate to their return or destruction prior to the completion of 10 years ¹¹
12. WILLS DEPOSITED FOR SAFEKEEPING	75 years after filing
13. INDEX OF WILLS	75 years after will filed
14. WILL BOOK	75 years from last entry
15. GUARDIANSHIP RECORD BOOK	Same as case file
16. CERTIFICATES OF CONVICTION	Same as case file unless certificate of conviction filed pursuant to § 971.09 and no complaint is filed by the district attorney in which case discard upon receipt

¹⁰ Firearms and ammunition used as exhibits in criminal proceedings should be ordered transferred to the Wisconsin State Crime Laboratory for disposition as soon after trial as possible, pursuant to section 968.20. Local judges and district attorneys should be requested to establish a policy for the return and/or destruction of all exhibits of a dangerous nature as soon after trial as possible.

¹¹ Parties should be requested to stipulate to the return of exhibits after expiration of appeal time whenever possible. (See Form No. GF 102, in the Forms Manual, and Section 11.3, General Standards.)

Type of Record

When Deemed Obsolete
& Useless

17. FAMILY MAINTENANCE PAYMENT RECORD

A record of all payments and arrears in payments ordered by the court in family maintenance [§ 767.29]

a. Closed Accounts

10 years from date account closed¹²

b. Open Accounts

75 years after date account opened

18. ACCOUNTING RECORDS

a. Minor settlement

Passbook certificate or other evidence of investment of monies awarded in a minor's claim [§§ 807.10(3), 880.04(2)(a)]

4 years from date account closed

b. Trust Account Records

Records of monies ordered deposited with the court and held until further order of the court.

4 years from date account closed

-
- 12 Recipients are entitled to maintain a civil action to collect arrearages in court ordered family maintenance obligations, independent of the original action. The civil action must be filed within six years of the date the obligation to make such payments terminates (e.g., when the child reaches the age of majority, in the case of child support), unless the state is the recipient. If the state is the recipient, the limitation on commencement of an action is 10 years. [§§ 893.43, 893.50] Closed accounts include those where the obligation to pay support has terminated, as when the child for whom support is paid has reached majority. Open accounts are those where this obligation has not terminated or where it cannot be determined if the obligation has terminated, as in the case of alimony accounts.

Type of Record

When Deemed Obsolete
& Useless

c. Certificates

A book called the certificate lists which are statements authorizing payment for fees and expenses of visiting judges, witnesses, jurors, bailiffs, interpreters, etc.
[§ 59.395(3)]

4 years

d. Jury Payroll

List of jury fees paid showing: name, check number, miles traveled, days served, payment per day, mileage paid, total paid each juror and certification by the clerk of court. [§ 255.24]

4 years

e. Receipt Books

4 years¹³

f. Journals

4 years

g. Machine accounting

4 years

h. Bank transactions

(1) Deposit slips

4 years

(2) Bank statements

4 years

(3) Cancelled checks

7 years¹⁴

19. COURT REPORTERS' NOTES

Complete record in stenographic characters of all testimony before a judge or commissioner
[§ 757.56]

75 years for felony notes;
10 years for all other
case types

¹³ Four-year period parallels retention requirements for Wisconsin State Income Tax records.

¹⁴ Seven-year period dictated by section 59.715(18).

<u>Type of Record</u>	<u>When Deemed Obsolete & Useless</u>
20. JUROR QUESTIONNAIRE	
Form sent to prospective jurors to determine eligibility for jury services	2 years after panel has completed service
21. JURY LISTS	
Lists of names of persons eligible to serve as jurors	2 years after panel has completed service
22. MINISTERS' CREDENTIALS	
Credentials of ordination required to be filed with the clerk of court [§ 245.17]	Permanent; title to this record may be transferred to the Historical Society pursuant to section 844.09 after 75 years
23. NOTARY PUBLIC APPOINTMENTS.	
Recording of a notary's commission [§§ 137.01(b) (b) and 137.01(7)]	4 years; exception: attorneys' commissions are 75 years
24. NATURALIZATION FILES	
Files containing documents relating to naturalization hearings	As per Immigration and Naturalization Service ¹⁵

¹⁵ Naturalization records created prior to June 29, 1906, are county records and may be permanently transferred to the Wisconsin State Historical Society. Naturalization records created thereafter are considered federal records and may not be destroyed, and title to the records may not be transferred to any other agency. However, the National Archives and Records Service and the Immigration and Naturalization Service have indicated that it would be appropriate to transfer custody to the Historical Society. These records are valuable historical documents and the Archives division of the Historical Society should be consulted prior to any action regarding their disposition.

Type of Record

When Deemed Obsolete
& Useless

25. OATHS OF OFFICE

The following oaths of office shall be filed with the clerk of circuit court.

- | | |
|--|-------------------------------------|
| a. Deputy clerks of circuit court
[§ 753.30] | 7 years after expiration
of term |
| b. Commissioner of Condemnation
[§ 32.08] | 7 years after expiration
of term |
| c. Court Commissioners
[§ 757.68(2)] | 7 years after expiration
of term |
| d. Deputy Sheriff
[§ 59.219(5)] | 7 years after expiration
of term |
| e. Deputy Sheriff (Special)
[§ 59.21(5)] | 7 years after expiration
of term |
| f. Family Court Commissioner
[§ 247.13(1)(a)] | 7 years after expiration
of term |
| g. Family Court Commissioner
(assistant) [§ 247.13(1)(b)] | 7 years after expiration
of term |
| h. Jury Commissioner
[§ 756.03(1)] | 7 years after expiration
of term |

25. OATHS OF OFFICE, continued

- | | |
|--|-------------------------------------|
| i. Juvenile Court Commissioner
[§ 48.065] | 7 years after expiration
of term |
| j. Register in Probate
[§ 851.71] | 7 years after expiration
of term |
| k. Probate Registrar
[§ 865.065] | 7 years after expiration
of term |
| l. Special Prosecutor
[§ 59.44] | 7 years after expiration
of term |
| m. Municipal Judge
[§ 757.02] | 7 years after expiration
of term |
| n. Deputy Coroner
[§ 59.365] | 7 years after expiration
of term |

Type of Record

When Deemed Obsolete
& Useless

26. REGISTER OF OFFICIALS

A book and record of the names of court commissioners, deputy sheriffs, notaries, public and municipal judges. [§ 59.395(2)]

7 years after expiration of term

27. SEARCH WARRANT

Return of the search warrant and the affidavit or complaint made in support of the warrant are filed with the clerk together with a written inventory of any property taken and the transcript of any testimony taken [§ 968.17(1)(2)]

Expiration of the warrant plus 5 years¹⁶

28. JUDGES' COURT CALENDARS

Cases reviewed or upcoming during the year.

3 months or less

¹⁶ If the search warrant results in the arrest of a person because an alleged crime has been committed, the warrant and supporting documents may become a part of the case file and subject to the retention/destruction schedule that governs that file.

CIRCUIT COURT OF WISCONSIN

NOTICE TO WISCONSIN STATE HISTORICAL SOCIETY

1. The following records are deemed obsolete and useless pursuant to Section 59.715(20) (c).

<u>Record Series</u>	<u>Inclusive Date</u>	<u>Volume</u>	<u>Microfilmed or not</u>	<u>Date of Microfilming</u>

2. Pursuant to Wis. Stat. § 59.716, the Historical Society is offered the above records. If the offer is not accepted, the records will be destroyed 60 days from the date of this notice.

Date:

Chief Judge of the District

RESPONSE OF THE HISTORICAL SOCIETY

- ☐ None of the above records are accepted by the Historical Society.
- ☐ The following records are accepted. Arrangements will be made for their transfer.

Signed

APPENDIX O

COPIES OF STATUTES AND COURT RULES
CITED IN FINAL REPORTS

Art. 7 § 14 CONSTITUTION OF WISCONSIN

§ 14. Municipal court

Section 14. * * * The legislature by law may authorize each city, village and town to establish a municipal court. All municipal courts shall have uniform jurisdiction limited to actions and proceedings arising under ordinances of the municipality in which established. Judges of municipal courts may receive such compensation as provided by the municipality in which established, but may not receive fees of office.

(As amended April 5, 1977).

Law Review Commentaries

History of the probate court, Eugene
M. Baertle, 45 Marquette L.Rev. 546
(Spring 1962).

Inherent power and administrative
court reform, 58 Marquette L.Rev. 133
(1975).

755.01 Option of municipality

(1) There is created and established in and for each city, town and village, a municipal court designated "Municipal Court for the . . . (city, town or village) of . . . (name of municipality)". This court shall become operative and function when the city council, town board or village board adopts an ordinance or bylaw providing for the election of a judge and the operation and maintenance of the court. A permanent vacancy in the office of municipal judge shall be filled by election under s. 8.50. Any municipal court established under this section is not a court of record. The court shall be maintained at the expense of the municipality. After July 1, 1978, any authorized municipal court courtroom personnel not in the classified service shall be appointed by the municipal court judge or judges.

(2) The governing body may by ordinance or bylaw abolish the municipal court at the end of any term for which the judge has been elected.

(3) A municipality may establish as many branches of municipal court as it deems necessary.

Committee Comment—1978

Subsection (1) is amended to make clear that a permanent vacancy in the office of a municipal judge must be filled by election rather than appointment. The office of municipal judge is one of public responsibility and the individual who holds the office should be placed there by the elective process. The subsection is also amended to give municipal judges the appointing authority over personnel in their court.

Section 300.06 [800.06] governs temporary vacancies in the office of municipal judge.

Historical Note

Source:

L.1967, c. 278, § 29, eff. Jan. 13, 1968.

St.1975, § 254.01.

L.1977, c. 187, § 94, eff. Aug. 1, 1978.

L.1977, c. 305, §§ 45, 46, eff. July 1, 1978.

Cross References

Assignment of municipal judges, see § 757.646: SCR 70.24.

Court system, see Const. Art. 7, § 2.

Jurisdiction, actions and proceedings under ordinances, see Const. Art. 7, § 14.

Temporary vacancies, judges, see § 800.06.

Law Review Commentaries

Inherent power and administrative court reform. 58 Marquette L.Rev. 133 (1975).

Library References

Courts ⇐41.

C.J.S. Courts § 120 et seq.

Notes of Decisions

1. In general

A municipal justice court, being a legislative creation, possessed only the power conferred on it by statute. State ex rel. Lang v. Municipal Justice Court of City of Cudahy (1971) 183 N.W.2d 43, 50 Wis.2d 21.

Municipal courts created pursuant to provisions of L.1967, c. 278, have only such jurisdiction as is expressly granted by § 300.05, 1967 Stats. Op. Atty. Gen. Feb. 14, 1968.

Law Review Commentaries

Guardians ad litem in Wisconsin. Wisconsin's reorganized courts—1962.
 Mary Alice Hohmann and James W. Conway and Hillemann. 34 Wis.Bar
 Dwyer. 48 Marquette L.Rev. 445 (1965). Bull. 7 (Dec.1961).

Inherent power and administrative
 court reform. 58 Marquette L.Rev. 133
 (1975).

Library References

Courts \Rightarrow 188, 472.6.

C.J.S. Courts §§ 249 et seq., 490.

Notes of Decisions

1. In general

Before making a change in the law, a court which is acting responsibly must be able to foresee with reasonable clarity the results of its decision and to say with reasonable certainty that the change will serve the best interests of the society. *Hoven v. Kelble* (1977) 256 N.W.2d 379, 79 Wis.2d 444.

When a municipal court adjudges a child to have violated a municipal ordinance, that court must impose court costs and should add the ten percent penalty assessment provided in St.1977,

§ 165.87, relating to the law enforcement training fund, to any forfeiture imposed for such violation. *Op.Atty.Gen.*, Feb. 1, 1980.

Municipal justices had jurisdiction to try actions for forfeitures imposed by county ordinance, where such actions were within monetary limits set by statute. *Op.Atty.Gen.* Oct. 17, 1968.

Municipal courts created pursuant to provisions of L.1967, c. 276, had only such jurisdiction as is expressly granted by statute. *Op.Atty.Gen.* Feb. 14, 1968.

755.05 Territorial jurisdiction

Every judge has countywide jurisdiction. If elected in a city or village lying in more than one county, the judge shall qualify and have jurisdiction in each, the same as though the municipality lay wholly therein, and may hold court in one county while exercising jurisdiction in the other.

Historical Note

Source:

R.S.1849, c. 83, § 1.
 R.S.1858, c. 120, § 1.
 R.S.1878, § 3568.
 St.1893, § 3568.
 L.1925, c. 4.
 St.1925, § 300.01.
 L.1945, c. 441, § 2.
 L.1967, c. 276, § 29, eff. Jan. 13, 1968.

St.1967, § 300.01.
 L.1969, c. 87, §§ 37, 38, eff. July 15, 1969.
 L.1969, c. 255, § 39, eff. July 1, 1970.
 L.1969, c. 392, § 66m, eff. July 1, 1970.
 St.1975, § 254.05.
 L.1977, c. 187, § 94, eff. Aug. 1, 1978.
 L.1977, c. 305, § 64(3), eff. July 1, 1978.

Cross References

Disqualification of judges, see § 757.19.

Uniform jurisdiction, see Const. Art. 7, § 14.

Library References

Judges § 22.

C.J.S. Judges § 34 et seq.

755.045 Jurisdiction

(1) A municipal court has exclusive jurisdiction over an action in which a municipality seeks to impose forfeitures for violations of municipal ordinances of the municipality which operates the court, unless the action is transferred under s. 800.04(1) or 800.05(3) to a court of record. If equitable relief is demanded the municipal court does not have jurisdiction and the action must be brought in a court of record.

(2) A municipal judge may issue civil warrants to enforce matters which are under the jurisdiction of the municipal court. Municipal judges are also authorized to issue inspection warrants under ss. 66.122 and 66.123.

Committee Comment—1978

This section makes clear that, unless transferred to a court of record, a municipal court is a court of exclusive jurisdiction for an action brought by a municipality wishing to impose a forfeiture for violation of one of its municipal ordinances.

Historical Note

Source:

R.S.1849, c. 88, §§ 5 to 10, 52, 55, 184.

L.1858, c. 58, § 3.

R.S.1858, c. 120, §§ 5 to 10, 19, 51, 54.

R.S.1858, c. 704, § 3.

L.1868, c. 8, § 1.

L.1870, c. 30.

L.1871, cc. 142, 148.

R.S.1878, §§ 3572, 3573, 3598, 3618, 3619, 3621.

St.1898, §§ 3572, 3573, 3598, 3618, 3619, 3621.

L.1925, c. 4.

St.1925, §§ 300.05, 300.06, 301.06, 301.27, 301.28, 301.30.

L.1939, c. 529.

L.1945, c. 441, §§ 6, 7, 34, 54, 55, 57.

L.1945, c. 461.

L.1953, c. 158.

L.1957, c. 63.

L.1959, c. 315, §§ 22, 23.

L.1965, c. 617, §§ 22, 23.

L.1967, c. 278, §§ 3, 34.

St.1967, §§ 300.05, 300.06, 301.06, 301.27, 301.28, 301.30.

L.1969, c. 87, § 38, eff. July 15, 1969.

St.1975, § 254.045.

L.1977, c. 187, § 94, eff. Aug. 1, 1978.

L.1977, c. 305, § 49, eff. July 1, 1978.

L.1979, c. 32, § 92(17), eff. July 20, 1979.

Cross References

Abolition of justice courts as Constitutional courts, see Const. Art. 7, § 2, as amended in 1966.

Disqualification of judges, see § 757.19.

Injunctions, see § 813.01 et seq.

Municipal court procedure, see § 800.01 et seq.

Uniform jurisdiction, see Const. Art. 7, § 14.

8.50 Special elections

Unless otherwise provided, this section applies to filling vacancies in the U. S. senate and house of representatives, executive, judicial and legislative state offices * * *, county offices and the offices of municipal judge and member of the board of school directors in * * * school districts organized under ch. 119. State legislative offices may be filled in anticipation of the occurrence of a vacancy whenever authorized in sub. (4)(c). In addition to filling vacancies in public office by appointment, vacancies may be filled by election under this section, but no special election may be held after February 1 preceeding the spring election unless it is held on the same day as the spring election, nor after September 1 preceeding the general election unless it is held on the same day as the general election, until the day after that election. If the special election is held on the day of the general election, the primary for the special election, if any, shall be held on the day of the September primary. If the special election is held on the day of the spring election, the primary for the special election, if any, shall be held on the day of the spring primary.

(1) **Special election order and notices.** (a) When there is to be a special election, the special election for governor shall be ordered by the attorney general; the special election for county clerk shall be ordered by the sheriff; the special election for any other county office shall be ordered by the county clerk except as provided in s. 17.21(5); the special election for school board member in a school district organized under ch. 119 shall be ordered by the school board; and all other special elections shall be ordered by the governor. When the governor or attorney general issues the order, it shall be filed and recorded in the office of the board. When the county clerk or sheriff issues the order, it shall be filed and recorded in the office of the county clerk. When the county executive issues the order, it shall be filed in the office of the county board of election commissioners. When the school board of a school district organized under ch. 119 issues the order, it shall be filed and recorded in the office of the city board of election commissioners.

(b) Notice of any special election shall be given upon the filing of the order under par. (a) by publication in a newspaper under ch. 98. If the special election concerns any state office * * * or an office to be filled from a district which includes more than one county, the board shall give notice as soon as possible to the county clerks and publish one notice. Upon receipt of notice from the board, or when the special election is for a county office, the county clerk shall give notice as soon as possible to all municipal clerks and publish 2 notices. The notices shall include the provisions of par. (c) and be a type A notice under ch. 10 in substantially the form prescribed by the board.

(c) The order and notice shall specify the office to be filled, * * * the expiration date of the remaining term of office, the date of the election, the earliest date for circulating and deadline for filing nomination papers, * * * the area involved in the election, the name of the incumbent before the vacancy occurred and a description of how the vacancy occurred, or for an election held under sub. (4)(c), the name of the incumbent and a description of how and when the vacancy is expected to occur.

(d) When the election concerns a state office under par. (a) or an office to be filled from a district which includes more than one county, the board shall transmit to each county clerk at least * * * 22 days before the special primary a certified list of all persons for whom nomination papers have been filed in its office. If no primary is required, the list shall be transmitted at least 42 days prior to the day of the election. Immediately upon receipt of the certified list, the county clerk shall prepare his or her ballots. For a

Changes or additions in text are indicated by underline

county special election, the county clerk shall certify the candidates and prepare the ballots. If there is a primary, the county clerk shall publish 2 type B notices in a newspaper under ch. 10. When a primary is held, as soon as possible after the primary, the county clerk shall certify the candidates and prepare the ballots for the following special election. The clerk shall publish 2 type B notices in a newspaper under ch. 10 for the election.

(2) Date of special election. (a) The date for the special election shall be not less than * * * 62 nor more than * * * 77 days from the date of the order except when the special election is held on the day of the general election * * * or spring election. If a special election is held concurrently with the spring or general election, the special election may be ordered not earlier than 92 days prior to the spring primary or September primary, respectively, and not later than 49 days prior to that primary.

(b) If a primary is required, the primary shall be on the day 4 weeks before the day of the special election except when the special election is held on the same day as the general election the special primary shall be held on the same day as the September primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary. * * *

(3) Nomination and primary. (a) Nomination papers * * * may be circulated no sooner than the day the order for the special election is filed and shall be filed not later than 5 p. m. * * * 28 days before the day that the special primary will or would be held, if required, except when a special election is held concurrently with the spring election or general election, the deadline for filing nomination papers shall be * * * specified in the order and the date shall be no earlier than the date provided in s. 8.10(2) or 8.15(1), respectively, and no later than 35 days prior to the date of the spring or September primary.

(b) * * * Except as otherwise provided in this section, the provisions for September primaries under s. 8.15 are applicable to all primaries held under this section * * *. Independent candidates for state office at a special partisan election shall not appear on the primary ballot. No primary is required for a nonpartisan election in which not more than 2 candidates appear on the ballot or for a partisan election in which not more than one candidate appears on the ballot of each recognized political party. In every special election, a space for write-in votes shall be provided on the ballot, regardless of whether a special primary is held.

(c) Notwithstanding ss. 5.37(4), 5.91(6) and 6.80(2)(f), whenever a special partisan primary is held concurrently with the presidential preference primary, an elector may choose the party column or ballot in which the elector will cast his or her vote separately for each of the 2 primaries. Whenever 2 or more special partisan primaries or one or more special partisan primaries and a September primary are held concurrently, the procedure prescribed in ss. 5.37(4), 5.91(6) and 6.80(2)(f) applies.

(4) Regulations on special elections. (a) A vacancy in the office of United States senator shall be filled under s. 17.18(2).

(b) A vacancy in the office of representative in congress occurring * * * within 60 days of the * * * 2nd Tuesday in * * * July preceding a general election shall be filled at the September primary and general election. Any vacancy occurring before * * * or after * * * that pe-

Deletions are indicated by asterisks * * *

ried prior to a general election may be filled at a special primary and election. If no special primary and election is held the vacancy shall be filled at the next general election.

(c) A vacancy in the office of secretary of state, state treasurer, attorney general or state superintendent, occurring more than 6 months before the expiration of the current term, may be filled at a special election.

(d) Any vacancy in the office of state senator or representative to the assembly occurring before the 2nd Tuesday in May in the year in which a regular election is held to fill that seat shall be filled as promptly as possible by special election. However, any vacancy in the office of state senator or representative to the assembly occurring after the close of the last regular floor period of the legislature held during his or her term shall be filled only if a special session or extraordinary floorperiod of the legislature is called or a veto review period is scheduled during the remainder of the term. The special election to fill the vacancy shall be ordered, if possible, so the new member may participate in the special session or floorperiod.

(e) Whenever a member of the legislature is elected to another office after the commencement of his or her term, and the term of the new office or the period during which the legislator is eligible to assume that office commences prior to the end of the legislator's original term of office, the governor may call a special election to fill the seat of the member in anticipation of a vacancy, upon receipt of a written resignation from that member which is effective on a date not later than the date of the proposed special election.

(f) A vacancy in the office of judge or justice occurring on or before December * * * 1 shall be filled, if in the office of circuit judge, at the succeeding spring election; if in the office of court of appeals judge, at the first spring election when no other court of appeals judge is to be elected from the same court of appeals district; or, if in the office of justice, at the first spring election when no other justice is to be elected. A vacancy in the office of circuit judge occurring after December * * * 1 shall be filled at the spring election the next year; in the office of court of appeals judge, at the first spring election, beginning with the spring election the next year, when no other court of appeals judge is to be elected from the same court of appeals district; or in the office of justice, at the first spring election, beginning with the spring election the next year, when no other justice is to be elected.

(g) If through neglect or failure, an elected officer who should have been chosen at the spring or general election is not chosen at that election, a special election may be held to fill the vacancy; but no special election may be held for any school or county officer after the time when the officer's term would have commenced had such person been elected at the proper spring or general election, except as authorized under this section, and no election may be held to fill a vacancy in the office of justice or judge except as authorized in par. (f).

(h) Whenever the right to office of any person who is elected to the legislature or the U. S. house of representative ceases before the commencement of the term of office to which he or she is elected, a special election may be held to fill the vacancy.

(i) When the governor so directs, a special election shall be held to fill any vacancy not provided for in this section. This paragraph does not apply to judicial offices.

(3) **Campaign finance laws.** All laws and rules adopted pursuant to ch. 11 governing campaign finance and reporting, including all deadlines for

Changes or additions in text are indicated by underline

755.02 Term

The judges shall be elected at large for a term of 2 years unless a longer term, not exceeding 4 years, is provided by ordinance or by-law. The term shall commence on May 1 of the year of the judge's election.

Historical Note

Source:

L.1967, c. 276, § 29, eff. Jan. 13, 1968.

St.1975, § 254.02.

L.1977, c. 187, § 94, eff. Aug. 1, 1978.

L.1977, c. 273, § 232, eff. Aug. 1, 1978.

L.1977, c. 305, § 47, eff. July 1, 1978.

L.1977, c. 447, § 181, eff. July 9, 1978.

Cross References

Court system, see Const. Art. 7, § 2.

Notice of election, see § 10.08.

Special elections, vacancies, see § 8.50.

Library References

Judges 67.

C.J.S. Judges § 20 et seq.

755.03 Oath and bond

(1) The judge shall, after election or appointment to fill a vacancy, take and file the official oath as prescribed in s. 757.02(1) and at the same time execute and file an official bond in an amount to be fixed by the governing body. No judge may act as such until his or her oath and bond have been filed as required by s. 19.01(4)(c) and the requirements of sub. (2) have been complied with.

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judicial officers elected or appointed for that county, or whose jurisdiction is limited thereto:

(4) WHERE FILED. Official oaths and bonds shall be filed:

(c) In the office of the clerk of the circuit court for any county: Of all court commissioners, of all family court commissioners, of all municipal judges, and of all other judges or

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(2) The clerk of the circuit court shall within 10 days after the filing with him or her of the oath and bond, execute and mail to the clerk of the city, town or village, where the judge was elected, a certified copy of the bond, which certified copy shall be filed by the city, town or village clerk, and preserved in his or her office, and the same shall be presumptive evidence of its execution by the justice and his or her sureties. The clerk of the circuit court shall also file a certified copy of the oath with the office of director of state courts within the 10-day time period.

Historical Note

Source:

L.1967, c. 276, § 29, eff. Jan. 13, 1968.	L.1977, c. 305, § 48, eff. July 1, 1978.
St.1975, § 254.03.	S.Ct. Order, 88 W (2d) xiii, eff. Feb. 19,
L.1977, c. 187, § 94, eff. Aug. 1, 1978.	1979.

Library References

Judges 5.

C.J.S. Judges § 19.

Notes of Decisions

1. In general

A municipal justice is not required to file his oath and bond with any state office, however, he must file with clerk of circuit court who, within ten days

after filing, mails a certified copy of the bond to the clerk of the city, town or village in which the justice was elected or appointed. Op.Atty.Gen., Feb. 18, 1977.

755.04 Salary and fees

The governing body shall fix a salary for the judge which shall be in lieu of fees and costs. Fees and taxable costs shall be paid into the municipal treasury as governing body directs. The salary may be increased by the governing body before the start of the 2nd or a subsequent year of service of the term of the judge, but shall not be decreased during a term. Salaries may be paid annually or in equal instalments as determined by the governing body, but no judge may be paid a salary for any time during the term during which the judge has not executed his or her official bond or official oath, as required by s. 755.03, and filed under s. 19.01(4) (c).

Historical Note

Source:

L.1967, c. 276, § 29, eff. Jan. 13, 1968.	St.1975, § 254.04.
L.1969, c. 57, § 35, eff. July 15, 1969.	L.1977, c. 187, § 94, eff. Aug. 1, 1978.
	L.1977, c. 305, § 64(3), eff. July 1, 1978.

Cross References

Compensation and fees, see Const. Art. 7, § 14.

757.02 Justices and judges and municipal judges; oath of office; ineligibility to other office; salary; conservators of peace.

(1) Every person elected or appointed justice of the supreme court, judge of the court of appeals, judge of the circuit court or municipal judge, shall take, subscribe and file the following oath:

STATE OF WISCONSIN,

County of

I, the undersigned, who have been elected (or appointed) to the office of, but have not yet entered upon the duties thereof, do solemnly swear that I will support the constitution of the United States and the constitution of the state of Wisconsin; that I will administer justice without respect to persons and will faithfully and impartially discharge the duties of said office to the best of my ability. So help me God.

....(Signature)

Subscribed and sworn to before me this
day of, 19...

....(Signature)

SCR CHAPTER 32

CONTINUING EDUCATION FOR WISCONSIN JUDICIARY

SCR

- 32.001 Definition.
- 32.002 Applicability.
- 32.01 Judicial education committee.
- 32.02 Compulsory education required.
- 32.03 Definition of credit.
- 32.04 Required programs.
- 32.05 Minimum and maximum.
- 32.06 Programs receiving credit.
- 32.07 Credit for other educational activities.
- 32.08 Reserve judges.
- 32.09 Noncompliance.
- 32.10 Applicability.

Judicial Council Committee's Note—1979

The following rules govern continuing education requirements for members of the Wisconsin judiciary. These rules were originally adopted on June 29, 1976, effective January 1, 1977. The rules were originally numbered 1 to 8 and have been clarified and numbered SCR 32.001 to 32.08 for uniformity and convenience.

SCR 32.001 Definition

In this chapter, "judge" means a justice of the supreme court, judge of the court of appeals or judge of a court of record.

SCR 32.002 Applicability

The commissioners of the supreme court and staff attorneys of the court of appeals are subject to the educational requirements of this chapter in the same manner as judges are.

SCR 32.01 Judicial education committee

A judicial education committee is created consisting of the chief justice of the supreme court or his or her designee, the chief judge of the court of appeals or his or her designee, the director of state courts, 8 circuit judges appointed by the supreme court and the deans of the university of Wisconsin and Marquette law schools or their designees. The terms of the

CONTINUING EDUCATION—JUDGES SCR 32.05

judges are 4 years except that the court shall stagger the terms of the initial members so that the terms of 2 circuit judges expire each year.

SCR 32.02 Compulsory education required

(1) A judge shall earn 60 credits each period of 6 years by participating in educational programs approved by the judicial education committee. The 6-year period begins on January 1, 1977, for a judge in office on that date and on the date of taking office for a judge taking office after that date.

(2) The committee may sponsor educational programs for municipal judges and court support personnel.

SCR 32.03 Definition of credit

Credit may be earned by attendance at both in-state and national educational programs sponsored or approved by the Wisconsin supreme court judicial education committee. One credit is awarded for each half-day of attendance at an in-state educational program. The amount of credit to be awarded for attendance at a national program is to be determined by the judicial education committee.

SCR 32.04 Required programs

During each 6-year period, a judge shall attend at least once the Wisconsin judicial college, the criminal law-sentencing institute and the prison tour. Credit earned for attendance at these programs is to be included as part of the required 60 credits. This rule does not apply to appellate judges.

Amended and eff. Nov. 25, 1980.

SCR 32.05 Minimum and maximum

A judge shall during each year earn no less than 5 nor more than 15 credits at an in-state educational activity. The 15 credit maximum may be waived upon prior approval granted by the judicial education committee or its designee upon application of an individual judge. The 15 credit maximum does not apply to the year the judge attends the Wisconsin judicial college and/or the criminal law-sentencing institute and prison tour. A trial judge may not earn more than 24 credits for attendance at national educational activities in any 6-year period. A judge is not required to attend any national educational activity.

Amended and eff. Nov. 25, 1980.

SCR 32.06 Programs receiving credit

Credit shall be granted for attendance at all programs for judges sponsored by the judicial education committee. In addition, credit for other programs shall be given for that portion of the program addressed to judicial education and approved by the judicial education committee.

SCR 32.07 Credit for other educational activities

Credit may be granted by the judicial education committee for other educational activities undertaken by a judge such as writing or teaching. A judge may receive credit for teaching for which he or she is compensated if the teaching does not interfere with the judge's performance of his or her judicial duties and is performed outside of regular court hours or while the judge is on vacation.

SCR 32.08 Reserve judges

(1) To be eligible for appointment or reappointment as a reserve judge, a person otherwise entitled to appointment shall have earned 5 credits during the 12 months immediately preceding appointment or reappointment. One credit is awarded for each half-day of attendance at programs sponsored or approved by the judicial education committee. Reserve judges are not required to comply with SCR 32.04.

(2) In order to be eligible for reimbursement of expenses incurred in attending an educational program to obtain the required number of credits, a person must have served actively as a reserve judge for at least 5 days during the 12 months immediately preceding the first day of the educational program.

Adopted Nov. 25, 1980, eff. Jan. 1, 1981.

SCR 32.09 Noncompliance

(1) If a judge fails to meet the requirements of SCR 32.04 or 32.05, the director of judicial education shall send the judge a notice of noncompliance by registered or certified mail. The nature of noncompliance shall be specified in the notice. Copies of the notice shall be sent to the director of state courts and to the chief judge of the court of appeals or administrative district. The notice shall inform the judge that an extension is being granted for compliance. The director of judicial education shall have the authority to set the period of extension up to six months, which

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will be of such duration to reasonably allow compliance. For good cause, the judicial education committee may extend the period for compliance.

(2) After the period of the extension has passed and the judge has not complied with this order, the director of judicial education shall refer the violation to the judicial education committee for a hearing and send the judge a notice of the hearing by registered or certified mail.

(3) If the judicial education committee finds the judge has not complied with SCR 32.04 or 32.05, it shall refer the matter to the supreme court for such action as it deems appropriate. Notice of such referral shall be sent to the director of state courts and the chief judge of the court of appeals or appropriate administrative district.

Adopted Nov. 25, 1980, eff. Jan. 1, 1981.

SCR 32.10 Applicability

(1) Except as provided in sub. (2), this chapter applies retrospectively to January 1, 1977, but judges may receive credit for attendance at educational programs during 1976. These credits are to be considered part of the required 60 credits to be earned during the 6-year period commencing January 1, 1977, and ending December 31, 1982.

(2) SCR 32.08 and 32.09 shall take effect on January 1, 1981. Renumbered from SCR 32.08; amended and eff. Nov. 25, 1980.

MUNICIPAL COURT

755.09

Library References

Courts ⇨ 188(1).

C.J.S. Courts § 249 et seq.

755.06 Sessions of court

The municipal court shall be open daily or as directed by the governing body, but the governing body may by ordinance or bylaw allow the justice to determine when the court shall be open.

Historical Note

Source:

L.1967, c. 276, § 29, eff. Jan. 13, 1968.

St.1975, § 254.06.

L.1977, c. 187, § 94, eff. Aug. 1, 1978.

Cross References

Adjournment, neglect to adjourn, see § 757.10.

Holidays, effect on holding court, see § 757.15.

Sittings of court to be public, see § 757.14

Library References

Courts ⇨ 75.

C.J.S. Courts §§ 148, 162.

755.09 Office, where kept

(1) Every judge shall keep his or her office and hold court only in the municipal hall of the town, village or city in which elected or if no room is available in the municipal hall, the governing body may authorize him or her to temporarily keep office and hold court elsewhere in the municipality, other than at a place prohibited under sub.

(2). The judge may issue process or perform ministerial functions at any place in the county.

(2) No judge may keep his or her office or hold court in any tavern, or in any room in which intoxicating liquors are sold, or in any room connecting therewith. For any violation of this section the judge shall forfeit \$25 but the violation of the subsection does not make any order or judgment void.

(3) No judge may hold court or keep his or her office with a practicing attorney unless the attorney is his or her law partner, and the partner shall not act as attorney before the judge.

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Historical Note

Source:

R.S.1849, §§ 2, 3, 41.	L.1945, c. 411, §§ 3, 4, 59.
R.S.1858, c. 120, §§ 2, 3, 45.	L.1947, c. 84.
L.1867, c. 105, § 2.	L.1957, c. 291.
L.1868, c. 88 § 1.	L.1967, c. 276, § 29, eff. Jan. 13, 1968.
L.1875, c. 172.	St.1967, §§ 300.02, 300.33, 301.32.
R.S.1878, §§ 3569, 3570, 3623.	L.1969, c. 87, § 40, eff. July 15, 1969.
St.1898, §§ 3569, 3570, 3623.	L.1969, c. 255, § 40, eff. July 1, 1970.
L.1923, c. 4.	L.1969, c. 392, § 66s, eff. July 1, 1970.
St.1923, §§ 300.02, 300.03, 301.32.	St.1975, § 254.09.
L.1935, c. 273.	L.1977, c. 187, § 94, eff. Aug. 1, 1977.
L.1943, c. 287.	L.1977, c. 305, § 64(3), eff. July 1, 1978.

Cross References

Judges not to act as attorneys, see § 757.22.

Library References

Courts ⇐ 1S9(2).

C.J.S. Courts § 249 et seq.

755.17 Decorum in municipal court

(2) The courtroom for a municipal judge shall be provided by a municipality. The courtroom shall be in a public building if a suitable public building is available within the municipality. The courtroom shall be designed and furnished to create and promote the proper atmosphere of dignity and decorum for the operation of the court.

Committee Comment—1978

This section governs proper decorum in a municipal court.

Subsection (1) makes certain that a municipal judge will be properly attired when officially presiding in municipal court.

Subsection (2) gives direction to a municipality that the courtroom it provides for a municipal judge must be designed and furnished to help assure the proper dignity and decorum when a municipal court is operating. .

Historical Note

Source:

L.1977, c. 305, § 51, eff. July 1, 1978.

Library References

Courts \S 72, 187.

C.J.S. Courts $\S\S$ 166, 249 et seq.

SCR CHAPTER 32

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- 32.07 Credit for other educational activities.
- 32.08 Reserve judges.
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- 32.10 Applicability.

Judicial Council Committee's Note—1979

The following rules govern continuing education requirements for members of the Wisconsin judiciary. These rules were originally adopted on June 29, 1976, effective January 1, 1977. The rules were originally numbered 1 to 8 and have been clarified and numbered SCR 32.001 to 32.08 for uniformity and convenience.

SCR 32.001 Definition

In this chapter, "judge" means a justice of the supreme court, judge of the court of appeals or judge of a court of record.

SCR 32.002 Applicability

The commissioners of the supreme court and staff attorneys of the court of appeals are subject to the educational requirements of this chapter in the same manner as judges are.

SCR 32.01 Judicial education committee

A judicial education committee is created consisting of the chief justice of the supreme court or his or her designee, the chief judge of the court of appeals or his or her designee, the director of state courts, 8 circuit judges appointed by the supreme court and the deans of the university of Wisconsin and Marquette law schools or their designees. The terms of the

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judges are 4 years except that the court shall stagger the terms of the initial members so that the terms of 2 circuit judges expire each year.

SCR 32.02 Compulsory education required

(1) A judge shall earn 60 credits each period of 6 years by participating in educational programs approved by the judicial education committee. The 6-year period begins on January 1, 1977, for a judge in office on that date and on the date of taking office for a judge taking office after that date.

(2) The committee may sponsor educational programs for municipal judges and court support personnel.

SCR 32.03 Definition of credit

Credit may be earned by attendance at both in-state and national educational programs sponsored or approved by the Wisconsin supreme court judicial education committee. One credit is awarded for each half-day of attendance at an in-state educational program. The amount of credit to be awarded for attendance at a national program is to be determined by the judicial education committee.

SCR 32.04 Required programs

During each 6-year period, a judge shall attend at least once the Wisconsin judicial college, the criminal law-sentencing institute and the prison tour. Credit earned for attendance at these programs is to be included as part of the required 60 credits. This rule does not apply to appellate judges.

Amended and eff. Nov. 25, 1980.

SCR 32.05 Minimum and maximum

A judge shall during each year earn no less than 5 nor more than 15 credits at an in-state educational activity. The 15 credit maximum may be waived upon prior approval granted by the judicial education committee or its designee upon application of an individual judge. The 15 credit maximum does not apply to the year the judge attends the Wisconsin judicial college and/or the criminal law-sentencing institute and prison tour. A trial judge may not earn more than 24 credits for attendance at national educational activities in any 6-year period. A judge is not required to attend any national educational activity.

Amended and eff. Nov. 25, 1980.

SCR 32.06 Programs receiving credit

Credit shall be granted for attendance at all programs for judges sponsored by the judicial education committee. In addition, credit for other programs shall be given for that portion of the program addressed to judicial education and approved by the judicial education committee.

SCR 32.07 Credit for other educational activities

Credit may be granted by the judicial education committee for other educational activities undertaken by a judge such as writing or teaching. A judge may receive credit for teaching for which he or she is compensated if the teaching does not interfere with the judge's performance of his or her judicial duties and is performed outside of regular court hours or while the judge is on vacation.

SCR 32.08 Reserve judges

(1) To be eligible for appointment or reappointment as a reserve judge, a person otherwise entitled to appointment shall have earned 5 credits during the 12 months immediately preceding appointment or reappointment. One credit is awarded for each half-day of attendance at programs sponsored or approved by the judicial education committee. Reserve judges are not required to comply with SCR 32.04.

(2) In order to be eligible for reimbursement of expenses incurred in attending an educational program to obtain the required number of credits, a person must have served actively as a reserve judge for at least 5 days during the 12 months immediately preceding the first day of the educational program.

Adopted Nov. 25, 1980, eff. Jan. 1, 1981.

SCR 32.09 Noncompliance

(1) If a judge fails to meet the requirements of SCR 32.04 or 32.05, the director of judicial education shall send the judge a notice of noncompliance by registered or certified mail. The nature of noncompliance shall be specified in the notice. Copies of the notice shall be sent to the director of state courts and to the chief judge of the court of appeals or administrative district. The notice shall inform the judge that an extension is being granted for compliance. The director of judicial education shall have the authority to set the period of extension up to six months, which

CONTINUING EDUCATION—JUDGES SCR 32.10

will be of such duration to reasonably allow compliance. For good cause, the judicial education committee may extend the period for compliance.

(2) After the period of the extension has passed and the judge has not complied with this order, the director of judicial education shall refer the violation to the judicial education committee for a hearing and send the judge a notice of the hearing by registered or certified mail.

(3) If the judicial education committee finds the judge has not complied with SCR 32.04 or 32.05, it shall refer the matter to the supreme court for such action as it deems appropriate. Notice of such referral shall be sent to the director of state courts and the chief judge of the court of appeals or appropriate administrative district.

Adopted Nov. 25, 1980, eff. Jan. 1, 1981.

SCR 32.10 Applicability

(1) Except as provided in sub. (2), this chapter applies retroactively to January 1, 1977, but judges may receive credit for attendance at educational programs during 1976. These credits are to be considered part of the required 60 credits to be earned during the 6-year period commencing January 1, 1977, and ending December 31, 1982.

(2) SCR 32.08 and 32.09 shall take effect on January 1, 1981. Renumbered from SCR 32.08; amended and eff. Nov. 25, 1980.

MUNICIPAL COURT

755.09

Library References

Courts ⇨ 158(1).

C.J.S. Courts § 249 et seq.

755.06 Sessions of court

The municipal court shall be open daily or as directed by the governing body, but the governing body may by ordinance or bylaw allow the justice to determine when the court shall be open.

Historical Note

Source:

L.1967, c. 276, § 29, eff. Jan. 13, 1968.

St.1975, § 254.06.

L.1977, c. 187, § 94, eff. Aug. 1, 1978.

Cross References

Adjournment, neglect to adjourn, see § 757.10.

Holidays, effect on holding court, see § 757.15.

Sittings of court to be public, see § 757.14

Library References

Courts ⇨ 75.

C.J.S. Courts §§ 148, 162.

755.09 Office, where kept

(1) Every judge shall keep his or her office and hold court only in the municipal hall of the town, village or city in which elected or if no room is available in the municipal hall, the governing body may authorize him or her to temporarily keep office and hold court elsewhere in the municipality, other than at a place prohibited under sub.

(2). The judge may issue process or perform ministerial functions at any place in the county.

(2) No judge may keep his or her office or hold court in any tavern, or in any room in which intoxicating liquors are sold, or in any room connecting therewith. For any violation of this section the judge shall forfeit \$25 but the violation of the subsection does not make any order or judgment void.

(3) No judge may hold court or keep his or her office with a practicing attorney unless the attorney is his or her law partner, and the partner shall not act as attorney before the judge.

755.09

COURTS

Historical Note

Source:

R.S.1849, §§ 2, 3, 41.	L.1945, c. 411, §§ 3, 4, 59.
R.S.1858, c. 120, §§ 2, 3, 45.	L.1947, c. 84.
L.1867, c. 105, § 2.	L.1957, c. 291.
L.1868, c. 88 § 1.	L.1967, c. 276, § 29, eff. Jan. 13, 1968.
L.1875, c. 172.	St.1967, §§ 300.02, 300.33, 301.32.
R.S.1878, §§ 3569, 3570, 3623.	L.1969, c. 87, § 40, eff. July 15, 1969.
St.1895, §§ 3569, 3570, 3623.	L.1969, c. 255, § 40, eff. July 1, 1970.
L.1923, c. 4.	L.1969, c. 392, § 66s, eff. July 1, 1970.
St.1925, §§ 300.02, 300.03, 301.32.	St.1975, § 254.09.
L.1935, c. 273.	L.1977, c. 187, § 94, eff. Aug. 1, 1977.
L.1943, c. 257.	L.1977, c. 305, § 64(3), eff. July 1, 1978.

Cross References

Judges not to act as attorneys, see § 757.22.

Library References

Courts ⇨ 1S9(2).

C.J.S. Courts § 249 et seq.

755.17 Decorum in municipal court

(2) The courtroom for a municipal judge shall be provided by a municipality. The courtroom shall be in a public building if a suitable public building is available within the municipality. The courtroom shall be designed and furnished to create and promote the proper atmosphere of dignity and decorum for the operation of the court.

Committee Comment—1978

This section governs proper decorum in a municipal court.

Subsection (1) makes certain that a municipal judge will be properly attired when officially presiding in municipal court.

Subsection (2) gives direction to a municipality that the courtroom it provides for a municipal judge must be designed and furnished to help assure the proper dignity and decorum when a municipal court is operating.

Historical Note

Source:

L.1977, c. 305, § 51, eff. July 1, 1978.

Library References

Courts ⇨ 72, 187.

C.J.S. Courts §§ 186, 249 et seq.

755.01 Option of municipality

(1) There is created and established in and for each city, town and village, a municipal court designated "Municipal Court for the (city, town or village) of (name of municipality)". This court shall become operative and function when the city council, town board or village board adopts an ordinance or bylaw providing for the election of a judge and the operation and maintenance of the court. A permanent vacancy in the office of municipal judge shall be filled by election under s. 8.50. Any municipal court established under this section is not a court of record. The court shall be maintained at the expense of the municipality. After July 1, 1978, any authorized municipal court courtroom personnel not in the classified service shall be appointed by the municipal court judge or judges.

755.10 Employees

The justice shall in writing appoint such clerks and deputy clerks as are authorized by the council or board. Their salaries shall be fixed by the council or board. The clerks shall, before entering upon the duties of their offices, take the oath provided by s. 19.01 and give a bond if required by the council or board. The cost of the bond shall be paid by the municipality. Oaths and bonds of the clerks shall be filed with the municipal clerk.

Historical Note

Source:

L.1967, c. 276, § 29, eff. Jan. 13, 1968.
St.1975, § 254.10.
L.1977, c. 187, § 94, eff. Aug. 1, 1978.

Library References

Courts ☞ 55.

C.J.S. Courts §§ 140, 143.

SCR 70.04 Director; information system and statistics

The director of state courts shall have the responsibility and authority over the court information system for the entire court system, including the collection, compilation and utilization of judicial statistics.

SCR 70.13 Director; court information system

The director of state courts shall:

- (1) Define in detail the purpose and use of the information presently gathered by the system, and identify the needs of the users of the system, including the other branches of government.
- (2) Eliminate all information elements not essential to the purpose and use of the system.
- (3) Establish uniform definitions and reporting procedures.
- (4) Identify the principal users of the reports and establish a regular review procedure.

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345.37 Procedure on default of appearance. If the defendant fails to appear in court at the time fixed in the citation or by subsequent postponement, the following procedure shall apply:

(1) If he has not made a deposit under s. 345.26 or a stipulation of no contest under s. 345.27, the court may issue a warrant under ch. 968.

(2) If the defendant has made a deposit under s. 345.26, the citation may serve as the initial pleading and the defendant shall be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment, if required by s. 165.87, plus costs and the applicable suit tax, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons under ch. 968. If the defendant fails to appear in response to the summons, the court shall issue a warrant under ch. 968. If the court accepts the plea of no contest, the defendant may move within 6 months after the date set for the appearance to withdraw the plea of no contest, open the judgment and enter a plea of not guilty upon a showing to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If on reopening, the defendant is found not guilty the court shall immediately notify the department to delete the record of conviction based on the original proceeding and shall order the defendant's deposit returned.

(3) If the defendant has stipulated no contest under s. 345.27, the court or judge having trial jurisdiction of the violation may, on motion with or without notice, for cause shown by affidavit and upon just terms, within 10 days after the stipulation has been entered into, relieve any party from the stipulation and the effects thereof. If a party is relieved from the plea of no contest, the court or judge may order the stipulation or a written complaint to be filed and set the matter for trial. After trial the penalty assessment, if required by s. 165.87, costs and fees shall be taxed as provided by law.

(4) If a violator's deposit is forfeited for, or if an alleged violator stipulates to entry of, a plea of no contest to any violation for which his or her operator's record will be charged with demerit points as established by rule under s. 343.32 (2), the official accepting the forfeiture and the penalty assessment, if required by s. 165.87, shall comply with s. 343.27 (3).

(5) Within 5 working days after forfeiture of deposit or entry of default judgment, the official receiving the forfeiture and the penalty assessment, if required by s. 165.87, shall forward to the department a certification of the entry of default judgment or a judgment of forfeiture.

(6) Any person who fails to comply with this section relative to forwarding records of convictions to the department may be fined not more than \$100.

(7) If a defendant who has not made a cash deposit or stipulation of no contest and who has deposited his or her valid Wisconsin's chauffeur's or operator's license under s. 345.23 (2) (c) fails to appear in court at the time fixed in the citation or by subsequent postponement, the court shall order the license suspended for a period of 30 days or until the case is disposed of, whichever is longer. Within 48 hours after the order of suspension, notice of the suspension shall be forwarded to the department but the court shall retain possession of the suspended license. The court may enter an order vacating the suspension if the defendant so moves within 10 days after the date set for the appearance and proves to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If no order has been entered vacating the suspension the court shall forthwith forward the license to the secretary. If the court enters an order vacating the suspension or if the disposition of the case requires termination of the suspension the court shall immediately notify the secretary. Suspension under this subsection shall not affect the power of the court to suspend or revoke under s. 343.30 or the power of the secretary to suspend or revoke under s. 343.32.

History: 1971 c. 278; 1973 c. 218; 1975 c. 231, 421; 1977 c. 29 ss. 1472 to 1475, 1654 (7) (a), (c); 1977 c. 273, 305.

800.03 Stipulation of no contest prior to the initial appearance. (1) If a person is issued a citation in a case specified in s. 800.02 (1), the person may make a stipulation of no contest and deposit as follows:

(a) In traffic regulation cases, as provided in s. 345.27.

(b) In boating violations, as provided in s. 23.67.

(c) In other violations, the person may make such a stipulation and deposit only if the governing body of the municipality has approved the deposit schedule under sub. (3). The person may make the stipulation of no contest and deposit to the municipal court at any time prior to the initial appearance.

(2) The person who has made a stipulation and deposit under sub. (1) may appear in court. In such case, the court shall allow the person to withdraw his or her plea of no contest. The person need not appear in court.

(3) The amount of the deposit shall be set by the municipal judge, but shall not be effective until approved by the governing body of the municipality. The amount shall not exceed the

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maximum penalty for the offense, including any penalty assessment which would be applicable under s. 165.87, plus court costs.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17).

800.04 Initial appearance; stipulation of guilt; deposit. (1) (a) When a defendant appears or is brought before a municipal court, the municipal judge shall read the charge as stated in the warrant, complaint or citation to the defendant and shall explain the range of penalties which may be imposed.

(b) 1. The court shall inform the defendant:

- a. That he or she may plead guilty, not guilty or no contest or may request a continuance;
- b. Of the effect of a plea of no contest; and
- c. Of the right to a jury trial.

2. The defendant shall plead to the charges and the municipal judge shall enter the plea in the court docket. If the defendant refuses to plead, the municipal judge shall enter a plea of not guilty.

(c) If the defendant pleads guilty or no contest, the court shall convict the defendant of the offense charged and render judgment.

(d) If the defendant pleads not guilty and within 10 days after entry of the plea requests a jury trial and pays the required fees, the municipal judge shall promptly transmit all papers and fees in the cause to the clerk of the circuit court of the county where the violation occurred for a jury trial under s. 345.43. The plea of not guilty and request for jury trial may be made by mail. In cases not governed by ss. 345.20 to 345.53, the amount of deposit set out in the citation shall accompany the mailed request. Upon receipt of the request, the circuit court will set a time for trial. Any deposit made personally or by mail is forfeited upon nonappearance at the time set for trial. The required fee for a 12-person jury is \$24, plus the applicable suit tax and clerk's fee. The required fee for a 6-person jury is \$12, plus the applicable suit tax and clerk's fee.

(e) If the defendant agrees to immediate trial by the court, and the municipality is prepared for trial, the case may be tried immediately. If trial is not held immediately, the municipal judge shall then set a date for trial or advise the defendant that he or she will later be notified of the date set for trial.

(2) (a) A municipal judge may release a defendant without a deposit.

(b) If the municipal judge determines that the defendant should not be released under par. (a) and the defendant is charged with a traffic or boating violation, the municipal judge shall release the defendant on a deposit as bail in the amount established by the uniform deposit schedule under s. 345.26 (2) (a) or under s. 23.66. For other violations, the municipal judge

shall establish a deposit as bail in an amount not to exceed the maximum penalty for the offense, including any penalty assessment which would be applicable under s. 165.87. On failure of the defendant to make a deposit as bail under this paragraph, he or she shall be committed to jail pending trial while the default continues.

(c) If the defendant has made a deposit under par. (b) or s. 800.03 and does not appear, he or she is deemed to have tendered a plea of no contest and submits to a forfeiture and a penalty assessment imposed by s. 165.87 plus costs, not exceeding the amount of the deposit. The court may either accept the plea of no contest and enter judgment accordingly, or reject the plea and issue a summons. If the defendant fails to appear in response to the summons, the court shall issue a warrant under s. 968.09. If the defendant has made a deposit but does appear, the court shall allow the defendant to withdraw the plea of no contest.

(3) (a) If the court accepts a plea of no contest or judgment is entered against a defendant by default, the defendant may move within 6 months after the date set for the appearance to withdraw the plea of no contest, reopen the judgment and enter a plea of not guilty upon a showing to the satisfaction of the court that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. If on reopening the defendant is found not guilty, the court shall in traffic cases under ss. 345.20 to 345.53 immediately notify the department of transportation to delete the record of conviction based on the original proceeding and shall order the defendant's deposit returned.

(b) In this subsection, "default judgment" means only a judgment where there has been a plea of no contest and a forfeiture of a deposit.

(4) If a case is brought before a court that does not have jurisdiction, the case shall be transferred to the proper court.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); 1979 c. 175 s. 50.

Judicial Council Committee's Note, 1977: This section sets out the procedure to be used when a defendant initially appears before a municipal court. Sub. (1) (b) lists various information that must be brought to the defendant's attention at the initial appearance. Provision is made for a defendant to plead guilty or no contest at the initial appearance or to request a continuance. A plea of no contest means admission of guilt for purposes of the ordinance violation only and does not bind the defendant in a civil suit for the same wrong.

Sub. (1) (d) sets out the procedure for the defendant to request a jury trial after pleading not guilty.

Sub. (1) (e) provides that if a defendant pleads not guilty and agrees to immediate trial, the trial may be held at the same time as the defendant makes his or her initial appearance.

Sub. (2) sets out the procedure for a municipal judge to release a defendant with or without a deposit. If a deposit is required, sub. (2) (b) sets out the procedure for determining what the deposit should be.

Sub. (2) (c) sets out the procedure for a municipal judge to follow if a defendant has made a deposit and does not appear at the time of trial. It also allows the defendant to reopen a plea of no contest within 6 months if the plea was originally

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given due to mistake, inadvertence, surprise or excusable neglect. [Bill 1240-A]

800.05 Substitution of municipal judge.

(1) In cases specified in s. 800.02 (1), a person charged with a violation may file a written request for a substitution of a new judge for the municipal judge assigned to the trial of that case. The written request shall be filed not later than 7 days after the initial appearance in person or by an attorney. The municipal judge against whom a request has been filed may set initial bail and accept a plea of not guilty.

(2) Except as provided in sub. (4), no person may file more than one such written request in any one action.

(3) In municipal court, upon receipt of the written request, the case shall be transferred as provided in s. 751.03 (2). Upon transfer, the municipal judge shall transmit to the appropriate court all the papers in the action and the action shall proceed as if it had been commenced in that court.

(4) If upon an appeal from a judgment or order or upon a writ of error the appellate court orders a new trial or reverses or modifies the judgment or order in a manner such that further proceedings in the municipal court are necessary, the person charged with a violation may file a request under sub. (1) within 20 days after the entry of the judgment or decision of the appellate court whether or not another request was filed prior to the time the appeal or writ of error was taken.

History: 1977 c. 305, 447; 1977 c. 449 s. 496; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: This section sets out the procedures to be used when a defendant requests a substitution of a new judge in an ordinance violation case. The request must be made not later than 7 days after the initial appearance in the case by the defendant.

The section also provides that the same administrative procedure for assignment of judges in courts of record when a request for substitution has been made will also be used in assigning a municipal judge to replace a municipal judge for whom a request for substitution has been made. [Bill 1240-A]

800.06 Illness, absence or vacancy; pending actions triable by court which receives papers; continuance on vacancy and notice of trial. (1) If any municipal judge is to be temporarily absent or is sick or disabled, the municipal judge may by written order, filed in the court and with the chief judge of the judicial administrative district for approval, designate another municipal judge of the county to perform his or her duties for a single period not to exceed 30 days or the municipal judge may deliver the docket and all papers relating to any pending action to the circuit court of the county and the circuit court may try the action and

enter judgment as though the action was begun before that court.

(2) If any municipal judge is incompetent, unable or fails to act, or in the event of a vacancy, s. 751.03 (2) applies. The parties and their attorneys shall be notified of the transfer to another municipal judge or to circuit court prior to trial. The municipal judge designated or the circuit judge to whom the case is transferred may, while in possession of the docket, issue execution upon or give a certified transcript of any unsatisfied judgment appearing therein.

History: 1977 c. 305; 1977 c. 449 s. 497; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: This section governs the procedures to be followed when a municipal judge is temporarily absent from court or is sick or disabled. Another municipal judge may be designated to perform the duties of his or her court for a period not to exceed 30 days.

If a municipal judge is incompetent, unable or fails to act, or if the office of municipal judge is vacant, the provisions of s. 751.03 (5) [(2)] for assignment of another municipal judge to the court applies. [Bill 1240-A]

800.07 Discovery in municipal court.

Neither party is entitled to pretrial discovery, except that if the defendant moves within 7 days after the initial appearance in person or by an attorney and shows cause therefor, the court may order that the defendant be allowed to inspect documents, including lists of names of witnesses, and to test under s. 804.09, under such conditions as the court prescribes, any devices used by the plaintiff to determine whether a violation has been committed.

History: 1977 c. 305; 1979 c. 32 s. 68.

Judicial Council Committee's Note, 1977: Discovery prior to trial in municipal court in ordinance violation cases is limited to the court ordering, upon cause shown by a party, production of documents, including lists of names of witnesses, under s. 804.09 or the inspection of any devices used by the prosecutor in determining whether an ordinance violation has occurred. [Bill 1240-A]

800.08 Procedure at trial. (1) In a trial before a municipal court, the municipality may provide a prosecutor who is an attorney authorized or licensed to practice law in this state. The municipality shall first offer evidence in support of the citation or complaint. The defendant may offer evidence after the municipality has rested. If the municipality and the defendant have offered evidence upon the citation or complaint, the parties may then respectively offer rebuttal testimony only, unless the court permits them to offer evidence upon their original case. Both parties shall have the opportunity to question all witnesses.

(2) (a) Before testifying in a municipal court, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered in a form calculated to awaken his or her conscience and impress the witness with the duty to testify truthfully.

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(b) The oath may be administered by the municipal judge or his or her designee substantially in the following form: Do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth, so help you God.

(c) Every person who declares that he or she has conscientious scruples against taking the oath, or swearing in the usual form, shall make a solemn declaration or affirmation, which may be in the following form: Do you solemnly, sincerely and truly declare and affirm that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth; and this you do under the pains and penalties of perjury.

(d) The assent to the oath or affirmation by the person making it may be manifested by the uplifted hand.

(3) The standard of proof for conviction of any person charged with violation of any municipal ordinance, bylaw or resolution specified in s. 800.02 (1) shall be evidence that is clear, satisfactory and convincing.

(4) Municipal courts shall be bound by the rules of evidence specified in chs. 901 to 911.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: This section sets out the procedure to be followed at trial before a municipal court in ordinance violation cases.

Sub. (1) states the order of presentation of evidence. After the municipality offers evidence in support of the violation, the defendant may present evidence. After each side has offered evidence upon the violation, only rebuttal testimony is allowed unless the court permits otherwise.

Every witness testifying in a municipal court must be sworn. Subsection (2) sets out the method of swearing a witness.

Sub. (3) states that the standard of proof for conviction in a municipal court shall be evidence that is clear, satisfying and convincing.

Sub. (4) states that the Wisconsin Rules of Evidence, chs. 901 to 911, shall apply in municipal court. [Bill 1240-A]

800.09 Judgment; failure to appear; plea of guilty. (1) **JUDGMENT.** If a municipal court finds a defendant guilty it may render judgment by ordering payment of a forfeiture and the penalty assessment imposed by s. 165.87 plus costs of prosecution and by imprisonment in default of such payment. Persons who fail to pay forfeitures, penalty assessments and costs shall be committed to a jail or a house of correction in the county in which the cause of action arose for not more than 90 days and shall be kept at the expense of the municipality. Any person committed under this section may be accorded privileges under s. 56.08. The court may defer payment of any judgment for not more than 60 days. At the time the judgment is rendered, the court shall inform the defendant of the date by

which payment of the forfeiture, penalty assessment and costs must be made, and of the possible consequences of failure to make the payment in timely fashion.

(2) **JUDGMENT ON PLEA OF GUILTY OR NO CONTEST OR ON FAILURE TO APPEAR.** (a) If the defendant pleads guilty or no contest, the court shall convict the defendant of the offense charged and render judgment.

(b) If the person arrested and released fails to appear personally or by an attorney at the time fixed for hearing of the case, the defendant may be deemed to have entered a plea of no contest and the money deposited, if any, or such portion thereof as the court determines to be an adequate penalty, plus the penalty assessment and costs, may be declared forfeited by the court or may be ordered applied upon the payment of any penalty which may be imposed, together with the penalty assessment and costs. In either event, any remaining money shall be refunded to the person who made the deposit.

(c) This subsection shall not apply to violations of parking ordinances. Bail given for appearance to answer a charge under any such ordinance may be forfeited as determined by the municipality.

History: 1977 c. 305; 1979 c. 32 s. 68.

Judicial Council Committee's Note, 1977: Sub. (1) governs the procedure for rendering judgment upon a finding of guilty of a defendant. A court may allow the defendant up to 60 days to pay a judgment. Failure to pay a judgment exposes a person to possible commitment to a jail or house of correction for not more than 90 days. If a defendant is indigent and unable to pay the forfeiture, the defendant cannot be imprisoned for nonpayment. The defendant must demonstrate that his or her inability to pay the fine is a result of indigency and must be afforded a hearing to determine his or her ability to pay the fine. See *State ex rel. Pedersen v. Blessinger*, (1972) 56 Wis. 2d 286, 201 N.W. 2d 778.

Sub. (2) provides that a municipal judge shall convict a defendant of the violation for which he or she is charged if the defendant pleads either guilty or no contest. If the defendant fails to appear at the time that the offense is to be heard by a municipal judge, the judge may deem the defendant to have entered a plea of no contest and then determine the appropriate penalty. Payment for the forfeiture and penalty assessment may be secured from any deposit made by the defendant. Any money remaining from a deposit after payment of the forfeiture, penalty assessment and costs shall then be refunded to the person making the deposit. [Bill 1240-A]

Influential nature of witness' position in community is not one of factors appellate courts are obliged to consider in determining whether court should have granted a change of venue. *Id.*

Venue is not a question of personal or subject matter jurisdiction and thus an order relating to venue is not appealable under St. 1975, § 817.33. *Voight v. Aetna Cas. & Sur. Co.* (1977) 259 N.W.2d 85, 80 Wis.2d 376.

Order relating to venue is not itself appealable but is reviewable on appeal

from a subsequent final judgment. *Laahr v. Galonski* (1977) 257 N.W.2d 869, 80 Wis.2d 72.

Where court's decision on intermediate question of venue was incorporated in the order determining ultimate substantive issue, the order was a final determination of the rights of the parties and tantamount to final judgment so that question of venue was reviewable. *Id.*

801.55 Repealed by L. 1977, c. 449, § 370, eff. Aug. 1, 1978

801.57 Municipal court appeals; change of venue

The appellate court shall change the place of trial of any action commenced before a municipal * * * Judge upon application of the defendant in like manner and for like causes as in actions originally brought in the circuit court. The demand for consent to such change shall be made within 10 days after the defendant has notice of the appeal.

Source:

L. 1977, c. 305, § 64(1), eff. July 1, 1978.

801.58 Substitution of judge

(1) Any party to a civil action or proceeding may file a written request, signed personally or by his or her attorney, with the clerk of courts for a substitution of a new judge for the judge assigned to the case. The written request shall be filed preceding the hearing of any preliminary contested matters and * * *, if by the plaintiff, not later than 60 days after the summons and complaint are filed or * * *, if by any other party, not later than 60 days after service of a summons and complaint upon that party. If a new judge is assigned to the trial of a case, a request for substitution must be made within 10 days of receipt of notice of assignment, provided that if the notice of assignment is received less than 10 days prior to trial, the request for substitution must be made within 24 hours of receipt of the notice and provided that if notification is received less than 24 hours prior to trial, the action shall proceed to trial only upon stipulation of the parties that the assigned judge may preside at the trial of the action. Upon filing the written request, the filing party shall forthwith mail a copy thereof to all parties to the action and to the named judge.

(2) After the written request has been filed, the named judge shall have no further jurisdiction in the action or proceeding except * * * that the judge shall determine if the request is correct as to form and timely filed. If the request is correct as to form and timely filed, the named judge shall be disqualified and shall promptly request assignment of another judge * * * under s. 751.03. The newly assigned judge shall proceed under s. 802.10 * * *

(3) * * * Except as provided in sub. (7), no party may file more than one such written request in any one action, nor may any single such request name more than one judge. For purposes of this subsection parties united in interest and pleading together shall be considered as a single party, but the consent of all such parties is not needed for the filing by one of such parties of a written request.

(4) Upon the filing of an agreement signed by all parties to a civil action or proceeding, by the original judge for which a substitution of a new judge

Deletions are indicated by asterisks. * * *

SCR 11.08 Trial judge not to be counsel

No person may be employed or allowed to appear as counsel or attorney before any court in any action which has been previously determined before the person as a judge or justice.

SCR 70.24 Assignment of municipal judges

Where a municipal judge is requested or required to act under section 300.05, 300.06, 345.315 or 757.19(5) of the statutes, the chief judge of the judicial administrative district in which the municipal court is located is authorized and directed to act as the designee of the chief justice for the purpose of assigning another municipal judge or, if none is available, transferring the case to circuit court. These assignments or transfers may be either general or specific as the circumstances warrant.

SCR 60.001 SUPREME COURT RULES

Section 1. SCR Chapter 60 of the rules of the Wisconsin supreme court is created to read:

SCR CHAPTER 60

CODE OF JUDICIAL ETHICS

SCR

- 60.001 Preamble.
- 60.01 Standards.
- 60.02 Intent.
- 60.03 Conflict of interest.
- 60.04 One office.
- 60.05 Candidate for office.
- 60.06 Law practice.
- 60.07 Position of trust.
- 60.08 Investments.
- 60.09 Directorships.
- 60.10 Gifts.
- 60.11 Influence.
- 60.12 Appointments.
- 60.13 Misconduct.
- 60.14 Party membership.
- 60.15 Promises.
- 60.16 Comment.
- 60.17 Rule violation.
- 60.18 Financial report.
- 60.19 Applicability.

Judicial Council Committee's Note—1979

The following rules, called the code of judicial ethics, govern the members of the Wisconsin judiciary. These rules were originally adopted by the supreme court on November 14, 1967, effective January 1, 1968. They were amended on June 28, 1974; December 23, 1977; March 16, 1978; March 28, 1978; and November 20, 1979. The rules were originally numbered standards 1 to 16 and rules 1 to 17. They have been clarified and numbered SCR 60.001 to 60.19 for uniformity and convenience.

SCR 60.001 Preamble

The administration of justice requires adherence by the judiciary to the highest ideals of personal and official conduct. The office of judge casts upon the incumbent duties in respect to conduct which concern his or her relationship to the state, its inhabitants and all who come in contact with him or her.

CODE OF JUDICIAL ETHICS SCR 60.01

SCR 60.01 Standards

The following standards set forth the significant qualities of the ideal judge:

(1) A judge should be mindful that ours is a government of law and not of men and should not permit his or her personal concept of justice to override the law. A judge should administer his or her office with due regard to the integrity of the system of law itself, remembering that he or she is not a repository of arbitrary power but a judge under the sanction of law.

(2) A judge should support the United States and Wisconsin constitutions and fearlessly observe and apply their fundamental limitations and guarantees.

(3) A judge should be temperate, attentive, patient, industrious and, above all, impartial. A judge should administer the law free of partiality and the appearance of partiality. To that end he or she should avoid membership in, or association with, an organization whose objectives, policies or activities are incompatible with the fair and evenhanded administration of justice.

(4) A judge should be prompt in the performance of his or her duties, recognizing that the time of litigants, jurors, witnesses and attorneys is of value. A judge should organize his or her court and supervise the personnel under his or her charge so that the business of the court is dispatched with promptness and convenience.

(5) A judge should cooperate with other judges as members of a common judicial system to promote the satisfactory administration of justice. A judge should respect all expressions of judicial opinion.

(6) A judge should be considerate and courteous to litigants, jurors, witnesses, attorneys and all in attendance upon the court. A judge should require similar conduct on the part of clerks, court officials and counsel. He or she should conduct all judicial proceedings so as to reflect the importance and seriousness of the inquiry to ascertain the truth.

(7) A judge should utilize opportunities to criticize and correct unprofessional conduct of attorneys and counselors, brought to his or her attention; and, if adverse comment is not a sufficient corrective, should send the matter at once to the proper investigating disciplinary authorities.

SCR 60.01 SUPREME COURT RULES

(8) A judge should, without being arbitrary or forcing matters to trial unjustly, endeavor to hold counsel to a proper appreciation of their duties to assist in combating delay and in promoting prompt justice.

(9) A judge should conduct the work of his or her court with dignity and decorum and without interference which might detract from the proper courtroom atmosphere. A judge should so act during trials and hearings that his or her attitude, manner or tone toward counsel or witnesses will not prevent the proper presentation of the cause or the ascertainment of the truth. A judge may properly intervene if he or she considers it necessary to clarify a point or expedite the proceedings. He or she should not make an unnecessary display of learning, express a premature judgment or add to the embarrassment or timidity of witnesses or counsel.

(10) A judge should always bear in mind the need of scrupulous adherence to the rules of fair play. A judge should not permit private interviews, arguments, briefs or communications designed to influence his or her decision. A judge should not act upon ex parte applications unless the necessity for prompt action is clearly shown, granting relief only when fully satisfied that the law permits it and the emergency requires it.

(11) A judge should grant to all parties the opportunity to present, by a full and fair record or transcript, questions exactly as they are presented and determined. In disposing of contested cases a judge should indicate the reasons for his or her action.

(12) A judge should not seek to be extreme, peculiar, spectacular or sensational in his or her judgment or in his or her conduct of the court. A judge should not compel persons brought before him or her to submit to discipline of his or her own devising without authority of law. In imposing sentence he or she should not seek popularity or publicity by exceptional severity or undue leniency.

(13) A judge should be fair, reasonable and just to all parties in fixing, granting or approving compensation for services or charges under his or her control. A judge cannot rid himself or herself of this responsibility by the consent of counsel.

(14) A judge should contribute to the public interest by advising, suggesting and supporting rules and legislation which, from his or her judicial observation and experience, will improve the administration of justice.

(15) A judge should not restrict access to court records or proceedings except as authorized by law. A judge should not

CODE OF JUDICIAL ETHICS SCR 60.05

seek publicity on pending cases. A judge should exercise control of lawyers appearing before him or her in respect to public statements which he or she considers may prejudice or impede a fair trial in a pending case.

(16) Justices and judges of appellate courts, in deciding cases, should so indicate their views as to clarify the law and guide further proceedings involving similar questions. They should seek solidarity of conclusion and should not yield to pride of opinion. They should file separate opinions only in cases of conscientious differences on fundamental principles.

SCR 60.02 Intent

The requirements of judicial conduct embodied in SCR 60.03 to 60.17 are of sufficient gravity to warrant sanctions if they are not obeyed.

SCR 60.03 Conflict of interest

A judge shall not exercise his or her duties with respect to any matter in which a near relative by blood or marriage is a party, has an interest or appears as a counsel. A judge shall not participate in any matter in which he or she has a significant financial interest or in which he or she previously acted as counsel.

COMMENT: This rule covers those major conflicts of interest which should automatically disqualify a judge. There will be many lesser situations in which the judge's own sense of propriety may indicate that he or she disqualify himself or herself. There may also be even lesser situations in which the judge will determine that full disclosure to counsel is adequate.

SCR 60.04 One office

A judge shall not hold any office of public trust except a judicial office during the term for which he or she is elected or appointed.

SCR 60.05 Candidate for office

A judge shall not become a candidate for a federal, state or local nonjudicial elective office without first resigning his or her judgeship.

COMMENT: This rule was considered necessary because of the possibility that a candidacy for an office to take effect after the expiration of the judicial term would not be barred by SCR 60.04. It was felt that the appeal to the electorate by a sitting judge for a nonjudicial office was inherently in conflict with his or her duty to impartially serve all of the people.

SCR 60.06 SUPREME COURT RULES

SCR 60.06 Law practice

A judge shall not engage in the practice of law.

SCR 60.07 Position of trust

A judge shall not accept any duties or continue to administer or hold any fiduciary position or position of trust or incur any obligations which are or will be inconsistent with the expeditious, impartial and proper administration of the duties of his or her office or which will involve association with enterprises or persons which are likely to come before the judge in his or her official capacity.

SCR 60.08 Investments

A judge shall not make or retain any personal investments in enterprises which are likely to be involved in litigation or proceedings in the court.

SCR 60.09 Directorships

A judge shall not hold any office or directorship in any public utility, bank, savings and loan association, loaning institution, insurance company or any other corporation or business enterprise or venture which is affected with a public interest. A judge shall not hold an office or directorship in any corporation, business enterprise or venture, if the holding thereof interferes with the performance of his or her official duties or permits the exploitation of the prestige of his or her office or conflicts with the impartial exercise of his or her official duties.

COMMENT: The court will not apply SCR 60.09 of the code of judicial ethics to judges who held such positions before assuming their judicial office provided their assumption of judicial office was before January 1, 1968, the general effective date of the code of judicial ethics.

SCR 60.10 Gifts

A judge shall not accept gifts from lawyers, groups or persons whose interests are, are likely to be or have been before the judge in his or her official capacity.

COMMENT: This rule does not prohibit reasonable financial contributions to a voluntary campaign committee in behalf of a judicial candidate. The nonpartisan elective process as now constituted is an expensive one and until other means of conducting and financing judicial elections are devised, this rule should be so construed.

CODE OF JUDICIAL ETHICS SCR 60.16

SCR 60.11 Influence

A judge shall not, directly or indirectly, lend the influence of his or her name or the prestige of his or her office to aid or advance the welfare of any private business or permit others to do so. A judge shall not personally solicit funds for any purpose, charitable or otherwise.

SCR 60.12 Appointments

A judge shall not exercise the power of appointment vested in him or her by law for his or her personal, financial or partisan advantage.

SCR 60.13 Misconduct

A judge shall not indulge in gross personal misconduct.

SCR 60.14 Party membership

A judge shall not be a member of any political party or participate in its affairs, caucuses, promotions, platforms, endorsements, conventions or activities. A judge shall not make or solicit financial or other contributions in support of its causes or publicly endorse or speak on behalf of its candidates or platforms.

COMMENT: As an individual, a judge is entitled to his or her personal view on political questions and to rights and opinions as a citizen. However, as a member of Wisconsin's nonpartisan judiciary, a judge must avoid any conduct which associates him or her with any political party. This rule does not preclude a judge from attending a political meeting as a member of the public, but he or she shall not attend as a participant.

SCR 60.15 Promises

A judge who is a candidate for judicial office shall not make or permit others to make in his or her behalf, promises or suggestions of conduct in office which appeal to the cupidity or partisanship of the electing or appointing power. A judge shall not do or permit others to do in his or her behalf, anything which would commit the judge or appear to commit the judge in advance, with respect to any particular case or controversy or which suggests that, if elected or chosen, the judge would administer his or her office with partiality, bias or favor.

SCR 60.16 Comment

A judge shall not, while a judicial proceeding is pending, make any comment upon its merits or make any comment which might affect its outcome or preclude a fair trial.

SCR 60.17 SUPREME COURT RULES

SCR 60.17 Rule violation

An aggravated and persistent failure to comply with the standards of SCR 60.01 is a rule violation.

SCR 60.18 Financial report

(1) Each judge shall file a financial report of assets and liabilities as per December 31, 1974, and each year thereafter. The report shall be filed with the Wisconsin ethics board not later than April 30 of each year.

(2) The report shall be in a prescribed form and shall list, without dollar value or quantity, all assets (for each asset having a total market value of \$100 or more) except for household and personal effects, automobile and recreational equipment and all liabilities together with the names of creditors, but without dollar amount. Liabilities need not include ordinary consumer debts incurred in the normal course of an individual's personal affairs.

(3) The report shall include a listing of any options to acquire property rights; any commitment held entitling the judge to incur debt and a listing of the names of all life insurance companies holding outstanding policies on the judge's life.

(4) The report shall include assets and liabilities of the judge filing the report as well as those of a spouse and legal dependents.

(5) The report shall include the source of all income from personal services other than judicial (not including reimbursed expenses) and the source of all gifts, other than the immediate family, if the item of income or the value of the gift exceeds \$100.

(6) This report shall be filed by active and reserve judges, municipal judges and, in addition, by the director of state courts, supreme court commissioners, each member of the board of attorneys professional responsibility and board of attorneys professional competence.

(7) In this rule, "report" means the financial report under sub. (1).

SCR 60.19 Applicability

This chapter, except SCR 60.09, applies retrospectively to January 1, 1968. SCR 60.09 applies retrospectively to January 1, 1970. SCR 60.06, 60.07, 60.08, 60.09 and 60.11 do not apply to occupants of part-time judicial offices such as reserve judges and municipal judges.

Indigent Defendants

PAYMENT NOTICE AND NOTICE OF RIGHT TO JUDICIAL HEARING

CITY OF MILWAUKEE VS.

DEFENDANT(S) — NAME AND ADDRESS — (LAST NAME FIRST)

CASE NO

M

NOTICE OF DEFAULT JUDGMENT AND POSSIBLE JAIL SENTENCE

ON _____, YOU WERE SCHEDULED TO APPEAR BEFORE THE HONORABLE _____
PURSUANT TO AN ALLEGED VIOLATION OF THE MILWAUKEE CODE OF
FINANCES, TO-WIT:
YOU DID NOT APPEAR IN COURT ON THE DATE. THEREFORE, A DEFAULT JUDGMENT WAS TAKEN AGAINST YOU
YOUR ABSENCE. YOU WERE FOUND GUILTY AND ASSESSED A FINE OF \$ _____ INCLUDING COURT
STS. THIS AMOUNT MUST BE PAID BY _____ IF THE FINE IS NOT PAID BY THAT
DATE YOU ARE SENTENCED TO _____ DAYS IN THE _____

IF YOU CANNOT PAY THE FINE WITHIN THE TIME PERIOD ALLOWED INFORM THE COURT
IMMEDIATELY.

IF YOU DO NOT PAY THIS FINE BY THE ABOVE DATE YOU CAN BE ARRESTED AND
SENT TO JAIL. IF YOU ARE UNABLE TO PAY THE FINE BY THE ABOVE DATE YOU MAY REQUEST
AN EXTENSION OF THAT TIME. YOU ALSO HAVE THE RIGHT TO A JUDICIAL HEARING TO DETERMINE
WHETHER OR NOT YOU ARE ABLE TO PAY THE FINE. A JUDICIAL HEARING WILL BE HELD AT YOUR
REQUEST AND:

1. You will have the opportunity to present evidence on your own behalf concerning your ability to pay the fine within the time imposed;
2. You will have the opportunity to confront and cross-examine any adverse witnesses;
3. You will have the right to be represented by counsel;

If you wish to request an extension of time or a judicial hearing, please notify the court immediately by:

- a. Informing the Judge at the time of your court appearance that you do not have enough money to pay the fine; or
- b. By coming in person, Monday through Friday, 8:30 - 11:00 A.M. and 1:30 - 4:00 P.M. to the Office of the Clerk of Municipal Court at

MUNICIPAL COURT OF MILWAUKEE
818 WEST WISCONSIN AVENUE (1st Floor)
MILWAUKEE, WISCONSIN 53233

You should keep this notice and bring it with you for identification purposes. All payments are to be made by mail or in person at the Municipal Court. Please send check or money order only; do not send cash. Put the above case number on any check or money order. Part payments accepted.

IF YOU HAVE ANY OTHER QUESTIONS CONCERNING YOUR CASE YOU SHOULD GO TO THE OFFICE OF THE CLERK OF MUNICIPAL COURT.

Records and Forms

CHAPTER 800

MUNICIPAL COURT PROCEDURE

800.01	Commencement of action.	800.07	Discovery in municipal court.
800.02	Form of citation, complaint, summons and warrant in municipal ordinance violation cases.	800.08	Procedure at trial.
800.03	Stipulation of no contest prior to the initial appearance.	800.09	Judgment; failure to appear; plea of guilty.
800.04	Initial appearance; stipulation of guilt; deposit.	800.10	Municipal court fees and costs.
800.05	Substitution of municipal judge.	800.11	Municipal court docket and transcript entries.
800.06	Illness, absence or vacancy; pending actions triable by court which receives papers; continuance on vacancy and notice of trial.	800.12	Municipal court contempt procedure.
		800.13	Recording in municipal court.
		800.14	Appeal from municipal court decision.

800.01 Commencement of action. (1) In municipal court, personal jurisdiction in municipal ordinance violation cases and cases involving a violation of a resolution or bylaw if the resolution or bylaw is authorized by statute is obtained over a defendant when the defendant:

(a) Is served with a summons and complaint or citation and such documents are filed with the court;

(b) Is arrested and brought before a court; or

(c) Voluntarily appears before a municipal judge.

(2) Service under sub. (1) (a) shall be as provided in s. 968.04 (3) (b) 2 or by personal service by a municipal employee.

History: 1977 c. 305; 1979 c. 32 s. 68.

Judicial Council Committee's Note, 1977: This section sets out the 3 methods in which personal jurisdiction is obtained over a defendant in municipal ordinance violation cases. Personal jurisdiction can be achieved in no other way. The method of service under sub. (1) is made identical with the method for serving a summons in a criminal proceeding under ch. 968. [Bill 1240-A]

800.02 Form of citation, complaint, summons and warrant in municipal ordinance violation cases. (1) **ACTION.** An action in municipal court for violation of a municipal ordinance, or violation of a resolution or bylaw if the resolution or bylaw is authorized by statute, is a civil action and the forfeiture or penalty imposed by any ordinance of the municipality may be collected in an action in the name of the municipality.

(2) **CITATION FORM.** (a) The citation shall be signed by a peace officer or endorsed by a municipal attorney or, if applicable, signed by a conservation warden. In addition, the governing body of a municipality authorized to adopt the use of citations may designate by ordinance or resolution other municipal officials who may issue citations with respect to ordinances which are directly related to the official responsibilities of the officials. Officials granted the authority

to issue citations may delegate, with the approval of the governing body, the authority to employees. Authority delegated to an official or employee may be revoked only in the same manner by which it is conferred. The citation shall contain substantially the following information:

1. The name, address and date of birth of the defendant.

2. The name and department of the issuing officer.

3. The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, the ordinance, resolution or bylaw violated and a designation of the violation in language which can be readily understood.

4. A date, time and place for the court appearance, and a notice to appear.

5. Provisions for amount of deposit and stipulation in lieu of a court appearance, if applicable.

6. Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made.

7. Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and may within 10 days after entry of the plea request a jury trial.

8. Notice that if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant is deemed to have tendered a plea of no contest and submits to a forfeiture and penalty assessment plus costs, not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.

9. Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or a warrant for the defendant's arrest or may enter a default judgment against the defendant.

10. Any other pertinent information.

(b) Except for parking violations, in traffic regulation actions in municipal court, the uniform citation and complaint form specified in s.345.11 shall be used in lieu of the citation form specified in par. (a). In actions for violations of local ordinances enacted in accordance with s. 30.77, the citation form specified in s. 23.54 shall be used in lieu of the citation form specified in par. (a).

(3) **COMPLAINT FORM.** The complaint shall be signed by a complainant and shall contain substantially the following information:

(a) The name, address and date of birth of the defendant.

(b) The department permit or license number of the defendant, if applicable.

(c) The name and department of the issuing officer.

(d) The title of the cause, specifying the name of the court and county in which the action is brought and the names and addresses of the parties to the action.

(e) A plain and concise statement of the violation identifying the event or occurrence from which the violation arose and showing that the plaintiff is entitled to relief, the ordinance, resolution or bylaw upon which the cause of action is based and a demand for a forfeiture, the amount of which shall not exceed the maximum set by the statute involved, the penalty assessment and such other relief that is sought by the plaintiff.

(f) Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and may within 10 days after entry of the plea request a jury trial.

(g) In an action by or against a ch. 180 or 181 corporation, the complaint must state the corporate existence and whether the corporation is a domestic or foreign corporation.

(4) **SUMMONS FORM.** The summons shall be signed by a municipal judge and shall contain the following information:

(a) The title of the cause, specifying the name of the court and county in which the action is brought and the names of all parties to the action.

(b) A direction summoning and requiring the defendant to appear in a specified court on a particular date not less than 10 days following service of the summons to answer the accompanying citation or complaint.

(c) A notice that in case of failure to appear, judgment may be rendered against the defendant according to the demand of the citation or complaint, or the court may issue a warrant for the defendant's arrest.

(5) **WARRANT FORM.** The warrant shall be in the name of the state of Wisconsin, shall be directed to all law enforcement officers in the state, may be addressed to any law enforcement officer in the state, shall be signed by the municipal judge who authorizes its issuance and shall contain or have attached thereto the following information:

(a) The name of the defendant.

(b) The offense alleged.

(c) A copy of the citation or complaint.

(d) A finding of probable cause that the defendant committed the offense.

(e) A command to arrest the defendant and bring him or her before the municipal judge or other municipal judge or judge of the county.

(f) The date of issuance.

(6) **AUTHORITY TO ARREST WITHOUT A WARRANT.** A person may be arrested without a warrant for the violation of a municipal ordinance if the arresting officer has reasonable grounds to believe that the person is violating or has violated the ordinance.

History: 1977 c. 305; 1979 c. 22; 1979 c. 32 s. 68; 1979 c. 266.

Judicial Council Committee's Note, 1977: This section sets out the information to be included in the citations, complaints, summonses and warrants used in municipal ordinance violation cases. All the data required for a particular form must be included, although additional information may be included if felt advisable by the person prosecuting a particular ordinance violation.

It is felt that the minimum information required on a citation, complaint, summons or warrant meets any due process requirements of giving a particular defendant sufficient information of the facts and circumstances of the ordinance violation for which he or she is charged. [Bill 1240-A]

885.02 Form of subpoena

(1) The subpoena may be in the following form:

Subpoena.

State of Wisconsin

... County.

The State of Wisconsin, To

You are hereby required to appear before, a municipal * * * judge
in and for * * * the county, at * * * the municipal judge's office in
the town of (or before, designating the court officer or person and

place of appearance), on the day of, at o'clock in the noon
of * * * that day, to give evidence in a certain cause then and there to be
tried between, plaintiff, and, defendant, on the part of the (or
to give evidence in the matter [state sufficient to identify the matter or pro-
ceeding in which the evidence is to be given] then and there to be heard, on
the part of).

Given under my hand this day of, 19....

.... (Give official title)

(2) For a subpoena * * * requiring the production of materials, the fol-
lowing or its equivalent may be added to the foregoing form (immediately be-
fore the attestation clause): and you are further required to bring with you
the following papers and documents (describing them as accurately as possi-
ble).

Source:

L.1977, c. 305, § 56, eff. July 1, 1978.
L.1979, c. 110, § 54m, eff. March 1,
1980.

Cross References

Similar provision, see § 805.07.

1. Subpoena duces tecum

While relevancy is to be considered
when issuing a subpoena duces tecum,

that relevancy need not appear on the
face of the subpoena; where there is a
factual dispute, the only means availa-
ble to settle the dispute is the presenta-
tion of evidence. *Neu's Supply Line,
Inc. v. Wisconsin Dept. of Revenue*
(1971) 190 N.W.2d 213, 52 Wis.2d 385.

MUNICIPAL COURT PROCEDURE

800.11 Municipal court docket and transcript entries. (1) Every municipal judge shall keep a docket in which he or she shall enter, in actions to which they relate:

(a) The title of every action commenced before the municipal judge, including the name and address of the defendant;

(b) The process issued, date and place where it issued, when returnable and the return of the officer;

(c) A brief statement of the charges, including the nature and time of the offense and the section of law violated;

(d) Every adjournment, stating at whose request and to what time;

(e) The date and time trial was held;

(f) The names of witnesses sworn, stating at whose request;

(g) The judgment rendered by the municipal judge, including the penalties imposed, the date and time of rendering judgment and the costs assessed in the action;

(h) The record of contempt convictions under s. 800.12;

(i) The amount of bail and names and addresses of sureties, if any;

(j) The time of ordering any stay of execution;

(k) The time of issuing execution and the name of the officer to whom delivered;

(m) The return of every execution and when made and every renewal of an execution, with the date thereof;

(n) The date and reason of removal of the action to another court;

(o) The date of giving transcript of judgment;

(p) The date of an appeal made from judgment; and

(q) All motions made in the action, the decision thereon and all other proceedings in the action which the municipal judge may think useful.

(2) Failure of the municipal judge to keep a docket properly shall not affect the jurisdiction of the municipal court or render the judgment void.

(3) The transcript of judgment shall contain the following:

(a) The name and location of the court.

(b) The title of action.

(c) The name, address and vocation of defendant.

(d) The date of judgment.

(e) The amount of judgment, costs and fees.

(f) The certification that it is a true copy of the judgment.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17).

Judicial Council Committee's Note, 1977: Sub. (1) lists the various docket entries that are to be made by a municipal judge.

Sub. (2) makes clear that failure to properly docket a matter does not adversely affect the jurisdiction of a municipal court or a judgment rendered therein.

Sub. (3) lists the items that must be included in a transcript of judgment. [Bill 1240-A]

800.13 Recording in municipal court. (1)

Every proceeding in which testimony is taken under oath in a municipal court shall be recorded by electronic means for purposes of appeal.

(2) Notwithstanding sub. (1), a municipal court is not a court of record.

History: 1977 c. 305; 1979 c. 32 s. 68; 1979 c. 237.

Judicial Council Committee's Note, 1977: Sub. (1) requires that all testimony taken under oath in municipal court must be recorded by electronic means. Electronic means requires only a tape recorder and a microphone or microphones sufficient to pick up all testimony given under oath. The capacity of the recorder is defined to assure compatibility of equipment upon appeal. The municipal judge has the responsibility to make sure that the recorded testimony in his or her court is done in such a way that the individual giving the testimony can be readily identified.

Sub. (2) makes clear that the municipal court is not a court of record. The only purpose of recording testimony in municipal court by electronic means is to establish a record for appeal to a court of record. [Bill 1240-A]

800.14 Appeal from municipal court decision. (1) Appeals from judgments of municipal courts may be taken by either party to the circuit court of the county where the offense occurred. The appellant shall appeal by giving the municipal judge written notice of appeal within 20 days after judgment.

(2) On appeal by the defendant, the defendant shall execute a bond to the municipality with or without surety, approved by the municipal judge, that if the judgment is affirmed in whole or in part the defendant shall pay the judgment and all costs awarded on appeal.

(3) On meeting the requirements for appeal, execution on the judgment of the municipal court shall be stayed until the final disposition of the appeal.

(4) Upon the request of either party within 20 days after notice of appeal under sub. (1), or on its own motion, the circuit court shall order that a trial de novo without a jury be held in circuit court.

(5) If there is no request or motion under sub. (4), an appeal shall be based upon a review of a transcript of the proceedings. The municipal judge shall direct that the transcript be prepared from the electronic recording under s. 800.13 (1) and shall certify the transcript. The costs of the transcript shall be paid for under s. 800.10 (7). The electronic recording and the transcript shall be transferred to the circuit court for review.

(6) The disposition of the appeal shall be certified to the municipal court by the reviewing court within 30 days of the judgment of the reviewing court.

History: 1977 c. 305; 1979 c. 32 ss. 68, 92 (17); 1979 c. 237.

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755.11 Papers, how kept

Every justice shall file and keep together all papers in an action, separate from all other papers.

Historical Note

Sources:

R.S.1849, c. 88, § 270.
R.S.1858, c. 120, § 240.
R.S.1878, § 3585.
St.1898, § 3585.
L.1925, c. 4.

St.1925, § 300.19.
L.1945, c. 441, § 20.
St.1967, § 300.19.
L.1969, c. 87, § 41, eff. July 15, 1969.
St.1975, § 254.11.
L.1977, c. 187, § 94, eff. Aug. 1, 1978.

Cross References

Transcripts of municipal court records, see §§ 800.11, 889.13.
Unwritten proceedings, how proved, see § 889.14.

Library References

Courts ⇨113.

C.J.S. Courts §§ 226, 229.

755.12 Delivery of books to municipal clerk

When a municipal court ceases to operate, the docket, books of account, case files, moneys and bonds belonging to the court shall be delivered to the municipal clerk within 10 days after the vacancy occurs by the person who is in possession.

Historical Note

Sources:

R.S.1849, c. 88, §§ 273, 274.
R.S.1858, c. 120, §§ 243, 244.
R.S.1878, §§ 3587, 3588.
St.1898, §§ 3587, 3588.
L.1925, c. 4.
St.1925, §§ 300.21, 300.22.

L.1945, c. 441, § 22.
St.1945, § 300.22.
L.1967, c. 276, § 32.
St.1967, § 300.22.
L.1969, c. 87, § 41, eff. July 15, 1969.
St.1975, § 254.12.
L.1977, c. 187, § 94, eff. Aug. 1, 1978.

Library References

Courts ⇨113.

C.J.S. Courts §§ 226, 229.

755.13 Books demanded by municipal clerk

If any materials which should be delivered to the municipal clerk under s. 755.12 are not delivered within the time specified, the municipal clerk shall demand their delivery and may by action compel delivery.

Historical Note

Sources:

R.S.1849, c. 88, § 275.
R.S.1858, c. 120, § 245.
R.S.1878, § 3589.

St.1898, § 3589.
L.1925, c. 4.
St.1925, § 300.23.

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L.1945, c. 441, § 23.

L.1967, c. 276, § 32.

St.1967, § 300.23.

L.1969, c. 87, § 41, eff. July 15, 1969.

St.1975, § 254.13.

L.1977, c. 187, §§ 94, 135(4), eff. Aug. 1, 1978.

Library References

Courts ⇨113.

C.J.S. Courts §§ 228, 229.

755.14 Duty of clerk on receipt of books

(1) When the municipal clerk receives the docket, books of account and case files of a municipal court which has ceased to operate, he or she shall within 10 days dispose of them as follows:

(a) Deliver them to the clerk of the circuit court of that county if the municipality in which the municipal court was located was within one county.

(b) Deliver the case files of the pending and appealable cases to the clerk of the circuit court of the county where the court held office and certified copies of the docket for the past 12 months to the clerk of the circuit court of every other county in which the municipality lies, if the municipality in which the municipal court was located is in more than one county.

(2) For any pending or appealable cases, the bail shall be delivered along with the case file to the proper clerk of court. Any other moneys received under sub. (1) shall be delivered to the city treasurer as provided in s. 800.10(4).

Historical Note

Source:

R.S.1849, c. 88, §§ 276, 277.

R.S.1858, c. 120, §§ 246, 247.

R.S.1878, § 3590.

St.1898, § 3590.

L.1925, c. 4.

St.1925, § 300.24.

L.1945, c. 88.

L.1945, c. 441, § 24.

L.1965, c. 252, § 258.

L.1967, c. 276, § 32.

St.1967, § 300.24.

L.1969, c. 87, § 41, eff. July 15, 1969.

St.1975, § 254.14.

L.1977, c. 187, § 94, eff. Aug. 1, 1978.

L.1977, c. 305, § 65, eff. July 1, 1978.

L.1977, c. 449, § 497(1), eff. Aug. 1, 1978.

L.1979, c. 32, § 92(17), eff. July 20, 1979.

Library References

Municipal Corporations ⇨170.

C.J.S. Municipal Corporations § 545.

755.15 Pending actions triable by court which receives books

When any action is pending before a judge at the time his or her office becomes vacant and his or her books and papers have been de-

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livered to the circuit court, it may try the action and enter judgment as though the action was begun before it.

Historical Note

Sources:

R.S.1849, c. 88, §§ 278, 280.
R.S.1858, c. 120, §§ 248, 250.
L.1869, c. 120.
R.S.1878, § 3591.
St.1898, § 3591.
L.1925, c. 4.
St.1925, § 300.25.

L.1945, c. 441, § 25.
L.1967, c. 278, § 40.
St.1967, § 300.25.
L.1969, c. 87, § 41, eff. July 15, 1969.
St.1975, § 254.15.
L.1977, c. 187, § 94, eff. Aug. 1, 1978.
L.1977, c. 305, § 64(3), eff. July 1, 1978.
L.1977, c. 449, § 497(1), eff. Aug. 1, 1978.

Library References

Courts ⇐187.

C.J.S. Courts § 249 et seq.

755.16 Continuance on vacancy; notice of trial

All actions before any judge undetermined or appealable when his or her office becomes vacant are continued until the expiration of 10 days from the time when his or her books and papers were delivered to the circuit court. The court shall give 3 days' notice to the parties to the action.

Historical Note

Sources:

R.S.1849, c. 88, § 279.
R.S.1858, c. 120, § 249.
R.S.1878, § 3592.
St.1898, § 3592.
L.1925, c. 4.
St.1925, § 300.26.
L.1945, c. 86.

L.1945, c. 441, § 26.
L.1967, c. 276, § 40.
St.1967, § 300.26.
L.1969, c. 87, § 41, eff. July 15, 1969.
St.1975, § 254.16.
L.1977, c. 187, § 94, eff. Aug. 1, 1978.
L.1977, c. 305, § 64(3), eff. July 1, 1978.
L.1977, c. 449, § 497(1), eff. Aug. 1, 1978.

Cross References

Pending actions, illness, absence or vacancy, judges, see § 800.06.

Library References

Courts ⇐189(10).

C.J.S. Courts § 249 et seq.

APPENDIX P

WCIS PROGRAMMING COSTS

CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

Date: April 14, 1982

File Ref:

To: Karen McKim

From: Vern Hunt *[Signature]*

Subject: Municipal Court Study

Regarding your memo of April 7th concerning the Municipal Court Study.

WCIS currently collects uncontested *from circ. etc* non-traffic forfeitures and small claims on a weekly basis. The same type of summary statistics collection process and form could be developed and implemented for the Municipal Courts without a great deal of effort. The greatest effort required would be in training, and writing the programs to capture and report the statistics. WCIS has the resources to develop the form, do the training (as long as we don't have to train the judges individually), and write the programs.

Estimated programming effort required:

<u>Program</u>	<u>Hours</u> <u>@ \$25/hr.</u>	<u>Cost</u>
1. Input	7	\$175
2. Judge Update	15	\$375
3. Edit	30	\$750
4. Update	50	\$1250
5. Report	15	\$375

This would give a very simple report of all case types filed and disposed in each county. Dispositions would be listed by type. The frequency of reports and updates would be as required. This effort would satisfy Recommendation #10.

NCSC Recommendation #25 states that WCIS should develop the ability to report separately contested municipal ordinance violations and contested state forfeitures. This would require one new report program taking data from two files. It would take about 70 hours to develop the program for a cost of about \$1,750. If we were to add all traffic to the total county summary report, it would take an additional 80 hours or \$2,000.

Uncontested Summary sheets
Contested tear-off sheets

Attached is a design of a report that could be developed if we receive the Municipal Court statistics as recommended by NCSC and if the tapes received from DOT are converted to the WCIS format (we can do this, it just takes time).

The two recommendations made by NCSC which impact WCIS are reasonable. I would suggest that we develop the forms, process and programs their Recommendations (#10 and #25) provide for.

VLH:bg

Attachment

cc: J. Denis Moran
Ed McClain

CASE TYPE

	<u>JURY TRIAL</u>		<u>COURT TRIAL</u>		<u>GUILTY/ NO CONTEST</u>	<u>FORFEITURE OF BOND/</u>	
	<u>NOT</u>	<u>NOT</u>	<u>NOT</u>	<u>NOT</u>		<u>DISMISSAL</u>	<u>DEPOSIT</u>
	<u>GUILTY</u>	<u>GUILTY</u>	<u>GUILTY</u>	<u>GUILTY</u>	<u>PLEA</u>		<u>TOTAL</u>
FELONY	33	2	81	87	2	103	
MISDEMEANOR	3	5	139	111	4	37	
Traffic (STATE)	6	32	693	189	1	76	72
(COUNTY/MUN.)	1	1	32	19	6	32	14
FORFEITURE (STATE)	10	20	30	35	40	50	3
(COUNTY/MUN.)	10	20	35	45	20	25	35
JUVENILE	10	20	35	45	20	25	35

SMALL CLAIMS

STATE		MUNICIPAL			
DIS- MISSED	NO CONTEST/ GUILTY PLEA	DIS- MISSED	NO CONTEST/ GUILTY PLEA	DIS- MISSED	DEFAULT JUDGMENT

[illegible]

UNCONTESTED TRAFFIC

STATE
COUNTY MUNICIPAL.

OP AFTER	RECKLESS	SPEED	FLEE/ ELUD.	OTHER MOVING VIOL.	OTHER EQUIP. VIOL.
REV/SUS					