

League of Women Voters of Minnesota Records

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December 30, 1999

Bob Distad 611 S.E. 5<sup>th</sup> Street Minneapolis, MN 55414

Hi, Bob-

Here's what I was able to find. I enclose a copy of the League of Women Voters of Minnesota 1972 study *Minnesota Judiciary Structures and Procedures*, as well as the second, revised edition from 1981. (Incidentally, these studies preceded the creation of the Appeals Court in 1982, a measure strongly supported by the League.)

I also enclose a copy of our position statement from 1973, which doesn't specifically address your issue about the selection of chief judges. However, my guess is that we used the "Administration reforms" portion of the position to support legislation including that provision. See enclosed memoranda dated 2/21/75 and 1/14/76. I've marked the appropriate passages.

If you have a use for the publications, feel free to keep them—if not, we'd be happy to have them back. I hope this helps.

Best regards—Happy New Year, Century, Millennium!

Sally

# FILE COPY

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

Memo to: Local Leagues

From: State Board

Re: Statement of Judiciary Consensus

March 15, 1973

We are pleased to announce the following statement of position in our current state item: Judiciary: Evaluation of structure and procedures as they affect the individual.

The League of Women Voters of Minnesota supports a judicial system with the capacity to assure a speedy trial and equal justice for all.

- . Supports administrative reforms that expedite justice
- . Supports methods to improve judicial quality
- . Supports procedural reforms that ensure individual rights and access to due process of law
- . Supports development of community alternatives as an adjunct to the judicial system

# Explanation

Administrative reforms: establishment of a unified court system, an intermediate appellate court and procedures to strengthen and streamline judicial administration; additional staff for prosecution, public defenders and legal services when such needs are established; statewide guidelines on bail-fixing process; standardization of forms and procedures; use of technology in administration; use of juries in civil cases only by request.

Improve judicial quality: a non-partisan selection system with a commission to propose names for all appointments to the bench; mandatory training for all judges; adequate salary increases for judges and related revision of retirement benefits.

Procedural reforms: reform of bail process to recognize methods other than monetary to ensure appearance of accused at trial; strict guarantees to ensure protection of the defendant and society in the use of plea bargaining; sentencing alternatives; methods to reduce disparity in sentencing; a no-fault divorce procedure using irremediable grounds as means for dissolution; guarantees to witnesses in grand jury proceedings re: counsel in proceedings, availability of information to defense counsel and restrictions on waiving immunity in later trials; retention of age 18 for persons under jurisdiction of juvenile court; mandatory first appearance in juvenile court for all persons under jurisdiction of such court; requirement of formal transcript of commitment hearings with a rule or regulation protecting privacy of such records.

Development of alternatives for sentencing; alternatives for community alternatives: handling behavior now defined as "status offenses" and "social (or victimless) crimes."

To: Local League Judiciary Chairmen
From: Peggy Gross, State Judiciary Chairman
January 14, 1976

What's New ---- Currently in the Legislature, there are three bills dealing with proposed reform (reorganization) of the Minnesota Judicial system.

(For background on the current system, refer to Minnesota Judiciary: Structure and Procedures, LWVMN 1972.)

In 1972 in most counties, the lower courts were consolidated into county courts to form the County Court System. Minnesota thus has a two-tier (dual) court sysem of district courts (10 judicial districts) and county courts.

The three bills seek to make varying degrees of changes toward a unified court system (one system of courts - physically and administratively with divisions).

The Voss (HF 793) and Tennessen (HF 815) bills are almost identical in language and intent and propose a one-tier court system. Under these two proposals

- 1. the number and boundaries of the current 10 judicial districts could be changed;
- 2. county courts would cease to exist as a separate entity but would become a division of the district court;
  - 3. an appellate division of the district court could be formed;
- 4. salaries of all judges would be set at the current level of district court judges and would be paid by the state (currently district court judges' salaries are paid by the state, salaries of county judges by the counties);
  - 5. would add four legislators to the Judicial Council;
- 6. provides for one chief judge of the district court chosen from the current district and county judges.

The Select Committee on Judicial Reform was formed in 1974 by the Supreme Court to study the judicial system and to make recommendations. Many of the recommendations made can be implemented without legislative action.

The Select Committee, however, has incorporated those recommendations requiring legislative change into proposed bill HF 1796 (Arlandson). Generally speaking, the proposed bill advocates maintaining the present two-tier system of district and county courts but making administrative changes toward a more centralized administration of the present court system. Among the provisions of the bill are the following:

- 1. Maintain the present 10 judicial districts of the district court;
- 2. Extend the supervision and coordination duties of the chief justice of the Supreme Court to all courts (not just district court);
- 3. Provide for salaries of all judges (county, probate and municipal in addition to district) to be paid by the state at the current level of district court judges; however, allows counties to supplement salaries of judges with the approval of the Legislature to compensate for cost of living differences;
  - 4. Adds number of duties to the duties of the state court administrator
- 5. Provides that a conference of judges shall (instead of may) be held at least once a year;
- 6. Provides that district courts shall be open at all times except Sundays and legal holidays and that their terms shall be continuous;
  - 7. Provides for appointment of the clerk of district court;

- 8. Provides for appointment of a chief judge in each district, who may be a judge of county, probate, municipal or district court, to exercise administrative authority over all courts in the district;
  - 9. Provides for district administrators.

Public hearings on the bills have been held in several parts of the state and in most cases were covered by the League in the area. Metropolitan hearings are scheduled for later this winter.

To date, we have not testified on the bills, but would anticipate testifying this legislative session along the lines of our Judiciary position which supports the following: Support of a judicial system with the capacity to assure a speedy trial and equal justice for all, through:

- . administrative reforms
- . improved judicial quality
- . procedural reforms
- . community alternatives as an adjunct to the judicial system.

If possible, reprint the above information in your local bulletin.

Financial Study ---- At the request of the Select Committee on Judicial Reform, a financial study was made of the Minnesota judicial system. The study involved development of a system to collect financial data on courts and the collection of some data. The main objective of the study was to develop a system to obtain financial information on a continuing basis. Information was collected by sending questionnaires to clerks of court. The information contained in the study relies on the replies made by the clerks and the reports were not tested for accuracy. The report summarizes data for each of the 10 judicial districts. Statewide data shows that courts collected \$10.3 million in 1974, that counties spent \$31.2 million and the state \$2.1 million on courts in 1974.

Non-Judicial Staffing Study ---- Also made at the same time was a Non-Judicial Staffing Study, intended to develop a system to provide information on staffing requirements for courts, on personnel systems, classifications of personnel and on their pay. The study used questionnaires in 17 counties and attempted to learn the amount of time it took to process cases of various kinds and caseloads in these courts. From this was developed average caseload values for the various types of cases for court peronnel. These ranged from 4.4 minutes to process traffic violations to 283.6 minutes to process criminal violations. From these were calculated the necessary staff levels based on the court caseload. According to the report, the system could be applied as a guide for court staffing in all courts. (No response to the financial questionnaire was received from the clerk of the district court in St. Louis County, who generally refused to provide such information.)

The study of the organization, classification and compensation of non-judicial court staff was made by questionnaire. From this study, it appeared that courts are organized in many ways, that most courts have no employee classification system, that the pay of court personnel is equated with the pay of other county personnel, that generally district and county court staffs are not integrated, and that very seldom were there up-to-date job descriptions for court personnel. Based on this study, recommendations were made that similar activities in county and district courts be combined, that there is a need for specialization in larger courts, and that there is no one right way to organize a court. The study developed classifications for various non-judicial personnel, developed salary ranges for the various court personnel and developed cost of living variations for these salary ranges for the various counties. Currently, there is no consistency from county to county on what a court employee is paid.

Back to School for Minnesota Lawyers\*---- Graduation from law school is no longer the end of formal education for Minnesota

lawyers. After three years of study, on April 3, 1975, the Supreme Court promulgated a rule making Minnesota the first state to require continuing education for members of the legal profession.

Recently, Iowa became the second state to require its lawyers to go back to school; a number of other states are moving in the direction of mandatory continuing legal education. The concept is not unique to the legal profession: dentists, doctors, nurses, accountants and court reporters for years have been obliged, either by statute or by professional association membership requirements, to take formal courses designed to bring them up to date in their fields.

While continuing education for lawyers is something new, the goal is the same as in other professions - to increase competence. Under the new rule, all lawyers who maintain an active practice, or who are employed by the State of Minnesota, including judges, must complete at least 45 hours of approved course work every three years.

The new State Board of Continuing Legal Education is now ready to issue a final version of its rules and standards which it hopes will answer many of the questions lawyers have about the new program. So far, the Board has approved more than 200 programs and has denied credit to about 15. Most of the established and well-recognized agencies both in Minnesota and outside the state have little trouble receiving approval for their programs. New sponsors, however, may find the Board a little more inquisitive about them and the nature of their programs.

Among the criteria employed by the Board in passing on programs are: (1) the course must deal with the practice of law or the lawyer's professional responsibility; (2) competent faculty must serve as lecturers; (3) suitable classroom or laboratory settings must be provided; (4) well-written and carefully prepared printed materials must be furnished to each participant.

If the program appears to satisfy these and other requirements, credit will be awarded on the basis of one hour for each hour actually spent in attendance by the lawyer. The program can receive approval either in advance or after it is held. With increasing frequency, agencies are applying for advance approval, especially out-of-state sponsors who are just finding out about the Board's existence.

To receive individual credit, each lawyer must submit an affidavit to the Board stating that he attended the program and the number of hours he actually spent in classes.

Although the ultimate sanction for refusal to comply with the Supreme Court's rule is possible disbarment, the success of the programs depends upon the cooperation of the lawyers. Most of the reaction to the concept of continuing education so far has been favorable. Many lawyers are already fulfilling the 15 hours/year and for them it will be a matter of reporting what they have done.

The State Board of Continuing Legal Education is comprised of 10 lawyers and three lay members and has two part-time staff members.

Bills for Court Reform ---- Voss bill - Supreme Court may redistrict the district courts to the number of geographic districts within the boundaries of the state it deems reasonable and workable. Each district is to contain at least nine resident judges who shall be district court judges with identical jurisdiction.

The Supreme Court may establish an appellate division within the district court and may provide by rule that any appeal from the district court shall be to an appellate division of the district court. The Supreme Court shall promulgate rules governing procedure in such appeals. The Supreme Court shall appoint panels of district judges to consider and decide such appeals. Appeal from the decision of such panels shall be to the Supreme Court at its discretion.

<sup>\*</sup> Taken from article in Interchange, November 1975, Vol. 3, No. 9

Chief Justice of Supreme Court shall have the following increased duties:

- a. to appoint the chief judge of each district court who shall serve at the pleasure of the chief justice and for a term of two years and who shall be responsible for assigning the work of the court.
- b. to designate the general terms of court in various districts established. Terms shall be continuous unless otherwise designated by the chief justice.
- c. may designate the locations within each district where a district judge shall be in chambers.

Judicial Council shall consist of Chief Justice of Supreme Court or some other justice or former justice appointed from time to time by the chief justice for such service; three (instead of two) judges or former judges of the district court to be designated by the judges of the district court in annual meeting; and seven other persons appointed by the governor of whom (instead of and) not less than four shall be attorneys at law of wide practical experience.

Judicial Council shall also consist of <u>four legislators</u> two of whom shall be members of the state senate and appointed by the senate majority leader and the <u>remaining two of whom shall</u> be of the state house of representatives and appointed by the speaker.

Judicial Council shall recommend to the Supreme Court a redistricting of the district courts of this state to a number within the boundaries of the state it deems reasonable and workable.

Jurisdiction - There shall be one general trial court having statewide jurisdiction to be known as the district court. The district court may hold sessions anywhere in its geographical area where adequate facilities exist for the disposition of court business and at the times and in the places the judges of the district deem advisable.

District court shall/may establish a probate division, a family court division, a civil division and a criminal division, and shall establish within the civil division a conciliation court and may establish within the criminal division traffic and ordinance violation bureaus at such locations as it determines.

<u>Judges</u> - All persons who are licensed to practice law in the state and who are judges of a probate, county or municipal court existing pursuant to a municipal ordinance, charter or legislative act located in the state as of June 1, 1976, shall thereafter be designated as judges of the district court with the same jurisdiction and salary as those persons currently serving as district judges.

Upon receipt of a written request by a chief judge of a district of the district court, the Chief Justice of the Supreme Court may appoint and assign to the district a retired judge. When such retired judge undertakes such service, he shall be provided with a reporter, selected by such retired judge, a clerk, a bailiff, if the judge deems a bailiff necessary, and a courtroom or hearing room for the purpose of holding court or hearings, and shall be paid in addition to his retirement compensation.

Temporary transfer of Judge - Chief Justice may for good cause temporarily assign a judge of district court to another district court. Such assignment shall extend for a maximum of two months with a 12-month period unless consented to otherwise by the district judge.

Select Committee Bill - Judicial districts will remain the same. When public convenience or necessity requires, Chief Justice may assign any judge of any court to serve and discharge duties of a judge of any other court in a judicial district not his own.

To promote and secure more efficient administration of justice, the Chief Justice of the Supreme Court of the state shall supervise and coordinate the work of the courts (not just district court) of the state.

- a. Supervise courts' financial affairs, programs of continuing education for judicial and nonjudicial personnel and planning and operations research
- b. Serve as chief representative of the courts and as liaison with other governmental agencies and the public

c. Supervise the administrative operations of the courts. He may designate individual judges and committees of judges to assist him in the performance of his duties.

Salaries - County, probate and municipal judges to be added to the state salaries at the district judge level. All judges' salaries to be paid by the state at \$32,000 level; counties may supplement the salaries of any judges with the approval of the Legislature. In supplementing the salaries of any judges, counties may consider the differences in cost of living within the state.

#### Adds # of duties of court administrator -

- a. shall prepare standards and procedures for the recruitment, evaluation, promotion, in-service training and discipline of all personnel in the court system other than judges and judicial officers.
- b. shall promulgate and administer uniform requirements concerning records, budget and information systems and statistical compilation and controls.

Conference of judges - At least once a year the Chief Justice shall call (instead of provision allowing Chief Justice to call one) an annual conference of the judges of the court.

Supreme Court may establish residency and chambers requirements for judges of all courts in the state.

<u>District Courts to be open at all times</u> - except on legal holidays and Sundays for the transaction of <u>all</u> business as may be presented. The terms of the district court <u>shall</u> be continuous.

Clerk of the district court for each county within the judicial district shall be appointed by a majority of the district court judges in the district upon recommendation of the chief judge of the judicial district who shall select a candidate from nominations submitted by the district administrator.

A combined county court district may be separated into single county courts by the Supreme Court. For more efficient administration of justice, the Supreme Court may combine two or more county court districts into a single county court.

Qualifications - deletes allowance for probate judges now in office who are not learned in the law.

Chief Judge - In each judicial district, the Supreme Court shall appoint a chief judge who may be a judge of county, district, municipal or probate court. Chief judge shall exercise administrative authority over all courts within the judicial district. The chief judge shall make assignments of judges to all cases within the judicial district. A judge aggrieved by an assignment may appeal the assignment to the Supreme Court.

The chief judges shall meet at least bimonthly for the consideration of problems relating to judicial business and administration. After consultation with the judges of their judicial district, the chief judge shall prepare in conference and submit to the Chief Justice a suggested agenda for the judicial conference.

The chief judge shall convene a conference at least twice a year of all judges of the judicial district to consider administrative matters and rules of court and to provide advice and counsel to the chief judge.

District Administrator - One shall be appointed for each of the judicial districts by the chief judge with the advice and approval of the judges of that judicial district and shall serve at the pleasure of the chief judge. A district administrator may serve more than one judicial district. (Also provides for staff.) The district administrator shall assist the chief judge in the performance of his administrative duties and shall perform any additional duties that are assigned to him by law and by the rules of the court. (Outlines specific areas of responsibilities.)

# FILE COPY

COUNTY COURT SURVEY

# The League of Women Voters of Minnesota

Memo to: Local League Presidents

From: Peggy Gross, Judiciary Chairman

Re: County Court Survey

February 21, 1975

In June, 1972, Chief Justice Oscar Knutson requested the National Center for State Courts to initiate a survey of the Minnesota County Courts. With the support of the County Court Judges and the leadership of Judge Charles E. Cashman, President of the Minnesota County Court Judges' Association, the survey was completed during 1973.

The objective of the survey was to include observation of the organization of the county court system, the utilization of personnel within the system, and the education of personnel within the system. Beyond the monitoring of the system, the Center agreed to provide a description of the county court system as it presently exists along with recommendations to the county court judges, the Judicial Council and the State Court Administrator to make adjustments in rules and practices necessary to get the best results from the new system.

# SUMMARY OF IMPORTANT FINDINGS AND RECOMMENDATIONS

The Minnesota County Court has vastly improved the quality and service of the state court system to the people of Minnesota. Throughout the study visits, courts personnel expressed satisfaction with the court's success in meeting its legislative goals: more highly qualified and full time-judges administering justice in each county within the state. It is to the credit of judicial personnel within the system that the majority of problems associated with the rapid implementation of a new and far-reaching system have been resolved so quickly.

More can be done, however, to advance county court organization; in order to get the best results from the new system, the study team recommends several organizational changes or improvements. These improvements are directed toward achieving a more clearly defined organizational structure throughout all levels of the system and toward more flexible and efficient use of personnel within that system. The principal recommendations are highlighted below.

# Multi-Judge Redistricting Plan

County Court legislation was drafted to enhance the "effective administration of justice" (M.S. 487.01) This included the consolidation of several counties into a single county court district. Twenty-four such multi-county districts were created from 58 counties with the remaining counties forming single county districts. Legislation provided an option, however, which allowed for the separation of previously combined districts. Although the act is said to have been intended to provide one full-time judge for roughly 25,000 people, twenty-six counties separated into single county districts in which one judge was serving anywhere from an estimated 6,000 to 44,000 people. The creation of these single county-single judge county courts creates problems. One problem is that some of the single judge courts are served by lay judges who are not permitted to perform any more duties than they proviously were allowed; they can't take on any of the concurrent jurisdiction that was given to the County Court.

Help from outside the district is then required in those instances and for absence due to disqualification, illness, continuing education attendance and vacation as well. Based on an effort to eliminate single judge county court districts and on other considerations, some of which are to be found in the American Bar Association's Commission on Standards of Judicial Administration Standards Relating to Court Organization, the study team recommends the formulation of multi-judge districts with a minimum of three judges per district. (p. 49)

## Administrative Lines and Duties

It is strongly recommended that all administrative lines and duties be clearly defined (p. 53). By recent legislative amendment, the Chief Justice is empowered to appoint a chief judge of county court in districts electing more than one judge. It is recommended that this provision carry over to the recommended district realignment. The chief judges, subject to the approval of the Chief Justice, should have the responsibility to identify administrative tasks and determine which can be delegated to non-judicial personnel. Should the position of regional court administrator be established, this delegation could be done by that person. Duties should then be delegated to specific judicial and support personnel - individuals, not groups - within the county court district.

Within the county court district it is emphasized that administrative lines of authority from county and district court judges to county court clerks and from clerks to remaining judicial personnel should be clearly drawn. It is extremely important that the chief county court judge have input into the hiring and firing as well as the supervision of the clerk and that the clerk has a complete understanding of his or her responsibilities to county court.

## Combined Clerical Staff

For more flexible, efficient use of personnel, elimination of duplication of efforts and greater professionalism, it is recommended that clerical and administrative staffs for district and county courts be combined (p. 54) and that these staffs be organized along functional rather than jurisdictional lines.

#### Statewide Personnel System

It is recommended that a statewide system for non-judicial personnel be developed. A majority of county court judges and clerks throughout the state cited greater organizational and procedural uniformity as a chief requirement for an improved system. At present there is scarcely any development or uniformity among job descriptions, qualifications, application and selection procedures, training and compensation. It is recommended that the ABA Standards Relating to Court Organization be used as a guideline for Minnesota's system (p. 59).

#### Steps Toward Statewide Uniformity

In responding to the widely recognized need for greater statewide uniformity, the study team has made a number of additional recommendations which aim at greater conformity in rules, procedures and forms used by the court and in accessibility to the court (p. 62).

#### Statewide Financing

In order to "assure justice which is timely and uniformly applied" (emphasis added), "promote impartial judicial decisions of the highest quality possible" and provide "reasonable availability of judicial services" uniformly throughout

the state, it is recommended that financing of the courts be assumed by state government (p. 79) as prescribed by the ABA Standards Relating to Court Organization 1.50 (tentative draft). As mentioned in the ABA Standards commentary, "financing by local government leads to fragmented and disparate levels of financial support..., to direct involvement of the judiciary in local politics, to rigidity and very often parsimony in provision of needed resources; and to divided and ineffective efforts to make use of the increasing level of financial grants to state government that are being provided by the federal government." A centrally financed and effectively administered system should eliminate these shortcomings and hopefully serve to focus financial responsibility and enhance the organizational structure of the judicial branch.

# Statewide Administration of the Courts

It was an intent of this study to express the "attitudes" and "opinions" toward court organization of county court personnel at the administrative and judicial levels.

To this end the following steps were taken. Preliminary to the formal study, visits were conducted with state judicial leadership and county court judges throughout the state to determine areas of particular interest and concern. On this basis, a preliminary draft of the survey instrument was drawn and tested in the pilot area. The questionnaire phase was succeeded by visits to judges, clerks, and deputies within the pilot region. Revisions to the questionnaire and interview format were made. Final copies of the former were distributed. Ninety-three percent of the judges and 88% of the clerks responded. Follow-up visits were conducted in 25 counties with as many courts personnel as possible within the study's time contraints.

As a basis for discussion, then, the study team has drawn on the questionnaire date, on-site empirical date, and widely varying subjective date supplied by courts personnel throughout the state to provide a general understanding of county court operations.

Taken directly from Minnesota County Court Survey, National Center for State Courts, March 1974.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 January, 1973 MEMO TO: Local League Publications Chairmen, Public Relations Chairmen, and Judiciary Chairmen State Judiciary Committee Promoting Minnesota Judiciary: Structures and Procedures January 19, 1972 Enclosures:

1) List of all who received a promotional flyer

2) List of all who received a complimentary copy of the publication

3) A Feature news article

First, get out of the file of the local League publications chairman the "How to" guide on Publications: Information, Sales, Promotion, Service, Public Relations. The first five pages are jammed full of information applicable to all publication sales. Please read and use the ideas presented, incorporating your own wherever possible.

The following list comprises the places to whom promotional flyers were sent from the state League office:

- \*\*Bookstores Those which did business with us when Indians in Minnesota came out; the names were taken from our invoices - check the enclosed list and see if your bookstores were included - if not, drum up some business so that next time, their name will be on our invoice slip.
- \*\*Schools Promotional flyers were sent via the State Department of Education. Follow up with your schools! Bring a sample copy along when you call.
- \*\*Libraries The publication was included on at least five library listing services. In addition, at a Minnesota Association Library meeting, the state League sent a display of publications, and of course, Minnesota Judiciary: Structures and Procedures was included. Check your library for a display; if one isn't there offer your services to include Minnesota Judiciary in a display of related books. (Consider presenting a complimentary copy?)

## Media Coverage

Try to get some newspaper coverage - Present a copy of the publication to a prominent judge, or the mayor and, of course, alert the paper. Ask for a photographer to be present at "the happening." And, try sending or taking a news release (see Feature Article enclosed) to your local paper. (Note: this is often more successful than mailing news releases.) Also, does someone in your League know a possible source of a local Book Review of the publication? Such an approach to news media is also welcome.

Tap every resource!! And, while we are speaking of newspapers, please clip any articles that may appear regarding this effort and mail them to the state office.

## Enclosed is a list of

1) all those who have received a promotional flyer and

2) a list of all who have received complimentary copies of the publication.

These are for your use to avoid duplication of efforts. You may, however, look over the lists to do whatever follow-up work you deem necessary. Contact the state office for additional free copies of the flyer.

Good Luck in your efforts. Remember, you can help make the difference in the sale of this and any other publication.

NOTE: Check your Program File: You have already received a complimentary copy of the Minnesota Judiciary: Structures and Procedures, a discussion guide, consensus questions, and an aid to consensus questions. Book prices are - \$1.35 each, 10-49 10% discount, 50 and up 20% discount (price includes postage and handling) - individuals and non-exempt organizations add 4% sales tax (.06¢ each). Additional copies of the Discussion Guide are available from the state office, 8¢ each.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

January, 1973

MEMO TO: Local League Judiciary, Publications and

Public Relations Chairmen

FROM: Rosemary Rockenbach, State Public Relations Chairman RE: Feature story for promotion of our new state publication:

Minnesota Judiciary: Structures and Procedures.

January 19, 1973

The following article may be adapted for local use in news media, bulletins of other organizations, and with educational and action groups interested in the judiciary. You may wish to add comments on the publication by local judges, attorneys and other who have read it.

# Minnesota Judiciary: Structures and Procedures

The daily decisions made by our courts and the procedural practices they maintain have an immediate impact on the value structure in our society. Yet the court system ranks high among the governmental processes poorly understood by the citizens. To help citizens become more knowledgeable about how the court system functions, the League of Women Voters of Minnesota has published a 64-page handbook called Minnesota Judiciary:Structures and Procedures.

Jim Borman, Director of Community Affairs for WCCO Radio, who has long been interested in improving the judicial system in Minnesota says, "The League's new guidebook, ... an ambitious undertaking, carried off with professional expertise. It should serve as a useful resource for laymen concerned with any aspect of the administration of justice in Minnesota." This was one of the goals of the publication; to present in layman's language how our courts are structured, how they operate, and to point out some of the discrepancies that exist under our present system.

The booklet describes the role and function of each of the courts in Minnesota, including the new county court created by the 1971 legislature. Previous to this act, the lower level courts in Minnesota were an often confusing mixture of justice of the peace courts, small municipal courts, county probate courts (some of which served as general county courts) and large municipal courts. This arrangment of lower level courts meant that there were many part-time judges. However, effective July 1, 1972, all municipal courts were abolished and the county courts became the major lower level courts in 84 counties. Hennepin, Ramsey and St. Louis Counties were excluded from this act. In these counties municipal courts are still the major lower level courts.

In addition, there is specific information on several areas within the court system, for example, the function, selection and criticism of both petit and grand juries. One persistent criticism of both petit and grand juries has been their tendency to overrepresent white, prosperous, middle aged and relatively well educated citizens and to underrepresent less-advantaged, minority and young citizens. n

Controversy also focuses on the appropriate size for juries and on the question as to whether or not unanimity is essential for the jury's decision to be final. Jim Borman states, "The chapter on juries is well written and entirely understandable; a distinct service to prospective jurors."

The publication points out it is unrealistic to expect the courts to right all of society's wrongs, but also equally unfair to expect the courts to ignore behavior which is generally recognized as harmful to society. Courts are, therefore, faced with the delicate task of balancing these differing expectations. Thus knowledge of the procedures and practices of our courts becomes particularly necessary.

The adversary system of justice is defined and given perspective in terms of the duties of the prosecutor and the defense attorney. If the adversary system of justice is to be workable, an adequate presentation of both sides of a case is imperative. One lawyer's abilities should not vastly overshadow those of his opponent. Both sides should be vigorous and aggressive in presenting their cases. Each lawyer should have access to facts enabling him to perform adequate investigations to build a strong case.

C. Stanley McMahon, attorney from Winona, Minnesota, and a long-time proponent of judicial reform said, "Minnesota Judiciary Structures and Procedures published by the League of Women Voters of Minnesota is a pleasant surprise. Although the subject is necessarily technical in nature, it is readable, interesting, accurate and scholarly. Not only is it the best, but is probably the only concise overview of the judicial branch of government and how it works in Minnesota."

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This publication may be obtained from the League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102.

Minnesota Judiciary: Structures and Procedures - promotional flyers sent to the following organizations and individuals:

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Retreat House

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C Council of Jewish Women Law School Council (Attn: Mrs. Katie Sassville)

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Wm. Mitchell College of Law

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League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

# Minnesota Judiciary: Structures and Procedures - complimentary copies were sent to the following:

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League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 September, 1972 Pm - P

FILE COPY

LOCAL LEAGUE
Report due in state office March 1, 1973

some servering of the expension of the

CONSENSUS QUESTIONS
JUDICIARY: Evaluation of structure and procedures
as they affect the individual.

Read through all questions before replying to any; record majority opinions and indicate dissenting opinions, too.

#### SECTION I

- 1. Do you favor a judicial system with the capacity to assure a speedy trial and equal justice for all?
- 2. Do you favor a unified court system in which one court would have general jurisdiction of all matters, would sit in divisions, and would be centrally administered?

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to add the notification of the contract of the party of the contract of

- 3. Do you favor the establishment of an intermediate appellate court?
- 4. Do you favor changes to strengthen judicial administration and streamline administration procedures? If so, what changes do you recommend?

# SECTION II

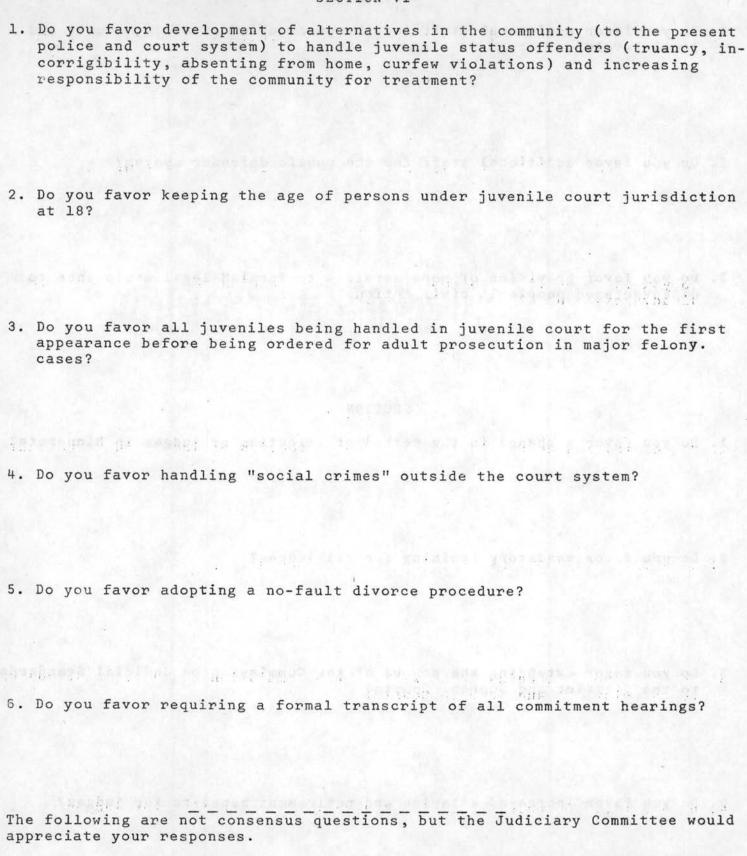
1. Do you favor state-wide changes in the bail system attempting to minimize pretrial imprisonment? If so, what changes do you recommend?

Send one copy of your report to the state office (keep one copy for your local League file) as soon as possible after determining consensus but NO LATER THAN MARCH 1, 1973.

2. Do you favor the adoption of strict guarantees to protect both the defendant and society in the process of plea bargaining? If so, what guarantees do you recommend? 3. What should be the prime goal of sentencing? Do current methods of sentencing attain this goal? If not, do you favor sentencing alternatives to attain this goal? Anin' ty. mese is the same a but about the later and that a great is the stopped a movel way of 4. Do you favor the adoption of procedures to review and adjust sentences to reduce disparities in sentencing? continue that have appeared to the an access to you believe a reserve SECTION III 1. Do you favor further guarantees of the rights of defendants and witnesses in grand jury proceedings: a. the right to counsel (in grand jury proceedings as well as trial)? b. making available the proceedings to defense counsel? c. restrictions on waiving immunity in later trials? c. other? · 3 above average excition to use on the design of any acres, box on antimital of the second of the The court with the sound of the court of the 2. Should the use of juries in civil cases be continued routinely, available by request, or abandoned? PETROL PETER PRODUCTION OF THE PRODUCT OF THE PROPERTY OF THE Teast sure to the teach and reported an extent attachment of a second contract the contract of the contract of MARY # 17-1 CF Tyle specialized grantings as in platting as because to it property

# SECTION IV

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1. What priorities for action do you recommend? Please list the consensus question number of the one or two areas of greatest importance to you.

2.	What	direct	ion woul	ld you	like	to see	the	League	study	of th	e court	system
	take	in 197	3-74?									
No.	meml	ers in	local 1	League			Sign	nature				
No.	pres	sent at consensus	sus									
		reaching meeting					Date					

#### ERRATA

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#### Minnesota Judiciary: Structures and Procedures

- p. 30 under "CRIMINAL CASES The Prosecution and the Defense," sentence 5 of paragraph 1, delete "for six months to a vear."
- p. 33 under "District Public Defender" section, sentence 4 of paragraph 2, delete "of six months to a year."

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Action

Judiciary Consensus

Rita Kaplan

The League of Women Voters of Minnesota supports a judicial system with the capacity to assure a speedy trial and equal justice for all.

- . Supports administrative reforms that expedite justice
- . Supports methods to strengthen judicial selection
- . Supports procedural reforms that ensure individual rights and access to due process of law
- . Supports development of community alternatives as an adjunct to the judicial system

# Explanation

Administrative reforms: supporting establishment of a unified court system, an intermediate appellate court and procedures to strengthen and streamline judicial administration; additional staff for prosecution, public defenders and legal services when such needs are established; statewide guidelines on bail-fixing process; standardization of forms and procedures; use of technology in administration; use of juries in civil cases only by request.

Strengthen judicial selection:

supporting a non-partisan selection system with a commission to propose names for all judicial appointments; mandatory training for all judges; increased salaries for judges and related revision of retirement benefits.

Procedural reforms:

reform of bail to recognize methods other than monetary to ensure appearance of accused at trial; strict guarantees to ensure protection of the defendant and society in the use of plea bargaining; sentencing alternatives; methods to reduce disparity in sentencing; a no-fault divorce procedure using irremediable grounds as means for dissolution; guarantees to defendants and witnesses in grand jury proceedings re: counsel in proceedings, availability of information to defense counsel; retention of age 18 for persons under jurisdiction of juvenile court; mandatory first appearance in juvenile court for all persons under jurisdiction of such court; requirement of formal transcript of commitment hearings with a rule or regulation protecting privacy of such records.

Development of

alternatives for sentencing; alternatives for community alternatives: handling such problems now defined as "status offenses" and "social (or victimless) crimes." League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 - March 1975

Memo to: Local Leagues

From: Mary Ann McCoy, State President

Re: Additions to Board Memo

March 21, 1975

In Memoriam. It is with deep regret that we inform you that Judy Arney, president of the League of Women Voters of St. Croix Valley, was killed in an automobile accident earlier this month. We extend our deepest sympathy to Judy's family and to the members of the LWV of St. Croix Valley.

(You may address communications with the LWV of St. Croix Valley to Sharon Lammers, nominee for president - her address is: 806 W. Willard, Stillwater 55082 - phone: (612)439-6527.)

Board Resignation: Shirley Westmoreland has found it necessary to resign from the state Board. If any of her consultant Leagues (Golden Valley, Excelsior-Deephaven, Chaska) need advice, please call the state office. Election Laws and Campaign Financing lobbying/observing will be followed by Helene Borg and Karlynn Fronek.

#### Addendum to JUDICIARY (See p. 3-5 this Board Memo)

Additional responses from local Leagues about the matter of LWVMN support of measures to support Consenting Adults and Fair Employment (no discrimination based on affectional or sexual preference) legislation have been received since the March 11, 1975 Board meeting. Since member support of an interpretation of a position is essential to effective action, we find that such support is not present. Therefore, even though the Board voted action, we shall not take the action indicated.

We hope that we shall continue to hear from Leagues not yet commenting on the matter of how we are to interpret our support of equal opportunity "for all persons."

Do you agree with the Leagues from whom we have heard that we have not studied the nature of discrimination on the basis of sexual preference and that until we have studied and reached consensus on that issue, we cannot take action to prevent discrimination on that basis? You will recall that our study of Indians in Minnesota has led to our position that Indians should be treated differently from other Minnesota residents. Might a study of the issues involved in sexual preference legislation result in another exception to our position in favor of equal treatment for all persons? We hope that you will discuss these matters with your Board and with your members. Remember that you can amend our wording of position by action at Convention '75 and that the Second Round of Program Suggestions is yet to come"!

Memo to: Local League Presidents

From: Peggy Gross, Judiciary Chairman

Re: County Court Survey

February 21, 1975

In June, 1972, Chief Justice Oscar Knutson requested the National Center for State Courts to initiate a survey of the Minnesota County Courts. With the support of the County Court Judges and the leadership of Judge Charles E. Cashman, President of the Minnesota County Court Judges' Association, the survey was completed during 1973.

The objective of the survey was to include observation of the organization of the county court system, the utilization of personnel within the system, and the education of personnel within the system. Beyond the monitoring of the system, the Center agreed to provide a description of the county court system as it presently exists along with recommendations to the county court judges, the Judicial Council and the State Court Administrator to make adjustments in rules and practices necessary to get the best results from the new system.

#### SUMMARY OF IMPORTANT FINDINGS AND RECOMMENDATIONS

The Minnesota County Court has vastly improved the quality and service of the state court system to the people of Minnesota. Throughout the study visits, courts personnel expressed satisfaction with the court's success in meeting its legislative goals: more highly qualified and full time-judges administering justice in each county within the state. It is to the credit of judicial personnel within the system that the majority of problems associated with the rapid implementation of a new and far-reaching system have been resolved so quickly.

More can be done, however, to advance county court organization; in order to get the best results from the new system, the study team recommends several organizational changes or improvements. These improvements are directed toward achieving a more clearly defined organizational structure throughout all levels of the system and toward more flexible and efficient use of personnel within that system. The principal recommendations are highlighted below.

#### Multi-Judge Redistricting Plan

County Court legislation was drafted to enhance the "effective administration of justice" (M.S. 487.01) This included the consolidation of several counties into a single county court district. Twenty-four such multi-county districts were created from 58 counties with the remaining counties forming single county districts. Legislation provided an option, however, which allowed for the separation of previously combined districts. Although the act is said to have been intended to provide one full-time judge for roughly 25,000 people, twenty-six counties separated into single county districts in which one judge was serving anywhere from an estimated 6,000 to 44,000 people. The creation of these single county-single judge county courts creates problems. One problem is that some of the single judge courts are served by lay judges who are not permitted to perform any more duties than they previously were allowed; they can't take on any of the concurrent jurisdiction that was given to the County Court.

publications file

# Minnesota JUDICIARY

STRUCTURES AND PROCEDURES

League of Women Voters of Minnesota

# Minnesota Judiciary:

#### Structures and Procedures

197

Published by The League of Women Voters of Minnesota 555 Wabasha Street St. Paul, Minnesota 55102

'The League of Women Voters is a nonpartisan organization. It devotes itself to the study of governmental issues. Its purpose is to promote political responsibility through the informed and active participation of citizens in government. The League of Women Voters undertakes studies on issues, attempts to reach consensus among its members and acts to promote positions reached through consensus. This study was prepared for publication by the League of Women Voters of Minnesota which takes sole responsibility for the information contained here.

It is impossible to recognize individually the many people whose interest and cooperation have facilitated the preparation of this publication. However, we wish to express our gratitude to the many state officials, judges, members of the University of Minnesota Law School faculty, lawyers and interested citizens without whose efforts this endeavor could never have been realized.

#### INTRODUCTION

Courts are being called upon increasingly to provide solutions to problems which other social institutions have failed to solve. Conflicting demands for law and order, for safeguarding individual rights, for speedy trials, for adequate investigation, for punishment, for rehabilitation are addressed variously to the police, the legislators, the courts and the prisons of the United States.

Numerous commissions at a number of levels have studied the adeyo of American courts in meeting current problems and suggested reforms which would better equip them to perform their tasks. The range of problems facing the courts today and the widespread citizen confusion about the courts have given impetus to this study of the Minnesota court system by the League of Women Voters of Minnesots.

Since September 1971 members of the Minnesota League of Women Voters in various Minnesota communities have observed courtroom procedure and interviewed court personnel. This firsthand knowledge of the courts is an initial step toward understanding how courts function. This study should serve as useful general background for citizens interested in acquiring an understanding of the judicial system in Minnesota.

Public interest in the judicial system extends to the police and prisons as well as to methods for financing the courts. This study, however, addresses itself only to the structure and procedures of the courts of Minnesota.

Although this study is limited to the court system in Minnesota, it is important to recognize that federal district courts, directly responsible to the federal government and headed by the United States Supreme Court, co-exist with state courts in all fifty states. Federal courts are financed by the United States Government. Federal judges are chosen by the President, with the consent of the Senate and hold office for life. Federal courts are served by United States Attorneys.

This publication is divided into two main sections. The first section describes the various courts composing the judiciary in Minnesota. The second section defines some of the more important procedures and practices in the court system and discusses how those procedures seem to affect institce.

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# ORGANIZATION AND STRUCTURE OF STATE COURT SYSTEMS

A striking feature of state court systems is their hierarchical basis of organization. A division of labor exists among three or four layers of courts. The great mass of cases are decided at the lower level courts. These lower level or "inferior" courts are courts of limited jurisdiction. They include probate, county, municipal, magistrate, conciliation or small claim, justice of the peace and police courts. These courts hear minor matters in civil and criminal law. In civil actions jurisdiction is often limited to cases below a designated monetary sum and in criminal action to cases which do not involve lengthy sentences or substantial fines. In cases where they do not have final jurisdiction, they are courts of "first instance" from which cases proceed up the hierarchy to the court with appropriate and/or final jurisdiction for the matters involved. Decisions from this first level of courts may be appealed to a higher court.

Courts of the next level are the most important courts for major civil and criminal actions at the state level. These trial courts of general jurisdiction are called "circuit," "superior" or "district" court, depending upon the state in which they function. (In Minnesota, this is the District Court.) They have appellate power over lower courts. Courts on this intermediate level are geographically distributed within a state to provide convenient citizen access. In large metropolitan areas these courts may have specialized divisions or departments, e.g., juvenile and family. Decisions from this level of courts can be anpealed.

The state supreme court is at the top of the judicial hierarchy. It hears appeals from lower courts and in certain cases may have original jurisdiction. The court which has original jurisdiction hears the case first. In both civil and criminal proceedings lower courts and trial courts of general jurisdiction resolve questions of facts and apply the law covering those facts in reaching a decision. Appellate courts, i.e. state supreme courts, are not directly involved with finding the facts; they decide whether or not errors in procedure or in application of the rules have occurred.

By December, 1970, 24 states (not including Minnesota) had estabished an intermediate court of appeals to handle routine appeals and appeals of limited importance. This additional level of courts cuts down on delay in hearing appeals and permits the state supreme court to concentrate its efforts on cases involving broad scope and precedent-setting importance. However, such a court may increase the costs to a litigant, if he further appeals to the supreme court and is granted a hearing.

One of the important distinctions made between different kinds of cases in American courts is whether they are civil or criminal. Criminal cases are those where a crime against society is involved; a violation of the criminal code is generally involved. In criminal cases the state provides a prosecutor who conducts the case against the defendant. Civil cases involve individuals who cannot settle a dispute out of court or areas such as estates or adoption proceedings where it is necessary to go through the court system to achieve a recognized settlement.

# The Minnesota Judiciary

#### LOWER LEVEL COURTS IN MINNESOTA

The lower state courts do not correspond to any perfect logic or symmetry in their organization. The present organization of Minnesota courts is partly a result of historical patterns, partly a response to current political realities and, increasingly, a reflection of differences among areas according to population density and number of court cases. The legislature has responded to the wishes of some communities to preserve accessible and informal justice of the peace courts. The size and population density of some counties preclude the kind of specialization that some reformers hold advisable among different kinds of cases. The heavy court calendars and congested conditions in larger communities mean that despite court specialization according to certain kinds of cases an urban individual may find experience in court more perplexing than a rural counterpart.

#### 1971 COUNTY COURT ACT

Before July 1, 1972, lower level courts in Minnesota were a confusing mixture of justice of the peace courts, small municipal courts, county probate courts, some of which served as general county courts, and large municipal courts. This arrangement of lower level courts meant that there were many part-time indees.

The 1971 Minnesota legislature passed a County Court Act which abolished all municipal courts and created county courts as the major lower level courts in 84 counties. Hennepin, Ramsey and St. Louis counties were excluded from this act. In these counties municipal courts are still the major lower level courts.

The following discussion of lower level courts in Minnesota will begin with the new county courts, progress through the municipal courts in the three most urban counties, discuss conciliation courts and traffic and ordinance violation bureaus and conclude with some discussion of the justice of the peace courts.

#### COUNTY COURTS

Since July 1, 1972, county courts have been established in the county seat of each county. The legislature originally grouped a number of coun-

ties together to create multi-county districts, but many of these counties chose to form single county courts.<sup>1</sup> Two or more counties may also combine later into one county court district if their county boards agree.

The law provides for incumbent probate judges to serve as county court judges if they wish. If they choose not to serve in the new county courts, the governor may choose the new county court judge from among the municipal court judges or magistrates in the area.

Each county board supports the court financially. All persons running for election as county court judges must be "learned in the law" with the exception of incumbent probate judges. Judges who are not lawyers, however, are restricted in their powers under the act.

Each county court has a probate division, a family court division which also handles juvenile matters, and a civil and criminal division. Each county court may also establish a conciliation court and a traffic and ordinance violation bureau.

#### Jurisdiction

County courts have exclusive jurisdiction where administration of estates of deceased persons are concerned and in all guardianship and incompenhency proceedings; these are traditional functions of the probate court. They also have jurisdiction in juvenile court matters.

They have jurisdiction in all cases previously handled by municipal courts. In civil matters county courts rule on actions where the contested amount does not exceed \$5,000. In criminal matters county courts hold trials for misdemeanors committed within their county. They deal with violations of municipal ordinances and with cases involving charter provisions and government rules within the county. In addition, county courts conduct preliminary hearings in cases where persons are charged with having committed more serious criminal acts: gross misdemeanors and felonies.

The county courts also have concurrent jurisdiction with the district courts in a number of areas: cases involving the administration of trust estates, divorce, annulment and separate maintenance proceedings and adoption.

Parties may appeal the decisions of county courts to the district court. If the county court judge concerned is not a lawyer, the district court will hear the case as a new trial, trial de novo. Otherwise, the district court rules on the basis of the written record of the lower court proceedings and, perhaps, on the basis of oral arguments by the attorneys concerned.

On the basis of experience with the smaller municipal courts which the county courts largely replace, it is safe to assume that the vast majority of cases tried before the county courts will be settled at that level. The largest number of cases considered by most of these lower level courts has been traffic violations, a majority of which are settled administratively. Other common categories or cases seen are petty theft, disturbing the peace and various minor ordinance violations.

Many professionals within the judiciary and citizens are hopeful that the new county courts, with full-time judges, will be able to provide more uniform justice throughout the state. Such consolidation of the courts should also permit the provision of more efficient and expanded administration and use of court services.

#### CONCILIATION COURTS

The county courts created by the 1971 County Court Act may establish conciliation courts if they choose. Such courts exist in Hennepin, Ramsey and St. Louis counties as divisions of the municipal courts.

Conciliation courts are "small claims" courts. They are limited to the consideration of claims not exceeding \$300 in the county courts or \$500 in the Hennepin, Ramsey or St. Louis County municipal courts.

Conciliation courts are characterized by informality. It is not necessary to have an attorney. Rules of procedure and evidence are relaxed. Records are not kept. Referees, who are practicing attorneys, preside on a part-time basis in Hennepin County Conciliation Court to relieve judges of the municipal court for more important cases. However, judges in Hennepin County Municipal Court do sit on conciliation court when those judges have an assignment in one of the four suburbs.

The plaintiff, the person making the claim, pays a \$2 to \$5 filing fee to have his case heard in conciliation court. After he has given his side of the story he is notified by mail of the judgment reached in his case. He may appeal to the county or municipal court within ten days. No juries are used in this court.

The number of cases taken to Hennepin County Conciliation Court showed a 37 per cent increase in recent years. There was a 12 per cent increase in cases in St. Paul. This is attributed at least partially to the economic climate since many of the cases considered are claims filed for unpaid bills by collection agencies.

Other common types of cases are claims arising from minor traffic collisions, which accounted for approximately one-third of the cases filed in Hennepin County Court in 1970, and landlord-tenant disputes.

Most cases are decided in conciliation court by default, the defendant does not appear. One criticism leveled against present practices in Hennepin County Conciliation Court is its failure to hold night sessions. Some contend that this places a disproportionate hardship on people who would lose wages by leaving their work during the day and gives an advantage to companies, like collection agencies, which have so many cases that they send attorneys to the court.<sup>2</sup>

The conciliation court has the advantage of settling relatively routine matters simply and inexpensively by providing an arena for people to "have their day in court" quite easily. By delegating most small claims to this kind of court, the municipal and county courts are able to efficiently use the judge's time for more serious cases.

#### TRAFFIC AND ORDINANCE VIOLATION BUREAUS

Traffic and ordinance violation bureaus simplify the process of paying and collecting fines for traffic and simple ordinance violations. Frequently tags are mailed to the traffic and ordinance violation bureau, entered by a clerk of the court, and thereby disposed. This system presupposes a uniform fine schedule and thereby meets one generally accepted criterion of a justice system, i.e., to provide uniform penalties for all citizens. Use of such simple administrative procedures saves a great deal of time in court for more serious matters.

#### JUSTICE OF THE PEACE COURTS

Justice of the peace courts, the least formal courts in the Minnesota Act setting up the county-wide municipal court in Hennepin County abolished the office of Justice of the Peace in Hennepin County. The 1971 County Court Act greatly curtailed the powers of the justice of the peace courts in the 84 counties to which it applied; it abolished them entirely in those municipalities where the county court regularly holds sessions or established a traffic and ordinance violations bureau. There were 408 active justices of the peace and 300 inactive justices of the peace in 1970. This figure has doubtless been greatly reduced as of the July 1, 1972, court reorganization. Justices of the peace are elected for two vear terms.

Serious observers of the American court system have been almost unanimous in their criticism of justice of the peace courts. In 1968 the Report of the Committee on the Administration of Justice of the Minnesota Governor's Commission on Law Enforcement, Administration of Justice pointed to the justice of the peace court as a major obstacle to achieving unified law enforcement at the misdemeanor level, particularly in conforming to U.S. Supreme Court decisions in this area.<sup>8</sup>

In particular, justice of the peace courts in the rural areas of the state were accused of dispensing inadequate justice. Frequently justices of the peace were not attorneys, were employed only part time, and were compensated according to the number of fines they imposed. Their judgments often differed greatly from each other.

The County Court Act of 1971 restricts the powers of the justice of the peace courts considerably. They may now receive and accept only guilty pleas under municipal ordinances, charter provisions and state traffic laws; impose fines according to a county court schedule; and perform marriage ceremonies. If imprisonment is judged necessary the case must be referred to the county court. If a defendant pleads "not guilty" the case is transferred to the county court. No justice of the peace may conduct a preliminary hearing on any violation of criminal law even if he is a lawyer.

#### MUNICIPAL COURTS

As previously stated, the 1971 County Court Act abolished municipal courts in 84 counties where there are now county courts. It did not apply,

however, to Hennepin, Ramsey or St. Louis counties where municipal courts remain the major lower level courts. The arrangements in these three counties, however, differ to some degree.

In Hennepin County a 1963 act of the legislature which took effect in 1965 terminated all separate municipal courts and created a county-wide municipal court. There are now 16 full-time judges in the Hennepin County Municipal Court. There are five divisions of the Hennepin County Municipal Court: Minneapolis, Bloomington, Wayzata, St. Louis Park and Crystal. Court meets regularly in all divisions. In 1971, 72,890 cases appeared before Hennepin County Municipal Court.

In Ramsey and St. Louis counties there is a large municipal court in the large cities and smaller courts with part-time judges in smaller communities in the county. Ramsey County municipal courts had seven full-time judges and five part-time judges in 1971, while St. Louis county had two full-time judges and nine part-time judges. Duluth had two part-time and two full-time judges.

Both Hennepin County and St. Paul municipal courts have court administrators in addition to clerks and clerical staffs.

#### Jurisdiction

Municipal courts, like the county courts, have jurisdiction in both civil and criminal matters. In the smaller municipal courts in Ramsey County jurisdiction in civil disputes extends to matters involving \$1,000. In Hennepin County, St. Paul and Duluth jurisdiction extends to matters involving \$6,000.

In criminal matters jurisdiction of the municipal courts extends to misdemeanors (violations of statutes or ordinances punishable by penalties not exceeding 90 days in jail and/or a \$300 fine). In a number of areas the municipal court has concurrent jurisdiction with the district court.

Like the county court, the municipal court holds preliminary hearings for gross misdemeanors and felonies where the trial will be held in district court. Jury trials are held in municipal court on both civil and criminal matters. A six-man jury is ordinarily used.

Appeals from the municipal courts go to the district court if a violation of a municipal ordinance is involved. In the three large municipal courts, however, an appeal from a decision in a case involving a state statute may go directly to the state supreme court.

The case loads of large municipal courts have increased considerably over the last decade. The vast majority of criminal cases are settled without jury trials. In the St. Paul Municipal Court, for instance, only 21 per cent of the criminal cases were tried. However, this means that more people are pleading "not guilty" than previously since formerly only 14 per cent of criminal cases were brought to trial. The greater number of persons pleading "not guilty" is partially responsible for an increasingly crowded court calendar at the municipal court level.

The current philosophy of court administration has led a number of

observers to recommend that the large municipal courts in Hennepin County and the municipal courts in Ramsey County should be combined with the district court for those counties. It is argued that such a consolidation would permit more economical and efficient use of judges and other services. In some areas there is already substantial coordination of services.

Some lower level courts are characterized by relatively informal proceedings; attorneys are not always necessary and records of the proceedings are not always kept. Until quite recently a number of these courts, particularly in rural areas, were headed by persons who were not lawyers. Frequently, the small case loads have made the service of judges necessary only on a part-time basis. Ideally, justice at this level is both inexpensive and accessible to the average citizen.

Recent major studies of American court systems have expressed distress at the situation prevailing in many lower courts. This is true of the 1971 Report on State-Local Relations in the Criminal Justice System of the Advisory Commission on Intergovernmental Relations.<sup>4</sup> The authors stress the fact that while major criminal cases are not decided at this level, the great bulk of cases entering the court system are decided at this level. Frequently in the past these courts have been more understaffed and overworked proportionately than other courts in the system. The fact that they are known as "inferior" courts and that their judges are ordinarily paid less than judges in the "superior" courts has not enhanced their prestige or their effectiveness.

Another reason for concern about the inadequacy of courts on this level is the fact that most persons who commit serious crimes have had their first contact with the judicial system in a lower court. It is argued that if lower level courts were adequately staffed and strongly supported by social services they might be more effective in working with defendants by providing a positive experience.

#### SPECIALIZED COURTS

The following discussion centers on courts which handle quite specialized matters: probate, juvenile and family courts. In terms of court hierarchy these courts are located at different levels in different counties. However, the character of the cases in these courts and the procedure applied is the same regardless of the level.

#### PROBATE COURTS

Separate county-wide probate courts exist in Hennepin, Ramsey and St. Louis counties. In the other 84 counties the original county-wide probate courts have now become general county courts with probate divi-

Traditionally, the jurisdiction of probate courts has concerned the transfer of property to people after a person's death. Probate refers to the proving, of a will. Probate courts in Minnesota, however, also have jurisdiction over guardianship proceedings for minor children and persons judged incompetent to manage their own affairs. In Hennepin, Ramsey and St. Louis counties probate courts also have authority over commitment proceedings; in the other 84 counties this is a function of the family division of the county court. It will be discussed in this section, however, for the sake of simplicity.

#### **Estates and Wills**

Most of the business of probate courts in Minnesota is concerned with determining the inheritance of assets in estates, with making certain all valid claims against them are met, with ensuring that taxes are paid and with supervising the administration of the estate during this period.

It is necessary for property and assets in the sole name of the deceased to go through probate before the transfer of property to heirs is legal. Probate proceedings do not cover insurance with a designated beneficiary nor do they cover jointly owned property. (Property owned jointly does not go through probate but this arrangement may in certain cases involve heavier taxes than sole ownership which does go through probate.)

If a person has made a valid will disposing of his property and assets, the case goes into probate testate. If a person does not leave a valid will his estate is said to be intestate, and the court orders his property divided among his heirs according to the formula prescribed by the Minnesotta law of descent. In the relatively rare instances where the deceased has no next of kin or where none of the beneficiaries named in the will survive, the proceeds of the estate so to the State of Minnesot.

If an estate is relatively small, with probate assets of \$15,000 or less, and uncomplicated, the executor may request a summary disposition which means the estate can probably be probated in nine months. It may take two or three years, however, to settle an estate involving many thousands of dollars where there are questions of valuation or where property must be sold before clearance can be obtained.

There are several steps involved in the settlement of an estate in probate court:

First, someone, ordinarily a beneficiary, executor or someone with a legal interest in the estate, must petition the court to have the will admitted to probate. After the will is located and submitted to probate, a list of beneficiaries is drawn up and a list of estate assets, divided into probate and nonprobate categories is drawn up.

Second, there is a hearing to "prove" the will. A notice of this hearing must be printed and all beneficiaries and creditors entitled to settlement of claims must be notified. At this hearing the judge

appoints the executor or executors named in the will if he is satisfied that the person is suitable and competent. If no will exists, the judge confirms the line of descent and appoints an administrator.

At this hearing the judge issues "letters testamentary" which give the executor the authority to carry out orders of the will under the court's direction. The court makes arrangements for the financial support of the survivors if necessary.

Third, there is a hearing on the final account when most of the obligations against the estate have been met. At this time, the court approves the transactions undertaken by the executor. After the federal estate tax and Minnesota inheritance tax, if applicable, are naid the executor appears in court for the next sten.

Fourth, the final decree of distribution. If everything is satisfactory, the court grants a discharge of the executor and the estate is out of probate.

One reform sometimes suggested in the area of probate is the substitution of a simpler, more administrative procedure for the handling of simple estates.

#### Guardianships

Probate judges in Minnesota also appoint guardians for persons not deemed capable of managing their own affairs, for minor children who have no living parents or for those whose parents have been deemed unfit. Any person of legal age may file a petition to appoint a guardian. After a hearing, usually in consultation with the ward, the court appoints a guardian of a person, his estate or both. The guardian then has the right to act on behalf of the ward, subject to court approval. When a minor reaches 21 years of age, guardianship ceases. In other instances guardianships may be terminated by the ward, the guardian, or an interested party by filing a petition with the court for "restoration" of the person's rights.

#### Commitment

The commitment of certain persons to institutions is the responsibility of probate courts in Hennepin, Ramsey and St. Louis counties and of the family court division of the county courts elsewhere. This area has received considerable attention from those interested in making certain that the rights of the individual are adequately safeguarded during the commitment process. These rights must be balanced against the rights of society to commit dangerous persons and also, presumably, to protect certain persons from themselves. The Minnesota law on commitment is relatively recent and incorporates a number of safeguards for the individual.

In Minnesota persons may be committed to state institutions if they are judged mentally ill, inebriate, deficient or dangerous to the public.

Any interested person may file a petition for commitment in the relevant court where the proposed patient resides or is located. A copy of the petition must be delivered to the county welfare department before it is filed. This gives the welfare agency an opportunity to talk with the petitioner and consider possible alternatives to commitment; if commitment is clearly appropriate it gives the agency an opportunity to initiate a plan which minimizes the traumatic effects of commitment or hospitalization procedures. The petition must be accompanied by a statement of a medical doctor that he has examined the proposed patient and believes that he needs hospitalization or by a statement that it has not been possible to obtain such an examination.

The court appoints two licensed physicians as examiners after a petition is filed. The court also directs the county welfare department to investigate the background of the patient and file a written report for use by the head of the hospital to which the patient may be admitted.

A court hearing must be held within 14 days from the time the petition is filed, although exceptions may be made in some cases. An immediate hearing may be demanded by the proposed patient. If he is unable to provide his own counsel the court appoints a lawyer to represent him.

The hearing on commitment is held before a judge, a referee or countyappointed court commissioner; the petitioner, and, if requested by the
petitioner and the judge, a representative of the county attorney's office
who may represent the petitioner; the proposed patient and his lawyer;
two medical examiners and anyone else the court may deem necessary.
There is no formal transcript of these proceedings.

If the court finds the proposed patient is not to be committed, the proceedings are immediately terminated. However, if the court finds the proposed patient mentally ill or inebriate and finds that commitment to a hospital is necessary for the welfare of the patient or the protection of seciety, the court shall commit the patient to either a public hospital or a consenting private hospital subject to a mandatory review by the head of the hospital within 60 days from the date of the commitment order.

If the hospital rules that a committed person no longer needs institutional care and treatment it may release him, after notifying the court, without further court action. A patient may also be released on "provisional discharge" on a temporary trial basis. This becomes complete discharge after a year unless the hospital revokes the provisional discharge before that time.

A second court order is required either to release a patient before the 60 day period expires or to hold him beyond it. The second court order may either order the patient's release or commit him to the hospital for an indeterminate period. Such an order may be made without a hearing, but a patient may request a hearing.

If a person has voluntarily committed himself to a hospital and wishes to leave he may also be committed. If the head of the hospital feels the patient's release would not be in the best interests of the patient or society he may file a 72 hours "hold" and file a petition for commitment.

#### JUVENILE COURTS

Juvenile court matters are handled in the juvenile court divisions of the district court in Hennepin and Ramsey counties. In St. Louis county they are handled in the probate court. They are handled in the family court division of county courts in the remaining 84 counties. In all instances, however, the application of the laws differs for juveniles from that of adults.<sup>5</sup>

Juvenile courts have jurisdiction over all children under 18 who have committed infractions of ordinances, traffic violations or violations of the criminal code which applies also to adults. They also have jurisdiction, however, over a number of specific "juvenile status offeneses" including truancy, chronic absenting and incorrigibility. They also have jurisdiction in cases where children are judged to be "neglected" or "dependent" where, in effect, the parents rather than the child were judged at fault.

Juvenile courts, established in Minnesota in 1905, deal in special ways with the problems and offenses of young people. Fundamental to the philosophy of juvenile law is that adjudication is not deemed a conviction and no child is deemed a criminal as a result of any action taken in juvenile court. Juvenile court fifters in several respects from adult criminal court. The philosophy of juvenile court holds that a child should be protected and rehabilistated, not punished. Procedural informality is substituted for the adversary system (see Practices and Procedures), and social service investigations have great impact on the disposition of cases.

Juvenile proceedings are generally closed to the public, but exceptions may be made by the presiding judge. If a juvenile is judged guilty of having committed a criminal offense, the child's record is not made public and juvenile court records are sealed when he reaches 18. No juries are present at trials in juvenile courts and the names of juvenile offenders are not released to the press.

There are a number of steps involved in juvenile court proceedings which are described here:

A child can be taken into custody when he has run away, is a danger to himself or has violated probation. He may also be referred to the court by social agencies, the police, the welfare department, by his parents or interested citizens.

The child in custody must be informed of his constitutional rights. Except when he may be a danger to himself or the community, he must be released to the custody of his parents. A detention hearing for a child in custody may be held not later than 72 hours after his apprehension.

A petition for delinquency listing the facts of the case, approved by if not written by the county attorney, is filed with the court. The parent or guardian is ordinarily served with a full statement of charges with the hearing notice.

Hearings may be conducted in two steps: (1) the adjudicatory hearing

for finding of fact of law and the (2) dispositional hearing where a treatment plan is proposed and approved. Not all of Minnesota's juvenile courts conduct their hearings in this manner.

The court must appoint counsel if the child and his parents cannot afford one. However, since no tall districts have public defenders assigned to the juvenile division, the availability of counsel is sometimes very limited, particularly for consultation before the hearing itself. Verbatim recordings are made of all hearings except traffic offender cases.

In cases where offenders over 14 are charged with very serious offenses, they may be turned over to adult court. The county attorney must file a petition to have this done. Only five motions for adult prosecutions were granted in 1971 in Hennepin County Juvenile Court.

At the adjudicatory hearing the child is asked to admit or deny the allegations in the petition. If he denies the petition, there is a full presentation of the case, including witnesses. The county attorney presents the case for the state. At the conclusion of the hearing a date is set for the disposition of the case, although in some cases this may take place immediately.

A social study of the case is required before the disposition is decided. The child's family, home and school environment are investigated. Psychological or medical tests may be taken. Alternative dispositions, similar to sentencing in an ordinary court, might be probation; transfer of legal custody to the Youth Conservation Commission (YCC), the youth division of the Department of Corrections which controls the reformatories in the state; referral to the county welfare department of family counseling. Drivers licenses may be cancelled until the eighteenth birthday for traffic offenses.

There is an alternative available to having the child judged delinquent. If he admits to the facts in the petition the case may be continued for 90 days during which the juvenile must conform to certain rules under the supervision of the probation officer. The court then reviews the case and if it finds the child's conduct and adjustment satisfactory it may dismiss the delinquency petition. This avoids creating a damaging record. If the court finds the juvenile's conduct unsatisfactory it may continue the matter for 90 days more and repeat this process until his behavior is satisfactory. The 1968 Report of the Governor's Committee on the Administration of Justice recommended greater use of this procedure.

In 1967, the U.S. Supreme Court In re Gault, held that juvenile of-fenders were entitled to the full protection of "due process" of law. (See Practices and Procedures) The Gault decision served notice that children must be accorded all procedural rights that adults have in the system of criminal justice. Many protested that this put an end to the unique features of the juvenile courts designed to treat children as special offenders, to be protected from criminal charges and treatment. However, a decision written by Mr. Justice Fortas, noted, "There is evidence that there may be grounds for concern that the child receives the worst in both worlds: that

he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children."

The difficulty of assessing juvenile justice in Minnesota is the disparity between the language of what is promised and what is actually delivered. The 1968 Governor's Committee on Administration of Justice stated that "one reason for the failure of the juvenile courts has been the community's continuing unwillingness to provide the resources—the people and the facilities and concern—necessary to permit them to realize their potential and prevent them from taking on some of the undesirable features of lower criminal courts in this country."

Some of the recommendations of study commissions in the juvenile area included more adequate probation services, more counseling and psychological services and more community services, particularly group and foster homes, available to the juvenile offender.

#### FAMILY COURT

In Hennepin and Ramsey counties family court matters are heard at the district court level. In Ramsey County a family court judge is appointed annually from among the district court judges; in Hennepin County a family court judge is elected. In St. Louis County there is no family court per se; cases which would fall within that division are heard by the district court. In the remaining 84 counties family court divisions are part of the county court.

#### Jurisdiction

Family courts have jurisdiction over divorce, separate maintenance, annulment, child custody, child support and paternity matters. In the 84 counties covered by the County Court Act they also have jurisdiction over commitments.

Family court proceedings in Hennepin and Ramsey counties are generally heard in small courtrooms with relatively few people present; these family courts also make use of referees, who are ordinarily lawyers, to conduct many hearings. In Hennepin County there are now four family court referees. Only judges may sign the final orders. Persons whose case have been heard by referees may ask for a rehearing before a judge.

The length of time between the initial filing and the date of the final hearing varies considerably depending on the nature of the action involved. Uncontested divorces may take from 4 to 5 months, contested divorces from 9 to 12 months, contempt charges instigated by the county attorney 5 weeks (where Aid to Families with Dependent Children is involved) and contempt complaints instigated by a private party one week.

The sensitive problems which family court faces require specialized counseling and services. In Hennepin County, for instance, the counseling services of the Department of Court Services, Domestic Relations Unit, are available for marriage counseling, supervising visitations, post-divorce adjustments. The Hennepin County Welfare Department is used for collections.

tion of child support payments which are not met and also does investigative reports for the family court.

One frequently suggested reform in family court procedures is a revision of the Divorce Statute to include no "fault," recognition that the marriage was irretrievably broken. At present it is not complicated to get a divorce in Minnesota but one party must establish that the other was "fault." Some observers feel that uncontested divorce proceedings would best be handled outside the courtroom altogether. The cost of going through family court, with attorneys' fees, may cause considerable hardship for many families. In addition, they also would like to see the jurisdiction of the family court extended to include certain disputes now handled in the criminal courts. It is argued that domestic assault cases, in particular, would benefit from an approach more treatment oriented than they now receive in regular courts.

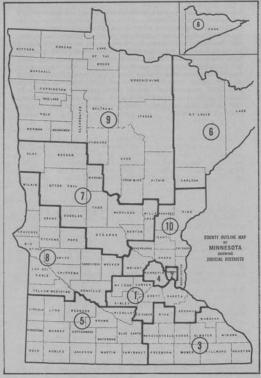


Figure Onc

#### DISTRICT COURT

Article VI of the Minnesota State Constitution establishes the district court as the trial court of general jurisdiction in Minnesota. Minnesota is divided into ten judicial districts. (See figure 1) Each is served by a district court. The number of judges for each district court varies from 19 in the Fourth District, Hennepin County, to three in the Eighth District, which consists of 13 counties. The Minnesota legislature in its 1971 session created one new judge each for the Second and Fourth Districts.

The salaries of the district court judges are paid by the legislature; other court costs are paid by the counties on per capita basis.

#### JURISDICTION

The district court has original jurisdiction in all civil and criminal cases, including jurisdiction over boundary waters. In practice they limit their jurisdiction to civil cases exceeding \$100 and to criminal cases exceeding 90 days imprisonment. District courts also have appellate jurisdiction. They hear appeals from decisions reached in lower courts—from justice of the peace, probate, county and most municipal courts. The large municipal courts in Hennepin County, St. Paul and Duluth, however, appeal directly to the supreme court in civil and criminal cases where a violation of a state statute is involved.

An appeal to the district court may be based on a question of law or of fact. If only a question of law is involved, the case is returned to the lower court for final judgment. If the question is one of both law and fact the district court hears the entire case as a new trial.

In each district, the judges elect one judge as chief judge. He is then responsible to the Chief Justice of the State Supreme Court. The chief judge in each district decides where judges are assigned for the court term. Court is held regularly in all county seats. Some districts hold continuous sessions: others have sessions during the spring and fall terms. District courts with continuous sessions may have several courtrooms in one building.

#### CASE LOAD

A persistent concern of those involved in the courts has been the crowded condition of district court calendars in recent years. If the calendars are very crowded the right to a "speedy trial" is jeopardized. With increasing urbanization the district courts in the metropolitan area of Henpein, Ramsey, Anoka, Washington and Dakota counties have built up a considerable backlog of cases. Since 1967, however, the backlog has decilined.

The Chief Justice of the Supreme Court may assign district court

judges to other districts to equalize the case loads if necessary. He may also assign retired judges to the district court. In 1971 eleven individual retired judges were assigned to five different district courts. The use of these measures, the addition of better administrative services and the addition of the two new district judges have helpder relieve the crowded situation. According to Richard Klein, State Court Administrator, there is no place in the state where a criminal defendant cannot get a trial within three months, unless he desires a delay. Klein said the longest average delay in civil jury trials is 13.3 months in Ramsey County and, in civil cases tried by a judge, 8.6 months in Anoka County. He stated the average delay in Hennepin District Court is 11.7 months.

#### SUPREME COURT

The Minnesota Supreme Court consists of one chief justice and six associate justices. Since 1963 it has been served by an Administrative Assistant, now the State Court Administrator. The legislature has also provided funds for court commissioners who serve in the prehearing screening of cases. District court judges are also appointed, one at a time, to serve on the supreme court for limited periods of time.

In addition to serving as the major appellate court for the state the suheme court also has original jurisdiction in the case of certain writs habeas corpus, mandamus and prohibition. These serve to make sure that a person is not being held unlawfully, that a lower court must perform a certain action or that it must refrain from a certain action. The supreme court may also review the decisions of certain departments of state government including the Workmen's Compensation Commission, Tax Court, Department of Manpower Services and Commerce Department. Unlike the United States Supreme Court, the Minnesota Supreme Court must consider all the apoeals brought before it.

To appeal a case to the supreme court a notice of appeal must be filled the supreme court according to certain rules of procedure. Upon the receipt of the transcript and a brief containing the salient legal issues from the appellant's attorney, the case is placed on the court calendar. The respondent then files a brief containing the issues he wishes to raise or defend. In criminal appeals an indigent person is represented by the Public Defender and the expenses of providing his transcript are borne by the court.

#### **PROCEDURES**

Unlike the lower state courts which utilize one judge for each case several supreme court judges consider each case. The supreme court hears

cases with either the chief justice and three justices or all seven of the justices present. When the entire court hears a case it is called en banc; when the chief justice and three justices hear a case it is said to be heard in division. The practice of dividing the court developed as a means of more efficiently dealing with increasing case loads. The number of opinions written by the supreme court justices has increased from 178 in 1957 to 322 in 1971.8

The court commissioner prescreens cases to determine if they are sufin division. The court commissioner also recommends to the court that
certain cases may be disposed of by per curiam (short) opinions which are
subject to review by all the justices. The prescreening process is flexible
and any justice may request that a case be reassigned to the en banc calendar if he wishes.

Before it is heard each case is assigned to one justice. After the attorneys' arguments are heard the court retires to the privacy of the conference room where the assigned judge reviews the legal issues. Then each justice in order of seniority discusses the case. After open debate or dialogue the court reaches a tentative decision. The assigned justice writes the opinion on the case and circulates it to the other judges concerned. If all agree, a decision has been reached. If there is disagreement, a justice may write a dissenting opinion which will be circulated among all the justices involved. If the majority agree with the dissent, this becomes the court's decision. The original opinion, if unchanged by that writer, then becomes the dissenting opinion.

A majority of the justices must agree for decision to be reached on a case heard en banc. Four justices must agree in a case heard in division. If four justices cannot agree the case is rescheduled for en banc hearing or is decided en banc on the basis of the briefs or written arguments.

Opinion writing is the most important and time-consuming work of the court staff, judges and law clerks. It requires both extensive research and concise explicit expression. Time required to complete an opinion varies from one day in some cases to several months in others. In 1971, the number of regular matters heard required more than 48 opinions to be written by each member of the court. According to the Eighth Annual Report — Minnesota Courts, "This number of opinions is almost twice as many per justice as is generally regarded as the maximum that should be required of a supreme court justice."

#### THE SUPREME COURT AS LEADER OF THE STATE COURT SYSTEM

In terms of legal decisions the Minnesota Supreme Court is superior to lower courts. If it overrules the decision of a lower court, the lower court must change its ruling.

The supreme court, however, and particularly the chief justice does have certain important powers in terms of the court system as a whole. In 1948 the legislature authorized the supreme court to regulate practice and procedure in all courts except probate. In 1951 the supreme court adopted

a new set of Rules of Civil Procedure patterned on federal court rules. In 1955 the chief justice was given the power to assign district judges to serve in other districts where a serious imbalance of case loads exist. He can also call up a district court judge to serve on the supreme court. The supreme court also sets the rules for the Commission of Judicial Standards and may remove county and municipal court judges on the basis of its recommendations. The Supreme Court Chief Justice also heads the Judicial Council, established in 1937, for the "continuous study of the organization, rules, and methods of procedure and practice of the judicial system of the state." <sup>18</sup>

#### SUGGESTED REFORMS

The Supreme Court Report in 1971 recommended the appointment of two more justices to the supreme court or the appointment of two court commissioners to handle the heavy case load. But, according to the report, "The ultimate solution is the creation of a court of appeals whose decisions would be final except where appeals are accepted by the Supreme Court on Writ of Certiorati." <sup>11</sup>

Another possible solution, mentioned in the President's Commission Task Force Report: the Courts, might be the creation of some mechanism whereby sentences could be reviewed. Many criminal cases are appealed now, it is argued, not because the defendant felt there was really anything unconstitutional about the trial but because the sentence seemed too harsh. This need could be met by a panel of lower court judges reviewing sentences or by the supreme court itself.

#### COURT PERSONNEL

#### JUDGES

Judges are vital and central to the court system. Their calibre and behavior have much to do with the quality of justice in the courts. A judge has considerable discretion in setting bail, in creating a compassionate or a punitive atmosphere in the courtroom and in sentencing. Yet in Minnestotta, as in most of the United States, there is much opinion which holds that the present system of selecting judges and maintaining them in office is imperfect.

#### Selection

In Minnesota, as in many other states, judges are elected on a nonpartisan basis. Often judges are first appointed by the governor when a vacancy occurs on the bench through death or retirement. According to the biographies of judges in the 1971-72. Legislative Manual of Minnesota only one of the seven justices on the supreme court was first elected to the supreme court. Sixty-one of the 72 district judges whose biographies are listed were appointed to the bench.<sup>18</sup>

Since each judge is deemed, under Minnesota law, to hold a separate nonpartisan office, when one or more judges in a judicial district are to be elected at the same general election, the ballot is required to state the name of each judge whose successor is to be elected. The official ballot designates each office as "for the office of judge ... to which (name of judge) was elected for the regular term" or "to which (name of judge) was appointed," as the case may be. When a judge is a candidate to succeed himself, the word "incumbent" is printed after his name in the list of candidates for the office. Incumbents are almost always re-elected.

All judges in Minnesota are lawyers, with the exception of probate when the County Court Act went into effect. In Minnesota judges' salaries have recently been increased making the career a somewhat more attractive one for attorneys who might otherwise go into private practice.

The election of judges in many states is a legacy from the Jacksonian era of American politics which was violently opposed to elitism in and form. It is much criticized today because voters are often insufficiently informed about the records of different judges. Moreover, the necessity of running for office may tend to incline judges toward sudden shifts in popular opinion rather than to upholding the law.

Another problem facing judges in this country, according to some, is the virtual lack of training for judges beyond an apprentice "on the job" effort. The few training institutes which exist for trial judges cannot sufficiently meet the need.

#### Tenure

Another problem noted by observers of court systems throughout the United States is the extreme difficulty of removing judges who are either mentally incapable of performing their duties or simply bad judges. At present supreme court justices in Minnesota, if they are re-elected, can only be removed by impeachment. District court judges may be removed by impeachment or by the governor after hearing a petition on mental or physical incapacity. County and municipal court judges may be removed by the governor for malfeasance or non-feasance in performance of official duties. They may also be removed by the supreme court on recommendation of the Commission on Judicial Standards.

The Commission of Judicial Standards was established in Minnesota by the 1971 legislature. It consists of nine members: one district, one municipal and one probate judge; two lawyers appointed by the Minnesota State Bar Association; and four citizens appointed by the governor. The commission has the power to recommend the retirement of a judge for disability to the supreme court. It also investigates complaints against a judge for "action or inaction that may constitute persistent failure to perform his duties, habitual intemperance or conduct prejudicial to the ad-

JUDGES

Number Salary of Of Retirement Judges Electing* Term Age	Chief S35,000 Sanewide 6 none Ansoc. Election years \$32,500	\$29,000
Retirement Age		
Retirement Pay	At age 70 after serving two fall terms; at age 65 with minimum of 15 years service. Benefits equal to one-half salary plus 25, percent for each year of two terms. (The 25% percent for each year increment is falled to a maximum of 10 years.)	At age 70 with 15 years or at age 65 with 25 years as judge of a court of recerd. Benefits equal to one-half
Judicial Qualifi- cations	Learned in the law (a)	Learned in the law
System of Removal	Impelichment	Impeachment; remov- al by governor after hearing on petition alleging physical or mental incapacity.

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By Commission on Judicial Standards	By Commission on Judicial Standards	
Learned in the law (b)	Learned in the law	
At age 70 with 20 years of severe in a court of record, or at age 65 with 24 years of service. Benefits equal to or service, Denefits equal to one-half comprehention but analyset to dimination by amount of other pension.	No uniform retirement plan	
none	none	
6 years	6 years	
County	Municipal Elections (c)	
\$24,000 except \$26,000 in Henn. Ramsey, St. Louis Counties	\$24,000 except \$26,000 in Henn. Ramsey, St. Louis Counties	
	Fall Time 16 7	
	Puri Time Hennepin 0 Ramsey 5 St. Louis 9	
Probate	Municipal	

# "All elections on nonpartisan basis.

- \*Governor may fill vacancy in between elections. Then ap-pointee appears on ballot at next election. Most judges in Minnesota were appointed first by governor.
- (a) This is interpreted by the Minnesota Supreme Court to mean lawyer.
- (b) Prior to 1956, this was not required; therefore, some incumbent probate and county judges are non-lawyers.
- (c) Except in Hennepin County where court is unified and serves entire county. Election is county-wide.
- (d) Eurablished by 1971 legislature. A proposed constitutional amendment to be voted on November 1922 contains provision for extending commission; power to district and superme court. The commission can only make a recommendation to the State Supreme Court, which has the ultimate removal power.
- (e) A district judge forfeits his pension if he does not retire by age 71.

ministration of justice that brings the judicial office into disrepute." After completing its investigation, the commission may recommend censure or removal of a judge to the supreme court. At present the commission's powers extend only to probate and municipal judges, justices of the peace, and supreme court and district court judges who are incapacitated. (Their powers may be extended to apply to district court and supreme court judges if a constitutional amendment to that effect is adopted at the 1972 general election.)

The commission is not empowered to make public rebukes to judges. According to an article in the New York Thnee, on June 9, 1972, similar commissions established in other states beginning with one in California in 1960 have not been very effective in ridding the bench of bad judges. They are ordinarily very limited in their powers since the only resource at their disposal, the recommendation for dismissal, is too drastic for frequent use. They are usually not empowered to investigate whether or not the judge knows how to go about the business of judging. The understandable reluctance of many lawyers to criticize judges before whom they will probably continue to appear is another difficulty in looking for solutions in this area. Recently, a lawyer in New York was ruled in contempt of court for general comments of a critical nature he had made about judges in print.<sup>3</sup>

Another topic frequently discussed concerning judges is the appropriate retirement age. At present age 70 is the age at which most judges in Minnesota retire. There is no mandatory age for retirement of judges in Minnesota. However, district court judges forfeit their pension if they do not retire by age 71. Some argue that even this age may create a gap of attitude and life style between the judge and those who apnear before him.

The whole area of the method for choosing judges is a delicate one. It is clearly desirable to ensure some degree of independence on the part of judges from the tides of public opinion. On the other hand, it is also desirable for judges to be aware of broad public attitudes toward justice and meet the increasing demand on all institutions for public accountability.

#### OTHER PERSONNEL

Bailiffs, court reporters, court commissioners, clerks of court and administrators also are among those employed by the court. Refer to the glossary for a brief description of their roles.

#### Procedures and Practices

This section of the study describes some of the more important procedures which occur in Minnesota courts. A knowledge of the structure of the courts is important, but the experience of the individual in court and the quality of justice dispensed by the courts are profoundly affected by the practices and procedures in court.

This will not be an exhaustive discussion of the proceedings in Minnesota courts. Most of these procedures relate primarily to the criminal justice system; however, consideration of some areas also pertains to civil procedure, e.g. prosecution and defense, jury, sentencing. In addition, most cases in criminal law are settled by a guilty plea and most cases in civil law are settled out of court before trial. Much of this discussion, how-

ever, focuses on procedures affecting contested trials.

In order to discuss court practices with perspective, it is important to understand the concept of "due process" in American law. The Fourteenth Amendment to the United States Constitution states that no state shall "deprive any person of life, liberty, or property, without due process of law." The United States Supreme Court has used this phrase to guarantee citizens certain rights in their state courts. "Due process" means generally that a person can only be held in jail on a specific charge; that he may have counsel if imprisonment would result from his conviction; that he has the right to remain silent, to produce witnesses, to cross-examine witnesses for the prosecution and to appeal his case. It also includes the right to a trial by jury if he desires it. The notion of "due process" has also been interpreted to mean that evidence used to produce a conviction must have been legally obtained. "Due process" means that a person is presumed innocent until proved guilty and that the burden of proof is on the prosecution.

In theory all the safeguards of "due process" of law are provided by courts in Minnesota; in practice in an imperfect world there is reason to believe there may be some lapses from this ideal. It is also important to bear in mind that the majority of criminal offenders come from less-advanaged sectors of society. It is unrealistic to expect the courts to ignore behavior which is generally recognized as harmful to society. Courts are, therefore, faced with the delicate task of balancing these differing expectations. It is the citizens from all levels of society who need assurance that the justice in our courts is dispensed in a consistent and scrupulous manner.

#### THE ADVERSARY SYSTEM

The court system in Minnesota, like other American court systems and systems in Great Britain and the British Commonwealth, utilizes the adversary system of justice. This system assumes that two lawyers arguing the opposite points of view will establish the facts of the case. The judge is supposed to maintain impartiality.

If the adversary system of justice is to be workable, it is important that there be an adequate presentation of both sides of a case. One lawyer's abilities should not vastly overshadow those of his opponent. Both 
sides should be vigorous and aggressive in presenting their cases. Each 
lawyer should have the ability to perform adequate investigations to build 
a strong case. Obviously, in real life situations there may be discrepancies 
between this ideal and the actual situation. Increasingly, however, it is accepted that one should be represented by an attorney to make an effective 
case in court.

#### CRIMINAL CASES—The Prosecution and the Defense

In criminal cases the "state" or the prosecution represented by a city or county attorney or someone from the Attorney General's office attempts to demonstrate that the defendant is guilty as charged. He has at his disposal the investigatory powers of the police department. It is only recently that there has been a requirement for counsel for indigent defendants in other than capital cases, where the sentence might be death or life imprisonment. In 1963, however, in Gideon v. Wainwright the supreme court ruled that counsel must be appointed for any defendant accused of a felony. In the spring of 1972 the court extended this doctrine to apply to misdemeanors as well if a conviction would result in imprisonment for six months-or-a-veer. (Minnesota policy had already met this requirement.)

The implementation of these decisions in Minnesota, as elsewhere, has resulted in a decrease in the number of guilty pleas, an increase in the number of requests for jury trials and an increase in the number of criminal appeals to the supreme court.

#### THE PROSECUTION

#### Attorney General

Although the attorney general and his department are a part of the executive branch of Minnesota state government, he performs functions very

important to the state court system. The attorney general is the chief legal officer of the state. He can initiate and conduct criminal proceedings on his own initiative if he deems it necessary to enforce state laws, to preserve order or to protect public rights. He may initiate or intervene in criminal proceedings at the request of the governor or a county prosecutor. He is also the legal adviser to the state legislature, its committees and all state boards and commissions.

The attorney general is nominated with political party designation, elected on a state-wide basis and serves a four-year term. He is assisted by a chief deputy attorney general, a solicitor general, a number of deputy attorney generals and a staff of some 50 lawyers. The solicitor general is in charge of all suits.

The attorney general's office handles the prosecution, both the preparing of briefs and the oral argument, for the prosecution of most appeals coming to the supreme court from most counties. Ordinarily the county attorneys from the three large metropolitan counties provide their own appeal services. The attorney general's staff also frequently helps county attorneys in prosecution at the district court level, since most county attorneys are part-time and do not have sizable staffs.

#### County Attorney

The county attorney is elected in each county for a four-year term as the chief legal officer of the county. He must be "learned in the law." In civil cases he represents the county or city boards and handles defense and appellate work for the local unit of government.

As prosecutor in criminal cases the county attorney occupies a crucial position in the law enforcement system. He exercises considerable discretion in deciding which charges to press and which to drop, what specific charges to bring against an offender, how to prosecute the case and what disposition to recommend. He has discretion in calling grand juries to determine probable cause for charging defendants.

The President's Commission on Law Enforcement and the Administration of Justice found that the great dependence upon and use of part-time prosecutors proportionately interfered with informed and intelligent prosecution. The lack of time and the possible conflict of interest for a part-time attorney who also practices law in the county are obstacles to a thoroughgoing professionalism. The highly political interests of many prosecutors who aspire to higher political office may also be inconsistent with weighing the long-term interests of justice in a given case.<sup>13</sup>

Only four of Minnesota's 87 counties have full-time prosecutors. A district prosecutor system was funded by the Ford Foundation and tried on an experimental basis in the Fifth and Ninth Judicial Districts to furnish full-time assistance to part-time county attorneys. The 1970 Judicial Council reported that this experiment improved the prosecution in these districts, despite the initial hesitancy of some county attorneys to accept it. When the funding for this experiment expired, the Minnesota legislature did not provide funds for its continuance.

Another suggestion for improving the quality of the prosecution is the use of third year law students in prosecution projects. Law students are now used in public defender and legal aid offices. Their use in prosecution might prepare some of them for future careers in prosecution in addition to improving the preparation of current prosecution cases.

#### City Attorney

City attorneys, elected or appointed by municipalities, are the chief legal officers of the cities. They are ordinarily responsible for prosecuting violations of municipal court and municipal courts. Like county attorneys, city attorneys are ordinarily part-time officials. There is occasional confusion as to where their authority ends and that of the county attorney begins.

Criticisms of the calibre of prosecution does not necessarily mean that prosecutors are always too lenient with offenders. It may mean, on the contrary, that they pursue charges against individuals which should be dropped, causing hardship for the defendant, crowding of the court calendar and annoyance on the part of the judge. Judge Neil Riley, of the Hennepin County Municipal Court, in sentencing a defendant after a disturbance on Plymouth Avenue in Minneapolis Star, November 20, 1969: which were quoted in the Minneapolis Star, November 20, 1969:

One of the weaknesses of our system of justice is that defendants who never should have been prosecuted have no right of redress. Their lost wages and attorney's fees simply come out of their own pocket. One wonders if the community were to be held liable for these expenses, complaints would be more carefully screened. . . . It is obvious that the criminal division of the city attorney's office is overworked, understaffed, and underspaid, a situation that must be corrected if blunders like the complaints and prosecution here are to be avoided in the future.

#### PUBLIC DEFENDER

Following the supreme court decision in Gideon v. Wainwright regarding the necessity of providing defense to indigent defendants, the legislature established the Minnesota Public Defender System by law in 1965, effective January 1966.

#### State Public Defender

The state public defender is appointed by the State Judicial Council for a four-year term on a full-time basis. He must be a licensed attorney. Four of his professional staff of 14 are assigned to Hennepin County Municipal Court to assist with the defense of indigent persons on misdemeanor or traffic violation charges. (One-third of these cases in the state are handled by the Hennepin County Municipal Court.) Ten other lawyers are on an annual retainer basis. One of these does full-time investigative work.

The state public defender's office performs a number of functions:

(1) It represents without charge an indigent defendant appealing to the

supreme court from a conviction or pursuing a post-conviction proceeding after the time for appeal has expired when directed to do so by a judge the district or supreme court. (2) It assists district public defenders in performing their duties when requested. (3) It furnishes investigative services to overburdened local public defenders. (4) It provides continuing legal education for all state and district public defenders.

The office works only with persons charged with having committed felonies, except for the Hennepin County traffic and misdemeanor cases. It processes approximately 250 cases annually.

#### District Public Defender

The 1965 law establishing a public defender system in Minnesota also provided for the participation of all judicial districts in the state public defender system by the unanimous decision of its district court judges. Six of Minnesota's ten judicial districts participate in the state system. The second and fourth districts already had public defender systems before the law was passed. The third and eighth districts have no established public defender system. They assign counsel to indigent defendants on an individual basis. There are 50 district public defenders. They are all qualified attorneys who are appointed for a four-year term on a part-time basis by the State Judicial Council on the recommendation of the district judges.

Any person charged with a felony or a gross misdemeanor who is financially unable to obtain counsel is entitled to representation by the public defender. The court determines who is indigent either through an affidavit stating the defendant's financial status or through questioning by the
judge. All defendants appearing in court without counsel must be advised
of their constitutional right to counsel. Since a decision by the Minnesota
Supreme Court, predating the June 1972 United States Supreme Court decision, counsel must also be appointed for indigent defendants if they are accused of a misdemeanor which could result in imprisonment of-six-months-toa-verse. In oractice this is often handled on an ad hoc basis.

C. Paul Jones, the Minnesota Public Defender, believes that the Minnesota state-wide public defender system is one of the best in the country and surpasses the minimum standards set by the American Bar Association (ABA). He feels, however, that his office needs more investigative staff. The staff member who is assigned to this job spends all his time doing interrogation work and there is no one to investigate other areas. There are no investigators on the staff of any public defender in the state. Jones feels that Hennepin, Ramsey and St. Louis counties, at least, should each have a full-time investigator. Funds for these positions had been requested of the legislature but were denied. Jones says it is "not brilliance but facts" that win cases.

#### Access to Attorneys in Civil Cases

The right to counsel for indigents in criminal cases established by decisions of the United States Supreme Court is not paralleled by similar guarantees in civil cases. The public defender's office in Minnesota, however, is studying the need for public civil defenders. At present, however, in Minnesota the Legal Aid Society established as a private corporation in Minneapolis, St. Paul and Duluth furnishes the main systematic delivery of civil legal services to the poor. The Legal Aid Society can be regarded as the private counterpart in civil law to the public defender's office in the criminal field. In Minneapolis it is funded by the United Fund, the Hennepin County Bar Association, the City of Minneapolis and Hennepin County; a staff in the neighborhood of 20 lawyers is employed. The St. Paul and Duluth offices are smaller.

Much of the work done by Legal Aid involves tenant-landlord relationships, divorce law and the handling of appeals from decisions of welfare agencies. The prevalence of the number of divorce cases would seem to point again to the possibility of changing to a no-fault system minimizing attorneys involvement.

All cases ordinarily handled by attorneys on a contingent basis, where the attorney is paid out of the settlement if he wins the case, are referred by the Legal Aid Society to private lawyers.

#### BAIL AND PRETRIAL DETENTION

Authorities on American courts today are in general agreement that too many persons are being held in jail for minor infractions of the law and that too many people are held simply because they cannot meet bail.

The President's Commission recommended:

 Bail projects should be undertaken at the state, county, and local levels to furnish judicial officers with sufficient information to permit the pretrial release without financial condition of all but that small portion of defendants who present a high risk of flight or dangerous acts prior to trial.

Each state should enact comprehensive bail reform legislation after the pattern set by the Federal Bail Reform Act of 1966.

3. Each community should establish procedures to enable and encourage police departments to release, in appropriate classes of cases, as many arrested persons as possible promptly after arrest upon issuance of a citation or summons requiring subsequent appearance."

Traditionally bail was a sum of money required of the defendant to ensure his later appearance at trial. After his arrest the accused must be brought before a judge "promptly" which means within 24 hours. The judge then sets the amount of bail for the individual defendant. If he is unable to raise the amount himself, the bail bondsman may agree to post it for him for a fee varying from 10 per cent for a bond of \$1,000 or more to \$25 for a \$100 bond. The fee is due when the bond is posted. If the defendant fails to appear at trial the money is forfeited. If the defendant appears, however, the bondsman still keeps the fee.

First, requiring a sum of money to gain release from jail puts poor defendants at a great disadvantage. If they are able to pay the fee to the bondsman, this fee amounts essentially to a fine which only the poor have to pay.

Second, a long pretrial confinement for those unable to raise bail works great hardship on those defendants. They may be at a greater disadvantage once they get to trial. They have not had an opportunity to seek out witnesses. There is also evidence that juries may be less favorably disposed to defendants who obviously have come from jail than those who obviously have been released. Since the jailed defendant often loses his job, the state must frequently support his family as well as him. Being confined to jail is very much like being in prison while innocent, except that jails are generally even more lacking in rehabilitative and recreational facilities than prisons.

Third, and most important, is the criticism that money bail is not a very appropriate means to ensure the appearance of an individual at trial in any case.

Projects in Hennepin County District Court and elsewhere have established that more complete investigation of offenders to identify the good risks can result in a system which places little if any reliance on money to secure release from iail.

#### ALTERNATIVES TO MONEY BAIL

Alternatives to a total reliance on money bail, however, require an independent fact-finding agency to interview defenders and estimate the risks involved in releasing them. They may also require the availability of postbail control or supervision of persons released. They also include procedures for promptly releasing persons charged with petty offenses.

A number of alternative plans to the traditional reliance on money bail have been enacted. The best known plans are the Bail Reform Act and the District of Columbia Bail Agency Act passed by Congress. This system requires the magistrate to release the defendant upon his personal recognizance imless he decides other conditions shall be imposed to ensure the defendant's appearance for trial. In determining the conditions or release the judge takes into consideration such factors as family ties, employment, and record of convictions of the defendant.

An experimental bail project with the essential features of these two federal acts was carried on in the District of Columbia for two and one half years. It was quite successful. Forty-nine per cent of the 5,144 defendants in the study were released on personal recognizance; 85 per cent were released by the courts. Only 3 per cent of those released failed to appear for trial.

The Illinois or ten per cent plan enacted in 1963 allows a defendant to be released on bond upon depositing in cash 10 per cent of the amount of

bail fixed by the court. However, if the defendant appears in court 90 per cent of the cash deposit is refunded.

The Illinois Criminal Code authorizes a court to issue a summons in lieu of a warrant for arrest and in certain cases police may issue notices to

appear instead of making arrests.

An experimental bail project was also tried in Illinois. Only 2.7 per cent of the defendants released on personal recognizance failed to appear for trial. A smaller percentage of the 10 per cent cash bonds were forfeited than of the ordinary surety bonds. The number of defendants in jail awaiting trial during the period was also drastically reduced.

The Manhattan Bail Project and the Manhattan Sumons Project was one of the first experiments with bail reform. It was conducted by the Vera Foundation in cooperation with the New York University School of Law and the Institute of Judicial Administration. Except for certain narcotics violations and murder, all felony suspects were interviewed by investigators using a form to elicit information particularly on the existence of roots in the community, employment, etc. Verification was sought if this information seemed relatively satisfactory. A number of factors were weighed in the decision on whether or not to release him on personal recognizance. The results of the Vera Foundation project indicated that only 1 per cent of those released on personal recognizance failed to appear in court.

#### MINNESOTA PRACTICES

Hennepin County municipal and district courts have initiated bail reforms by rule or order of court under existing statutes. The Hennepin County Department of Court Services investigates defendants arraigned on felony charges in the district court and recommends some as eligible for release on personal recognizance (RPR). From February 1966 through March 1967 of the 497 defendants interviewed 20.3 per cent were recommended and released without bail—only one of these failed to appear in court. The investigation is useful later for those defendants for whom a presentence investigation is requested, or who are later put on probation.

The Hennepin County Municipal Court has ruled that defendants to their attorneys upon the personal recognizance of the attorney. If a client so released fails to appear for trial, his attorney is denied use of this privilege for one year.

The Governor's Committee on the Administration of Justice recommended that Ramsey and Hennepin Counties take further steps toward bail reform by court order or rule by the district and municipal courts in both counties.

Standards determining the bail decision are not uniform but vary widely according to the individual views of each committing magistrate. Outside the Twin Cities bail may still be set without independent pre-bail investigations or measures to supervise defendants released on bail or on their own recognizance.

It was the opinion of those responding to the Governor's Commission's

request for information on this subject that the bail system was working reasonably well in securing the appearance of accused persons at trial. It has held that the poor defendants remaining in jail were bad risks as well as being poor.

The Governor's Commission recommended the adoption of statewide bail reform, either by statute or court rule, to meet the needs of other areas in Minnesota as well as of the Twin Cities area particularly in regard to the availability of facilities and personnel to accomplish the reform. The committee recommended that Minnesota require money bail only in situations "where such is necessary to insure a defendant's appearance or to prevent interference with the prosecuting witnesses."

#### PREVENTIVE DETENTION

These bail reform alternatives do not deal directly with the problem of keeping the defendant in jail because he is likely to commit another crime while awaiting trial for the first. This concept called "preventive detention" is considered of dubious constitutionality since it departs from the legal doctrine of charging a person only with specific acts he has already committed, rather than with future acts or with being a "criminal type." There are, however, a limited number of instances where people released to await trial for one charge commit another offense. Therefore, in practice, bail has often been set with this problem in mind. One way to lessen this difficulty, some argue, is to ensure speedy trials for all defendants.

The District of Columbia Court Reform and Criminal Procedures Act passed by Congress in 1970 provides for the pretrial detention of a person charged with a "dangerous crime" for up to 60 days. An advisor to the Deputy Attorney General was quoted as saying that this was actually a more honest method of detaining defendants than setting very high bail since it includes provision for a full hearing on the issue of "dangerousness" with a right to counsel, right to appeal and the right to present witnesses.

#### JURIES

Although the functions of grand and petit juries are quite different in court procedure, both have traditionally been regarded as bastions of protection for the rights of the individual against arbitrary authority. The right to indictment by a grand jury in the case of a serious crime is included in the Fifth Amendment to the United States Constitution. The right to a trial by jury is guaranteed by the Sixth and Seventh Amendments to the federal constitution.

#### SELECTION

Although the functions of grand and petit juries differ, the process used in their selection is similar. In Hennepin, Ramsey and St. Louis counties juries are selected from lists compiled from lists of registered voters. In practice city directories are also used. A majority of the district and municipal judges each submit two lists of a designated number of names for grand jury and petit jury duty. The total number of names required by statute for grand jury is 135 and for petit jury 2,000 or more.

In all other counties in Minnesota, the jury commission selects from voter lists 72 names for the grand jury and one name for each 100 persons residing in the county, totaling no less than 150, for petit jury duty. In both instances lists of certified jurors are prepared and called. Certain categories of citizens are exempted from jury duty by law, others may gain exemption in case of hardship. Any woman may be excused from jury duty.

Petit jurors are paid \$10 daily except in Hennepin, Ramsey and St. Louis counties where they are paid \$6 a day. Grand jury members are paid \$6 per day and 71/2¢ per mile for travel to and from their homes to the meeting place.

#### JURIES AS REPRESENTATIVES

One persistent criticism of both petit and grand juries has focused on their tendency to overrepresent white, prosperous, middle aged and relatively well educated citizens and to underrepresent less-advantaged, minority and young citizens. This is a serious criticism since, in fact, criminal offenders come disproportionately from these groups in society. In some instances, as in the case of grand juries investigating possible offenses by public officials, this distorted representation may not be serious. In criminal cases, however, where an understanding of life-styles or circumstances may be important in determining the facts it could be a serious drawback. The United States Supreme Court has ruled that an "impartial" jury need not include exact replicas of the defendant but that it must be formed from a list that does not systematically exclude some groups.

Some commentators have suggested that Minnesota change from the

present system, where judges supply the names from which the grand jury list is drawn, to a more automatic random sampling. It has been pointed out, however, that the selectivity now available actually permits judges to submit the names of more minority persons than would probably be chosen through a random sampling. (Random sampling does not pick up members of very small minorities, for example, racial minorities in Minnesota.)

Actually, as long as voter registration lists and city directories form sassic lists from which jury members are chosen, there is bound to be some underrepresentation of poor, minority and young citizens since these groups are both highly transient and less likely to vote than many other groups in society.

#### THE GRAND JURY

The main function of grand juries in Minnesota is to decide whether or not "probable cause" as to the guilt of the defendant exists. If probable cause is found the grand jury returns an indictment and a warrant for the person's arrest is issued. If probable cause is not found a "no bill" is issued and the complaint is dropped.

The Minnesota Constitution originally required that a grand jury initiate all indictments. In 1904, however, this was changed to require only that persons must be charged by "due process" of law. The grand jury, however, must be used in cases where the charge is treason or murder in the first degree. The alternative means of securing probable cause, the prosecutor's appearance at a preliminary hearing, is used much more frequently in Minnesota than the grand jury. The Hennepin County Attorney's Office used the grand jury in approximately 200 of the 5,620 criminal cases it handled in the ten-year period from 1961 through 1971. A grand jury may be used, however, in matters of particular interest to the public.

The grand jury was specifically included in the United States Constitution because its abolition in England had made possible the political prosecutions in the seventeenth and eighteenth centuries. It is sometimes criticised today, however, for furnishing great power to the prosecution.

A main criticism of grand jury deliberations today is the disadvantage encountered by the defense in their proceedings. The grand jury meets in secret and in Minnesota rarely asks a defendant to testify. They cannot compel him to testify but if he does so he must waive his immunity in later trials and agree to answer all questions although the testimony may later be used against him in a criminal trial. Also witnesses can be subjected to investigation at a later time on the basis of their testimony uness granted specific immunity. The defense attorney ordinarily has no access to grand jury proceedings so he is not in a position to hear the evidence of witnesses the prosecution produces and prepare a defense accordingly as he might be in a preliminary hearing.

In addition to finding whether or not "probable cause" exists, the grand jury is empowered to conduct investigations of the prison system or public officials on its own initiative. In some states this power has sometimes been used effectively against corruption in government.

#### THE PETIT JURY

The petit jury is a group of twelve or six men and women who decide the facts in a civil or criminal case. As stated earlier in this study, jury trials are far less common in the court system than guilty pleas on criminal charges or settlements in civil cases. In the district courts in Minnesota in 1971 only 11 per cent of all criminal cases were resolved by jury trials as opposed to 84 per cent settled by guilty pleas and 5 per cent tried before judges. In Hennepin and Ramsey counties slightly larger percentages of declants chose jury trials, 14 and 12 per cent respectively, as opposed to 1 and 2 per cent which chose trials by judges alone, but again the overwhelming percentage of cases, 85 per cent and 86 per cent, were settled by guilty pleas. In civil ciases most cases were settled before the trials actually began.

The use of petit juries has been criticized as a time consuming and expensive procedure in a period when courts are overcrowded and underfinanced. Supporters contend, however, that it is essential that those accused of a serious crime retain the right to trial by jury.

Controversy now centers on the appropriate size for juries and on the question as to whether or not unanimity is essential for the jury's decision to be final. Federal courts require twelve-man juries which must be unanimous in criminal cases, but states use six-man juries, particularly in civil cases and in cases involving minor offenses. In 1970 the United States Supreme Court ruled that a six-man petit jury was constitutional in all civil and criminal cases except gross misdemeanors and felonies which require a twelve-man jury unless waived by the defendant. In 1971 Minnesota passed legislation to bring the state in conformity with that decision.

In 1972 the United States Supreme Court ruled that state legislation permitting decision by divided juries in criminal cases was not unconstitutional. They implied, however, that at least a three-fourths majority was necessary to convict or acquit. The cases under consideration were not capital crimes. Minnesota has retained a unanimity rule in criminal cases though five-sixths of a jury is sufficient to reach a verdict in civil cases.

Great Britain abandoned the principle of jury unanimity in 1967 and ceased use of the jury for civil cases. It is recognized that admission of verdicts by divided juries will save time and shorten trials, but that it will also make it easier to reach a decision for conviction without the prevously required unanimity.

#### PLEA BARGAINING

Plea bargaining is an arrangement between the prosecutor and the defendant or his attorney whereby the defendant pleads guilty to a lesser charge in exchange for a predictable, lesser sentence than might otherwise be available. The purpose of plea bargaining is to reduce court time and delay before trial, to give the defendant some certainty in the disposition of his case, to confine the upper limits of the judge's sentence or to decrease pretrial confinement. Both prosecution and defense participate because they are interested in limiting the risks inherent in adversary proceedings. (It is also known in the vernacular as "copping a plea.") It is important to recognize that plea bargaining, which is essentially the criminal counterpart to the common civil practice of "settling out of court" makes possible the ability of courts to manage their case loads as fast as they do.

Minnesota was one of the first states to sanction open plea negotiations in 1968. Minnesota law permits a plea to be withdrawn if the state does not carry out its promise. The judge makes an effort to establish that the defendant is indeed guilty before accepting the reduced sentence. In theory a judge has complete discretion in sentencing and is not obligated to honor the negotiations. However, the judge must allow the defendant to withdraw the guilty plea if the judge refuses to honor the negotiated sentence. In practice most judges accept the negotiated plea if it is substantiated by the finding of facts in the pre-sentence investigation.

In Minnesota there appears to be general agreement among lawyers from both the public defender's office and from the prosecution that plea bargaining is a workable, fair procedure as it is practiced. Plea bargaining is defended since its permits an assessment of individual factors in sentencing and provides some flexibility within the penal code. It also helps in greatly decreasing congestion in the courts.

In general, discussions of the practice of plea bargaining in American courts are almost unanimous in cautioning that its use be surrounded with careful guarantees since its abuse may throw the quality of justice dispensed by the court system into disrepute. There are two major kinds of problems which may arise from overly used and unsupervised plea bargaining.

First, an innocent person may be penalized more heavily than a guilty person under the plea bargaining system and is given a very strong incentive to plead guilty. Particularly under a traditional money bail system the defendant pleading innocent may have a much longer stay in jail than his guilty counterpart. Chief Judge David Bazelon, of the United States Court of Appeals for the District of Columbia and a frequent critic of plea bargaining, quotes a defend-

ant as saying, "You mean if I'm guilty, I get out, but if I'm innocent I stay in jail?" Moreover, since the prosecutor must offer an attractive reduction in sentence to get his bargains accepted the person pleading innocent but later found guilty may get a much heavier sentence than the defendant willing to plead guilty at the outset. Ideally, a final sentence should be substantially the same whether it was negotiated or not.

Second, the practice of plea bargaining may result in a situation where public respect for the law is further reduced, both among criminal offenders and among the public at large. There are frequentily a number of possible criminal charges among which the prosecutor must choose and the lines are not always clearcut. This is not always readily apparent to the public to whom a serious crime is seen as a total picture rather than in its component aspects. The reduction of a charge from a felony to a misdemeanor, a very attractive reduction of sentence because of the far less serious consequences of having a misdemeanor on one's record, may seem a very serious matter to the public. The Bust Book, a counter-culture handbook, considers the realities also: "Plea copping has several advantages for a person who is likely to be convicted . . . the fact that you are innocent but are pleading guilty should not bother you, as long as the deal is sood."

In some courts, particularly in the New York City and other large city courts, where overcrowding has reached crisis proportions, the pressure on prosecutors to clear the jails is very great. Defendants accused of very serious crimes regularly plead guilty to much less serious violations and are released with light sentences. This seems particularly serious in a period when crime rates appear to be rising and adds to the mounting public concern about law and order. <sup>18</sup>

#### SENTENCING

Sentencing of a defendant by the judge can be viewed as the final product of the judicial system; the sum of sentences imposed by the courts can be seen as the production of the system. Sentences are the principal means at the disposal of courts to bring about lawful behavior in society. They reflect trends in public opinion, the availability of community resources and the statutory levels set for given crimes in a state.

In sentencing defendants, the judge is faced with a number of serious difficulties as outlined by the President's Commission on Law Enforcement and the Administration of Justice.

The difficulty of the sentencing decision is due in part to the fact that criminal law enforcement has a number of varied and often conflicting goals: the rehabilitation of offenders, the isolation of offenders who pose a threat to com-

munity safety, the discouragement of potential offenders, the expression of the community's condemnation of the offenders' conduct, and the reinforcement of the values of law-abiding citizens.

#### ALTERNATIVES AVAILABLE

A judge has considerable discretion in choosing what he considers an appropriate sentence for a given criminal act.

Most Minnesota crimes specify maximum sentences only. There are very few mandatory sentences: first degree murder carries mandatory life imprisonment and some narcotics violations carry minimum terms of five to ten years. There is a three year minimum sentence for a felony involving intent if the defendant was in possession of a firearm. Probation is possible even in minimum term cases but not for first degree murder. The Supreme Court Study Committee notes, however, that the Minnesota legislature is not immume from public reaction to the "law and order issues and the attempt to deal with 'coddling' criminals by the courts" through the mandatory or minimum sentence device.

Minnesota criminal code revision in 1963 cut the maximum terms for a number of crimes, but the present maximum far exceeds the ABA standards. The supreme court notes, however, that since there are generally no minimum terms and since the length of commitment is determined by the commissioner of corrections, who has the legal authority to release all but first degree murderers the next day, the real issue is not the maximum terms of the sentence but the parole policy of the adult authority.

There are five general classifications of sentences in Minnesota: sentences not involving confinement, involving partial confinement (released time for employment under the Huber Law), involving total confinement, special treatment of certain types of offenders and fines. In choosing a sentence for a given defendant the judge takes into consideration the character of the crime, the previous behavior of the defendant, and the apparent factors accounting for his having committed the crime. He attempts to impose a sentence that will reduce "recidivism" by helping the person overcome the problems that accounted for his antisocial acts originally. Increasingly, he may choose probation or release to some community facility in order to help the defendant cope with the environment in his community.

There may be many reasons for imprisoning some defendants for lengthy periods of time, such as to protect society from them or perhaps to deter future offenders, but there does not seem to be very much evidence that a lengthy prison term leads to an offender's rehabilitation. Many penologists contend that it is unrealistic to expect an environment composed almost entirely of persons having committed antisocial acts to serve this purpose. Moreover, there are a number of offenders who seem to adjust very well in confinement, but who are unable to make a satisfactory adjustment back to the real world. In many cities where adequate probation facilities are available 75 per cent of criminal offenders may be sentenced to probation.

#### PRE-SENTENCE INVESTIGATIONS

To make a sensitive individualized decision in applying a sentence to a defendant it is imperative that the judge have background information at his disposal. Such information is generally supplied by a "presentence investigation" (PSI) conducted in Minnesota by a probation officer.

The Minnesota Criminal Code of 1963 provides that pre-sentence investigations by probation officers may be ordered in every felony case except first degree murder, where there is a mandatory life sentence, but not in the case of lesser crimes. There must also be a presentence report if the trial judge wishes to place a youthful offender on probation. The American Bar Association standards would require that such reports be made whenever (1) it is possible that a person may be imprisoned for more than a year, (2) the defendant is less than 21 years of age or (3) the defendant is a first offender. A study commissioned by the Minnesota Supreme Court states that Minnesota practice is generally in accord with the standards set in this area by the American Bar Association. Presentence investigations are done rather routinely throughout the state. Ramsey and Hennepin counties have a wide spectrum of diagnostic services available while those in other parts of the state are more limited.

A presentence report, as stated in *The State Trial Judge's Book*, "normally includes the background of the offender, his family, his home, school and community relationships, to indicate whether there are factors to his social history which will account for his behavior."

The results of the investigation are presented to the judge who may or may not follow its recommendations. One criticism sometimes made of this practice as it is used in Minnesota is that there is insufficient time for the defense to familiarize itself with the report and question it, if necessary. Since the judge may attach considerable weight to the report it is held that the defense should have ample opportunity to challenge any inaccuracies which might be detrimental to the client.

#### SENTENCING DISPARITIES

It is generally agreed that sentences should take into account individual factors in each case. Few people agree, however, that the court system should dispense widely differing sentences for the same kind of crime. The problem of serious disparities among sentences has traditionally been recognized as a grave obstacle to conveying to the public the essential fairness of the court system. It also leads to inefficiency in court calendars since lawyers seek out the judge thought to be least severe in a particular kind of case. Seminars of judges have shown clearly that they often differ considerably among themselves on the appropriate sentence for the same hypothetical crime.

In large part differences in sentences reflect differences in the attitudes and background of judges as observed by Ramsey Clark, former United States Attorney General:

One judge, because of his personal values, thinks homosexuality the most heinous of crimes and gives long sentences. Another hates prostitution. A third judge would never jail juveniles for either offense. Some judges regularly give juvenile offenders prison terms for first-offense car theft, while others turn them over to the custody of their parents.

A limited study by the Governor's Commission seemed to show that there was not a great deal of disparity among sentences given for certain crimes in Minnesota." However, glaring examples of disparities in at least a few cases do exist.

(1) Minnesota corrections officials cited two similar cases of aggravated robbery (where a weapon was used). An offender from Duluth was sentenced to 20 years and one from Minneapolis to 5 years. (2) A former operator of a Minneapolis car repair garage who was convicted of cooperating with an insurance claims adjustor in collecting false auto accident claims totaling \$23,000 drew 10 years in prison from one Hennepin County judge. Another Hennepin County judge sentenced the insurance adjustor, the "principal perpetrator" of the fraud, to probation and allowed him to leave the state. Neither man had a prior criminal record.

#### SENTENCING REMEDIES

A number of remedies from disparate sentences have been suggested. The ABA recommends, for instance, that much lower maximum sentences be established by statute so that the judge's discretion would be limited and disparities thus automatically reduced.

Another possibility would be the adoption of a statute whereby all senences would be of "indeterminate length" to be adjusted later by a separate board. However, some observers of courts feel it would be more difficult to hold a board responsible than a judge who needs to be responsive to the electorate.

The ABA also recommends that persons accused in the same crime be sentenced by the same judge. The Minnesota Supreme Court's committee notes that this standard is probably not being met in metropolitan areas in Minnesota where judge shopping is common, joint trials are discouraged and judge assignments are rotated.

Another alternative, used in New York, California and certain federal courts, is the establishment of "sentencing councils" — panels of judges which meet regularly to consider recommended sentences before they are imposed. This method has resulted in a considerable reduction of sentencing disparities. However, a committee of the Minnesota Governor's Commission on Law Enforcement and the Administration of Justice reported that such councils are not practical in Minnesota because district judges are geographically scattered except in the Twin Cities.

One of the most popular remedies suggested to combat disparities in sentencing is the opportunity for sentence review by higher courts. At present this is possible in fewer than half the states. The Minnesota Supreme Court has consistently held that it does not have the power to review the propriety of sentences. The court asked that the 1971 legislature provide such authority, but it was not given.

Since the case load of the state supreme court is so heavy, it is thought that appeals of sentences could only be accomplished through panels of district court judges or through the creation of a lower level appeal court in the state court system.

The ABA recommends that only specific sentences could be appealed. There is some disagreement as to whether an appeal court should have the power to lengthen the sentence or just to lower it.

#### **PROBATION**

Probation is the release of a convicted offender under supervision of a probation officer for a term set by the court. Probation is revocable; failure to fulfill its conditions may mean commitment to a correctional institution for the term of the original sentence. It is increasingly felt that probation is a more desirable alternative than imprisonment in many cases. As the President's Commission on Law Enforcement and the Administration of Justice argued, it facilitates the reintegration of the offender into the community, avoids the negative aspects of imprisonment and reduces the financial burden on the state.

Although increasing numbers of cases are being referred to various diversion centers, a majority of convicted criminal offenders are placed on probation. Probation conditions vary from court to court, from county to county, and even from agent to agent. Today's probation requirements are usually reasonable in terms of expectations for the individual's behavior. They are determined on the basis of the individual's past record, age and personal responsibility. The majority of persons operate under minimal restrictions. They must (1) report to the probation officer as directed, (2) keep the probation officer informed at all times of place of their residence and employment and (3) obey all laws. Additional restrictions may be placed upon a person who does not seem capable of assuming responsibility.

Probation officers often have very heavy case loads forcing them to select those cases which they must see most frequently. However, it is felt many offenders operate successfully under a relatively inactive probation and keep in contact mainly through letters or phone calls. A minority need greater supervision and considerable counseline.

Probation policy generally places a person who is on probation for the second or third time under the supervision of the original probation officer to provide continuity. This has been criticized by some penologists on the grounds that it may encourage the repeating of former errors.

Volunteers are now being used on an experimental basis in probation work with Hennepin County Juvenile Court. The current trend in correction, involving the community and its resources, has provided impetus to the expanded use of volunteers in probation services.

Probation was first established in Minnesota in the juvenile courts of Hennepin, Ramsey and St. Louis counties. In 1931 state-wide probation was established at the district court level; this was extended to the 84 rural counties in 1949. In 1959 the legislature created the Department of Corrections, combining adult and youth corrections under one authority

The Department of Corrections is headed by a commissioner appointed by the Governor on a nonpartisan basis. Two deputy commissioners are appointed to head the Division of Adult Corrections and the Youth Corrections and the Youth Conservation Council (Y.C.C.). The Department of Corrections is in charge of all nenal institutions in Minnesota.

The Department of Corrections has a Field Services Unit with three regional offices to provide supervision of individual offenders in their communities. Twenty-six correctional supervisors in field offices are responsible for supervising 101 probation and parole officers throughout the state. Nine of these supervisors also provide supervision to country probation officers serving juvenile courts. During fiscal year 1970-71, the Department of Corrections worked with 3,122 probationers and parolees within their communities. County probation officers also worked with 2,413 boys and 456 girls.

The 1959 County Probation Act required that every county acting as an individual unit or in conjunction with other counties, should provide probation services itself or contract with the state for probation. The law provides a subsidy to counties whose probation officers also supervise juvenites under the Y.C.C. The subsidy, which changes from one legislative session to the next, has ranged from 37 per cent to 50 per cent of the total cost of the county probation office and currently provides 50 per cent of probation officers' salaries.

Rural counties are organized into probation districts which usually contain one to three counties, though they may include as many as seven counties. A district may have from one to six agents depending on the population of the area. The average case load of a county probation agent includes 80 to 90 county probation cases and 10 to 20 Y.C.C. wards. Case load varies widely among counties.

Until recently, few probation services were provided for adults convicted of minor offenses in the smaller municipal courts. It is likely that consolidation of courts through the 1971 County Court Act will result in the extension of more probation services to minor adult offenders in those areas. Quite extensive services to minor offenders are provided in the larger municipal courts.

#### PROBATION OFFICERS

Educational requirements for probation officers on all levels are not consistent. In some parts of the state they are almost nonexistent. Some agencies have no entry level educational requirements or require less than a high school education. State probation and parole agents, however, and those county agents whose salaries are subsidized by the state must have

a B.A. or B.S. degree and are usually recruited from people who have majored in the social sciences, Educational background in criminology or penology is not required.

As mentioned earlier, probation officers are responsible for preparing presentence investigation reports as well as for supervising convicted offenders. Some officers spend up to 70 per cent of their time doing reports while others average only 17 per cent. This means that some officers spend as little as 8 hours a week on actual probation supervision. In many parts of the state the officer who researched the PSI also supervises the defendant who is placed on probation.

#### OTHER ALTERNATIVES FOR THE OFFENDER

Minnesota is expanding the use of probation services, work release programs and group homes and is upgrading correctional institutions. New programs are being initiated to utilize more community resources.

Traditional imprisonment in large penal institutions has proved very expensive. Moreover, the rate of recidivism indicates that such imprisonment may not have effected any change in the offender's behavior.

Alternative treatments may include the use of volunteers; academic and vocational educational programs; constructive employment opportunities; and providing psychological, psychiatric and other services indicated for treatment. Many of these are funded at least partially by federal funds. Many of the federal funds are allocated by the Governor's Crime Commissioner.

Some of the innovative projects currently being undertaken in Minnesota are:

- Project Newgate a college level program conducted by the University of Minnesota for men serving time in or on parole from the State Reformatory for Men in St. Cloud.
- PORT of Rochester a post-trial diversion center. It is a community based residential treatment center for offenders who would otherwise be in prison but who seem to involve a minimal danger to society and a high likelihood of rehabilitation.
- Institution Community Continuum a short-term intensive group therapy program for boys 15 to 18 years old in Hennepin and Ramsey counties.
- 4. Operation De Novo a pre-trial diversion project in Hennepin County offering intensive counseling, job placement, vocational and educational training for those age 18 and older charged with a misdemeanor or felony. It operates on a voluntary basis for nondrug users.

#### Trends in Court Reform

"Judicial reform is not for the short-winded."

A. T. VANDERBULT

The process of court reform is a continuous one. Courts are by their very nature steeped in tradition, essentially protective of their own spheres of influence, and rather resistant to change which is not generated internally. Moreover, as one set of problems is solved another arises. In 1970, Chief Justice Warren E. Burger of the United States Supreme Court expressed his intent to promote direction and leadership in court reform. His voice is added to that of many distinguished jurists and lawyers and groups of eminent laymen charged to recommend changes in the American courts.

The following list incorporates some of the most frequently discussed reforms which were encountered in publications and interviews for this study. It is not all inclusive, nor should it be construed as recommendations of the League of Women Voters.

#### **Court Organization and Administration**

- Unified court system: this would abolish all courts except one which
  would have general jurisdiction over all matters. This court would
  sit in divisions, such as family, probate, traffic, trial, appellate, etc.
  Each court would be centrally administrated and use fewer judges
  whose time would be more effectively used and whose compensation
  would be more adequate. (This recommendation was made in the
  1942 Judicial Council Report.)
- Intermediate appellate court: this is generally a division of a unified court system; however, it has been established in many states to effect some needed reform while working toward constitutional changes.
- Judicial administration: the need is recognized nationally for a fulltime court administrative director having a staff of full-time court administrators to develop and maintain methods for handling the non-judicial aspects of the different courts or divisions. Coordinated court administration would encourage establishment of uniform rules and procedures.

#### **Court Jurisdiction**

· Changes in the penal code: to consider removing social crimes from

the statutes, e.g. prostitution; evaluation of juvenile status offenses, e.g. trunancy.

 Removal of some procedural matters from the court: consider alternative procedures for no-fault divorce, personal injury cases (nofault insurance), commitment, change of name.

#### Judicial Selection, Tenure, Discipline and Removal

- Merit selection of judges: this method utilizes selection, appointment
  and election by the following means: judges are appointed by the
  governor from a list of candidates supplied by a nonpartisan commission composed of professional and laymen. The appointed judge
  then is periodically required to go before the voters to determine
  if a majority of the voters wish to retain him in office.
- Judicial discipline and removal: the recently established Commission on Judicial Conduct now affects only judges in courts inferior to the district court. The proposed constitutional amendment to be voted on in November 1972 would extend the Commission's authority to the district and supreme court.

#### **Adversary System**

- · Provide free and/or moderately priced legal assistance in civil cases.
- Strengthen both prosecutor's office and public defender system.

#### **Court Procedures**

- Bail reform: adopt state-wide policies to identify good risks and release them to await trial, minimize iail arrest for petty offenses.
- Jury: consider more equitable selection of jurors; consider alternatives to jury in civil cases.
- Sentencing alternatives: encourage innovative projects; study methods for reducing sentencing disparities.

#### **State-wide Community Planning**

• The development of an agency or commission, public or private, to catalogue community resources, coordinate overlapping programs, promote comprehensive state-wide planning, determine where deficiencies exist and document the need, and attempt to obtain funding to establish state-wide pilot projects in the area of courts and justice.

#### Court Financing

 Study of the financial structure of court support and relationship of various governmental units to that support in order to provide the most efficient and adequate method for financing the courts.

#### CONCLUSION

Our system of justice plays a major role in the life of the average citizen. Yet public ignorance of the structure and function of the courts surpasses the public ignorance of other processes of government. The daily decisions made by our courts and the procedural practices they maintain, have an immediate impact on the value structure in our society.

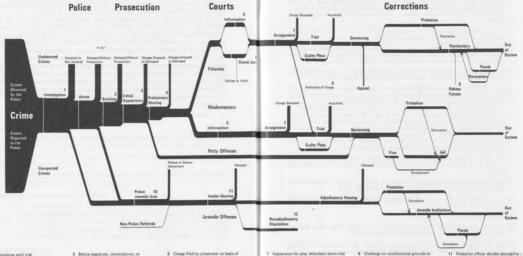
An examination of the constitutional and statutory functions of a court system and how those functions are performed is essential to an understanding of the judiciary. This knowledge can provide citizens with the tools to determine whether or not these objectives are appropriate and germane to the changing demands of the society in which we live

This publication has tried to describe the Minnesota judiciary, its structures and procedures. It is hoped that this will be a meaningful first step toward helping citizens become more qualified to differentiate "between inherent, ineradicable, difficulties in the administration of justice and those which are eradicable and should be eliminated. For, in a democracy, the courts belong not to the judges and the lawyers, but to the citizens."

#### A general view of The Criminal Justice System

This chart seeks to present a simple yet comprehensive view of the movement of cases through the criminal justice system. Procedures in individual jurisdictions may vary from the pattern shown here. The differing weights of line indicate the relative volumes of cases disposed of at various points in the system, but this is only suggestive since no nationwide data of this sort exists.

"THE CHALLENGE OF CRIME IN A FREE SOCIETY" A Report by the President's Commission on Law Enforcement and Administration of Justice February, 1967



May continue until trial. Administrative record of arrest, First step at which temporary release on half may be available.

- justice of peace. Formal notice of charge, advice of rights. Ball set. Summary trials for petty offenes usually conducted here without further processing.
- 4 Preliminary testing of evidence against defendant. Charge may be reduced. No separate preliminary hearing for misdemosnors in some systems.
- information submitted by police or citizens. Alternative to wand jury indictment; often loged in felipoies, almost always in
- 6 Reviews whether Government evidence sufficient to justify trial. Some States have no grand jury system; others seldom use it.
- by judge or jury (if available); counsel for indigent usually appointed here in following. Often not at all in other cases.
- Il Charge may be reduced at any time prior to trial in return for ples of guilty or for other reasons.
- legality of detention. May be sought at any point in process.
- 18 Police often hold informal hearings, dismiss or adjust many cases without further procession.
- further court action.
- 12 Welfare agency, social services, course medical care, etc., for cases where adjudicatory handling not needed.

#### NOTES

- (p. 8) According to an interview with Richard Klein in June 1972 all of the outstate counties chose single county districts except for the following counties which agreed to combine: Big Stone Traverse-Wilkin; Chisago-Isanti-Pine; Douglas-Grandi; Hubbard-Cass; Lake of the Woods-Kittson-Roseau; Marshall-Red Lake-Pennington; Mille Lacs-Kanabec; Olmstead-Dodge: Pipestone-Murray; Rock-Nobles; Sherburne-Benton-Stearns; Wadena-Todd; Yellow Medicine-Chipnewa.
- (p. 9) Howard Erickson, "Courts Dispense Justice in Quantity," Small Claims Hearings are truly informal, Minneapolis Tribune, Sunday, March 5, 1972 p. 1E.
- (p. 10) Governor's Commission on Law Enforcement, Administration of Justice and Corrections, Report of the Committee on the Administration of Justice, Section on "Court Recoganization and Reform," January 22, 1968, pp. 1-3.
- (p. 12) Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System. Washington, D.C., August 1971.
- (p. 16) Much of the following discussion is based on the section entitled "Juvenile Court Procedures and Facilities" in the Report on the Administration of Invites of the Governor's Commission on Law Enforcement.

A complete recent treatment of juvenile justice in Hennepin County is available in the recent publication of the League of Women Voters of Minnepolis entitled Juvenile Justice in Hennepin County. Minneapolis. May 1971.

The procedures governing juvenile court proceedings in the county courts are contained in "Rules of Procedure and Official Forms for Juvenile Court Proceedings in Minnesota Probate-Juvenile Courts," in Minnesota Rules of Court 1971, Desk Copy, St. Paul. Minnesota. West Publishing Co. 1971.

- (p. 22) The Supreme Court of Minnesota, Eighth Annual Report Minnesota Courts, 1971, Office of the State Court Administrator, March 1972, Table XIII, p. 14.
- (p. 22) Klein quoted in an article by Gwenyth Jones, "Central Law Enforcement Agencies, Judiciary Urged," Minneapolis Star, June 29, 1972.
- (p. 23) The Supreme Court of Minnesota, Eighth Annual Report Minnesota Courts, 1971, p. 6.
- 9. (p. 23) Ibid., p. 4.
- (p. 24) The Minnesota Legislative Manual. 1971-1972, (The "Blue Book"), State of Minnesota, St. Paul, Minnesota, 1972, p. 296.
- (p. 24) The Supreme Court of Minnesota, Seventh Annual Report Minnesota Courts, 1970, letter submitting report from Richard Klein, p. 1.
- (p. 24) See Report of the Committee on the Administration of Justice, Section
  "Court Reorganization and Reform," pp. 5-73 and Task Force Report: The
  Courts, Task Force on the Administration of Justice of the President's Commission on Law Enforcement and the Administration of Justice, U.S. Government Printing Office, Washington, D.C., 1967, pp. 65-7.
- 13. (p. 25) Legislative Manual of Minnesota, 1971-1972, the biographies of Su-

- preme Court and district court judges appear on pages 274-275 and 286-295, respectively.
- (p. 28) A comparative discussion of machinery for judging judges in different states is given in an article by Lesley Oelsner, "Reformers See Lag in Judging of Judges," The New York Times June 9, 1972.
- 15 (n. 31) Task Force Report: The Courts, pp. 72-74.
- 16. (p. 34) Quoted in the Report of the Committee on the Administration of Justice, of the Governor's Commission, section on "Reform of the Bail System," n. 1. This section of the study relies heavily on this section of the Report.
- (p. 40) These percentages were computed using the figures from tables on district court cases in 1971 in Eighth Annual Report Minnesota Courts, 1971, pp. 22-23.
- (p. 42) A recent thoughtful article on problems presented by plea bargaining is "101,000 defendants were convicted of misdemeanors last year. 98,000 of them had pleaded guilty —to get reduced sentences" by Peter L. Zimroth, in the New York Timest Magazine, May 29, 1972. p. 14ff.

A discussion of desirable safeguards for the plea bargaining process is contained in Task Force Report: The Courts, pp. 91-92.

- 19. (p. 45) Report of the Committee on Administration of Justice, Appendix F.
- (p. 51) Frank, Jerome, Courts on Trial: Myth and Reality in American Justice, Atheneum, New York, 1970, p. 239.

#### JUDICIAL GLOSSARY

- ADVISORY OPINION An opinion rendered by a court to a lower court or, in some cases, to the legislative or executive branch of government which is not binding or decisive of a controversy.
- AFFIDAVIT A written or printed declaration or statement of facts made voluntarily and confirmed by oath of the party making it and taken before an officer having authority to administer such oath.
- APPELLATE JURISDICTION The authority of a court to hear a case that has been tried in a lower court.
- ARRAIGNMENT Bringing a prisoner to the bar of the court to answer to a criminal charge.

  ATTACHMENT If the loging defendant has no money but does have some
- property, the plaintiff can bring suit to have the property sold at a public auction with all or part of the proceeds used to satisfy the judgment.
- BAILIFF Person in charge of the jury whose duty is to ensure that the jury can deliberate in private.

  BILL OF PARTICULARS – A written statement from the plaintiff who made the
- original complaint explaining the charges in greater detail.

  BOOKING Entries made in a special book regarding the name of the prisoner.
- BOOKING Entries made in a special book regarding the name of the prisoner, the time he was brought in and the nature of charges.

  BRIFF — A concise statement of the facts of the case and the legal arguments in-
- volved prepared by the lawyer.

  CALENDAR A list of cases which are to be heard by a court during the court
- CALENDAR A list of cases which are to be heard by a court during the court term.
- CASE OR CAUSE A suit in law or equity; in appellate procedure, the trial record made in the lower court, including the papers and testimony.
- CERTIORARI A writ issued by a higher court requiring the record of a case in the court below to be sent up to itself for redetermination.
- CHANGE OF VENUE The removal of a suit begun in one court and the placing of it in another court for trial under a different judge or in a locale other than that in which the action arose.
- CHARGE A liability, an accusation; to create a claim against property, to accuse, to instruct a jury on matters of law.
- CIVIL ACTION An action which seeks the establishment, recovery, or redress of private and/or civil rights. Civil suits relate to and affect only individual rights, whereas criminal prosecutions involve public wrones.
- CIVIL SUIT Any legal action other than a criminal prosecution.
- CLASS ACTION A lawsuit in which one person or a small group are permitted by the court to represent a very large group of people who find themselves in a similar legal position.
- CLERK OF THE COURT—Handles much of the administrative paper work of the court such as keeping judicial calendars, recording judgments, sending out official notifications, keeping track of motions for appeal, scheduling hearings of the trials, and sending for transcripts and other records of the trials. He does not make decisions affecting the parties but carries out the orders of the judges.
- CLERK OF DISTRICT COURT An elected official in the county (a proposed Constitutional Amendment in November will have the clerk appointed by a majority of judges in that district); the duties of this office are to keep the necessary records and indices of all proceedings, enter orders, sentences and indements, issue commitments.

- COMMON LAW The unwritten law of a country based on custom, usage, and judicial decisions, now largely codified
- CONCURRENT JURISDICTION When two courts have the power to determine the same issues.
- CONTEMPT CITATION —A finding by the court that someone under its authority has willfully and without justification violated its order (e.g. Connie Trimble was cited for contempt for refusing to obey the court's order to identify the conscirator known to her).
- CONTRACT An agreement between people, groups, companies, governments or any combination of these.
- COURT COMMISSIONER An elected official in the county for a four year term (except Hennepin and St. Louis Counties with none and Ramsey County with an appointed one); he has the judicial power of a judge of district court in chambers (issuing writs of habeas corpus, taking acknowledgments, performing marriages). Remedy of any court commissioner order is application to the district court to vacate.
- COURT OF FIRST INSTANCE A court in which a case must originally be brought, usually a trial court.
- COURT OF RECORD A court which keeps a written record of the contents of its proceedings. The testimony is recorded and preserved. (e.g. District Court, Municipal Court, Probate Court).
- COURT TERM A division of the year during which the court holds its sessions,
- DE NOVO Case retried completely with record of previous trial in-admissable.
- DEFENDANT A person who is being sued in a civil action or is prosecuted in a criminal action.
- DIVERSITY OF JURISDICTION Authority to hear and decide cases which involve citizens of different states.
- EN BANC Judges sitting together to hear a case and jointly issuing a decision or opinion.
- FELONY Serious crimes including murder, theft, kidnapping, arson, sale of narcotics, burglary, etc. which are more serious than misdemeanors and which are punishable by death, imprisonment for more than a year and/or heavy fines.
- FIRST IMPRESSION Situation faced by a court in which prior decisions by higher courts do not cover the facts at hand.
- FOREMAN Juror who acts as spokesman.
- GARNISHMENT—The employer of the defendant is placed under a legal obligation to deduct a small percentage of the defendant's salary from each paycheck and pay it to the court officer who will in turn pay it to the plaintiff. The amount that can be garnished is usually, although not always, controlled by state statute.
- GOVERNOR'S COMMISSION ON CRIME PREVENTION AND CONTROL— A group of 29 people appointed by the Governor for indeterminate terms who formulate an annual plan for the prevention and control of crime. Assisted by a professional staff of 30, they funnel federal grants to local governmental units and set rongram priorities.
- GROSS MISDEMEANOR A crime for which the offender may be sentenced to imprisonment of more than thirty days but less than a year.
- HABEAS CORPUS Literally, "you have the body," it is the name given a variety of writs whose object it is to bring a person before a court or judge so that court may determine if such person has been denied his liberty without due process of law.

- HEARSAY EVIDENCE Evidence which is not admissible in court if the person quoted is not present to be cross-examined.
- INDICTMENT A formal, written accusation made by a grand jury to the court charging a person with having committed a crime.
- IN DIVISION A situation in which some but not all of the justices of a court sit with the power to render a binding decision. En banc means the entire court sits. Generally a court will be convened en banc only in particularly important cases where all the instices wish to take part in the decision.
- INJUNCTION Judicial order requiring the person or persons to whom it is directed not to do a particular thing.
- JUDICIAL ADMINISTRATION The organization and procedure of the judi-
- JUDICIAL STANDARDS COMMISSION Established in 1971, this group of nine recommends discipline and removal of judges; two lawyers appointed by the Bar Association; one District Judge, one Municipal Judge and one Probate Judge appointed by their respective associations; and four lay people appointed by the Governor. A proposed Constitutional Amendment in November will make this commission applicable to all judges in Minnesota. It now only pertains to county, probate and municipal courts.
- JUDICIARY The branch of government which has judicial power. Also, the name for all the courts of a jurisdiction taken collectively.
- JURISDICTION The authority of a court to exercise its judicial power in a
- JURISPRUDENCE The science or philosophy of law.
- JURY COMMISSION Selects names from voter lists for grand jury and petit jury duty in all counties of the state except Hennepin, Ramwey and St. Louis. Each jury commission is composed of the Clerk of the District Court of the county who also serves as chairman, the Chairman of the County Board, and a county resident appointed to an indefinite term by the chief judge of the indicial district.
- LAW Body of rules or principles, prescribed by authority or established by custom, which a society recognizes as binding on its members.
- LAW CLERK—A judge's only personal assistant (usually a recent honor graduate of law school) who researches the law of the cases which the judge must decide and discusses legal points with the judge.
- LEGAL AID SOCIETY—A federally-funded professional corporation that exists to provide certain legal services to the indigent residents of that county. No-fee-generating cases are accepted, nor criminal cases (they go to the public defender). Careful guidelines govern the salary and number of defendants a client can have. Legal Aid provides services at the trial level and at the appealate level.
- LEGATEE A named beneficiary in a will.
- LEGISLATIVE COURT OR STATUTORY COURT A court created by the legislature pursuant to constitutional power.
- LIEN Claim on specific property of another for satisfaction of debt or charge.
- LITIGATION Suing in court for the purpose of enforcing right.
- LOCAL COURT A court whose jurisdiction is limited as to a specific place.
- MANDAMUS Judicial order requiring the person or persons to whom it is directed to do a particular thing.
- MISDEMEANORS Less serious crimes such as speeding and breach of peace which are punishable by small fines and short jail sentences.
- MIS-TRIAL An erroneous or invalid trial; a trial which cannot stand in law be-

- cause of lack of jurisdiction, wrong drawing of jurors, or disregard of some other fundamental requisits
- OFFICERS OF THE COURT Lawyers, police officers and those paid to work for the court.
- OPEN PLEA NEGOTIATIONS (plea bargaining) A process in which the defendant attempts to minimize his punishment by agreeing to plead guilty in return for the prosecution's agreeing either to reduce the charge or to request a lighter sentence.
- ORIGINAL JURISDICTION The authority of a court to hear cases of the first instance as opposed to appellate jurisdiction.
- PAROLE Suspension of part of the sentence for good behavior. Conditions can be imposed on the paroled convict; if he does not live up to the conditions, he can be returned to jail for the remainder of his term.
- PEREMPTORY CHALLENGES Lawyers for the defendant and the plaintiff each can arbitrarily reject a given number of potential jurors for any reason who are only the control of the control
- PETITION An application to a court.
- PLAINTIFF A person who brings a law suit in law or equity.
- PLEADINGS Successive statements by which litigants set forth the allegations upon which they base their own claims or challenge the claims of their opponents.
- PRELIMINARY HEARING A routine procedure held for information before but not after an indictment. The purpose of the hearing is for the judge to determine (1) whether or not an offense has been committed, and (2) whether or not there is reason enough (probable cause) to believe the defendant committed the offense. During the hearing, both sides are presented, cross-examination may be held, and the defendant may attack the sufficiency of the complaint. The preliminary hearing is a routine formality held with lesser crimes unless the right according to statute is waived. The usual result in a municipal court is that the defendant is bound over to district court for arraignment and could be a sufficiency of the complaint of the court is that the defendant is bound over to district court for arraignment and could be a sufficiency of the committee of the court of the
- PRE-SENTENCE INVESTIGATION Often follows a conviction in felony (except for first degree murder and treason) or gross misdemenor cases and is mandatory when the defendant is under 21 at time of arrest and has been found guilty of a felony or gross misdemeanor. The investigation is conducted by the probation officers. The written report directed to the court concerns the individual's characteristics, needs, circumstances and social history and, if so desired, may indicate possibilities for potential rehabilitation. All law enforcement officers must cooperate in providing necessary records. The result of the investigation is open to court officials, which include the Commissioner of Corrections, the two attorneys, and the judge. Either attorney may make a summary hearing on any matter not in agreement.
- PRE-TRIAL PROCEDURE A device which consists of conferences between the attorneys for the parties to a law soit and a judge of the court. The chief purpose of this is to prepare the case for an effective trial by formulating the issues and stating them in a pre trial order which then, in effect, becomes the chart for the trial.
- QUO WARRANTO A legal proceeding by which the government commences an action to recover an office, franchise or privilege from the person or corporation in possession of it.
- RECEIVER A neutral party who directs the affairs of a company or estate in litigation.
- REFEREE A man appointed by a judge and approved by the full bench who aids

and assists a judge in the preliminary review of a case, Family court referees, for example, can hear default divorces.

REPORTER - A trained and skilled lawyer responsible for the publication of all the opinions and decisions of the court.

- RESTORATION TO CAPACITY Procedure under the Minnsota Commitment Act of 1967, for restoring to a mentally ill, mentally deficient or inebriated person the power to exercise his citizenship and handle his own personal and financial affairs. This proceeding may be initiated by an interested person, is under the jurisdiction of the Court of Commitment or a court to which it has been adiodicated, and requires a court order.
- RESTORATION TO CAPACITY (Guardianship) Ruling by the Probate Court that a person formerly adjudged incompetent to manage his own affairs is now capable of doing so.
- RULE-MAKING Power to make rules pertaining to the administration of the courts; practice, procedures, and evidence in the courts.
- STATE COURT ADMINISTRATOR (Formerly Administrative Assistant to Superme Court) Assists the Chief Justice of the Superme Court in supervising and coordinating the work of the district courts, collects and compiles statistics and data on the courts, and makes recommendations to the Chief Justice regarding the assignment of judges, and budget estimates for the Supreme Court, etc.

  The Administrator also works with the houses of the state legislature serving as a source of information for the legislature and lobbies for and recommends legislation for the improvement of the judicial system.
- STATUTE OF LIMITATIONS Time period within which a law suit may be brought.
- STATUTORY SUITS Suits brought because someone claims a right conferred on him by a statute such as suits instituted to challenge the actions of corporations. to recover money unreasonably charged by "common carriers" such as railroads, to secure divorces or to recover from a union which breached its duty of "fair representation" of its members.
- SUMMARY JUDGMENT Decision made by judge in disputes of law only without sending the case to trial.
- SUMMONS Authoritative notice to appear before a court.
- SURROGATE A judicial officer having jurisdiction over the probate of wills, the administration of estates, etc.
- THE AMERICAN JUDICATURE SOCIETY The Society aims to "promote the efficient administration of justice and its improvement." With 47,000 members in the U.S. and abroad, it promotes reforms by publishing a Journal, sponsoring meetings, seminars and consultations. Early reforms sponsored include the pre-trial conference and the judicial council.
- THE VERA INSTITUTE OF JUSTICE The Institute, founded in 1961, by a chemical engineer and an industrialist, exists to further equal protection of the law for the indigent – mainly by examining the criminal justice system, proposing improvements and publicizing them.
- TORT Any wrongful injury either committed intentionally or through carelessness. Usually two courses of action are possible. A civil suit can be brought to recover damage to property or to a person; the state can bring a criminal suit to prosecute the wrongdoer for breaking the law. Any civil (as opposed to criminal) wrong committed either intentionally or through negligence, although some actions can constitute both a tort and a crime. Not every act which is a tort is a crime.
- WRIT Formal order under seal, issued in name of the court or other legal authority, directing a public officer or private person to do or refrain from doing some specified act.

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LEAGUE OF WOMEN VOTERS OF MINNESOTA 555 WABASHA STREET SAINT PAUL, MINNESOTA 55102

September 1972

The League of Women Voters of Minnesota

JUDICIARY

January 1972

## "DAY IN THE SUPREME COURT"

February 10, 1972 March 2, 1972

Arrangements have been made to observe the oral arguments of cases in the Minnesota Supreme Court on February 10 and March 2. The size of the court will permit only twenty Leaguers to observe the proceedings at one time.

The volume of interest in response to our previous "Day in the Supreme Court" activities indicates that prompt response to this announcement is important if your League is to be represented. A maximum of two reservations from each local League will assure statewide participation.

On each "Day in the Supreme Court" there will be cars leaving from the state office at 9:00 a.m.. (Or you may prefer to provide your own transportation and meet the group outside the courtroom before 9:15 a.m..) Luncheon and discussion of Supreme Court procedures will follow the observation - details to be announced later.

Send the reservation form (see below) and a check for \$3.75 per person (for registration and luncheon) to the state office and indicate if you will need transportation from the office to the courtroom. Early registration is suggested since space is limited and to allow time necessary to send each person attending a summary of the cases being argued.

Reservations will be accepted in order of receipt. Because of the limits placed by seating capacity of the court, these and future observation days will not be open to Leaguers who have previously participated.

# "DAY IN THE SUPREME COURT" RESERVATION FORM Please make \_\_\_\_ reservations for \_\_\_\_\_\_ (name of League) for (circle date selected) February 10 or March 2, 1972 at \$3.75 each, total \$\_\_\_\_\_ (check enclosed). Please mail confirmations and summary of cases to: (state name, address and zip code of Leaguers who will be attending) Date:\_\_\_\_\_\_ Signed\_\_\_\_\_

#### JUDICIARY STUDY COMMITTEE GUIDE III

### FILE COPY

The League of Women Voters of Minnesota

August, 1972
Pm - P
MEMO TO: Local Leagues

FROM: Rita Kaplan, State Judiciary Study Chairman

Now is the time to put it all together --- observations, interviews, structure and procedures. Your firsthand experience in observing and interviewing provides a framework to relate the individual in the justice system to the more technical aspects of structure and procedure.

The discussion guide to the publication will aid judiciary resource committees in planning unit meetings. In addition, this Committee Guide suggests a timetable for work as well as a list of the basic resources and references on possible reforms. The dictionary and bibliography in Committee Guide I and in the publication are additional tools.

Resource committees are encouraged to look for and use other resources to supplement what is included here. Certain information desirable to augment your League's understanding of the judiciary is more readily available within your own town or county than from the state office. Below is a list of the State Judiciary Study Committee. You may wish to contact committee members for assistance or to share information and ideas.

Ginger Zimmerman, 764 - 9th Ave., NW, New Brighton 55112 - (612) 633-9699 Joan Growe, 16836 Canterbury Dr., Minnetonka 55343 - (612) 938-7192 Kirky Otto, 2801 Colorado, St. Louis Park 55416 - (612) 929-2474 Peggy Gross, 5416 Queen Ave., S., Minneapolis 55410 - (612) 926-9087 Georgiann Errigo, 900 Lincoln, St. Paul 55105 - (612) 225-3510 Annette Whiting, 622 East School, Owatonna 55060 - (507) 451-2806 Vivian Mason, 2711 Burnham Blvd., Minneapolis 55416 - (612) 377-5238 Dot Lilja, 2017 Girard Ave., S., Minneapolis 55405 - (612) 374-5475 Flora Shinkle, 340 Allan Ave., Mankato 56001 - (507) 388-4089 Mary Ann McCoy, 2312 Lake Pl., Minneapolis 55405 - (612) 377-4793 - Ex Officio Shirley Amundson, 7 Lily Pond Rd., St. Paul 55110 - (612) 484-0987- Ex Officio Rosemary Rockenbach, 825 W. Idaho, St. Paul 55117 - (612) 488-1810- Ex Officio

#### to the coveresciples as per OUTLOOK FOR WORK page dame.

- Local League meeting for discussion of information in state publication, Minnesota Judiciary: Structure and Procedures is Compatite Chide June 818 a rimetable for work as well as a list of the basic resources and performances.
- II. State League Workshop on Judiciary for all members October 9, 1972.
- and in the publication are additional tools III. Unit meetings to reach consensus. Local League Consensus Reports due in state office by March 1, 1973. The look for and use other resources

of the Grant San telany "Swip well made to see Yup and which to consume to be

inger Schorner 164 - the Ass., NY, New Drinkrow of 187 - (612) 6 35-1 9

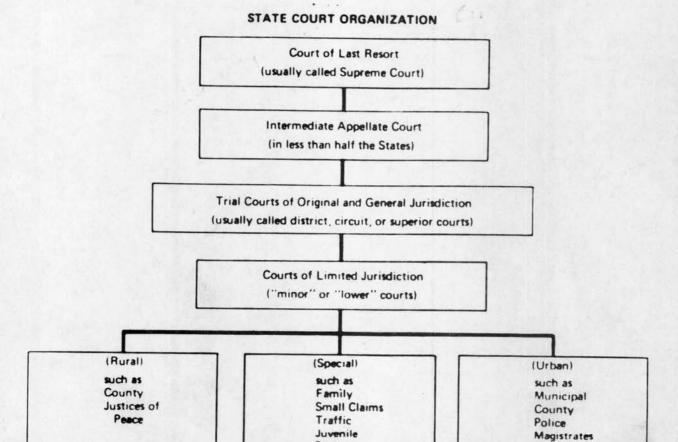
- IV. Plan for state Program in this item for 1973-1975. First round suggestions due in state office February 1, 1973.
- V. mt. Action assistance of the sage internation and inte

LOCAL RESOURCE COMMITTEE RESEARCH Use this guide to research and develop understanding of all aspects of reforms identified as being considered within Court Reform movement. This is vital to adequately help members prepare to reach consensus. THE STATE LEAGUE'S JUDICIARY PUBLICATION - a key resource oioAldescussion guide is being prepared to assist local resource committees in covering the material in the publication in an organized and complete manner. A meeting to share and discuss the information in the publication with members is necessary. There are different options for such meetings: unit meeting general membership meeting (invite public) locally organized workshop (invite public) LIMITATIONS IN THE SCOPE OF THE JUDICIARY STUDY 1900 Method of financing the courts in Minnesota was not included in item 2. Structure and procedures may vary with practice in your area (only -you can make that observation from the local scene) 3. A study which focuses on a state-wide picture and/or description of structure and procedures may miss local variances which are 99 perhaps unique Broad scope of the item necessitated limiting research to most essential aspects of the judiciary: a. This may produce more general consensus rather than detailed, narrowed positions. b. Local Leagues may obtain insights needed to make relevant choices in state program at the 1973 convention. DEVELOPING CRITERIA TO USE IN CONSIDERING REFORMS In order to effectively evaluate the judiciary, all Leagues should have similar criteria in reaching positions for consensus. Concerns of the public and press about justice are peaking; therefore, objective analysis and evaluation of the judiciary will provide a much needed and timely public discussion of the courts and their ability to serve both the people who go through them and the people who rely on them for the protection of society. According to the original direction at the 1971 State Convention for this item, the criteria we should use in evaluating the judiciary are: 1) What do we have now? 2) How well does it work? 3) What changes, if any, would you make to improve the quality of justice for the individual? Use of the above criteria provides all Leagues with a framework for considering proposals for change. REACHING CONSENSUS Refer to your Local League Handbook, pp. 32-33, for a review of League approach and definition of consensus. Local members prepare to reach consensus by:

Within each of these categories there can be significant variations. Minnesota uses the fifth category as its method for selecting judges. Refer to Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System, August 1971, available through ACIR office in Washington, D.C., and Selected Readings: Judicial Selection and Tenure, American Judicature Society, 1155 E. 60th St., Chicago 60637. UNIFIED COURT SYSTEM Although all of the American states have hierarchical court systems, there is considerable variety among them. Some states have a great number of different kinds of courts specializing in different kinds of cases. Others have courts which are general in jurisdiction and have divisions for the handling of special kinds of cases. States also differ considerably in the degree to which they are unified financially and administratively. In a few states all state court expenses are included in the total state budget passed by the legislature. The supreme court may have considerable rule-making authority and authority to assign judges in these states. In other states, however, only the highest level courts are funded on a state-wide basis; municipal and county courts are completely dependent financially on the cities and counties. Currently, there is a trend in most states toward greater unification of the courts. The recent 1971 County Court Act in Minnesota and the greater authority given to the Minnesota Supreme Court in recent years to regulate practice and procedure in all courts and to transfer judges among various districts are indicative of this trend. It is interesting to note that a recent Minnesota district judges' meeting in Rochester opposed the integrated court suggested for the new judicial article to the Minnesota Constitution. Judge Harvey Holtan of Windom reported that on a straw vote the judges present voted 28 to 8 against an integrated court. He said that most district judges believe they are most effective in their present jobs and would feel "threatened" under the proposed plan since they might be transferred to another branch where they would be neither as interested or as competent. JUVENILE STATUS OFFENSES There has been considerable discussion among juvenile justice experts in the past few years concerning the advisability of institutionalizing juveniles who have committed an offense which would not be considered illegal if they were adults (i.e. incorrigibility, truancy, curfew violation, liquor law violations, absenting from home). The above offenses are commonly called "juvenile status offenses". were a second of the man of the man were an elegano quisa de more year of and the same Statistics for state institutions show that 35% of all Minnesota juvenile court petitions for boys in 1970 and 63% of all petitions for girls were for juvenile status offenses. In total 40.5% of all petitions in juvenile court in Minnesota in 1970 were for juvenile status offenses. Of all juveniles who were institutionalized in state correctional facilities as of June 30, 1970, 280 or 37.8% were there because of juvenile status offenses. 4110 00 Because juvenile status offenses are often a symptom of a child in conflict with his environment, treatment within his own community, including help for the family, if possible, is preferred by most juvenile court officials rather than institutionalization. However, problems arise because

1. having the basic information (the publication, court observations, 2. discussing the judiciary as it is. 3. discussing proposals for change - pro and con. The consensus questions will be available in September, and local Resource Committees will be able to identify the scope of the material they need to prepare for their Leagues. Consensus reports from each League are due in the state office March 1, 1973. Here is some BASIC COMMITTEE RESOURCE MATERIAL - send for it NOW! Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System. Washington, D.C., August, 1971. President's Commission on Law Enforcement and Administration of Justice. Task Force Report: the Courts. U.S. Government Printing Office, Washington, D.C., 1967. Winters, Glenn R., Ed., Selected Readings: Judicial Selection and Tenure. American Judicature Society, Chicago, 1967. (Optional) MATERIAL INCLUDED IN THIS MAILING Two articles from Winona DAILY NEWS - "An exercise in frustration -Court Reform in Minnesota" and "Why have a unified system?" Article from St. Paul PIONEER PRESS - "Improved Court System A Must." Publications from the American Judicature Society: The Rule of Law and the Administration of Justice by Henry R. Luce. The National Movement to Improve the Administration of Justice by Glenn R. Winters. A Comparative Study of the Commission Plan for the Retirement, Discipline, and Removal of Judges by Byron D. Daynes Selection and Tenure of Judges by Glenn R. Winters. The California Commission Story: Retirement, Discipline and Removal of Judges by Louis H. Burke. Is That Judge Fit to Sit? by Paul Friggens. BACKGROUND INFORMATION ON COURT REFORM Refer to the "Trends in Reform" section in the publication. SELECTION OF JUDGES The method for selecting judges varies throughout the 50 states and has changed from time to time. Changes have been sought for differing reasons; however, the most impelling reasons seem to have been the desire of people to have a greater degree of control over an aspect of their government or the widespread belief that a particular method would produce a higher caliber of judge. Methods of selecting judges fall into five categories: 1. Appointment by the legislature. 2. Appointment by the chief executive with or without confirmation by a council, commission or legislative body. 3. Nonpartisan appointive-elective system ("merit retention plan"). 4. Partisan nomination and/or election. 5. Nonpartisan nomination and/or election.

of the lack of services in many communities. There are no foster homes, group homes, family counseling services, etc. Therefore, juvenile court judges often have the choice of sending the child back to the same problems which caused his difficulties in the first place or to an institution, often far away from his home. Community support is essentially needed to provide more resources. A few people concerned about youth would like to see juvenile status offenders removed from juvenile court entirely; referring such cases to an outside agency, such as a Youth Service Bureau for assistance thereby preventing a child from having a juvenile court record and the resulting stigma. Juvenile court appearances would be used only as a final action when all other resources have failed. Another problem of the juvenile court is the indeterminate sentence. A child who has admitted to an act on a petition is ordered to a treatment program, (i.e. probation, counseling, a county or state institution) subject to review at least annually by the ordering judge. If, in the opinion of the judge with a recommendation by the person in charge of the treatment program, a child has made progress, the program is ended and the child released from juvenile court jurisdiction. However, if either the court or the person in charge of the treatment program feels that no or little progress has been made, the order is continued. A child is under jurisdiction of juvenile court until the age of 21. Most children are referred to court between the ages of 15-17. Therefore, it is possible to remain under juvenile court jurisdiction for many years for perhaps a minor violation. This situation does not occur in adult court where a specific time limit is placed at the time of sentencing. In your community, what is the length of time a child is under juvenile court jurisdiction? What are the common offenses for which he is arraigned? What resources are available to help the child and his family?



Source ACIR staff

Probate

# Improved Court System a

Must

By J. C. Wolfe Staff Writer

Changes in the American justice system come about so slowly and almost imperceptibly to the layman that any attempt to predict them nearly 15 years in advance poses a high de-

gree of risk.

Nonetheless, movements aimed at relieving congested court calendars, bettering our criminal justice pattern and improving the judicial selection and tenure systems, along with

One thing regarded as certain is the advent of no-fault insurance which should substantially reduce the mass of auto negligence cases that now flood court

calendars.

It also is probable that many other matters—uncontested divorce cases, domestic relations problems, routine settlement of small estates, real estate transactions and simple tax matters—will be removed from court calen-

legal assistance programs which already are busy in the "class action" field.

Helping to meet the calendar problems will be the use of a computer system that avoids conflicts which now occur by having the same lawyer scheduled in two different courts at the same time. The entire court system of the Twin Cities metropolitan area may be handled through a sin-

I - ---- ton cotion that

properly performing their duties are removed from office.

Minnesota already has adopted a six-man jury system for trial of civil cases and it is entirely possible that this plan may be extended to cover criminal cases within a few years, thus completely eliminating

the 12-man juries.

As a further speedup in trial handling, the selection of the jurors may be left almost en-



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# FILE COPY

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

To: Judiciary Chairman

From: Rita Kaplan, State Chairman, Judiciary

Subject: Errata for Committee Guide

Date: September 1971

Page 4 - Reference for all footnotes on page is Legislative Manual, Minnesota, 1969-1970, Published by The State of Minnesota at St. Paul, pp.253-57.

Page 11 - Chapter 497 - amount in next to last line should be \$15,000.

Page 12 - Explanation of S.F. 266, County Court Act, is incomplete.

The complete explanation is enclosed and can be attached
to the guide for easy reference.

Tear out page 23 and 24 and replace with enclosed pages numbered 23, 24, and 24a.

In Judicial Dictionary page 35, delete probate court definition.
Use definition on page 37.

Copies of all forms illustrated are available from state office without charge. Please order number of each form required by your League.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

To: Judiciary Chairman

From: Rita Kaplan, State Judiciary Chairman

Subject: Judiciary Committee Guide

Date: September 1971

Here it is --- and on time!!

The map of the Minnesota Judicial districts prepared by the Attorney General's office will not be available until next month and will be sent as soon as it becomes available.

The committee guide looks formidable with interleague cooperation and active help and participation by your state committee, it can be done.

Do let us know how your organizing goes.

Additional copies of the March VOTER on Judiciary can be made available to you. It would be nice to send one to those you interview, see info from, etc. Notify us by February 1, how many extra copies you wish. League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
August 1971

Chap. 951 - S.F. #266 - County Court Act. The Act provides for the creation of county courts to replace the municipal and probate courts. All counties in the state are included except the counties of Hennepin, Ramsey and St. Louis. It establishes multiple county court districts whenever the population or caseload is not enough to sustain a full-time judge. The multiple county districts always contain adjacent counties and never exceed three counties in number. The law provides that the combined counties may separate into single county courts or combine with other counties into a larger district if both county boards so agree. Each county court is assigned at least one judge with the county court having the authority to increase or reduce the number of judges. Probate judges in office on the effective date of the bill become the county court judges. In counties which are combined into districts, the probate judge of the county having the larger population is the county court judge. Probate judges who are not designated as county court judges continue in office as part-time judicial officers until their

term expires. County court judges are full-time judges and receive a salary of \$24,000 per year.

JUDICIARY

The League of Women Voters of Minnesota

# LEAGUE OF WOMEN VOTERS OF MINNESOTA "DAY IN THE SUPREME COURT"

### SEPTEMBER 20, 1971

Arrangements have been made to observe the oral arguments of two cases in the Minnesota Supreme Court. The size of the court will permit only twenty Leaguers to observe the proceedings at one time. A maximum of two reservations from each local League will assure statewide participation. We are aware that September 20 is Rosh Hashonnah and some Leaguers will be unable to participate. There will be other opportunities for observing the Supreme Court this year. If the volume of interest in this type of observation indicates need for more days than currently planned, we shall attempt to provide as many opportunities as possible throughout the duration of the study.

On September 20, there will be cars leaving from the state office promptly at 9:00 a.m. (or you may prefer to provide your own transportation and meet the group outside the courtroom before 9:15 a.m.). After the session we will adjourn to the Macalester College Alumni House, Lincoln at Cambridge, St. Paul, for lunch. The Solicitor General of the State of Minnesota, John M. Mason, will join us there to discuss Supreme Court procedures and to answer some of our questions.

Send a check for \$3.75 for the luncheon with your reservation by September 10 to the state office and indicate if you will require transportation. Reservations by the 10th will allow the time necessary to send each person attending, a summary of the cases being argued. This summary of facts will help you to follow the arguments. Reservations will be accepted in order of receipt. Because of the limits placed by the seating capacity of the court, future observation days will not be open to Leaguers who have previously participated.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971 Letter to be sent to clerks of courts or any comparable officer which you will be observing. Hopefully, it will pave the way for cooperation and allay any anxieties which the court personnel may have about our presence in the court. LWV Main St., , Minnesota Clerk of Dear Sir: The Leagues of Women Voters of Minnesota will be studying the Judiciary during the next two years. We are aware of the importance for our citizens to have a better understanding of our courts. court. It is our We plan to observe feeling that we can gain greater insight by a first-hand view of the courts. We would welcome any suggestions that you have which could aid us in our observation. Thank you. Very truly yours, , President , Chairman Judiciary Study - 24 -

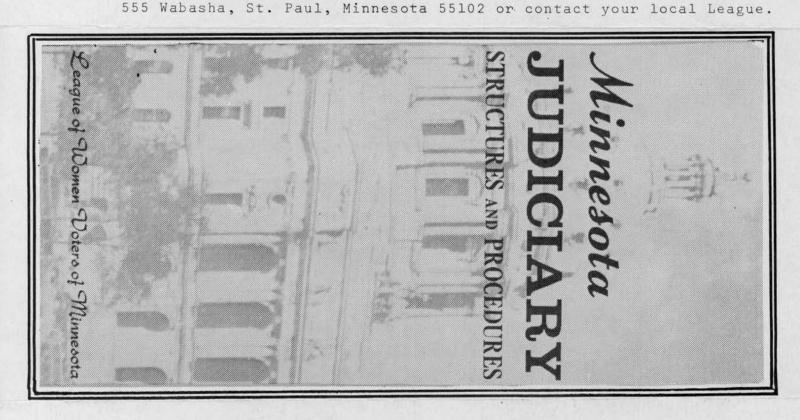
League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971

# Compiling and Reporting

After completing your observations of the courts, you will need to pull together the information requested on the report forms (enclosed in this Guide). Additional forms may be ordered free from the state office. These standardized forms will insure maximum consistency throughout the state in observing, interviewing and compiling. Two copies of each report are to be sent to the state office along with all the observation cards that have been filled out.

A preliminary report on the observations statewide should be available at the time of the State Council Meeting April, 1972.

Jse this form to order your co Procedures.	opies of MINNESOTA JUDICIAR	Y: Structures and
Please send me copies of	MINNESOTA JUDICIARY: Struc @\$1.35 each (Quantity rate	
Total amoun't enclosed \$  Name	individuals and non-exempt organizations add 4% sales	
Title and Organization		
Address		
City	State	_Zip
Mail to: League of Women Vote	rs of Minnesota	



League of Women Voters of Minnesota 555 Wabasha St. Paul, Minnesota 55102 "The daily decisions made by our courts and the procedural practices they maintain have a major impact on the structure of society."

William H. Flanigan Professor of Political Science University of Minnesota

In Sept. 1971, the members of the LWV of Minn. began a study of the state judiciary. The purpose of the LWV is to promote political responsibility through the informed and active participation of citizens in government.

Judge Herome Frank stated in COURT ON TRIAL: MYTH and REALITY in AMERICAN JUSTICE that courts belong to the citizens and they therefore should become more qualified to differentiate "between inherent, ineradicable difficulties in administration of justice and those which are eradicable and should be eliminated." As a meaningful first step toward that goal, the LWV of Minnesota presents a new publication,

MINNESOTA JUDICIARY: STRUCTURES and PROCEDURES

MINNESOTA JUDICIARY: STRUCTURES and PROCEDURES includes the following topics:

Organization and Structure of State Court Systems

### THE MINNESOTA JUDICIARY

Lower Level Courts of
 Minnesota
 County Courts
 Conciliation Courts
 Traffic and Ordinance
 Violation Bureaus
 Justice of Peace Courts
 Municipal Courts

- . Specialized Courts

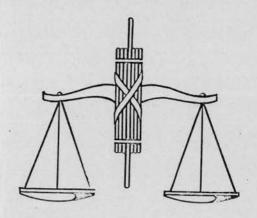
  Probate

  Juvenile
  - Family
- . District Court
- . Supreme Court
- . Court Personnel

### PROCEDURES and PRACTICES

- . The Adversary System
- . The Prosecution and Defense
- . Bail and Pretrial Detention
- . Juries
- . Plea Bargaining
- . Sentencing
- . Probation

### TRENDS IN COURT REFORM



### READERS COMMENT

"I found this to be very succinct and informative as one would expect from the League of Women Voters."

Thomas Tinkham, Attorney

"...excellent reading for a lay person...only publication of its kind."

The Honorable Jonathon Lebedoff Judge, Hennepin County Municipal Court

555 WABASHA ST. PAUL MINNESOTA 55102 TEL (612) 224-5445

JUDICIARY AID FOR CONSENSUS

# FILE COPY

The League of Women Voters of Minnesota

September, 1972 Pm - T

## AN AID FOR LEADING CONSENSUS UNIT

This sheet is an aid for Leaguers conducting the consensus reaching meeting (also see Committee Guide III pp. 2 & 3). There are many questions included in the consensus; however, there was an effort to write them clearly and concisely so that time would not be spent on deciding what each question means but would be spent answering. At consensus time you already will be familiar with the material in the publication. Listed below are further points for discussion in some of the questions to make consensus reaching more meaningful for your League:

Section I
question 4. changes to consider expanded administrative staff;
judicial administrators for each court; streamline
probate procedure; state-wide planning and coordination of resources affecting the judicial system

Section II
question 1. identify the "good risks" through presentence investigations, interviews; release more defendants on
personal recognizance (RPR) when so identified; establish a deposit system through the courts in lieu
of bail (ex. Illinois 10% plan); institute a simple
procedure for releasing persons charged with minor
infractions

- goals such as rehabilitation, punishment, deterrence, protection of society, etc; alternatives -- e.g. PORT program of Rochester, Operation de Novo
- 4. mechanisms such as a panel of district judges, a special court to review sentences, or legislation assigning sentence review to supreme court

Section IV
question 1. additional staff in terms of full-time vs. parttime; coordinate a county or district prosecution

- additional staff for areas not in system; for more investigative work
- expand public defender system; expand legal aid (funded federally and by private agencies)

Section VI
question 6 records needed for appeal; records are public; records
for use of lawyers and scholars studying the court



The League of Women Voters of Minnesota

JUDICIARY DISCUSSION GUIDE

# FILE COPY

September, 1972

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This discussion guide is a tool to help you and your units to a provocative discussion of the judiciary, its structure and procedures. Throughout your discussion, try to make connections between what was observed in practice and what is required by law. This is very important. (For those who have not observed and for those who have a continuing interest, court observations can take place throughout the year.) Observations in each court of the state judiciary clearly focus on the individual, which is an aspect of this item. Use this firsthand experience in order to see the study of the constitution and statutory requirements of the judiciary as more than abstract facts but as related to practices and procedures.

ACTION OF THE PARTY OF THE PARTY.

The Outlook For Work suggests the following timetable:

- 1. Local League meeting for discussion of information in state publication, Minnesota Judiciary: Structures and Procedures. (See Committee Guide III for options for such a meeting.)
- 2. State League Workshop on Judiciary for all members October 9, 1972.
- 3. Unit meetings to reach consensus. Local League Consensus Reports due in state office by March 1, 1973.
- 4. Plan for state Program in this item for 1973-1975. First round suggestions due in state office February 1, 1973. of lind through the compatition
- Action.

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The following outline is a suggested discussion guide. Because it would be difficult to cover all the material at your local League meeting, you will want to adapt the guide to local practices and interests. Some of the factual information may be satisfactorily outlined and/or discussed in a local bulletin article to reserve meeting time for lively discussions of provocative questions.

Refer to Committee Guide III for suggestions for local research to supplement the material in the state publication.

If your League finds through this discussion that there are areas they feel are important for consideration in proposals for change, contact the state judiciary chairman or a member of the state committee promptly.

Rita Kaplan (Chrm) - 612-824-0283 Ginger Zimmerman - 612-633-9699 Dot Lilja - 612-374-5475 Joan Growe - 612-938-7192 Flora Shinkle - 507-388-4089 Kirky Otto - 612-929-2474 Mary Ann McCoy - 612-377-4793 Peggy Gross - 612-926-9087 Georgeanne Errigo - 612-225-3510 Rosemary Rockenbach - 612-488-1810 Annette Whiting - 507-451-2806

Vivian Mason - 612-377-5238 Shirley Amundson - 612-484-0987

- I. Organization of Courts
  - A. How are the courts organized?
  - Discuss the flow of cases within the hierarchy.
  - Compare the Minnesota state court organization with a unified court system. (See definition of unified court system in Trends in Reform in the publication.)
    - 1. What are the differences?
    - What do those differences mean to the administration of justice?
- II. Courts Briefly discuss each court relating your observations to what is in the publication. (See supplementary outline.)
  - A. What is the purpose of each court?

    B. How does each court function?
- or moduled excitouning a sen of yet , eclassish rang III. Civil and Criminal Cases from the growth with the control of the control of
  - A. What is the difference between civil and criminal cases?
    - B. What is the difference in final disposition?
  - IV. Judges Discuss the following topics:
    - A. Procedures for selection of judges
    - Training of judges include prerequisites and "on-the-job" training

indictory electly focus on the individual swiles to as espect of influence.

- C. Tenure
- Discipline and Removal Live 1997 of the property of the control of
- V. Practices and Procedures

  - A. Prosecution and Defense

    1. What is the role of each?
    - 2. Compare the adversary system, composed of prosecution and defense, with debating team.
  - 3. Discuss use of part-time versus full-time prosecutors and public defenders: 100 support famous , now mental and a profession ball

spare office by Early 1, 1992.

MINERAL STEEL COMMON THE RESIDENCE TO

- B. Bail
  - 1. What is the purpose of bail?
- 2. Does it meet that purpose? Why or why not?
  - 3. What alternatives to bail are there?
  - 4. Discuss factors which enter into the willingness to grant bail to the defendant.
  - C. Pretrial Detention
    - 1. What is the purpose of pretrial detention?
  - 2. Does it meet that purpose?
- D. Jury
- 1. Discuss the methods of jury selection. Are they equitable?
- 2. Is there still validity in the use of juries in civil cases?
  - 3. Discuss the role, size, and powers of the grand jury.

  - E. Sentencing

    1. What are the purposes of sentencing?
    - 2. Are these goals met? How or how not?
    - 3. What classifications of sentences are available?
    - 4. What is the role of plea bargaining? What questions does its use titiste with the tradition on agreetate overlather raise?
      - 5. Discuss sentence disparities. What alternatives are there?
    - F. Probation
      - 1. What is the purpose of probation?
      - 2. Discuss its use, its services during trial and after.
      - 3. Discuss innovative approaches being developed in this field.
  - VI. Trends in Reform Lively discussion on each. Discuss, in terms of observations and previous discussion, how they would affect the Minnesota

judiciary and how they would serve justice. Court organization and administration B. Court jurisdiction c. Judicial selection, tenure, discipline and removal Adversary system E. Court procedures State-wide community planning Supplementary Discussion Guide on Specific Courts Lower Level Courts I. County Court - Since this court is new here is the opportunity to be a watchdog. You have more detailed information available locally. What does the creation of this court do to the organization of Minnesota courts? a. streamline b. add divisions c. limit powers of justice of the peace d. permits supreme court only instance in which it may refuse appeal -- (If appealed to the district court, supreme court may deny hearing of case based on its merits.) How does the November Constitutional Amendment proposed affect 2. this court? Municipal Court В. 1. Position in hierarchy a. largest number of people go through this court b. first offenders usually here 2. Compare observations with publication description 3. What would a unified municipal court accomplish (such as exists in Hennepin County)? Would it facilitate administration, cut expenses, clarify functions, improve administration of justice? a. St. Louis County - scattered population; would sitting in divisions or different locations as district court does be meaningful? b. Ramsey County - metropolitan; is unification desirable or feasible? Conciliation Court - Does one exist in your county? Compare observations with material in the publication. Traffic and Ordinance Violation Bureau - Discuss local situation and practices. Justice of the Peace Courts - What local changes have resulted since the enactment of the County Court Act. II. Specialized Courts Probate Court - Discuss position in hierarchy and the areas of jurisdiction which apply to your county. 1. Estates and wills 2. Guardianships 3. Commitment Juvenile Court В. What position does this court have in the hierarchy of courts in your district? Compare observations to description in the publication and note differences. Do those differences promote or inhibit justice? Family Court Discuss the appropriateness of the adversary system here and its relationship to the delivery of justice. Compare this court to other courts observed considering general atmosphere, orderliness, court services available, court personnel present, etc.

### III. District Court

- A. Discuss its importance as a general trial court.
- B. Discuss the organization of the district court into ten districts.
- C. Second and Fourth Districts have divisions Discuss pros and cons of such arrangement and relationship to unified system.

### IV. Supreme Court

A. Discuss the areas of jurisdiction and powers of the supreme court.

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B. Discuss the procedures involved in appealing a case. What cases can be appealed?

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# Probation Officer Interviews

The following information is the result of interviews with officers . in nine county offices.

Professional background: Two officers in one office each had two years of college work with no degree; the educational background of three was unknown. The remainder all had B.A.s, mostly insceiology One officer also had an M.A. in psychology and had done doctorate work in criminology, one also had a Social Work Certificate and several fro . St. Paul had a M.S.W. or M.S. in sociology or criminology. At least one county employed additional aids who were currently working on a bachelor's degree.

In addition to previous experience intohe probationfield, prior experi ence included a year and a half as a teacher at the Red Wing Training School for Boys, Y.M.C.A. work, internships at Willow River Camp and in the Minneapolis Probation office, and as a case worker in Minneapolis and Willow River. One officer previously was a deputy sheriff.

II. Caseloads are given as totals for an office and as an average per officer when known. It is not always known whether caseloads refer to day, week, or month, but such information is given when known.

Totals Officers Average 28 state cases, 20% parolees & in insti. 275-300 . 5 55-60 30 previous two years - 100 20 female, 9 in state institutions 63 (past two years) 35-70 280-560 . 8 50-60 901day 30/day

III. Community Resources:

Treatment groups in schools Drop-in Centers Y.M.C.A. Environmental Learning Center Foster homes - 2 Big Brother-Big Sister Programs Mental Health Clinic - 2 Department of Welfare - Group homes - 3 State institutions (Freeborn County has highest institutional rate) Community and Family Services (Mankato-New Ulm) Minnesota Mental Health Vocational Rehabilitation Manpower - employment MDTA - (Manpower Training) Job Corps Southwest Minnesota Opportunity Council Clergy - limited degree

Community law enforcement
Department of Welfare - 2
School authorities and system
Good Shepherd Home for Girls
Totem Town for Boys
Catholic Welfare
Lutheran Social Services
One-to-one volunteer program
Civic groups to sponsor scouts, athletics, etc.

One county noted the lact of interest of the business community in providing employment for those on probation and parole.

IV. Percent of cases that are criminal only because offenders are juvenile 60% - 55% of total being illegal possession 14%

34%

95% - because few serious crimes

25-50% girls - 50% plus boys - 25%

20%

- ? one county had no statistics but said drinking was main problem. Number of offenses for drinking are decreasing because informality in handling cases-not totally concerned with problem.
- V. Suggestions and recommendations:
  - 1. Look at needs of offender instead of offense.

2. Give juvenile adult rights in court - use "beyond a resonable doubt" rather than a preponderance of evidence."

3. Need a change in community attitudes - understanding and willingness to spend time and effort aiding juvenile.

4. Defendant always represented by lawyer.

5. Tutoring program

6. Volunteer probation of ficer program.

7. Need to change laws to permit industry to go into prisons with jobs and hire parolees

8. Walk-in center staffed by volunteer personnel

9. "Crisis-Line" (telephone number for all to use when needed)

10. Increase involvement of probation officer with programs such as Big Brother, work programs, foster or group homes.

11. Establish a court services department

12. Screening of charges and defendants - increased handling of charges on an informal basis.

13. Educate the public regarding courts and procedures

14. Uniformity of laws (such as drinking age) from state to state.
15. Honesty of officials involved in court system.

16. Services of full-time psychologist.

17. Resources should use a positive approach.

18. Enlargement of professional staff.

19. Expand focus on child to include parents in counseling.

20. Increased community interest and involvement in probation programs and in youth.

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# COMPILATION OF INTERVIEWS JUDICIARY COMMITTEE GUIDE II

# FILE COPY

# "Core" Interview County, Probate Judges, Judicial Officer

2. Caseload: Too heavy? Yes...2 No...2
Too light? Yes...0 No...0

Does this detract from provision of justice for all?
Yes...l (Juveniles do not receive enough time if load is heavy)
No....2
No answer...3

Could your time be used more effectively in other geographic areas?
Yes...0
No....3
No answer...4

- 3. Do you have adequate supportive personnel? Yes....6 No....1
- 4. Are the facilities of your court adequate? Yes.... No....2

The difference in count here is because Judge Roberts reports his two counties differ. Douglas is adequate, Grant is not.

- 5. Do we need more flexibility in assigning judges where needed? Yes...1 No....6
- 6. Are salary, appointment, censure, and removal procedure adequate?
  Yes...3 -- Salaries No...1

Yes....0 -- Appointment, censure and removal procedures.
No....5 -- Should be reviewed

Merit System - Yes....3 No....1 No answer....2

- 7. At what age do you think there should be mandatory retirement of judges?

  Approximately 70

  Whole retirement system for judges needs revision.
- 8. What innovative procedures have you been able to establish in your court?
  - 1. Welfare agencies used for home study.
  - 2. Hazelton for the chemically dependent.
  - 3. Process of instruction for staff.
  - 4. Phoenix Plan of Safety Seminars.
  - 5. Conciliation Court.
  - 6. Improved court demeanor and conduct.
- 9. Would more cohesive state-wide planning for community resources aid you in instituting pre-trial diversionary methods and/or alternatives to sentencing? Yes....6 No....1
- 10. What problems do you see in our court system and what solutions or reforms would you propose?

- 1. Delay in trial
- 2. Administrative problems
- 3. Too heavy a load for District or County Court judge to adequately handle juvenile cases.
- 4. More probation or supervisory officers 4. Answer obvious.
- 5. District Court load too heavy\*
- 1. Reorganization will help
  - 2. Need central court house Reorganize divorce proceedings
  - 3. No answer for reform.

  - 5. Move to County Court Need a state-wide unified court system.
- \* Cannot explain why this was answered in this way as the judge interviewed was not a District judge.
- 11. In your role as judge and in observing prosecutors, public defenders and other attorneys, do you think law school curriculum should be modified to include more trial work? Yes....5 No...2

Suggestions: Intern program, better understanding of juvenile court for young lawyers, additional training for judges.

Supplementary Questions dealing with juveniles: (2 judges answered)

- Suggestions: 1. Use members of Mental Health Center
- 2. Group homes and group parents.
- 3. Schools with better facilities for helping the needy student (pre-delinquents).
  - 4. Need "child welfare" judges, not just area juvenile judges.
    - 5. Using law students too often leads to "fighting" the case rather than the welfare of the child.
    - 6. Award juveniles due process and constitutional rights.
  - 7. Better interpretation of the court and laws keeping in mind the concept of the welfare of the child. 8. Family Service Groups.

    - 9. More funds for supportive services and probation officers.

# "Core" Interview, of Judges where Juvenile Judge, is a District, County or Probate Judge

### II. Philosophy

B. F . . . .

- A. Purpose of the court in your opinion? F 1 700 1. Rehabilitation....3 Administration of justice....2 Juvenile needs rather than punishment....2
  - B. Methods in which you would hope to improve your court No comment.... Royal Oak of Michigan Plan.... (one to one) Full compliance of Minnesota law....l
- III. Have you been able to make any innovations within your court? Yes....2 No....1
- Counselling....2 Rehabilitation....2 Work Program....1

Have you been able to give any leadership to alleviate any of the IV. court associated problems? e.g. foster homes. Yes....2

Foster Homes, Group Home, Work Program with game warden.

- Does the handling of both family court and juvenile court present any V . conflicts? Are there ways to determine there will be no conflicts? No answer.... 2 -Both probate judges Yes....l -New county court judge Custody cases
- What suggestions for change and reform would you make in addition to VI. the things previously discussed:

  1. More assisting personnel for judges the things previously discussed?

  - 2. Permanent help, no moving judges
  - 3. Facilities for juvenile probation officers
  - 4. Furthering community help and understanding
  - 5. More formal, more adult court proceedings for juveniles.

# "Core" Interview District Judges

Too heavy? Yes....4 No....3 Adequate....2 2. Caseload: Too light? Yes.... No.... 7 About right.... 2

Does too heavy caseload detract from provision of justice for all? Yes....3 No...4 No answer....2

If caseload is too heavy, what can be done?

- 1. Four districts use the rotation system
- 2. Two maintain a full schedule
- 3. Appoint and use a Court Administrator
- 4. Most judges remain flexible and adjust time and schedules accordingly. (a flexible rotation system)
- Do you have adequate supportive personnel? Yes....4 No....3 Adequate....2

Suggestions for change:

- 1. Hire private secretary for judge (2)
- 2. Division of paper work (1) (Distribution of clerical work among participating law firms)
- 3. Use electronic equipment (1)
  - 4. Law clerks needed (3)
  - 5. Hire research assistant for court (1)
- 4. Are the facilities of your court adequate? Yes.... No....2 No answer...l
- Do we need more flexibility in assigning judges where needed? 5. Yes....0 No....7 No answer....2

Minnesota has a "built in" flexibility. Supreme Court may move judges whenever and wherever necessary. Privilege not often used.

Are salaries, appointment, censure, and removal procedures adequate? Salaries: Yes....5 No....3 No answer....1

Appointments: No comment....8 1-judge originally elected

Censure and removal procedures: Yes....3 No answer....l No suggestions for change....9

Merit System: Yes....3 No....1

Suggestions in place of Merit System:

- 1. Abolish appointments by elected officials -- 2
- 2. Missouri Plan
- 3. Judicial Commission (judges, lawyers, laymen) responsible to and appointed by Judiciary Department chooses judges.
- At what age do you think there should be mandatory retirement? 7.

70 years old -- 6

70 years old with option at 65 -- 1

No mandatory retirement -- 1
No answer -- 1

- What innovative procedures have you been able to establish in your 8. court? (District)
  - 1. Allocation of clerical work to law firms....3
  - 2. Revision of court calendar....3
  - 3. Established one-to-one system....1 One-to-one system is using citizens as advisors under the supervision of probation officials....l
    - 4. If offender is trying to avoid lawyer's fee by pleading indigency; offender must pay county attorney's fees .... ]
    - 5. Orientation classes for jury....3

    - 7. General questioning of jury panel....5

    - 8. Pre-trial conferences....2
      9. Pre-selection of jury....2
      10. Established longer working hours....l
- Would more cohesive state-wide planning for community resources aid you in instituting pre-trial diversionary methods and/or alternatives in sentencing? Yes....5 No....3 Adequate....1

Suggestions: 1. More and smaller correctional institutions

- 2. Increase in correctional institutions as: Half-way houses; post offenders rehabilitation training
- 3. Use homes for pre-trial probation -- no jail use.

10. What problems do you see in our court systems and what reforms or solutions do you propose?

Problems: No problems (3)

august styre in the

Inadequate supportive personnel (4)

Too involved a system (4)

Dangerous tendency to eliminate jury system (4) Volume of cases bring on scheduling problems (4)

Solutions: Secretaries. Too many judges have only court reporter More probation officers to be supervised by judges

Reinstate 12-man jury

Reinstate 12-man jury
Use doctors' reports on video tape

Addresses of all case participants on complaint

Use more modern methods and facilities (electronics)

Possible constitutional changes: An Intermediate Court of

Appeals (a court between District and Supreme)

11. In your role as a judge and in observing prosecutors, public defenders and other attorneys, do you think law school curriculum should be modified to include more trial work? Yes....3 No....6

Suggestions: 1. Apprencticeship with older lawyer (2)

2. More law schools (1)

3. No curriculum changes but each lawyer should know rudiments (2)

4. More important, there should be continuing education for judges, assistant judges and junior judges

# Additional Questions:

1. How long should a judge serve on Family Court? (9 judges answered)
No Family Court...4
No comment...3
Short periods....1

Suggestion: Keep a judge on Family Court for a very short period of time. It is too gruelling, emotional for a judge to do day after day.

2. Would you support the Uniform Marriage and Divorce Act?
Yes...5 Unfamiliar with act.... No answer....3

Suggestions: Uniformity should be on a national level. Very difficult to get national uniformity as some states are divorce mills and there is revenue involved.

a. Is the no-fault concept a progressive and appropriate step for which to strive? Yes....6 nationwide No....3

It is impossible to get two people to live together if they choose not to do so. Present divorce laws cause hypocritical statements and untruths.

- b. Do you think the proposals for maintenance, child support and assignment against wages would encourage continuity of payment?

  Yes...5 No...2 Unfamiliar with proposals...2
- 3. What percentage of your caseload involves personal injury as a result of auto accidents? Answers range from 20% to 70%

  Percentage average for 9 judges answering approx. 52%

- I set to sell on got a first seller

# Metro Judges (3 Hennepin - 5 Ramsey)

- 1. Background: Law School...8
- 2. Caseload: Not too heavy....3 Heavy....2

  Bring special judges in from outstate or retired judges....2
- 3. Do you have adequate supportive personnel?

  Yes...4 Desire law clerk for research....1

- 5. Do we need more flexibility in assigning judges where needed?

  Flexibility exists...6

  Likes specific judge assigned to juvenile and family as provides continuity and consistency
- 6. Are salary, appointment, censure, and removal procedure adequate?

  Selection method adequate...3 Salaries inadequate...2

  Censure and removal inadequate...2 (should be means of removing incompetent judge)

  Remove by election...1

  Merit Selection...1

  Who shall judge the judges...1
- 7. At what age do you think there should be mandatory retirement of judges?
  65-68...2 70...4 None...1 7-75....1
  Optional after 60....3 Pension improvement....2
- 8. What innovative procedures have you been able to establish in your court? Chief judge sets up changes not good communication with others on bench...l

  Use of video tape for expert witness testimony....l

  Set up office of administrator; cut jury costs; set up family court Need computer to schedule cases in metro area (so one lawyer won't be asked to be in 2 places)
- 9. Would more cohesive state-wide planning for community resources aid you in instituting pre-trial diversionary methods and/or alternatives in sentencing? No...2 Fine...1 Yes...2

  More community interest and involvement...2

  Unaware of need....1
- 10. What problems do you see in our court system and what solutions or reforms would you propose?

Volume of cases
Unavailability of M.D.'s
Scheduling
Arbitration of small claims
Procedural changes - omnibus hearing in lieu of pre trial
Uniform sentencing
P.R. improvement
Merit Selection
Unify Ramsey County municipal courts....2
More information in disposition stage
Sentence alternatives
Problem in family court

11. In your role as a judge and in observing prosecutors, public defenders and other attorneys, do you think law school curriculum should be modified to include more trial work?
More in school....3 Externship....l Fine as is....2

# Additional Questions:

1. How long a period should a judge serve on family court?

l year...3

Permanent appointment...1 Need consistency....1

(In 2nd and 4th Districts - what are your feelings re: special term judges hearing default divorces with no minors?)

Use referee...l Special term judges not used....l

- 2. Would you support the Uniform Marriage and Divorce Act?
- a. no-fault not familiar...2
  b. child support -...1 (too much time collecting)
- 3. What percentage of your caseload involves personal injury as a result of auto accidents? 50% 20-25%

Probate Court Interviews

(Committee Guide, State Item II, August, 1971 
JUDICIARY: Evaluation of

Structure and Procedures as they affect the individual)

- I. A. What % of your caseload is in transfer of decedent property 40 75% competency hearings 5 15% guardianship 5 15% juvenile 5 50%
  - B. What is yearly total of cases of the 15 answers the average was 1,001 (this included 3,882 from Hennepin Co.)
    - C. On which cases do you select the appraisers? Answers ranged from all (in many cases) to 1 where there is personal property only to 2 where real estate and personal property are involved. None where there is only cash or equivalent.
    - D. What is your opinion re: appraisers basing fee on size of estate?

      Generally felt it should be a mix of time involved and value of property, although some go strictly by time. One judge said fee should be based on the size of estate and % should be higher. Some felt fee should be on value but majority thought it should be a mix of the two elements. Small towns charged less than larger cities i.e. 2% in small towns 4 1/2 in larger towns.
  - E. Are executors of estates bonded? How is size of bond determined?
    What check is made on bonding company?
    Generally answers were yes, based on amount of property or value,
    whether real or personal property (that is how liquid the estate was,
    the more liquid, the more the bond). Some indicated they accept 2
    personal co-signers but the large majority said they accept any
    bonding company licensed to operate in Minnesota.
    - F. How long does it take to probate small estate -- large estate? Are there ways to shorten the length of time?

      Under \$15,000 often can use summary proceedings. For small estates, ranged from 3/4 months to 6/8 months (one felt small could be done in 30 days). Larger estates go 1 year or more, although after 18

greatest delays. Suggestions to shorten procedure were shorten newspaper publishing requirement, get state tax department to speed up, and reduce period for filing claims. If administrator is appointed, how is selection made? Judge appoints usually following recommendation of family or heirs. providing person is qualified. When there is a dispute about who should be the administrator, the judge makes the selection himself. Н. Should attorneys base their fee on size of estate or on hourly service General feeling was it should be a combination of time spent and value and complexity of estate. Although many felt it should be only on time or value of estate. The judge approves the fee and the heirs can ask for a justification of fees by the lawyer. When basing fee on hourly rate, the small estates could not stand the cost but large estates could. Again outstate appears to have smaller fees - one judge indicated a fee range from \$15.00 to \$100. Some felt either way of determining cost would amount to the same figure. The disadvantage of hourly charge is "efficient lawyers get less and the slow and inefficient ones get more money." What is there in the probate system that encourages people to look for loopholes, e.g. converting assets to nonprobate assets such as insurance proceeds, pensions, joint property, etc.? In general this question seemed to be misinterpreted and assets that could be non probate were listed (thus repeating our question). Those who did respond to the question felt the people wanted to save on attorney's fees because they are too large, or to avoid inheritance taxes, probate costs in general or to eliminate the length of time involved in processing the estate. The answers indicated great public misconceptions of the advantages of joint tenancy. J. Do you consider the view of the public concerning "high costs" of probate to be accurate? Many judges felt there were not many complaints. Some felt costs were considerably less in urban areas than in the metro areas. Some felt the public is unrealistic - they willingly put up with high funeral expenses but complain about probate court costs. They also blame publicity that exploits the exceptional cases and plays down the average case and all too often people do not realize taxes are part of the cost. VALUE OF K. What do you see as problems of probate and what solutions or reform would you propose? Shorten the claims time, notification time, streamline forms and procedures, many felt the number of notices should be reduced. Lawyers should discuss approximate costs of probating beforehand. Simplify procedures in smaller estates. A quicker procedure to settle tax claims out of state. Allow some procedures to be handled administratively rather than through the court. II. A. What % of commitment hearings in your court are mentally ill, inebriates, mentally deficient? Very few mentally deficient - balance between mentally ill and inebriate, with majority in mentally ill. B.1 What is the number of petitions filed in your court each year? Insufficient replies to this question.

months needs court permission. Taxes and selling property cause the

D. What checks are made for accuracy of validation? Answers ranged from none to very few. In response indicating validation made they were said to be made by the county welfare or county attorney.

E. Does the adversay process apply in commitment hearings? Four said no - 15 said yes (some qualified the yes by saying not to the extent in criminal law). Some felt the best interests of the proposed patients should be considered; it should not be a case of keeping him from commitment when it is really needed.

F. Is there adequate staff to check documents? Majority said yes.

-14

G. What is the composition of the medical panel? Generally 2 general medical doctors; psychologist or psychiatrist was used when it was felt to be necessary and when obtainable.

H. When is examination of alleged patient conducted in relation to date of hearing? Usually 5, 6, 7, or 8 days. However, some indicated a few minutes before hearing or 1 day.

I. Do persons petitioned against have counsel? If not how does court appoint counsel? Yes. If they cannot provide their own the court appoints from a list of attorneys who have indicated a willingness to handle this kind of case.

J. What is average length of time between date petition is served and hearing? 7 said 5, 1 said 9 days, 2 said 7, 1 said 6-8 days, 1 said 5-10 days and 1 said 5-14 - answers seemed to indicate no standard number of days.

What resources exist in your community that can be used to aid alleged patients? Alcoholics Anonymous, Mental Health clinics, drug dependency clinics, county nursing service, welfare department, Veterans Administration Hospital, Family Services, Community and Family Services, local hospitals, clergy.

Again, what proposals would you make for reform? Some felt present system ok. Others recommended legal jurisdiction, after petition is filed, for a rehabilitation period without a dismissal or commitment; More post commitment followup; Coordination and research between medical doctors, psychiatrists and lawyers; Expand voluntary aspect and more local treatment services.

III. A. How is guardian selected for appointment? Majority of cases the judge follows the suggestions of the family or of the child over 14, providing the person is competent and willing to serve.

- B. Is guardian bonded? To what extent? Generally the guardian is bonded. The amount to reflect the amount of liquid assets.
- C. Is there a fee for guardianship?
  Yes reasonable fee for time over and above filial duties, on amount of work involved. Sometimes limited to 5% of expenditures unless there is a lot of work involved. Flat fee or one based on time involved. One indicated it was based on value of assets (1 or 1 1/2%). Again, much seemed to depend on the individual judge.
- D. What are your feeling about these fees? Generally felt to be fair.
- E. Again, suggestions on problems and solutions in this area?
  There should be a way for an individual to get guardianship without admission of incompetency. (For example, once the guardianship is terminated, actions of the ward often may be challenged, particularly in selling real estate); maybe change the title guardian to "conservator"; administrative handling of some processes instead of the court.
- IV. According to solutions and possible reforms which you have discussed within the probate court, where would one anticipate receiving help and receiving opposition?

HELP

- probate judges association
- legislature
- bar association
- county court system
- mental health association
- interest groups

OPPOSITION

- lawyers who make money on big estates
- creditors
- individual lawyers (many felt lawyers provide the biggest opposition)
- newspaper publishers
- trust companies
- narrow interest groups
- citizen groups who do not fully research the problem

# Probation Officer Interviews (Committee Guide II, p. 10)

Interviews with officers in nine county offices.

I. Professional Background: Two officers in one office each had two years of college work with no degree; the educational background of three was unknown. The remainder all had B.A.s, mainly in sociology. Of those with B.A.s, one officer had an M.A. in psychology and had done doctorate work in criminology, one had a Social Work Certificate and several from St. Paul had a M.S.W. or M.S. in sociology or criminology. One county employed additional aids who were currently working on a bachelor's degree.

In addition to previous experience in the probation field, prior experience included a year and a half as a teacher at the Red Wing Training School for Boys, Y.M.C.A. work, internships at Willow River Camp and in the Minneapolis Probation office and case work in Minneapolis and Willow River. One officer previously was a deputy sheriff.

II. Caseloads are given as totals for an office and as an average per officer when known. It is not always known whether caseloads refer to day, week, or month, but such information is given when known.

Totals	Officers	Average	
125	2	62-63 28 state cases, 20% parolees & in i	nstitutions
275-300	5	55-60	ALC: Y
30	-*		
63	-	previous two years - 100	
72	200	20 female, 9 in state institutions	
280-560	8	35-70	
50-60	- 4		
90/day	3	30/day	

\* insufficient information

III. Community Resources: (mentioned once unless otherwise noted)

Treatment groups in schools

Drop-in Centers Y.M.C.A.

Environmental Learning Center

Foster homes - 2

Manpower - employment MDTA - (Manpower Training)

Job Corps

Southwest Minnesota Opportunity Council

Clergy - limited degree Big Brother-Big Sister Programs Community law enforcement

Mental Health Clinic - 2

Dept. of Welfare-Group Homes-3

State Institutions (Freeborn County has highest institutional rate)

Totem Town for Boys

Community & Family Services Catholic Welfare

(Mankato-New Ulm) Lutheran Social Services Minnesota Mental Health One-to-one volunteer program

Vocational Rehabilitation Civic groups to sponsor scouts,

One county noted the "lack of interest" of the business community in providing employment for those on probation and parole.

IV. Percent of cases that are griminal only because offenders are juvenile: 60% - 55% of total being illegal possession

14%

34%

95% - because few serious crimes
25%-50% girls - 50% plus - boys 25%

20%

- ? one county has no statistics but said drinking was main problem. Number of offenses for drinking are decreasing because informality in handling cases-not totally concerned with problem.
- V. Suggestions and recommendations:
- 1. Look at needs of offender instead of offense.
- 2. Give juvenile adult rights in court use "beyond a reasonable doubt" rather than a preponderance of evidence
  - 3. Need a change in community attitudes understanding and willingness to spend time and effort aiding juvenile.
  - 4. Defendant always represented by lawyer.
  - 5. Tutoring program.
- 6. Volunteer probation officer program.
  - 7. Need to change laws to permit industry to go into prisons with jobs and hire parolees.
  - 8. Walk-in center staffed by volunteer personnel.
  - 9. "Crisis-line" (telephone number for all to use when needed)

-12-

- 10. Increase involvement of probation officer with programs such as Big Brother, work programs, foster or group homes.
- 11. Establish a court services department.
- 12. Screening of charges and defendants increased handling of charges on an informal basis.
- 13. Educate the public regarding courts and procedures.
- 14. Uniformity of laws (such as drinking age) from state to state.
- 15. Honesty of officials involved in court system.
- 16. Services of full-time psychologist.
- 17. Resources should use a positive approach.
- 18. Enlargement of professional staff.
- 19. Expand focus on child to include parents in counseling.
- 20. Increased community interest and involvement in probation programs and in youth.

# Police Department Interviews

### Responding Leagues - 15

I. Do they have juvenile division?

Ten of the fifteen police departments interviewed have either a specially designated juvenile division or specific officers assigned to juvenile cases, although not all of them operate on a 24-hour day, 7-day week. One police department stated that it does "not need a special juvenile division now," and one police chief has "rearranged his staff eliminating a juvenile bureau."

Eight of the police departments claim to have youth programs; however, many of these consist only of education programs or school patrol, not of preventive measures. Several indicated that they supported local youth activities. Only two reported a youth program sponsored by the police: one a frequently scheduled "rap session" for youth and police through the schools; the other a "ride along" program for youth in police cars.

II. What is their philosophy toward juvenile offenders?
Only two interviews revealed an attitude toward juvenile status offenses
(considered a crime only due to the age of the offender, e.g. truancy,
incorrigibility, absenting) as different from violations of statutes. One
was not "overly happy about such charges being considered law breaking"
and suggested that there should be separate courts for the two types of
offenses.

Police attitude toward first offenders is generally one of understanding, and helpfulness, many seeking suitable treatment on an informal basis and not pressing charges. One police officer felt it "best to take offender to court whenever possible and make charges as serious as possible because experience of appearing in court before a judge would scare the offender." One department's philosophy was "an eye for an eye."

The interviews revealed a deep interest on the part of the police extending in many cases to their considering it as part of their duty to make decisions on the counseling for the youth, on whether to refer to court, and on the offense to charge the youth with. A close working relationship with the court or court services (probation) was mentioned only once; a close relationship with the schools, probably arising from the many school police liaison programs, was mentioned frequently. One police officer suggested that official police records be made available to teachers.

-13-

IV. Suggestions for helping the police in their work with youth: the need for more recreational activities for youth and more community involvement and awareness were the two most frequently mentioned suggestions for improving the juvenile crime situation. Of special help to the police would be more money and personnel to shorten the time lapse between incident and help and to provide more pleasant interview and detention facilities which would provide an atmosphere conducive to receptiveness on the part of juveniles.

Other suggestions were: the public report more small offenses to the police, the family unit be considered in rehabilitation efforts, education institutions teach youth to make decisions, and there be more coperation and communication with the court, probation department, agencies and schools.

# Public Defender Interviews

13 public defenders interviewed.

Background: Good....2 Needs more....6 Adequate....4 None....1

II. Caseload: In 11 answers, the caseload runs from 6 per month to 60-135 per month.\*

> \* This high caseload is in the ghetto districts and the Indian areas of the metropolitan areas and Cass Lake. All public defenders feel specialized help is needed here. No reports on how many people handle these cases.

III. Could you use coordinated counsel or "circuit rider" public defenders to aid in caseload? Yes...3 No....7 No answer....3

Circuit riders are inadequate unless specialized. Need urban or rural training. Cannot handle other's problems.

- IV. Should state adopt requisite minimum standards (vs. unaminous vote option)?

  Yes....2 No....7 No answer....4 More training....2
- V. Should the financing and administration of the system be done at the state level?

  Yes...3 No....7 No answer....3
- VI. Are there non-profit organizations that provide legal services in this district?

  Yes...5 No...6 No answer...2

a. If they exist, are they helpful? Yes....6 No....2

b. If they don't, would they be?

No answer...5

No...2

No answer...6

# Suggestions:

- 1. Rotation system to distribute legal aid evenly.\*
- 2. Change---dual role of public defender and public prosecutor can cause conflicts (Ramsey and Hennepin).
- 3. Greater use of outside groups and minority groups helping them-
- \* There is a loss of personal revenue in acting as legal aid.

# Public Prosecutor Interviews

- 18 public prosecutors interviewed.
- I. Is your position full-time? Yes....7 No....11
- II. Do you think all prosecutors should be full-time?
  Yes....5 No....12 No answer....1
- III. Do you engage in private practice? Yes....9 No....8
  No answer....1
- IV. What is your annual compensation?

  Salaries range from \$1,800 to \$20,000\* approximate average is \$12,500

  \*The \$1,800 prosecutor does it as a public service.
- V. Does the budgetary limitations of your city or town influence your prosecuting? Yes....2 No....16
- VI. Do you think there should be training for prosecutors in trial work? \*
  Yes....13 No....4 No answer....1

\*There are places for continuing education but expensive and must be done voluntarily.

- VII. Should the state pay part of the costs for local prosecutors?
  Yes...5 No...17 No answer...1
- VIII. What leadership would you like to see from the Attorney General in his power to consult, advise, assist and intervene when necessary?

Want leadership? \textbf{Y}es...2 No...6 Adequate...7
No answer...3

- IX. What are your suggestions for making state-wide prosecution coordinated and basically consistent?
  - 1. Coordination of municipal ordinances
  - 2. Federally financed training programs for prosecutors....
  - 3. Publication of statistics (average sentences for first offenders, drug users---etc.)
  - 4. Bring in professional prosecutors to maintain consistency.
  - 5. Have coordinating sessions state-wide urban and rural.
  - 6. Interchange of ideas between urban and rural.
  - 7. Set up district advisors for prosecutors.
  - 8. Revise and coordinate state laws.
  - 9. More local use of the Bar Association.
- X. Would you like to see the district prosecutor program which previously existed in this district reinstated? (Fifth and Ninth Districts)

  Yes....2 No....1 Not familiar with program....2

Additional Questions: 9 prosecutors answering interview.

I. How many juvenile cases do you handle each year?

With juvenile petitions and trials, varies from 6 to 600-700

Approximate average for 9 prosecutors...ll9

Caseload depends entirely on the location; metro area, ghetto

district, Indian district and town, carry heaviest loads.

- II. Do you have a separate place for detention? Yes...5 No...3 (use county jail) Inadequate...1
  - a. Is it separate from adult facilities?
    Yes....6 No....2 (Men-boys)-(girls-women)....1
  - b. Is there anything in between taking into custody and appearance where charges can be dismissed?

    Yes...6 No answer...3

County attorney can dismiss at any time Can be referred to juvenile officer.

- III. How long is waiting period between custody and trial?
  From the same day to several months. It all depends on the area, the court, the caseload. Usually as promptly as possible.
  - IV. Are juveniles informed of rights?
    Yes, usually with parents...4
    Miranda Warning?....Yes....5 Gault Decision\*....Yes....4
    \* Above left up to the police....7

Areas where League might be interested in reform. Suggestions by judges and others.

- 1. The whole juvenile system
- 2. Judicial pensions and retirement benefits
- 3. Unified system of laws concerning the same offense.
- 4. League should check out the innovations at:

Legal Rights Center--St. Paul minority groups Roseville System of using law students The League of Women Voters of Minnesota

JUDICIARY

November 1971

# LEAGUE OF WOMEN VOTERS OF MINNESOTA

### "DAY IN THE SUPREME COURT"

JANUARY 4, 1972 JANUARY 5, 1972 JANUARY 6, 1972

Arrangements have been made to observe the oral arguments of cases in the Minnesota Supreme Court on three days in January 1972 - the 4th, 5th and 6th. The size of the Court will permit only twenty Leaguers to observe the proceedings at one time.

The volume of interest in response to our first "Day in the Supreme Court" on September 20, 1971 indicates that prompt response to this announcement is important if your League is to be represented. A maximum of two reservations from each local League will assure statewide participation.

On each "Day in the Supreme Court" there will be cars leaving from the state office promptly at 9:00 a.m. (or you may prefer to provide your own transportation and meet the group outside the courtroom before 9:15 a.m.). Luncheon and discussion of Supreme Court procedures will follow the observation - details to be announced later.

Send the reservation (below) and a check for \$3.75 for registration and luncheon to the state office by December 28 and indicate if you will require transportation. Reservations by December 28 will allow time necessary to send each person attending a summary of the cases being argued. Reservations will be accepted in order of receipt. Because of the limits placed by the seating capacity of the Court these and future observations days will not be open to Leaguers who have previously participated.

# "A DAY IN THE SUPREME COURT" RESERVATION FORM Please make \_\_\_\_ reservations for \_\_\_\_\_ (name of League) January 4, 5, 6, 1972. (circle date selected) Check enclosed in the amount of \$ (\$3.75 per person) Please mail confirmations and summary of cases to: (state name, address, and zip code of persons who will be attending) We will/will not need transportation Date:\_\_\_\_\_ Signed

RETURN THIS RESERVATION FORM TO THE STATE OFFICE BEFORE DEC MBER 28, 1971

FILE COPY

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

January 1972

MEMO TO: Local League Judiciary Chairmen

FROM: Rita Kaplan, State Judiciary Chairman

RE: Reporting

- 4

You will note the first deadlines are for court observations. This has been done to make a report on the results of our observing available at Council.

In the process of reading and filing your reports from Committee Guide I, I am gratified by the extensive job many of you have done. Some Leagues have already observed probate, family, county and conciliation courts. Therefore, it is a local decision for further observing and reporting in those areas. However, we do need the type of report on county court requested on page 17 of this Guide.

# JUDICIARY COMMITTEE GUIDE II

The League of Women Voters of Minnesota

January 1972

# CONTENTS

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Judges	2-4
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Public Defender and Prosecutors	12-14
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# DEADLINES AND PAGE REFERENCE

May 30, 1972	Interviews of Judges	p. 3, 4, 9, 13
	Public Defender Prosecutor Police (re: juvenile)	p. 13 p. 14 p. 11
April 30, 1972	Interviews	
March 30, 1972	Observation Reports  Probate Juvenile Family Conciliation Probation Officer Interview	p. 1 p. 8 p. 16 p. 17 p. 10

USE THE INTERVIEW FORMS IN THIS GUIDE' - 2COPIES ARE FOR STATE, 1 FOR YOUR FILE. FOR OBSERVING FORMS, USE YOUR OWN 4x6 CARDS OR PAPER. ALL MATERIAL IN THIS GUIDE MAY BE REPORDUCED. ADDITIONAL COPIES 50¢.

### INTRODUCTION

Most all Leagues have sent in their reports on municipal and district court observing and probate interviews. If you have not observed probate court on "get acquainted" basis, do so (refer to Committee Guide I, p. 14). Extended deadline for this will be March 30, 1972. Use of the previously distributed form for observing will not be necessary; however, for uniformity in filing and ease of compilation, use 4x6 cards or paper to record your impressions. Be sure to have the name of your League, County, and Judicial District on every form to the state office on this item.

After completing the research, which this Guide delineates, we should be prepared with the necessary information to undertake the second and final aspect of our study. The main thrust of this latter half will be to study alternatives for reform. During the concluding portion of judicial study, the state committee plans to issue more resource material for local Leagues in Fall 1972. We will attempt to reach consensus by Winter 1972 - get your lobbyists prepared for the legislature and ACTION.

This is a sweeping study of a very broad area which we have all discovered contains district, local and county idiosyncracies within the state constitutional and statutory limitations. Therefore, you will have to be your own guide and provide your own resource material in some areas. Your ability to report what you see and find in your courts will be utmost help in evaluating our state judiciary from one corner of the state to the other.

Your League should be aware: 1) We have not undertaken to study the methods of financing the courts and will be unable to direct ourselves in action toward any issues in that area; 2) There is a Governor's Commission on Constitutional Revision that will surely affect the Judiciary, Article VI.

Many Leagues have been very enthusiastic in their response to the Judiciary item. The League of Women Voters of Minnesota is the sum total of all its parts and our study and subsequent action will be only as good as the contributions of our local Leagues.

Response to our study by judges, attorneys, private citizens, etc. indicates its great value at this time. Let us make sure it reflects the high standards of the LWV of Minnesota.

This Committee Guide II is intended to delineate the remaining areas for research and study. It is for committee use in that purpose. Material for a guide to unit discussion of the March VOTER will be sent at a later date.

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Interviews of the judges are very important. We wish to know how they feel about the judiciary and specific courts in which they operate. It has been most difficult to uncomplicate the interviews; an attempt was made to do so by making one general "core" interview and adding special questions for judges engaged in specific activities, e.g. juvenile, family, etc. Despite the attempt made, you will have to read this section very carefully to ascertain what questions apply to which judges and where they are. If you are unable to ravel the maze of connecting interviews, we'll be glad to assist.

-- 2--

Due in Duplicate in State Office May 30, 1972 League \_\_\_\_ "CORE" INTERVIEW OF JUDGES County \_\_\_\_ Judicial Dist. Judge \_\_\_\_ 1. Background 1. Education 2. When first appointed 3. Next election 2. Caseload - is it too heavy? does this detract from provision of justice for all? 1. Is it light? could your time be used more effectively in other geographic areas? 2. If heavy, what can be done? 3. Do you have adequate supportive personnel? 4. Are the facilities of your court adequate? 5. Do we need more flexibility in assigning judges where needed? 6. Are salary, appointment, censure, and removal procedure adequate? (Please find out opinion on Merit Selection here) 7. At what age do you think there should be mandatory retirement of judges? 8. What innovative procedures have you been able to establish in your court? (district, municipal, county, probate, juvenile, camily) 9. Would more cohesive statewide planning for community resources aid you in instituting pre-trial diversionaly methods and/or alternatives in sentencing? 10. What problems do you see in our court system and what solutions or reforms would you propose? In your role as a judge and in observing prosecutors, public defenders and other 11. attorneys, do you think law school curriculum should be modified to include more trial work? N.B. Refer to applicable additions to this interview on pp.4, 9;.13. - 3 -

If you are interviewing a district court judge, add the following: 1. How long a period should a judge serve on family court? Explain. (In the Second and Fourth Districts add: What are your feelings re: special term judges hearing default divorces with no minors? Is this appropriate since the district calendar may be more congested?) 2. Would you support the Uniform Marriage and Divorce Act? Explain. a. is the no-fault concept a progressive and appropriate step for which to strive? b. do you think the proposals for maintenance, child support, and assignment against wages would encourage continuity of payment? 4. What percentage of your caseload involves personal injury as a result of auto accidents? For probate judges, this is an area where you might feel reluctant to ask for time to interview again. In St. Louis, Ramsey and Hennepin Counties, you will not need to ask the additional questions on probate. In counties where the county court has been initiated or is being initiated, the core interview and the juvenile and camily additions would be appropriate. (As you have begun to find out, the County Court Act in some counties has met a variety of complications and in others has been very smooth) It is our understanding that with the implementation of the Act family court can have concurrent jurisdiction with the district court. Let us know if this exists, if it is any conflict, and if the same judge handling juvenile and family procedures finds a conflict.

#### JUVENILE COURT

The Minnesota Juvenile Court Act, Minnesota Statutes Annotated (MSA), Ch. 260, states:

The purpose of the laws relating to juvenile courts is to secure for each minor under the jurisdiction of the court the care and guidance, preferably in his own home, as will serve the spiritual, smotional, mental, and physical welfare of the minor and the best interest of the state; to preserve and strengthen the minor's family ties whenever possible, removing him from the custody of his parents only when his welfare or safety and protection of the public cannot be adequately safeguarded without removal; and when the minor is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents. The laws relating to juvenil courts shall be liberally construed to carry out these purposes.

In addition, the "Minnesota Juvenil Court Rules" (JCR) which were adopted by the Minnesota probate judges having juvenile court jurisdiction took effect on March 1, 1969 and "govern proceedings in all juvenile court matters handled by the probate judges on and after that date," 2. Since Hennepin and Ramsey Counties' juvenile court is a division of the district court, these rules do not apply unless the judges of those district courts take independent action to adopt them.

The 4th District Court, Juvenile Division, Hemmepin County, has a newly revised edition of their "Bench Book". It is a concise reference manual for all those who work in the court and all those who are interested in the court. (Price \$2.50)

The 2nd District Court, Juvenile Division, Ramsey County, has Rules of Court (1971). Copies available.

Therefore, with the exception of Hennepin and Ramsey Counties, juvenile proceedings occur in probate court or county court, if the County Court Act has already been implemented.

The proceedings in juvenile court are closed; however, the court is usually happy to cooperate with persons having a valid interest. Due to the impact on the child, usually no more than one observer is allowed at a time.

All Leagues, with the exception of Hennepin County Leagues (to be explained later), will find that their first and essential step to observing juvenile court is to request permission from the judge. If there is more than one League in the county, THERE MUST BE COORDINATION AMONG YOU. We cannot ask our officials to give the same time over and over to answer the same questions. Nor can we expect them to allow observing requests from many Leagues spreading over an indeterminate length of time. Therefore, meet or call the Leagues in your jurisdiction and plan some cooperative method for the gathering and sharing of information on the juvenile court.

1. District Court, Juvenile Division, Hennepin County, Bench Book, p. 1, September 1969.

2. Desk Copy, Minnesota Rules of Court, West Publishing Co., St. Paul, 1971.

We have found that in composing interviews and observation forms, some measure of rigidity has been built into our study. Let us, at this point, consider the forms more as guides and try to be flexible in adapting the interview to the person you are interviewing - the needs, values and structural differences in your community.

The basic insights and knowledge that you would wish to gain from observing juvenile court and doing the interviews have been best expressed in the Minneapolis VOTER by Ann Jaede, Chairman, Juvenile Court Study.

"What is Juvenile Court? How does it differ from adult court? What is the philosophy of the juvenile court system? What are the constitutional rights of the juvenile? Are juveniles awarded due process? What behavior by a juvenile might be considered "delinquent" which would not be considered "criminal" if committed by an adult? Can children be institutionalized for such transgressions? Who are dependent or neglected children? What happens to youthful traffic offenders? Who funds the juvenile court? What role does the community play in the juvenile court system?"

Bibliography for further reading, in interested:

Forer, Lois, None Will Listen
Harris, Thomas, I'm Okay Your're Okay
James, Howard, Children in Trouble
Konopka, Gisela, The Adclescent Girl in Conflict
Richette, Lisa, Throwaway Children
Task Force Report on Juvenile Delinquency, President's Commission on Law Enforcement
and Administration of Justice

And to you lucky Leaguers in Hennepin County, do only two things. 1) Attend the Minneapolis League workshop on February 29, 1972, 9:00 - 2:30, YMCA. Call Minneapolis League office for further information. They have a local item on the juvenile and have studied the system from every angle. They will share their research, information, interviews, and observing with all the Leagues. This is a must if you want to inform your League on juvenile court. 2) Ask your police department the questions on page 13 of this Guide.

For uniformity and ease of compiling, please use cards 4x6 to report your observations. You will not be allowed to take notes in court. These are some of the things we would like you to observe (along with other aspects your own sensitivities might choose).

- I. Type of hearing
  - 1. detention
  - 2. initial or arraignment
  - 3. dispositional (if admit to petition)
  - 4. trial (if deny petition. FYI there is no jury.)
- II. Were parents present?
- III. Was explanation of petition made if disposition?

Did they understand?

- IV. If no counsel, were they asked if they were aware of right? or were they informed of right?
- V. Attempt to note if case fell in any of following categories:

  truancy

  inscribility

  runaway

  crimes (violation of any state, local or federal ordinance)

  other
- VI. YOUR impressions of the court, its personnel, the procedure?
  How were you affected by what you saw?

	Due in Duplicate in State Office March 30 League
	County
	Judicial Dist.
	REPORT FORM ON JUVENILE COURT OBSERVATIONS
I.	Over how long a period did you observe?
LL.	How many Observers did you use?
III.	How many cases did you observe?
	with judge
	with referee
IV.	What category did case fall into?
	truancy
	incorrigibility
	runaway
	crimes
	other
٧.	Your comments as chairman on how this aspect of the study affected your League, their impressions, ideas, what was liked, what wasn't liked, etc.

To Be Added to "Core" Interview of Judges (p. 3) if Juvenile Judge is a District. County, or Probate Judge Who Acts in That Capacity. I. Background A. Training B. Appointment C. Is it rotating II. Philosophy A. Purpose of the court in your opinion B. Methods in which you would hope to improve your court III. Have you been able to make any innovations within your court? IV. Have you been able to give any leadership to alleviate any of the court associated problems, e.g. foster homes? V. (If this is a county court judge ask) Does the handling of both family court and juvenile present any conflicts? Are there ways to determine there will be no conflicts. Explain. VI. What suggestions for change and reform would you make in addition to the things previously discussed. In Ramsey County add the following questions: 1. What provisions are being made to keep the children out of the system? a. screening intake b. 2. Are there any problems associated with the distance of the detention center from the court? If so, what solutions would you suggest? 3. What is your opinion of group foster homes? Explain - 9 -

N.B. Add this to prosecutor interview, p. 14. L. How many juvenile cases do you handle each year? II. Do you have a place for detention? a. Is it separate from adult facilities? b. Is there anything in between taking into custody and appearance where charges can be dismissed? III. How long is waiting period between custody and trial? IV. Are juveniles informed of rights? Miranda Warning (essentially, right to remain silent) Re Gault Decision (essentially, right to counsel, necessary to be aware of charges in petition, and place of hearing) Contact the probation officer in your county and ask him the following questions: (Committee Guide I recommended talking to probation office, p. 22. Therefore, if it has not been done, cover his role in the entire system and report your findings.) I. Professional background II. Caseload III. Community resources - what alternatives does he have? IV. How many cases do you have that are only considered criminal because they are juveniles, e.g. incorrigibility, truancy, etc. V. What suggestions and recommendations would you make to improve our juvenile courts and their proceedings? - 10 -

As part of your study of the juvenile court, interview your police department. Ask questions in the following areas: I. Do they have juvenile division? (If so, find out its structure and role) II. What is their philosophy toward juvenile offenders (those violating statutes and ordinances, and those who are considered offenders because they are juveniles, e.g. incorrigibility t' ruancy, etc.)? III. Do they have any youth programs? IV. In what way could the courts, the community, and others aid them in their relationships with youth? Due in Duplicate in State Office April 30. italia di Care di Maji League - 11 -

# PUBLIC DEFENDERS AND PROSECUTORS Local League response to interviewing prosecutors and public defenders has been practically nil! (p. 22, Committee Guide I) These interviews are most important. Our law is based on the adversary system and justice does not prevail if the system (prosecution and defense) is not in balance. If your League has been unable to follow a case, these interview forms should provide a more structured method for gathering the necessary information to educate your League and make the study effective. Note to those Leagues who have already interviewed their prosecutor and public defender: If you have any problems with making contact again or feel reluctance to ask for time again, consider mailing the questionnaire (last resort tactic). In any case, let us know what your thinking and/or problems are in this area and perhaps we can work it out together. Again, in all interviews be flexible and respond to the needs of your community and its uniqueness. Public Defenders Within the 10 Judicial Districts of Minnesota, six are part of the State Public Defender System. (The decision to be part of the system is based upon unanimous decision of all the judges in the district.) Two districts, second (Ramsey) and fourth (Hennepin), have their own public defender systems. The remaining two districts, third and eighth, use the system of assigned counsel, - 12 -

#### INTERVIEW FOR PUBLIC DEFENDER

I. Background

Training in trial work

- II. Caseload
- III. Could you use coordinated assigned counsel or "circuit rider" public defenders to aid in caseload?
- IV. Should state adopt requisite minimum standards (vs. unaminous vote option)?
- V. Should the financing and administration of the system be done at the state level?
- VI. Are there non-profit organizations that provide legal services in this district?
  - A. If they exist, are they helpful?
  - B. If they don't, would they be?

Note to Leaguers in the Third and Eighth Districts: Add to the core interview of judges three through six above and add the following:

- 1. How many requests do you receive for public defenders?
- 2. Is assignment of counsel at random or coordinated?
- 3. How often does each of assigned counsel serve? Do they serve often enough to be proficient in trial work?

Name	of Interviewee _	 	
Count	ty	 	
Judio	cial Dist.	 	
Leagu	ue		
n .	: OL -1 - OSS:		

Due in State Office in Duplicate April 30

# INTERVIEW OF PROSECUTORS I. Is your position full-time? II. Do you think all prosecutors should be full-time?

- III. Do you engage in private practice?
- IV. What is your annual compensation?
- V. Does the budgetary limitations of your city or town influence your prosecuting?
- VI. Do you think there should be training for prosecutors in trial work?
- VII. Should the state pay part of the costs for local prosecutors? (FYI local unit of government now pays.)
- VIII. What leadership would you like to see from the Attorney General (Attorney General, in terms of the holder of that office at any time) in his power to consult, advise, assist, and intervene where necessary?
  - IX. What are your suggestions for making statewide prosecution coordinated and basically consistent?

If your League is from the Fifth or Ninth Judicial District, add the following question:

- X. Would you like to see the district prosecutor program which previously existed in this district reinstated?
- N.B. Add questions under juvenile court, p. 9.

Name of Interviewee _	
City	
County	
Judicial Dist.	
League	
Due in State Office in	Duplicate by April 30.

BRIEF DESCRIPTION OF FAMILY COURT As a result of the County Court Act, all counties will begin family courts this year. Hennepin, Ramsey and St. Louis Counties have existing family courts. This court has jurisdiction in matters pertaining to the family paternity suits, child custody hearings, separation and divorce, for example. Divorce proceedings are adversary, which means one party is in opposition to another. Because of the nature of the adversary system, you will no doubt sense the hostility created between the two parties and feel you are listening to an "airing of dirty linens" when you observe divorce proceedings. However, the hearings are made a matter of public record. The fact that very few people observe in this court makes it more important that League observes how it works. The Uniform Marriage and Divorce Act is recommended for enactment by the American Bar Association in all the fifty states. It provides for "no fault" divorce through the grounds of irremediable breakdown. This means that one party is not blamed for the breakdown of a marriage. The Act recognizes that very few breakdowns are the fault of only one party. The Act also provides for follow-through collection of child support payments, gives the rights and interests of minor children consideration, provides guidelines for maintenance (Alimony) and property settlements, and sets uniform laws for marriages, rules for denials of right to marry, annulments, etc. throughout the states. The County Court Clerk will be able to tell you where family court hearings are held in the outstate area and in Hennepin and Ramsey the courthouse is used. Three family court judges are officed in the Flour Exchange Building, 7th floor, Hennepin County. Default (uncontested) divorce proceedings may be of interest to you. - 15 -

FAMILY COURT When you observe, just look, see, and later note impressions (using 4x6 card or paper, PLEASE). Be aware of any hostilities of clients and lawyers that cloud proceedings in contested divorces; respond to the use of adversary proceedings in divorce; note if either party does not have private attorney. Is it your feeling that there is a lot \_\_\_\_\_ or a little \_\_\_\_\_ activity in family court? Report Form on Family Court 1. How many cases observed? 2. Over what period of time? 3. Number of observers? 4. Number of default cases where minor children were involved \_\_\_\_\_ were not involved \_\_\_\_\_ 5. How many did not have private attorney? 6. Summary of your League(s) impressions about the court, the proceedings, the law, what was liked, what wasn't, etc. League \_\_\_\_\_ Court \_\_\_\_ District \_\_\_\_\_ Due in State Office in Duplicate March 30.

- 16 -

Have your legislator get you a copy of the enact
If it has been implemented in your county, let u

Have your legislator get you a copy of the enacted County Court Act. If it has been implemented in your county, let us know how it works; what the problems are; what the judges' responses are; what the responses of attorneys are. We just don't have too much information available at this end to guide you. You will have to devise your own methods for studying this, educating your members, and educating the state committee so that we can have some comparison of implementation throughout the state.

Deadline May 30, 1972. There is NO FORM for this report. Duplicate copies to the state office.
Note name of League, county, and judicial district.

#### CONCILIATION COURT

This court provides the people of the counties a place in which they may, within jurisdictional limits, without the necessity of retaining an attorney, present a claim or controversy and have it resolved by a judge. Observe them on a "Get Acquainted Basis". Note how much activity in the court; note if there is information for the public on services provided by this court. Cases are short and easy to follow as a general rule. Report impressions, again on 4x6 cards or paper.

#### Form for Report on Conciliation Court

- 1. How many cases did you hear?
- 2. How many observers involved?
- 3. Is there any information available for the public?
- 4. If you have a county, court, is it part of that court now?
- 5. Reactions, impressions, etc.

League		
County		
Judicial Dist.		To 1000 000 000 000
Due in State Office	in	Duplicate March 30.

## FILE COPY

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

MEMO TO: Judiciary Chairmen

FROM: Rita Kaplan, State Judiciary Chairman

RE: PROBATE INTERVIEW FORM

DATE: September, 1971

You will note that the forms you are receiving differ from the model in your Committee Guide. The intent, scope, and substance of the interview have not been substantially changed. The changes were made because with additional background gathered by the State Judiciary Committee:

- 1. Some questions were considered unnecessary, unclear, or loaded.
- 2. A small number of seemingly-important questions were not represented on the first form.
- 3. Commitment is spelled with only one "t" not two!

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 September 1971

#### PROBATE INTERVIEW FORM

I. Probate -- (in this case meaning the entire process of administering the estate of a decedent) We are interested in the feelings of the respondee as a judge, referee, or attorney practicing in the probate court. A. What % of your caseload is in transfer of decedent property in competency hearings in guardianships\_\_\_\_\_ and if outstate, what % in juvenile В. What is yearly total of cases C. On which cases do you select the appraisers? one appraiser two appraisers none D. What is your opinion re: appraisers basing fee on size of estate? Are executors of estates bonded? How is size of bond determined? What check is made on bonding company? How long does it take to probate small estate (under \$15,000) large estate \_\_\_\_\_ Are there any ways to shorten the length of time? G. If administrator is appointed, how is selection made? Н. Should attorneys base their fee on size of estate (as at present) or on hourly service basis? Explain What is there in the probate system that encourages people to look for loopholes, e.g. converting assets to nonprobate assets such as insurance proceeds, pensions, joint property, etc?

J.	Do you consider the view of the public concerning "high costs" of probate to be accurate? Explain
ζ.	What do you see as problems of probate and what solutions or reform would you propose?
	mitment
Α.	What % of commitment hearings in your court are mentally ill
	inebriates
	mentally deficient
В.	What is the number of petitions filed in your court each year?
2.	What are the average contacts made prior to accepting petitions?
	What checks are made for accuracy of validation?
	Does the adversary process apply in commitment hearings?
۲.	Is there adequate staff to check documents?
3.	What is the composition of the medical panel? psychologist
	general medical doctor psychiatrist
Ι.	When is examination of alleged patient conducted in relation to date of hearing?
Ι.	Do persons petitioned against have counsel? If alleged
	patient does not, how does court appoint counsel?
J.	What is average length of time between date petition is served and hearing?
к.	What resources exist in your community that can be used to aid alleged patients?
	How are they used?
L.	Again, what proposals would you make for reform?

# III. Guardianship How is guardian selected for appointment? Is guardian bonded? To what extent? В. If not, why? Is there a fee for guardianship? \_\_\_\_\_ On what basis? C. What are your feelings about these fees? D. Again, suggestions on problems and solutions in this area\_\_\_\_ E. IV. According to solutions and possible reforms which you have discussed within the probate court, where would one anticipate receiving help and receiving opposition?

Interviewer League League

Signature of respondent

## MUNICIPAL COURT OBSERVATION FORM

CourtJudge	_ Date Time
Defendant's name or Case #	
From Jail Courtroom_	
Charge(s)	Plea
Private Attorney Public	
Right to Counsel Expld. Beg Before Plea	g. Session Never
DispositionTr	rial Date Bail
Comments regarding treatment	of defendant:
Observer	League
MUNICIPAL COURT OBSE	ERVATION FORM
CourtJudge	DateTime
Defendant's name or Case # _	
From Jail Courtroom	
Charge(s)	Plea
Private AttorneyPublic De	fender No Counsel
Right to Counsel Expld. Beg Before Plea Nev	. Session_
Disposition Tria	l DateBail
Comments regarding treatment	of defendant:
Observer	_ League
MUNICIPAL COURT OBSE	
CourtJudge	
Defendant's name or Case #	
From Jail Courtroom	
Charge(s)	Plea
Private Attorney Public De	
Right to Counsel Expld. Beg. Before Plea	Never
Disposition Tria	al DateBail
Comments regarding treatment	of defendant:
DbserverLe	ague
The state of the s	

Names of Defendants (Please number. Note race (I,B,W,other) and approximate age.	Charge	Plea	Noti- fied of right to attorney	Court	Attitude of Judge:	makes informational inquiry; explanatory; firm; abrupt; fair; disinterested; other description	Attitude	Attitude of defendant	Does defendant understand proceedings? sentence?	Judge: Ct.Rm.#: Date: Hours: Observer: Approx. time defendant is before court
	-									
						PLEASE put add	litional com	ments on back	with the no. of	each case.

LWV OF MINNESOTA

COMMITTEE GUIDE

STATE ITEM II

AUGUST 1971

JUDICIARY: EVALUATION OF

STRUCTURE AND PROCEDURES
AS THEY
AFFECT THE INDIVIDUAL

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## INTRODUCTION With the adoption of a study item on the Judiciary, there was no doubt in the minds of Leaguers that they did not wish this to become another two year study of charts and graphs. The delegates to the State Convention spoke clearly and forcefully on their desire that this study be oriented toward the feeling, human side of the Judiciary --- the individual. Thus, the state committee found that the status quo for preparing a League study had changed. Indeed, the tables had been turned. The committee is doing the charts, graphs, structures, procedures (The March 1972 State VOTER will devote the entire issue to this material) and local Leagues are going out to meet the judges, prosecutors, probation officers, public defenders, court referees, and see the courts in action. This committee guide will outline various means by which you will know our courts....how they function and what it's like to be in court.

To begin the many phases of observing and knowing the judiciary, you will need an active committee. For some aspects of the study, you will find it more appropriate and efficient to work co-operatively with your neighboring Leagues. There is a state committee member from each judicial district who will be calling local League chairmen together to do some planning.

The membership chairman should be involved in your planning. Your direction for the study item has given League a new study which is enticing for members new and old. In addition to your committee, you may find other members of League who will wish to participate in observing the courts, etc.

The bulletin editor and public relation chairmen should also be included in your planning meetings. Articles in your Voter and local newspaper can make what you are learning by first-hand observation of interest to your members and the community.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
August 1971

#### ARTICLE VIL

Judiciary
(From the Constitution of the State of Minnesota)

Judicial power. SECTION 1. The judicial power of the state is hereby vested in a supreme court, a district court, a probate court, and such other courts, minor judicial officers and commissioners with jurisdiction inferior to the district court as the legislature may establish.

Supreme Court. SEC. 2. The supreme court shall consist of one chief judge and not less than six nor more than eight associate judges, as the legislature may establish. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in said court.

A judge of the district court may be assigned as provided by law temporarily to act as a judge of the supreme court upon its request.

The supreme court shall appoint, to serve at its pleasure, a clerk, a reporter, a state law librarian, and such other employees as it may deem necessary.

Judicial districts; district judges. SEC. 3. The number and boundaries of judicial districts shall be established or changed in the manner provided by law but the office of a district judge may not be abolished during his term. There shall be two or more district judges in each district. Each judge of the district court in any district shall be a resident of such district at the time of his selection and during his continuance in office.

District court clerks. SEC. 4. There shall be elected in each county one clerk of the district court, whose qualifications and duties shall be prescribed by law, and whose term of office shall be four years. His compensation shall be prescribed by law and shall not be diminished during his term of office. Adopted Nov. 6, 1956.

Jurisdiction of district court. SEC. 5. The district court shall have original jurisdiction in all civil and criminal cases, and shall have such appellate jurisdiction as may be prescribed by law.

Jurisdiction of probate court. SEC. 6. The Probate Court shall have unlimited original jurisdiction in law and equity for the administration of the estates of deceased persons and all guardianship and competency proceedings, and such further jurisdiction as the legislature may establish, including jurisdiction over the administration of trust estates and for the determination of taxes contingent upon death. Until otherwise provided by law, each county shall constitute a probate court district and there shall be one or more probate judges in each district. Each judge of the probate court in any district shall be a resident of such district at the time of his selection and during his continuance in office.

Qualifications; compensation. SEC. 7. Judges of the supreme court, the

- 2 -

<sup>&</sup>lt;sup>1</sup>Article VI: including schedule adopted November 6, 1956.

district court, and the probate court shall be learned in the law. qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office. Terms of office; election; re-election. SEC. 8. The term of office of all judges shall be six years and until their successors are qualified, and they shall be elected in the manner provided by law by the electors of the state, districts, county, municipality, or other territory wherein they are to serve. Holding other office. SEC. 9. Judges of the supreme court and the district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the Unites States and shall not hold any other office under this state. The term of office of any such judge shall terminate at the time he files as a candidate for an elective office of the United States or for a non-judicial office of this state. Retirement. SEC. 10. The legislature may provide by law for retirement of all judges, for the extension of the term of any judge who shall become eligible for retirement within three years after expiration of the term for which he is selected and for the removal of any judge who is incapacitated while in office. Vacancy. SEC. 11. Whenever there is a vacancy in the office of judge the governor shall appoint in the manner provided by law a qualified person to fill the vacancy, to hold office until his successor is elected and qualified. The successor shall be elected for a six year term at the next general election occurring more than one year after such appointment. Retired judges. SEC. 12. As provided by law, a retired judge may be assigned to hear and decide any cause over which the court he is assigned shall have jurisdiction. Schedule (a) All justices of the peace shall continue in office each for the remainder of his term which remains unexpired at the time this Article takes effect. (b) All probate judges in office at the time this Article takes effect shall be deemed learned in the law for the purpose of continuance in, and reelection to, any judicial office inferior to the district court. (c) All municipal courts in existence at the time this Article takes effect shall continue in existence until otherwise provided by law. (d) Salary schedules, in effect when this Article takes effect for the compensation of judges, court commissioners, clerks of court, and other court employes, shall remain in effect until otherwise prescribed by the legislature or provided by law. (e) Statutory provisions fixing the retirement compensation of judges, in effect when this Article takes effect shall remain in effect until otherwise provided by law. (f) The office of court commissioner in any county at the time this Article takes effect shall continue in existence until otherwise provided by law.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

August 1971

#### DIVISIONS OF THE STATE JUDICIARY

The judicial branch of the government of Minnesota (as of now and up to January 1, 1972, when the County Court Act will be in effect) is divided into a Supreme Court, a District Court, a Probate Court, Municipal Courts, and Justices of the Peace.

The Supreme Court

The Minnesota judicial system is headed by the Supreme Court, the state's court of last resort. Appeals from decisions of district and municipal court may be taken to it. Sometimes matters may be directly presented to the Supreme Court.

The District Court

"The constitution provides that the District Court shall have original jurisdiction in all civil and criminal cases, and shall have such appellate jurisdiction as may be prescribed by law. At present law provides for appeals from the probate court, municipal courts, and justices of the peace."1.

Probate Court

"The Probate Court has unlimited original jurisdiction in law and equity for the administration of the estates of deceased persons and all guardianship and incompetency proceedings." 2.

Municipal Court

"The Municipal Court has jurisdiction in civil cases involving not more than \$1000, and in criminal cases not exceeding \$100 fine or three months' imprisonment. " 3.

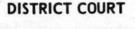
Special provisions cover the municipal courts of Minneapolis, St. Paul and Duluth.

Justices of the Peace

"Justices of the Peace have jurisdiction over actions arising within a county when the amount involved does not exceed \$100 for civil cases, and when the fine does not exceed \$100, or three months' imprisonment in criminal cases." 4.

#### THE SUPREME COURT

Chief Justice and Six Associate Justices elected for six year terms. General appellate jurisdiction. Original jurisdiction as prescribed by law.



Original jurisdiction in all civil actions; all cases of crime, special proceedings not exclusively cognizable by some other court; appellate jurisdiction as prescribed by law.\*

FIRST DISTRICT Five Judges Seven

Counties

SECOND DISTRICT Eleven Judges Ramsey County THIRD DISTRICT Six Judges Eleven Counties FOURTH DISTRICT Eighteen Judges Hennepin County FIFTH DISTRICT Five Judges Fifteen Counties

Six Judges
Four
Counties

SIXTH

DISTRICT

Four Judges
Ten
Counties

diction as the legislature may establish.

SEVENTH

DISTRICT

EIGHTH DISTRICT Three Judges Thirteen

Counties

Six Judges
Seventeen
Counties

NINTH

DISTRICT

DISTRICT Six Judges Eight

TENTH

Eight Counties

#### PROBATE COURT

87 COURTS

86 JUDGES\*\*

The Probate Court is also the Juvenile Court in St. Louis County and in counties under 100,000 population. Law enacted in 1965 provides for full time judges in counties with a population of over 25,000.

HENNEPIN COUNTY

One Judge

RAMSEY

Original jurisdiction in law and equity for the administration of estates of deceased

persons and all guardianship and incompetency proceedings and such further juris-

One Judge

ST. LOUIS

One Judge

#### MUNICIPAL COURT

Civil jurisdiction to \$1000 (except cases involving title to real estate); forcible entry and detainer; misdemeanors; ordinance violations; preliminary hearings in criminal

84 COURTS 80 JIDGES In 69 counties with population under 30,000 the Probate Court also has Municipal Court Jurisdiction.\*\*\*

HENNEPIN COUNTY MUNICIPAL COURT Sixteen Judges Criminal and Civil jurisdiction to \$6000. Conciliation Court. \$T. PAUL MUNICIPAL COURT Five Judges Criminal and Civil jurisdiction to \$6000. Conciliation Court. DULUTH
MUNICIPAL COURT
Two Judges
Criminal and Civil jur
isdiction to \$4000.
Conciliation Court.

ANOKA COUNTY MUNICIPAL COURT Three Judges Criminal and Civil jurisdiction to \$5000. Conciliation Court. CARVER COUNTY MUNICIPAL COURT One Judge Criminal and Civil Jurisdiction to \$5000. Conciliation Court. WASHINGTON COUNTY MUNICIPAL COURT One Judge Criminal and Civil Jurisdiction to \$4000. Conciliation Court.

- \*Also Juvenile Court jurisdiction in the Second and Fourth Districts
- \*\* Vacancies currently exist in one court.
- \*\* Vacancies currently exist in four courts.

#### JUSTICES OF THE PEACE

408 Active Estimated 300 Inactive.

Law provides for two justices of the peace in election district established by Section 203.07. Jurisdiction over misdemeanors and up to \$100 in civil saes.

JURISDICTION	JUDICIAL QUALIFICATIONS	TERM OF OFFICE	METHOD OF SELECTION 1	METHOD OF REMOVAL	SALARY	RETIREMENT
Original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases.	Learned in the law	Six years	Statewide election	Impeachment	\$26,000 <sup>2</sup>	At age 70 after serving two full terms; at age 65 with minimum of 15 years service. Benefits equal to one-half salary plus 2½ percent for each year of service in excess of two terms. (The 2½ percent in-
		e:	Floring	Imagelman	\$22 000 <sup>3</sup>	crement is limited to a maximum of 10 years.)  At age 70 with 15 years of service
civil and criminal cases. Appellate jurisdiction as prescribed by law.	Learned in the law	Six years	district	moval by governor after hearing on petition alleging mental or physical incapacity.	\$22,000	or at age 65 with 25 years as judge or a court of record. Benefits equal to one-half compensation allotted for the office.
Unlimited original juris- diction in law and equity for the administration of estates of deceased per- sons and all guardianship and incompetency pro- ceedings and such further jurisdiction as the legis-	Learned in the law <sup>4</sup>	Six years	County election	Removal by gover- nor for malfeasance or non-feasance in performance of official duties.	\$ 6,500 to \$22,000	At age 70 with 20 years of service in a court of record, or at age 65 with 24 years of service. Benefits equal to one-half compensation but subject to diminution by amount of other pension.
lature may establish.						
Civil jurisdiction to \$1000 (except in cases involving title to real estate); forcible entry and detainer; misdemeanors; ordinance violations and preliminary hearings in criminal matters. (St. Paul, Duluth, Hennepin, Anoka, Carver and Washington County Courts have higher jur-	Learned in the law <sup>5</sup>	Six years	Municipal election	Removal by gover- nor for malfeasance or non-feasance in performance of official duties.	\$240 to \$23,000	No uniform retirement plan. Participation in PERA optional.
	Original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases.  Original jurisdiction in all civil and criminal cases.  Appellate jurisdiction as prescribed by law.  Unlimited original jurisdiction in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings and such further jurisdiction as the legislature may establish.  Civil jurisdiction to \$1000 (except in cases involving title to real estate); forcible entry and detainer; misdemeanors; ordinance violations and preliminary hearings in criminal matters. (St. Paul, Duluth, Hennepin, Anoka, Carver and Washington County	Original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all civil and criminal cases.  Appellate jurisdiction as prescribed by law.  Unlimited original jurisdiction in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings and such further jurisdiction as the legislature may establish.  Learned in the law  Civil jurisdiction to \$1000 (except in cases involving title to real estate); forcible entry and detainer; misdemeanors; ordinance violations and preliminary hearings in criminal matters. (St. Paul, Duluth, Hennepin, Anoka, Carver and Washington County Courts have higher jur-	Original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all civil and criminal cases.  Original jurisdiction in all civil and criminal cases.  Appellate jurisdiction as prescribed by law.  Unlimited original jurisdiction in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings and such further jurisdiction as the legislature may establish.  Learned in the law Six years  Learned in the law Six years	Original jurisdiction in such remedial cases as amay be prescribed by law, and appellate jurisdiction in all civil and criminal cases.  Original jurisdiction in all civil and criminal cases.  Appellate jurisdiction as prescribed by law.  Unlimited original jurisdiction as prescribed by law.  Learned in the law Six years Election within district  Unlimited original jurisdiction in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings and such further jurisdiction as the legislature may establish.  Learned in the law Six years County election  Learned in the law Six years Six years County election  Learned in the law Six years Six years County election  Learned in the law Six years County election  Six years County election  Learned in the law Six years County election	Original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all civil and criminal cases.  Original jurisdiction in all civil and criminal cases.  Original jurisdiction in all civil and criminal cases.  Appellate jurisdiction as prescribed by law.  Unlimited original jurisdiction in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings and such further jurisdiction to \$1000 (except in cases involving title to real estate); forcible entry and detainer; misdemeanors; ordinance violations and preliminary hearings in criminal matters. (St. Paul, Duluth, Hennepin, Anoka, Carver and Washington County Courts have higher jur-	Original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases.  Original jurisdiction in all cases.  Original jurisdiction in all cases.  Appellate jurisdiction as prescribed by law.  Unlimited original jurisdiction in law and equity for the administration of estates of deceased persons and all guardianship and incompetency proceedings and such further jurisdiction as the legislature may establish.  L Civil jurisdiction to \$1000 (except in cases involving title to real estate); forcible entry and detainer; misdemeanors; ordinance violations and preliminary hearings in criminal matters. (St. Paul, Duluth, Henneppin, Anoka, Carver and Washington County Courts have higher jur-

<sup>1</sup> Vacancies filled by appointment by the governor.

<sup>2</sup> Chief Justice received \$27,000.

<sup>3.</sup> Judges in counties with population of over 200,000 entitled to \$1,500 supplement

<sup>4.</sup> See paragraph (b) of Schedule in Judicial Article. Incumbent none-lawyer judges deemed "learned in the law" for the purpose of continuing in and re-election to office.

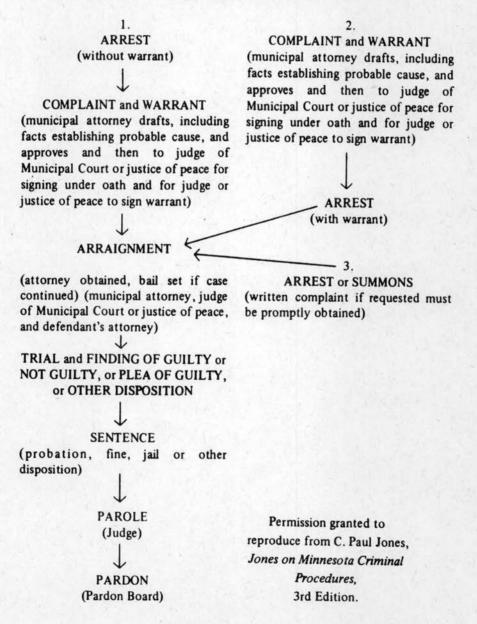
<sup>5.</sup> Non-lawyer may be appointed if no qualified person available. Sec. 488.06 (5).

# OUTLINE OF ADULT CRIMINAL PROCEDURE FOR FELONIES AND GROSS MISDEMEANORS

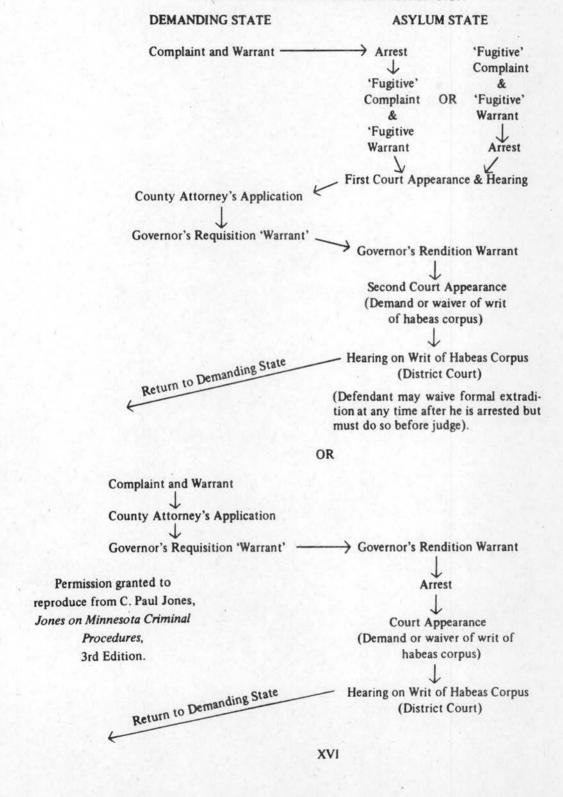
ARREST COMPLAINT and WARRANT (without warrant) (county attorney drafts, including facts establishing probable cause, and approves and then to judge of Municipal Court or justice of peace for COMPLAINT and WARRANT (county attorney drafts, including signing under oath and for judge or facts establishing probable cause, and approves and then to judge of justice of peace to sign warrant) Municipal Court or justice of peace for signing under oath and for judge or justice of peace to sign warrant) INITIAL APPEARANCE BY ( ARREST DEFENDANT BEFORE JUDGE OF (with warrant) MUNICIPAL COURT OR JUSTICE OF PEACE (attorney obtained, bail set, case continued) (county attorney, judge and defendant's attorney) PRELIMINARY HEARING INDICTMENT OR WAIVER (grand jury) (county attorney, judge of Municipal Court or justice of peace, defendant's attomey) INFORMATION or INDICTMENT (county attorney) (grand jury) ARREST ARRAIGNMENT (with bench warrant) (District Court Judge. county attorney, defendant's attorney) MOTIONS TO SUPPRESS EVIDENCE. DISCOVERY, DISCLOSURE, OTHER MOTIONS TRIAL and FINDING OF GUILTY Permission granted to or NOT GUILTY, or PLEA OF GUILTY, or OTHER DISPOSITION reproduce from C. Paul Jones, Jones on Minnesota Criminal SENTENCE Procedures. (probation, fine, institution or other disposition) 3rd Edition. PAROLE (Adult Corrections Commission or Youth Conservation Commission) PARDON

(Pardon Board)

#### OUTLINE OF ADULT CRIMINAL PROCEDURE FOR STATUTORY OR ORDINANCE, TRAFFIC AND OTHER MISDEMEANORS



#### **OUTLINE OF BASIC CRIMINAL EXTRADITION**



League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971

#### Recent Court Legislation

Special Session -

Control of the second s Chap. 7 - S.F. #52 - Signed 7-8-71 Relates to the Family Court Division in 4th Jud. Dist., Hennepin County.

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- Chap. 8 S.F. #53 Signed 7-8-71 Authorizes a court administrator for Hennepin County municipal court.
- Chap. 9 S.F. #54 Signed 7-8-71 Relates to Hennepin County municipal court and its fees and to the conciliation court of such
- Chap. 12 S.F.#66 Authorizes retirement benefits for a certain Hennepin . . . County judge from the Mpls. employees retirement fund.
- Chap. 3 H.F. #117 Signed 2-11-71 Relates to assignment of judges to act as Supreme Court Judges.
- Chap. 5 H.F. #118 2-15-71 Sets time for filing claims for experiences by district court judges.
- Chap. 60 S.F. #398 3-18-71 Sets fees for boarding prisoners in county jails.
- Chap. 18 S.F. #20 3-4-71 Relates to compensation of deputy clerks of court and removes limitation.
- Chap. 71 H.F. #251 3-29-71 Repeals statutes faound unconstitutional, ineffective, or superseded by the Supreme Court.
- Chap. 81 H.F. #535 3-29-71 Designates Supreme Court administrative asst. as court administrator.
- Chap. 250 S.F. #306 5-11-71 Pleadings, Practice and Procedures in Criminal Cases to be Regulated by the Supreme Court. Provides that the Supreme Court shall have the power to regulate the pleadings, practice, procedures and the forms thereof in criminal actions for all the courts of Minnesota. Requires the Supreme Court to appoint an advisory committee consisting of lawyers and judges to assist the court in preparing such rules. Permits the judicial council to make recommendations to the Supreme Court concerning the rules. Requires the Supreme Court to distribute copies of the proposed rules to the judiciary and the attorneys of the state for their consideration and suggestions before such rules are adopted. Enables the Minnesota State Bar Association and professional judicial organizations to request a hearing regarding any proposed changes in such rules.

- Chap. 255 H.F.# 1802 5-11-71 Increases district court filing fees for other services of clerk of district court.
- Chap. 259 H.F.#1282 5-13-71 Provides that state need not pay defendant's district court filing fee when entering judgement on a confession of judgement.
- Chap. 262 H.F.#2588 5-13-71 Relates to committment of mentally ill, inebriates and mentally deficient.
- Chap. 291 H.F.#1833 Permits Ramsey County board to set the salary of court administrator.
- Cahp. 300 H.F.#2737 5-14-71 Changes and limits powers of the Ramsey County Court Commissioner.
- Chap. 304 H.F.#1049 5-15-71 Gives Martin County probate court conciliation powers.
- Chap. 307 H.F.#1278 Provides that county public child welfare program shall be available for investigation and supervision of children in divorce cases.
- Chap. 310 H.F.#1520 5-15-71 Provides for appointment of county auditor, treasurer, court comm. and register of deeds in Ramsey County.
- Chap. 312 H.F.#1632 Increases court filing fee for the benefit of the Ramsey County Law Library.
- Chap. 340 H.F.#3061 Relates to appointment of personal receivers in Duluth Municipal Court.
- Chap. 207 H.F.#1009 Relates to investigations in connection with adoption.
- Chap. 223 S.F.#223 Permits St. Louis County board to set salary of clerk of probate-juvenile court.
- Chap. 340 H.F.#3061 Relates to appointment of personal receivers in Duluth Municipal Court.
- Chap. 426 H.F.# 2466 Relates to Washington County Municipal and Conciliation Courts.
- Chap. 443 H.F.W2473 Authorizes Washington County to issue bonds for court house improvements.
- Chap. 471 S.F. #26987 Relates to compensation of the probate court referee in Ramsey County
- Chap. 479 S.F.#1869 Denies a right of appeal to the Tax Court from discretionary orders of the Commissioner of Taxation.
- Chap. 482 H.F.#3108 Relates to management and taxation for the St. Paul-Ramsey County detention facilities.

Chap. 497 - S.F.#1720 - Probate Court Reform. Makes more clear the descent or property, in absence of a will, to spouse and to brothers and sisters or their issue. Permits proof of will by affidavit whenever the will is not contested. Limits the time in which creditors may file claims to 60 days.

Prescribes a uniform notice form for use when a petition is filed for the general administration of the estate of a person dying without a will. Permits summary closing of estates if gross value is not over \$10,000 plus the homestead.

- Chap. 507 S.F.#2303 Relates to crime of non-support of wife or children.
- Chap. 547 S.F.#1823 Permits state payment of medical assistance costs where a child is surrendered for adoption and there is a dispute as to legal settlement of the child.
- Chap. 554 S.F.#2682 Provides for two special judges of the Duluth Municipal Court and sets their pay.
- Chap. 567 H.F. #842 Sets salaries of district court reporters.
- Chap. 585 S.F.#711 Provides confirmation of trustees under express trusts by will in the county where they are probated.
- Chap. 588 S.F.#954 Permits persons who are competent to request probate court to appoint guardians for them.
- Chap. 590 S.F.#1162 Permits detention of arrested children in approved regional juvenile detention facilities.
- Chap. 591 S.F.#1163 Provides for detention of prisoners in regional jails.
- Chap. 592 S.F.#1167 Authorizes St. Louis, Carlton, Cook, Lake, Itasca, Koochiching and Aitkin counties to levy taxes for regional juvenile detention centers.
- Chap. 597 9.F.#1946 Requires filing of notices of appeal from municipal or justice courts to district court with clerk of court appealed from.
- Chap. 608 H.F. #760 Sets salaries of 4th Jud. Dist. Court reporters and gives them insurance benefits.
- Chap. 715 H.F.#2233 Relates to instructions to juries in civil actions.

  It requires the trial court to instruct the juries on the effect of answers to interrogatories and permits the parties to make argument to the jury on the answers to the interrogatories.
- Chap. 749 S.F.#1906 Provides for payments to counties of 20% of inheritance revenues callected in connection with probate in such counties or where venue would have been, if probate had been had.

- Chap. 753 S.F. #2190 Sets salaries of members of the Tax Court.
- Chap. 779 H.F.#240 Permits setting aside certain convictions of crimes committed before offender was 21.
- Chap. 879 S.F.#1994 Increases salaries of Hennepin County Municipal Court judges.
- Chap. 885 S.F.#2756 Authorizes two court reporters for Duluth Municipal Court and relates to pay of extra court reporter.
- Chap. 909 H.F.#1696 Creates a mixed commission on judicial standards empowered to recommend to the supreme court the suspension, removal, or voluntary or involuntary retirement of a judge for disability that seriously interferes with the performance of his duties, persistent failure to perform his duties, habitual intermperance, or conduct prejudicial to the administration of justice.
- Chap. 917 H.F.#2094 Petit Juries. Reduces petit juries from 12 to 6 persons. Whenever the criminal action or proceedings contain a single offense which is punishable by imprisonment for life, the petit jury shall consist of 12 unless the person consents to a jury of 6.
- Chap. 924 H.F.#2373 Permits court orders requiring employers to withhold alimony and support.
- Chap. 925 H.F.#2517 Sets per diem of special municipal judges at @ %50.
- Chap. 927 H.F.#2589 Creates a Scott County Municipal and Concilation Court.
- Chap. 948 H.F.#2902 Increases per diem for services of retired district court judges as judges and relates to staff to be provided them.
- Chap. 957 S.F.#164 Proposed constitutional amendment relating to the judiciary and courts.

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League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
August 1971

Chap. 951 - S.F. #266 - County Court Act. The Act provides for the

creation of county courts to replace the municipal and probate courts. All counties in the state are included except the counties of Hennepin. Ramsey and St. Louis. It establishes multiple county court districts whenever the population or caseload is not enough to sustain a full-time judge. The multiple county districts always contain adjacent counties and never exceed three counties in number. The law provides that the combined counties may separate into single county courts or combine with other counties into a larger district if both county boards so agree. Each county court is assigned at least one judge with the county court having the authority to increase or reduce the number of judges. Probate judges in office on the effective date of the bill become the county court judges. In counties which are combined into districts, the probate judge of the county having the larger population is the county court judge. Probate judges who are not designated as county court judges continue in office as part-time judicial officers until their term expires. County court judges are full-time judges and receive a salary of \$24,000 per year.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971 OBSERVING THE MUNICIPAL COURT We may try to see things as objectively as we please. None the less, we can never see them with any eyes except our own. Benjamin N. Cardozo You will be observing the pretrial arraignment procedure in municipal courts for felony and misdemeanor cases. The arraignment is the first appearance of a defendant in court after arrest. The purpose of the arraignment is to inform the defendant of the charge against him, to arrange for legal counsel, to accept a plea of guilty or not guilty, and if a felon, to arrange for a preliminary hearing if the defendant so wishes. Proceedings go very quickly in municipal court. You will hear several cases in the course of an hour. You may not be able to get all the information requested on the card. Don't worry about it...you will develop more facility as you go along. Use the back of the card for any additional comments you may wish to make concerning the attitude of the judge, interplay between attorneys, atmosphere of the court, specific requests for presentence investigation, etc. Set up your observation program so that there will be daily observation of the municipal court over a four week period. Crisis in the Courts by Howard James is good preparation for observing the courts. The author, a reporter for the Christian Science Monitor, based the book on a series of his articles which appeared in that paper in 1967. Mr. James traveled throughout the country observing courtrooms and talking to judges and lawyers. His impressions and the pictures he draws of the court can serve to heighten your awareness of the various aspects of courtroom procedure and atmosphere which are pertinent to observe. To all local Leagues, except those in Hennepin, Ramsey, and St. Louis Counties, you will be observing probate court in this instance (until S.F. 266 County Court Act takes effect). See definition Probate Court in Judicial Dictionary. This can eliminate your "Get Acquainted" observation of probate court. - 13

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971 "GET ACQUAINTED" COURT OBSERVATIONS Since hearings in probate and district court can continue for an indeterminate length of time, we will observe these courts on a "get acquainted" basis. These observations should

serve to familiarize our members with the Minnesota court system as it functions in their communities.

A "get acquainted" visit to the court should always be preceded by a briefing explaining what will be seen and how the observers should conduct themselves. Write to the court telling them of your plans to observe. (See sample letter included in this committee guide.)

The briefing should explain the type of court being visited and the type of case or hearing they are apt to witness. Depending upon the interest of your members, you may want to arrange the observation around some specific activity within the court procedure, e.g. jury selection, judge giving charge to jury, cross examination, committment hearing, etc. It is important to stress that spectators in the courtroom are there at the indulgence of the court. Court visiting seems to work best in small groups so the routine of the court is not interrupted.

The public relations chairmen can plan for coverage of this type of observation. A picture of the group as they leave for the court can be taken and sent to the newspaper with an article on the purpose of the visit.

The bulletin editor may want to make use of the tour observations in a Voter article. Or perhaps the discussion leader of the unit would like a report at a unit meeting. Therefore, provide an opportunity for observers to discuss what they saw and their impressions of the proceedings.

A simple check list can be used for these "get acquainted" observations. (See sample enclosed in this guide.) Please check the upper right corner with a red marker if the court observed is probate and check in blue for district court. (This should simplify compilation later.)

League of Women Voters of Minnesota, 555 Wahasha, St. Paul. Minnesota 55102 August 1971

### How to Use Observation Form for Municipal Court

Terms

Court

ludge

Time

Defendant's name or Case#

From Jail or Courtroom

Age

Plea

Private attorney, public defender, no counsel

Right to counsel expld.

Disposition

Trial date

Bail

Comments regarding treatment of defendant

Instructions and Explanation

If there are several courtrooms within the municipal court you are observing, write court room number.

Note name.

Note total time elapsed for case heard.

Note both or whichever you can hear.

Check which is applicable--jail if held prior to arraignment; courtroom if not previously held.

Estimate age of defendant; under 20, 20 to 30, 30 to 40, 40 to 50, and over 50.

Note guilty or not guilty, whichever case may be.

Check appropriate space. If no counsel, note on back of card whether counsel was waived by defendant.

Check appropriate space. Note other pertinent comments on back of card.

Briefly note result.

If being held for trial, note date (if possible).

Note amount.

Note any statements regarding treatment of defendant--good or bad. We are not looking for value judgements here but wish to be aware of defendant's view of his treatment at arrest and prior to and during court arraignment.

of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
August 1971

## Sample of Cards Enclosed

The first p.

### Municipal Court Observation Form

Court	Judge	Date	Time
vefendant's nam	me or Case #		
	Courtroom		
Charge(s)	2) 2	Plea	
Private Attorn	ey Public Defe	ender No Co	unsel
-ht to Couns	el Expld. Beg. Sessi	ion Before Pl	ea Never
Misposition	Trial Date	Bail	
Comments regar	ding treatment of de	fendant:	
server	League	e Aristo Albania	
	List for "Get Acqua	AND SECURE	Comment /
Check	- sange lege topologic	inted" Court Obser	vation
Case:	List for "Get Acqua:  Court Criminal Civil es represented by at Defendant	inted" Court Obser	vation
Case:  Are both particle lain iff  are either Cou	List for "Get Acqua Court Criminal Civil es represented by at Defendant rt appointed?	inted" Court ObserAction agai	nst admin. body_
Case: Are both particlain iff are either Cou	List for "Get Acqua Court Criminal Civil es represented by at Defendant rt appointed?	inted" Court Obser Action agai torneys?  offense occurred? edings: Litigants	vation inst admin. body_
Case:  Are both particlain iff are either Cou  How long since  Vumber of peop Count Personne  Remarks regard	Court Criminal Civil es represented by at Defendant rt appointed? disputed action or le involved in proce	Action agai torneys?  offense occurred: edings: Litigants Witnesses e, interplay between	evation  Inst admin. body_

(Use other side if necessary)

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 September 1971

### PROBATE INTERVIEW FORM

Ι.		bate(in this case meaning the entire process of administering the ate of a decedent)
		are interested in the feelings of the respondee as a judge, referee, attorney practicing in the probate court.
	Α.	What % of your caseload is in transfer of decedent property
		in competency hearings
		in guardianships
		and if outstate, what % in juvenile
	В.	What is yearly total of cases
	c.	On which cases do you select the appraisers?
		one appraiser two appraisers none
	D.	What is your opinion re: appraisers basing fee on size of estate?
	E.	Are executors of estates bonded? How is size of bond
		determined? What check is made on bonding
	F.	How long does it take to probate small estate (under \$15,000)
		large estate Are there any ways to shorten the
		length of time?
	G.	If administrator is appointed, how is selection made?
	н.	Should attorneys base their fee on size of estate (as at present) or on hourly service basis? Explain
	I.	What is there in the probate system that encourages people to look for loopholes, e.g. converting assets to nonprobate assets such as insurance proceeds, pensions, joint property, etc?

J.	Do you consider the view of the public concerning "high costs" of probate to be accurate? Explain
к.	What do you see as problems of probate and what solutions or reform would you propose?
	nitment
Α.	What % of commitment hearings in your court are mentally ill
	inebriates
	mentally deficient
В.	What is the number of petitions filed in your court each year?
	What are the average contacts made prior to accepting petitions?
D.	What checks are made for accuracy of validation?
Ε.	Does the adversary process apply in commitment hearings?
F.	Is there adequate staff to check documents?
G.	What is the composition of the medical panel? psychologist
	general medical doctor psychiatrist
н.	When is examination of alleged patient conducted in relation to date of hearing?
ı.	Do persons petitioned against have counsel? If alleged
	patient does not, how does court appoint counsel?
J.	What is average length of time between date petition is served and hearing?
к.	What resources exist in your community that can be used to aid alleged patients?
	How are they used?
	Again, what proposals would you make for reform?

## III. Guardianship How is guardian selected for appointment? Is guardian bonded? To what extent? В. If not, why? Is there a fee for guardianship? \_\_\_\_\_ On what basis? C. What are your feelings about these fees? D. Again, suggestions on problems and solutions in this area\_\_\_\_ E. IV. According to solutions and possible reforms which you have discussed within the probate court, where would one anticipate receiving help and receiving opposition?

signature of re	spondent	
· · anviewen	I.e.a	gii e

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971 INTERVIEWS ON PROBATE COURT The purpose of the interview is to determine the respondent's views about probate court ---- what is required in probate court by statute and what is carried out in practice. These interviews will help to secure an overall view of probate court practice throughout the state. Interviews should be planned carefully and, where there is more than one local League affected by the jurisdiction of that court, there must be interleague cooperation and coordination. Tips on Interviewing 1. Call or write to ask for the interview and set a date and time. Also give the purpose of your interview (try to emphasize that we are trying to gain an overall view of Minnesota probate court practices). 2. No fewer than two nor more than three persons should go on an interview. 3. Be on time for interview --- in fact, be early. 4. Plan ahead who will do the questioning and who will do the recording. 5. Use a clip board for holding the questionnaire form for ready, fast, accurate reporting. Record answers as questioning proceeds. Any extra comments should be noted on a separate pad. Such comments are most important, and should be faithfully, fully, and accurately recorded before the interviewer forgets what was said. 7. If respondent says he can be quoted, be sure to obtain his signature to his interview. Upon his request, assure respondent that his replies will be kept confidential within League and will not be published without his permission. 8. Be prepared against suddenly becoming the interviewed. For example, should the respondent reverse the interview and begin asking the interviewer questions about the League, or its positions on the Judiciary, she should merely state that we are in the process of doing our study and have no position; however, League is interested in his opinion and experience. - 20 -

9. If there is more than one probate judge in your district, try to secure an interview with each judge. Also try to secure an interview with one or two attorneys who have presented cases in probate court. 10. Send your completed interview forms (in duplicate) to the state office by January 30, 1972. Keep a third copy for your files. If the report is for more than one local League, be sure that each League has a copy of the completed report. 11. Send a thank you letter to each person interviewed. - 21 -

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
August 1971

PROSECUTOR, PUBLIC DEFENDER, PROBATION OFFICER:
"AS THEY AFFECT THE INDIVIDUAL"

In addition to courtroom observations, the opportunity to see the judiciary from the perspective of the individual can be enhanced by some members of the committee observing a case as it is developed with the city attorneys, probation office, and public defender.

Contact should be made with each of these three offices. Explain that our study is being done to promote better understanding of the judicial system through an evaluation of the structures and procedures as they affect the individual. Since most of our study is factual information, we want to understand how the system operates from the viewpoint of the individual. Ask if it would be possible for a member of the committee to follow him or her as they develop

that our study is being done to promote better understanding of the judicial system through an evaluation of the structures and procedures as they affect the individual. Since most of our study is factual information, we want to understand how the system operates from the viewpoint of the individual. Ask if it would be possible for a member of the committee to follow him or her as they develop a case from beginning to end. If arrangements to observe an entire investigation cannot be made, you might ask them to consider (if their time permits) explaining the entire process on the basis of an old case. Or you might be able to see some individual aspects of the investigation as it is being done. Officials usually are most cooperative with the League when they understand the nature of our interest. Give assurances that we are interested in the procedure and not the specific details of a particular case (e.g. we would be interested to learn that during a presentence investigation, the defendant's employer was interviewed. The name of the employer or firm would not be of interest.) We must give assurances that we will respect any and all aspects of the report which are confidential and only wish to observe an investigation to increase our understanding of the procedure.

The substance of these observations can be reported to the membership through the bulletin, discussion group, general membership meeting, etc. By participating in these types of observation, our members will gain important insights on judicial procedures which indeed do affect the individual.

Keep the State Office informed when you pursue any of these courses. The feedback we get from you can help other Leagues in their approach (or even set the State committee out to investigate any complexities that arise in making arrangements) to this aspect of the study. We'll try to funnel all information back to local Leagues as soon as we receive it. If we can be of any help in explaining the nature of our interest, or in generalizing the substance from your specific experience, let us know...we'll be glad to help.

JUDICIARY

The League of Women Voters of Minnesota

## LEAGUE OF WOMEN VOTERS OF MINNESOTA "DAY IN THE SUPREME COURT"

#### SEPTEMBER 20, 1971

Arrangements have been made to observe the oral arguments of two cases in the Minnesota Supreme Court. The size of the court will permit only twenty Leaguers to observe the proceedings at one time. A maximum of two reservations from each local League will assure statewide participation. We are aware that September 20 is Rosh Hashonnah and some Leaguers will be unable to participate. There will be other opportunities for observing the Supreme Court this year. If the volume of interest in this type of observation indicates need for more days than currently planned, we shall attempt to provide as many opportunities as possible throughout the duration of the study.

On September 20, there will be cars leaving from the state office promptly at 9:00 a.m. (or you may prefer to provide your own transportation and meet the group outside the courtroom before 9:15 a.m.). After the session we will adjourn to the Macalester College Alumni House, Lincoln at Cambridge, St. Paul, for lunch. The Solicitor General of the State of Minnesota, John M. Mason, will join us there to discuss Supreme Court procedures and to answer some of our questions.

Send a check for \$3.75 for the luncheon with your reservation by September 10 to the state office and indicate if you will require transportation. Reservations by the 10th will allow the time necessary to send each person attending, a summary of the cases being argued. This summary of facts will help you to follow the arguments. Reservations will be accepted in order of receipt. Because of the limits placed by the seating capacity of the court, future observation days will not be open to Leaguers who have previously participated.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971 Letter to be sent to clerks of courts or any comparable officer which you will be observing. Hopefully, it will pave the way for cooperation and allay any anxieties which the court personnel may have about our presence in the court. Main St., , Minnesota Clerk of Dear Sir: The Leagues of Women Voters of Minnesota will be studying the Judiciary during the next two years. We are aware of the importance for our citizens to have a better understanding of our courts. We plan to observe court. It is our feeling that we can gain greater insight by a first-hand view of the courts. We would welcome any suggestions that you have which could aid us in our observation. Thank you. Very truly yours, , President , Chairman Judiciary Study - 24 -

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971

#### Compiling and Reporting

After completing your observations of the courts, you will need to pull together the information requested on the report forms (enclosed in this Guide). Additional forms may be ordered free from the state office. These standardized forms will insure maximum consistency throughout the state in observing, interviewing and compiling. Two copies of each report are to be sent to the state office along with all the observation cards that have been filled out.

A preliminary report on the observations statewide should be available at the time of the State Council Meeting April, 1972.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971

Due in State Office by Jan. 1, 1972

# LOCAL CHAIRMAN'S REPORT ON MUNICIPAL COURT OBSERVATION

I.	Name of judge
II.	Total number of cases observed
III.	Time Average length of hearing Longest Shortest
	[in the following (IV - XIV) give total #]
IV.	From jail
v.	From courtroom
VI.	Sex MaleFemale
VII.	Race White Black Indian Other
VIII.	Age Under 20 20-30 30-40
IX.	Charge Felony Misdemeanor
х.	Plea Guilty Not guilty
XI.	Counsel Private Public Defender No counsel Waived counsel
	Right to counsel expld.  Beg. session Before plea  Never
XIII.	Disposition Held over for trial Dismissed Sentenced Probation
xIV.	Bail - give averages for high, low and median (Further info can go on back)
xv.	Comments regarding treatment Positive Negative
XVI.	Add'l comments appearing often in observation

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
August 1971

Due in State Office by 12/15/71

LOCAL CHAIRMAN'S REPORT

LOCAL CHAIRMAN'S REPORT
On
"Get Acquainted" Court Observations

- I. Type of court visited
  - A. type of cases
  - B. county
  - C. judicial district
- II. Name of presiding judge
  - A. Salary
  - B. Term of office
  - C. How many years in office
- III. Court personnel
  - A. Number and titles
  - B. What are their duties?
  - C. Source of compensation
  - D. Method of selection.
  - IV. Physical appearance of court (clean, adequate lighting, visibility?)
  - V. Can litigation be heard at least by litigants?
  - VI. Is there a regular or a pro tem judge presiding?
- VII. Is the court conducted with decorum?
- VIII. Did the court session begin on time? If not, are you able by observation to determine why?
  - IX. Give your general impression of your League's observation (Was it a first-time experience for many members? Was their reaction good, bad, or indifferent?)
  - X. Do you believe, judging from your experience in observing, that citizen interest in the courts is welcome?
  - XI. Further comment.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102

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### Leagues in Dist.

Counties in Dist. in which there are no LWV's

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Stevens County Granite Falls Willmar

Bemidji Cass Lake Crookston

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Columbia Hgts.
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League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102
August 1971

Suggested Bibliography for Further Reading

(References preceded by \* recommended for general background)

- A Guide to Court Systems. 4th edition; Institute of Judicial Administration, New York, 1966.
- Alexander, Paul W., Legal Science and the Social Sciences: The Family Court, Missouri Law Reveiew, 1956.
- Alexander, Paul W., The Family Court of the Future, Journal of the American Judicature Society, 1952.
- Banks, Louis, "The Crisis in the Courts," Fortune, December, 1961.
- Braink, David, "Probating a Typical Minnesota Estate, 144 Minnesota Law Review, p. 103.
- Cardozo, Benjamin N., The Nature of the Judicial Process, Yale University Press, \$1.75 (paperback)
- Carlin, Jerome E., Jan Howard, and Sheldon L. Messinger, Civil Justice and the Poor: Issues for Sociological Research, Berkeley: Center for the Study of Law and Society at the University of California, Berkeley. (Published by the Russell Sage Foundation, 1968)
- Clark, Ramsey, Crime in America, Pocket Books, Inc., 1 West 39th St., New York, New York 10018, \$1.50 (Paperback)
- Committee on Public Affairs, For the Family in Court, Community Service Society of New York, 1956.
- Council of State Governments, State Court Systems, Pamphlet, Revised December '53.
- Downie, Jr., Leonard, Justice Denied, Prasger Publishers, New York, 1971.
- Dummell's Minnesota Probate Digest, Mason Publishing Co., St. Paul, Minn.
- Frank, James, Courts on Trial: Myth and Reality in American Justice, Atheneum, New York, 1970. \$2.40 (Paperback)
- Heuge, Paul M., Chairman, Getting Answers for the Control of Crime, Citizens League Report, Citizens League, 84 South 6th St., Minneapolis 55402.
- Hart, George L., Jr., Chairman, Report of the Judicial Council Committee
  to Study the Operation of the Bail Reform Act in the District of
  Columbia, American Judicature Society. (No charge)
- \*James, Howard, Crisis in the Courts, David McKay Co., Inc., New York, 1967.

  Johnson and Resiter, Ed., Minnesota Estate Administration.

- Jones, C. Paul, Jones on Minnesota Criminal Procedure, 3rd edition, Mason Publishing Co., St. Paul, Minnesota, 1970.
- Jones, Harry W., Editor, The Courts, the Public, and the Law Explosion, Prentice Hall, Inc., New York, 1965. (Available from American Judicature Society, paperback, \$1.95)
- Journal of the American Judicature Society, American Judicature Society, 1155 East 60th St., Chicago, Illinois 60637.

A national and international organization of lawyers, judges, and laymen which promotes the efficient administration of justice.

Kalvers, Harry, Jr., and Hans Zeisel, The American Jury, Boston, Little, Brown, 1965.

#### Law Reviews

The best scholarly work written by law professors with case comments and notes written by students who are elected to law review on the basis of high academic achievement. Use <u>Legal Index Periodicals</u> for reference.

- \*League of Women Voters of Minneapolis, Hennepin County Municipal Court, 1200 Second Ave. S., Minneapolis 55402, 1971.
- Lehman, Godfray, What You Need to Know for Jury Duty, Cowles Education Corp., 1968.
- \*Lewis, Anthony, Gideon's Trumpet, Random House, \$1.95 (Paperback)

A novel concerning the complex issues involved in Gideon v. Wainright and an examination and interpretation of the role of the supreme court.

\*Lieberman, Jethro, Court in Session, Sterling Publishing Company, 1966.

Written for high school or college students interested in pursuing a career in the law. Book is concise, well-written, and a good source for basic information.

- Menninger, Karl, The Crime of Punishment, New York; The Viking Press, 1968.
- Newman, Donald J., Conviction: The Determination of Guilt or Innocence without Trial, Boston, Little, Brown, 1966.
- Pound, Roscoe, The Causes of Popular Dissatisfaction with the Administration or Justice, American Judicature Society. (5 sample copies free, 20 copies for \$1.00)

The spark for the movement to reform the courts was lit by this speech given in 1906 at the American Bar Association meeting which was held in the House chambers in the state capitol in St. Paul!

President's Commission on Law Enforcement and Administration of Justice, Task Force Reports: Police, The Courts, Corrections, Juvenile

- Delinquency and Youth Crime, Organized Crime: Washington, D.C. U.S. Government Printing Office, 1967.
- President's Commission on Law Enforcement and the Administration of Justice, The Challenge of Crime in a Free Society, Washington, D.C. Government Printing Office, 1967.
- Removal of Judges: California Tackles an Old Problem, Journal of the American Bar Association, Volume 49, February, 1963.
- Minnesota Statutes, No. 525, 526, 526, 253A. (Re: Probate Court)
- Venderbilt, A. T., The Challenge of Law Reform, Princeton University Press, 1955

#### Who Shall Judge?

"A 28 minute color film, narrated by E. G. Marshall, explains merit selection of judges in the context of the needs of a modern judicial system. It is available without charge to organizations and committees working in the areas of court administration and judicial reform." American Judicature Society.

Winters, Glenn R., The National Movement to Improve the Administration of Justice, American Judicature Society. (5 free copies; 20 copies for \$1.00)

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 August 1971

#### JUDICIAL DICTIONARY

- ADVISORY OPINION--An opinion rendered by a court to a lower court or, in some cases, to the legislative or executive branch of government which is not binding or decisive of a controversy.
- AFFIDAVIT--A written or printed declaration or statement of facts made voluntarily and confirmed by oath of the party making it and taken before an officer having authority to administer such oath.
- APPELLATE JURISDICTION--The authority of a court to hear a case that has been tried in a lower court.
- ARRAIGNMENT--Bringing a prisoner to the bar of the court to answer to a criminal charge.
- ATTACHMENT--If the losing defendant has no money but does have some property, the plaintiff can bring suit to have the property sold at a public auction with all or part of the proceeds used to satisfy the judgment.
- BAILIFF--Person in charge of the jury whose duty is to ensure that the jury can deliberate in private.
- BILL OF PARTICULARS--A written statement from the plaintiff who made the original complaint explaining the charges in greater detail.
- BOOKING--Entries made in a special book regarding the name of the prisoner, the time he was brought in and the nature of charges.
- BRIEF--A concise statement of the facts of the case and the legal arguments involved prepared by the lawyer.
- CALENDAR -- A list of cases which are to be heard by a court during the court term.
- CASE OR CAUSE--A suit in law or equity; in appellate procedure, the trial record made in the lower court, including the papers and testimony.
- CERTIORARI--A writ issued by a higher court requiring the record of a case in the court below to be sent up to itself for redetermination.
- CHANGE OF VENUE--The removal of a suit begun in one court and the placing of it in another court for trial under a different judge or in a locale other, than that in which the action arose.
- CHARGE--A liability, an accusation; to create a claim against property, to accuse, to instruct a jury on matters of law.

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CIVIL ACTION -- An action which seeks the establishment, recovery, or redress of private and/or civil rights. Civil suits relate to and affect only individual rights, whereas criminal prosecutions involve public wrongs. CLERK OF THE COURT -- Handles much of the administrative paper work of the court such as keeping judicial calendars, recording judgments. sending out official notifications, keeping track of motions for appeal, scheduling hearings of the trials, and sending for transcripts and other records of the trials. He does not make decisions affecting the parties but carries out the orders of the judges. COMMON LAW -- The unwritten law of a country based on custom, usage, and judicial decisions, now largely codified. CONCURRENT JURISDICTION -- When two courts have the power to determine the same issues. CONTRACT -- An agreement between people, groups, companies, governments or any combination of these. COURT OF FIRST INSTANCE -- A court in which a case must originally be brought, usually a trial court. COURT TERM -- A division of the year during which the court holds its sessions. DE NOVO--Case retried completely with record of previous trial inad-DEFENDANT -- A person who is being sued in a civil action or is prosecuted in a criminal action. DIVERSITY OF JURISDICTION -- Authority to hear and decide cases which involve citizens of different states. EN BANC--Judges sitting together to hear a case and jointly issuing a decision or opinion. FELONY--Serious crimes including murder, theft, kidnapping, arson, sale of narcotics, burglary, etc. which are more serious than misdemeanors and which are punishable by death, imprisonment for more than a year and/or heavy fines. FOREMAN--Juror who acts as spokesman. GARNISHMENT -- The employer of the defendant is placed under a legal obligation to deduct a small percentage of the defendant's salary from each paycheck and pay it to the court officer who will in turn pay it to the plaintiff. The amount that can be garnisheed is usually, although not always, controlled by state statute. GRAND JURY--A large body of jurors chosen from lists of registered voters in the community who meet for the purpose of assessing whether there is probable cause to hold a suspect and enough eyidence against the person to justify holding a trial. - 33

HABEAS CORPUS -- Literally, "you have the body," it is the name given a variety of writs whose object it is to bring a person before a court or judge so the court may determine if such person has been denied his liberty without due process of law. HEARSAY EVIDENCE -- Evidence which is not admissable in court if the person quoted is not present to be cross-examined. INDICTMENT -- A formal, written accusation made by a grand jury to the court charging a person with having committed a crime. INJUNCTION -- Judicial order requiring the person or persons to whom it is directed not to do a particular thing. JUDICIAL ADMINISTRATION -- The organization and procedure of the judicial branch of the government. JUDICIARY -- The branch of government which has judicial power. Also, the name for all the courts of a jurisdiction taken collectively. JURISPRUDENCE -- The science or philosophy of law. JURISDICTION -- The authority of a court to exercise its judicial power in a specific case. JUSTICE OF THE PEACE -- A public official with minor civil and criminal jurisdiction. In more serious crimes he may be authorized to conduct preliminary hearings and hold the accused for trial by a higher court. LAW--Body of rules or principles, prescribed by authority or established by custom, which a society recognizes as binding on its members. LAW CLERK--A judge's only personal assistant (usually a recent honor graduate of law school) who researches the law of the cases which the judge must decide and who discusses legal points with the judge. LEGISLATIVE COURT OR STATUTORY COURT -- A court created by the legislature is pursuant to constitutional power. . 18 1 3/11 LIEN--Claim on specific property of another for satisfaction of debt or charge. LITIGATION -- Suing in court for the purpose of enforcing right. LOCAL COURT -- A court whose jurisdiction is limited as to a specific place. MANDAMUS -- Judicial order requiring the person or persons to whom it is directed to do a particular thing. MISDEMEANORS--Less serious crimes such as speeding and breach of peace which are punishable by small fines and short jail sentences. MIS-TRIAL--An erroneous or invalid trial; a trial which cannot stand in law because of lack of jurisdiction, wrong drawing of jurors, or disregard of some other fundmental requisite. - 34 -

OFFICERS OF THE COURT--Lawyers, police officers and those paid to work for the court. ORIGINAL JURISDICTION -- The authority of a court to hear cases of the first instance as opposed to appellate jurisdiction. PAROLE--Suspension of part of the sentence for good behavior. Conditions can be imposed on the paroled convict; if he does not live up to the conditions, he can be returned to jail for the remainder of his term. PEREMPTORY CHALLENGES -- Lawyers for the defendant and the plaintiff each can arbitrarily reject a given number of potential jurors for any reason whatsoever. PETIT JURY -- A body, usually of twelve citizens or less, selected from a larger panel to hear and find the facts in a trial at law, and so called to distinguish it from the grand jury. PETITION -- An application to a court. PLAINTIFF -- A person who brings a law suit in law or equity. PLEADINGS -- Successive statements by which litigants set forth the allegations upon which they base their own claims or challenge the claims of their opponents. PRE-TRIAL PROCEDURE -- A devise which consists of conferences between the attorneys for the parties to a law suit and a judge of the court. The chief purpose of this is to prepare the case for an effective trial by formulating the issues and stating them in a pre-trial order which then, in effect, becomes the chart for the trial. PROBATE COURT -- A court which administers the estates of decedents, and has jurisdiction over competency proceedings. PROBATION -- Substitute for jail sentence and similar to parole in that the person must obey the terms of conditions of the probation and must usually report to a probation officer. PUBLIC DEFENDER -- An official of the state or local government paid to defend those whom the district attorney will prosecute. His job is to search for evidence supporting the clients assigned to his office by the court. Only a few communities have public defenders today, but their number if increasing. QUO WARRANTO -- A legal proceeding by which the government commences an action to recover an office, franchise or privilege from the person or corporation in possession of it. RECEIVER -- A neutral party who directs the affairs of a company or estate in litigation. . An. of the first REPORTER -- A trained and skilled lawyer responsible for the publication of all the opinions and decisions of the court.

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RULE-MAKING--Power to make rules pertaining to the administration of the courts; practice, procedures, and evidence in the courts. STATUTE OF LIMITATIONS -- Time period within which a law suit may be brought. STATUTORY SUITS -- Suits brought because someone claims a right conferred on him by a statute such as suits instituted to challenge the actions of corporations, to recover money unreasonably charged by "common carriers" such as railroads, to secure divorces or to recover from a union which breached its duty of "fair representation" of its members. SUMMARY JUDGMENT -- Decison made by judge in disputes of law only without sending the case to trial. SUMMONS -- Authoritative notice to appear before a court. SURROGATE -- A judicial officer having jurisdiction over the probate of wills, the administration of estates, etc. TORT--Any wrongful injury either committed intentionally or through carelessness. Usually two courses of action are possible. A civil suit can be brought to recover damage to property or to a person; the state can bring a criminal suit to prosecute the wrongdoer for breaking the law. WRIT--Formal order under seal, issued in name of the court or other legal authority, directing a public officer or private person to do or refrain from doing some specified act. Errata and additions to Dictionary COMMITTMENT HEARINGS -- Hearings held in probate court to determine whether or not a person is to be committed to a state hospital. PRE-SENTENCE INVESTIGATION -- Often follows a conviction in felony (except for 1st degree murder and treason) or gross-misdemeanor cases and is mandatory when the defendant is under 21 at time of arrest and has been found guilty of a felony or gross misdemeanor. The investigation is conducted by the probation officers. The written report directed to the court concerns the individual's characteristics, needs, circumstances and social history and, if so desired, may indicate possibilities for potential rehabilitation. All law enforcement officers must cooperate in providing necessary records. The result of the investigation is open to court officials, which include the Commissioner, of Corrections, the two attorneys, and the judge. Either attorney may make a summary hearing on any matter not in agreement. PROSECUTOR--One who institutes and carries on legal proceedings in a court of justice, especially in criminal court, against a person. - 36 -

PROBATE COURT--A court which administers the estates of decedents, the guardianships of adults and juveniles, and the committment of persons to state hospitals. Except in counties having a first class city or a population in excess of 30,000, probate courts have the duties, powers, and jurisdiction of municipal courts.

PRELIMINARY HEARING--A routine procedure held before for information but not after an indictment. The purpose of which is for the judge to determine 1) whether or not an offense has been committed and 2) whether or not there is reason enough (probable cause) to believe the defendant committed the offense. During the hearing, both sides are presented, cross examination may be held, and the defendant may attack the sufficiency of the complaint. The preliminary hearing is a routine formality held with lesser crimes unless the right according to statute is waived. The usual result in a municipal court is that the defendant is bound over to district court for arraignment and trial.

#### FOR YOUR INFORMATION

The Women's Continuing Education, General Extension Division, University of Minnesota, is presenting a seminar entitled Law and Society. It will be given during the Fall and Winter Quarters on Wednesdays, 9:30 a.m. to 12 noon, at MacPhail Center Annex. It can be taken for credit--4 credits per quarter. The faculty coordinator is Samuel Krislov, Chairman of Political Science and recently appointed by Governor Anderson to the newly created Minnesota Commission on Judicial Standards.

Visits to the county and municipal courts will be part of the course.

FILE COPY

JUDICIARY

The League of Women Voters of Minnesota

## "DAY IN THE SUPREME COURT"

Dates: November 9, 1972

November 22 November 30 December 5

Arrangements have been made to observe the oral arguments of cases in the Minnesota Supreme Court. The size of the court will permit only twenty Leaguers to observe the proceeding at one time. A maximum of two reservations from each local League will assure state-wide participation.

Observers should meet outside the courtroom before 9:15 a.m. After the session we will adjourn to the Macalester College Alumni House, Lincoln at Cambridge, St. Paul for lunch. There will be a speaker for each of the above dates who will join us there to talk with us and answer some of our questions.

Send a check for \$3.75 for the luncheon with your reservation to the state office -- deadline is ten days before date of your "Day in the Supreme Court." Please indicate a second choice of date.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, Minnesota 55102 February 1972

#### A BRIEF BRIEF ON THE SUPREME COURT

According to Article VI of the Constitution of the State of Minnesota, the Supreme Court "shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in said court." The areas of original jurisdiction according to statute is in writs of habeus corpus, mandamus, and prohibition.

There are seven justices of the Minnesota Supreme Court, one of whom is the Chief Justice. They sit in the court room according to seniority.

The term of the court (session) begins the 1st Tuesday after the 1st Monday in January and ends at the close of the calendar year (with a usual recess during July and August).

The court will be sitting en banc during the days League is observing, i.e. in its entirety.

A decision in the cases to be heard will require a majority, 4 out of 7.

Following the morning session at the court, we will meet for lunch at the Macalaster College Alumni House, 1685 Lincoln, St. Paul at 12:30 p.m.

Directions: From the Capitol, drive I94 west to Snelling; go south on Snelling to Grand Ave.; go right on Grand for 2 blocks; turn south on Cambridge for 1 block; at that left corner, Cambridge and Lincoln, is the Macalester Alumni House.

There will be a speaker to discuss the procedures of the Supreme Court and to answer questions. He will be:

Richard Klein, Administrative Assistant to the Supreme Court.

JUDICIARY

The League of Women Voters of Minnesota

January 1972

## "DAY IN THE SUPREME COURT"

February 10, 1972 March 2, 1972

Arrangements have been made to observe the oral arguments of cases in the Minnesota Supreme Court on February 10 and March 2. The size of the court will permit only twenty Leaguers to observe the proceedings at one time.

The volume of interest in response to our previous "Day in the Supreme Court" activities indicates that prompt response to this announcement is important if your League is to be represented. A maximum of two reservations from each local League will assure statewide participation.

On each "Day in the Supreme Court" there will be cars leaving from the state office at 9:00 a.m.. (Or you may prefer to provide your own transportation and meet the group outside the courtroom before 9:15 a.m..) Luncheon and discussion of Supreme Court procedures will follow the observation - details to be announced later.

Send the reservation form (see below) and a check for \$3.75 per person (for registration and luncheon) to the state office and indicate if you will need transportation from the office to the courtroom. Early registration is suggested since space is limited and to allow time necessary to send each person attending a summary of the cases being argued.

Reservations will be accepted in order of receipt. Because of the limits placed by seating capacity of the court, these and future observation days will not be open to Leaguers who have previously participated.

## 

The League of Women Voters of Minnesota

JUDICIARY

November 1971

### LEAGUE OF WOMEN VOTERS OF MINNESOTA

#### "DAY IN THE SUPREME COURT"

JANUARY 4, 1972 JANUARY 5, 1972 JANUARY 6, 1972

Arrangements have been made to observe the oral arguments of cases in the Minnesota Supreme Court on three days in January 1972 - the 4th, 5th and 6th. The size of the Court will permit only twenty Leaguers to observe the proceedings at one time.

The volume of interest in response to our first "Day in the Supreme Court" on September 20, 1971 indicates that prompt response to this announcement is important if your League is to be represented. A maximum of two reservations from each local League will assure statewide participation.

On each "Day in the Supreme Court" there will be cars leaving from the state office promptly at 9:00 a.m. (or you may prefer to provide your own transportation and meet the group outside the courtroom before 9:15 a.m.). Luncheon and discussion of Supreme out procedures will follow the observation - details to be announced later.

Send the reservation (below) and a check for \$3.75 for registration and luncheon to the state office by December 28 and indicate if you will require transportation. Reservations by December 28 will allow time necessary to send each person attending a summary of the cases being argued. Reservations will be accepted in order of receipt. Because of the limits placed by the seating capacity of the Court these and future observations days will not be open to Leaguers who have previously participated.

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JUDICIARY

The League of Women Voters of Minnesota

## LEAGUE OF WOMEN VOTERS OF MINNESOTA "DAY IN THE SUPREME COURT"

#### SEPTEMBER 20, 1971

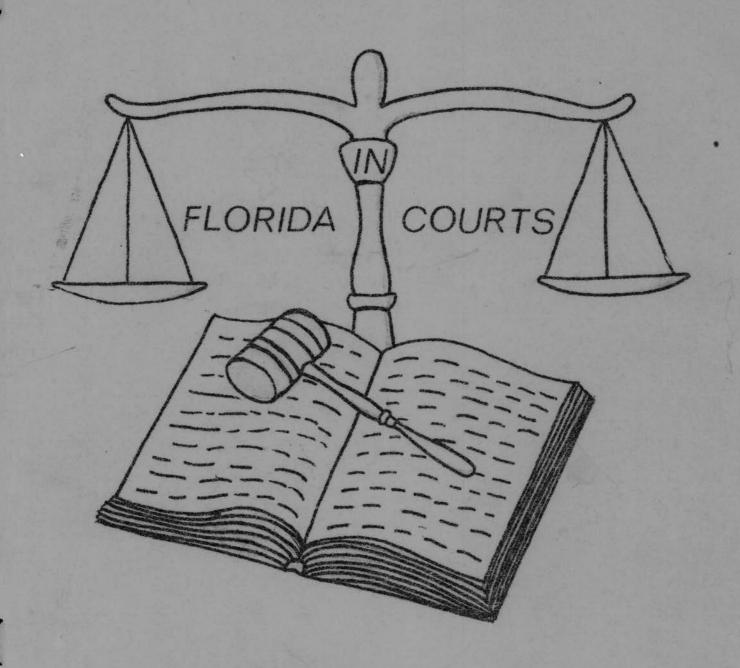
Arrangements have been made to observe the oral arguments of two cases in the Minnesota Supreme Court. The size of the court will permit only twenty Leaguers to observe the proceedings at one time. A maximum of two reservations from each local League will assure statewide participation. We are aware that September 20 is Rosh Hashonnah and some Leaguers will be unable to participate. There will be other opportunities for observing the Supreme Court this year. If the volume of interest in this type of observation indicates need for more days than currently planned, we shall attempt to provide as many opportunities as possible throughout the duration of the study.

On September 20, there will be cars leaving from the state office promptly at 9:00 a.m. (or you may prefer to provide your own transportation and meet the group outside the courtroom before 9:15 a.m.). After the session we will adjourn to the Macalester College Alumni House, Lincoln at Cambridge, St. Paul, for lunch. The Solicitor General of the State of Minnesota, John M. Mason, will join us there to discuss Supreme Court procedures and to answer some of our questions.

Send a check for \$3.75 for the luncheon with your reservation by September 10 to the state office and indicate if you will require transportation. Reservations by the 10th will allow the time necessary to send each person attending, a summary of the cases being argued. This summary of facts will help you to follow the arguments. Reservations will be accepted in order of receipt. Because of the limits placed by the seating capacity of the court, future observation days will not be open to Leaguers who have previously participated.

FILE COPY

## ADMINISTRATION OF JUSTICE



LEAGUE OF WOMEN VOTERS OF FLORIDA



REVISION OF ARTICLE V OF THE CONSTITUTION WILL BRING ORDER
TO THE PRESENT COURT "HODGE PODGE"

IT WOULD:

### **ELIMINATE DUPLICATION**

Instead of 15 kinds of trial courts, there will be 2.

Circuit — Civil \$2500 and over, juvenile, probate, guardianship, competency and all felonies.

County — Civil less than \$2500, misdemeanors, traffic, and violations of all ordinances.

As an example, at present, if a citizen sues for damages under \$2500 he may either enter his case in a small claims court, a county court, a county judge's court, a justice of the peace court, a magistrate's court, a court of record, a civil court of record, or a circuit court, depending upon the county where he resides.

In the proposed system he would go to a county court.

## **ESTABLISH RULES FOR ALL COURTS**

For the first time there will be clear cut lines of responsibility and accountability.

## SPEED JUSTICE

More efficient use will be made of judicial manpower by assignment of judges to the courts that need them.

New judges may be created by the legislature on the basis of need, not population.

Professional court administrators may be used allowing judges more time to dispense justice.

## BRING LOCAL JUSTICE CLOSER TO THE PEOPLE

Branch courts may be established throughout the county as needed. Grievance procedures are provided for citizens to lodge complaints against trial judges of lower courts.

# REMOVE LOCAL POLITICS FROM JUDICIAL APPOINTMENTS

Judicial nominating commissions will remove patronage power which is sometimes used by elected officials to reward unqualified supporters.

## PROVIDE MORE LOCAL REVENUE

The new article provides for total state funding of courts thus relieving local property taxpayers from this burden and releasing more money for local services.

## **ELIMINATE PART-TIME JUSTICE**

All judges must serve full time removing the possibility of conflicts of interest.

### PHASE OUT ALL NON-LAWYER JUDGES

Except in counties under 40,000, all non-lawyer judges will eventually be phased out.

## ABOLISH THE FEE SYSTEM

In many courts fees collected from fines are used to determine judges' salaries and other court costs. This has been called a "justice-by-the-dollar" system. This practice will be abolished. Any fines and forfeitures collected will be returned to the city or county where the offense occurred.

## PROMOTE COURT ROOM DECORUM & DIGNITY

At present, many municipal and justice of the peace courts are conducted in garages, auto repair shops, etc. What defendants see in such cases they use as a basis for judging all the courts in the land. The proposed revision would ensure that all courts will be state courts with appropriate judicial procedures.

Vote FOR Amendment I

**ARTICLE V REVISION... on March 14** 

LEAGUE OF WOMEN VOTERS OF FLORIDA

1310 W. Colonial Drive — Orlando, Florida 32804

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## I. BACKGROUND OF THE LEAGUE STUDY

II. POLITICA

When the League of Women Voters of Florida first adopted its study of constitutional revision in 1942, each article of the Florida Constitution was carefully examined and a yardstick was developed which League members have supported over the years with some minor revisions. This yardstick included the League's first position on the judicial article:

The Florida Constitution should establish a uniform system of courts adapted to the needs of a growing state.

By 1952, further study of the judicial article produced a second position:

There should be simplification and consolidation of courts to eliminate duplication.

In 1960-61, the League undertook an in-depth study of the recommendations of the Florida Judicial Council, which was chaired by Chief Justice Stephen O'Connell, under its program item on constitutional revision. As a result, the League supported the Council's recommendations for establishment of a family division of the circuit courts with jurisdiction to include divorce, support and juvenile matters, standardized witness fees and elimination of the fee system.

When the Florida Constitution Revision Commission and a special session of the legislature considered the revision of the entire constitution in 1968, the League testified and worked in support of its positions. Members continued to study the separate articles of the constitution and added a position concerning judicial selection:

There should be provisions in the constitution for the governor to appoint judges from a group of nominees selected by a panel or a commission composed of members of the bar and laymen.

The new Florida Constitution adopted by the voters in 1968 contains the judicial article from the 1885 constitution, as amended in 1956. A new judicial article (Article V) was offered to the voters in November, 1970. The League supported this revision, but it was rejected by the citizens of Florida by about 24,000 votes statewide.

At the State Convention in April, 1971, League members unanimously adopted an in-depth study of "The Administration of Justice in Florida Courts." The scope of this item includes: authority and supervision of court administration; number and types of courts; selection of judges; methods of jury selection; disposition of case loads; sentencing procedures; and defense services.

The League of Women Voters of Florida will support proposals of the 1972 legislature embodying present positions and continue to press for another judicial article to be offered to the voters for their approval. Meanwhile, members will review these positions and work toward further positions under the scope of the new study.

of 1868 provided that the chief justice and his two associates be appointed by the

governor and confirmed by the senate, serving for life "or during good behavior."

Although the Florida Constitution was revised in 1968, Article V, the judicial article of the 1885 constitution, remained intact except as amended through the years. This article lodged the judicial power of the state in the judicial department and provided that this department's authority be vested in courts listed in a hierarchy of descending order of dignity. They are the Supreme Court, district courts of appeal, circuit courts, the court of record of Secambia County, criminal courts, county courts, county dustice of the peace courts.

In 1914, the constitution vested the legislature with the power to create additional courts to aid or supplement those already provided when the need for them was pressing. It has become common practice for the legislature to create new courts when this need has been shown and to do so on the basis of population. At present, there are 15

#### II. POLITICAL AND HISTORICAL BACKGROUND OF FLORIDA COURTS

On July 10, 1821, Spain ceded Florida to the United States at St. Augustine; and on July 17, 1821, West Florida was acquired at Pensacola. Major General Andrew Jackson was governor of the provinces of East and West Florida, which were divided into two counties -- Escambia, extending between the Perdido and Suwanee Rivers, and St. Johns, which included all the territory east of the Suwanee. County courts and justice of the peace courts were established in each of the two counties.

The territory was named Florida by an Act of Congress on March 30, 1822. The executive power was vested in a governor appointed by the President of the United States. A secretary of the territory, also appointed by the President, acted as governor in his absence. The legislative power of the territory was "vested in a governor and thirteen (13) of the most fit and discreet persons of the territory, to be called the Legislative Council, who shall be appointed annually by the President by and with consent of the Senate, from among the citizens residing there." The first council met in St. Augustine in July, 1822, and from November, 1824, they met in Tallahassee. The act of 1822 also provided that "The members of the Legislative Council shall be privileged from arrest except in cases of treason, felony" and breaches of the peace during attendance at the Council.

The judicial power of the territory was vested in superior courts and in such inferior and justice of the peace courts as the Legislative Council saw fit from time to time to establish. The superior court judges, the district attorneys and marshalls were also appointed by the President. There were eventually five superior courts. Each had jurisdiction of all criminal cases, exclusive jurisdiction in capital cases and original jurisdiction in all civil cases of value over \$100. Each judge appointed a clerk for his respective court in St. Augustine and Pensacola. Superior court judges constituted a court of appeals, which held sessions in Tallahassee.

Two inferior courts were established in 1822 "to be called circuit courts"<sup>2</sup>, composed of one judge each, appointed by the governor, with exclusive jurisdiction over all sums above \$20 and under \$100, and appellate jurisdiction over all sums under \$20 and concurrent jurisdiction\* with the superior court in all civil cases over \$100.

In 1823, county courts were established. "All judicial officers shall hold their offices for the term of four years and no longer." The clerks of the county courts and the sheriffs were elected by the qualified citizens who could vote. These were white males 21 years of age or older; and it is interesting to note that troops of the United States could not vote. County courts were required to hold sessions twice a year.

The first Florida Constitution was adopted in 1838, and in Article V of that document, the three circuit judges (there were three by then) elected by the legislature constituted the Supreme Court of the state. In 1853, the constitution was amended so that all three were elected by the people. After reconstruction, however, the constitution of 1868 provided that the chief justice and his two associates be appointed by the governor and confirmed by the senate, serving for life "or during good behavior."

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<sup>\*</sup>See Glossary.

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different types of courts, eight of which are statutory, totaling approximately 440 separate trial courts throughout the state. (It might be significant to note that neither the Florida Bar, the Judicial Council, the law libraries, nor individual attorneys could shed any light on the total number of courts in the state. This figure has been determined by contacting each county and totaling the results.)

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- 2. "Ibid. p. "217, sand procedures for "borrowing judges" are combers, 17100 of 17100 months
- in addition, statistics to show which courts need belp and which could provide help are 3. Ibid. p. 116.

Duval, John P., <u>Duval's Compilation</u>. S.S. Sisley, Tallahassee. 1839. nemy doubties supplement or

Florida Law Journal, Florida Court Structure. 1969.

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THE PLOREDA SUPERIME COURSE

The Florida Supreme Court was established for the purpose of providing an appallate court to review the orders, judgments and decrees of the inferior courts, it has no original jurisdiction except to issue extraordinary write necessary to the complete exercise of its jurisdiction. (See chapter on structure.) It has appullate jurisdiction only. Since it his no facilities for taking testimony, it will ordinarily refuse to take jurisdiction of a case to which issues of fact must be resolved before a decision is reached. This is because there is no trial by jury. Also, the matters of admission to practice and discipline of all attorneys in the state are under its .notrottetant

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In every state where a study commission on judicial reform has been established, the conmissions have unantwoosly suggested that all courts be subject to administrative supervision and direction by the stare supreme court or the chief justice. They have also recommended that there should be a flexible assignment of judges from court to court within and between levels by the supreme court or chief justice. Objections to

# III. COURT ADMINISTRATION

In 1971, there were approximately 440 separate and autonomous courts in Florida which administered themselves.

Surveys of courts have revealed "administrative chaos" in the utilization of judicial manpower, operation of physical facilities, establishment of rules and procedures, and the keeping of records. Judges are expected to be business directors of the courts as well as dispensers of justice. Many of them must supervise the day-to-day operation of the court, hire personnel, fix salaries, order supplies, etc.

There has been little or no flexibility in the use of judicial manpower to balance the judicial workload. In some courts, judges work at full capacity but their calendars are two years or more in arrears. In others, business is completely up-to-date and judges may be idle. There has been, in the past, no central authority to assign judges from court to court; and procedures for "borrowing judges" are cumbersome and difficult. In addition, statistics to show which courts need help and which could provide help are inadequate.

The non-judicial staff of the various courts is determined in several different ways. In some instances, the legislature determines the staff and sets the salaries; however, many counties supplement or augment these. In some, the judge has sole discretion as to the number of employees and their salaries; in others, the appropriating body (the county commission or city council), through control of the budget, makes the ultimate decision. As a result, some very busy courts are understaffed while less congested courts have semi-idle employees. There are no uniform qualifications or job descriptions, so the caliber of personnel and salaries vary widely from court to court. Some jobs in some courts are covered by civil service, while others, even in the same court, are not.

Court rules and procedures vary widely and are subject to determination by individual judges in their autonomous courts. (See chapter on sentencing procedures.) Lawyers devote valuable time, charged to their clients, researching the rules and procedures of a particular court even though they may possess considerable expertise in the procedures of a court of the identical name and jurisdiction in a neighboring county.

How does the Supreme Court of Florida fit into the overall supervisory administration of the courts of this state?

#### THE FLORIDA SUPREME COURT

The Florida Supreme Court was established for the purpose of providing an appellate court to review the orders, judgments and decrees of the inferior courts. It has no original jurisdiction except to issue extraordinary writs necessary to the complete exercise of its jurisdiction. (See chapter on structure.) It has appellate jurisdiction only. Since it has no facilities for taking testimony, it will ordinarily refuse to take jurisdiction of a case in which issues of fact must be resolved before a decision is reached. This is because there is no trial by jury. Also, the matters of admission to practice and discipline of all attorneys in the state are under its jurisdiction.

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In every state where a study commission on judicial reform has been established, the commissions have unanimously suggested that all courts be subject to administrative supervision and direction by the state supreme court or the chief justice. They have also recommended that there should be a flexible assignment of judges from court to court within and between levels by the supreme court or chief justice. Objections to

this have been made in Florida, as well as in other states, by local governmental units that do not wish "outsiders" interfering with their "local courts" and by judges who do not wish supervision.

In the legislative session of 1971, the first step in centralized administration was taken. The legislature provided that the presiding judge of a judicial circuit shall have the power to exercise administrative supervision over all the courts in his circuit. The chief circuit judge will then be responsible to the chief justice of the Supreme Court. He may also have an administrative assistant.

There is another giant step implicit in this legislation. It has been recognized by a majority of states that the qualities of a good judge do not necessarily coincide with the skills of a good administrator. Therefore, 35 states have provided for a professional, central state court administrator to assist in the administrative supervision and direction of the state court system. The establishment of the administrative assistant at the circuit level is certainly a beginning in this direction.

Another bill that was passed in the 1971 legislative session makes it possible for circuit judges to try felony cases in criminal courts. This would tend to reduce substantially the high criminal case loads in the latter courts. These two pieces of legislation should greatly further the efficient allocation of courtroom space and the flexible assignment of judges.

One general recommendation that should be mentioned is the establishment of administrative offices for the general trial courts of large urban areas. These local offices should also be headed by professional administrators and be under the general supervision of the state court administrator, where one exists. Such offices exist in metropolitan areas of at least 13 states, and the number of administrators is increasing rapidly.

There are three other agencies that should be mentioned in the context of administration of courts.

#### THE FLORIDA BOARD OF BAR EXAMINERS

Created by a 1955 rule of the Supreme Court, this board is an instrument of the Supreme Court. It is composed of 10 members of the Florida Bar who are usually elected by the court from a slate of nominees submitted by the board of governors of the Bar. They conduct written examinations for applicants to the Bar, investigate the character and other qualifications of applicants, and submit names of those who pass the first two requirements to the Supreme Court.

#### THE JUDICIAL COUNCIL

The Judicial Council is a permanent agency created by the legislature in 1953 to study and make recommendations on the administration of justice in Florida. It is composed of a justice, or retired justice, of the Supreme Court who is the presiding officer, a judge of the circuit court, a judge of a court having probate jurisdiction, the attorney general or one of his assistants, four members of the Bar and nine laymen, all to be appointed by the governor for staggered three-year terms.

The council is charged with the following statutory duties:

- . Continuous survey of organization, procedure, practice, rules of the courts and the volume and condition of judicial business.
- . Compiling, analyzing and publishing statistics showing the work of the courts.
  - . Investigating criticisms and suggestions pertaining to courts.
  - Recommending to the legislature needed changes in organization, jurisdiction, procedures and methods of conducting judicial business which would simplify or otherwise improve the administration of justice. Recommending same to courts.
  - . Filing with the governor an annual report of its recommendations and findings.

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requirements to the Baprice Court.

The council is unanimously on record as favoring two changes in its own composition. First, they believe that a judge of a district court of appeal should be a member of the Judicial Council; and second, that the provision for a "judge of a court have probate jurisdiction" should be changed to a "judge of a county court."

#### CONFERENCE OF CIRCUIT JUDGES

All active and retired circuit judges of the state are members of this organization. They report to the attorney general, the president of the senate, the speaker of the house, as well as the Supreme Court, such recommendations as the conference may have agreed upon concerning defects in the laws or any amendments or additional legislation they deem necessary. These consider the betterment of the judicial system of the state and the improvement of the rules and methods of procedure and practices of the several courts. Of a stability of the Course of a March course out of the land of the course o

# REFERENCES

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Supreme Court, Supreme Court of Florida. April, 1971.

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# LACK OF UNIFORMITY AND SIMPLICITY

A court is defined by Florida jurisprudence as a governmental body consisting of persons with judicial power officially assembled under authority of law at the appropriate time and place for the public administration of justice. The presence of a presiding officer is essential to the existence of any court.

As revised in November, 1956, Section I of Article V of the Florida Constitution provides that "the judicial power of the State of Florida is vested in a supreme court, district courts of appeal, circuit courts, Court of Record of Escambia County, criminal courts of record, county courts, county judge's courts, juvenile courts, courts of justices of the peace, and such other courts, including municipal courts, or commissions, as the legislature may from time to time ordain and establish." While the judicial powers of the state are exercised primarily through these expressly-named courts, the legislature has established other courts as needed.

Some courts are organized on a statewide basis, others by county or city. Some have their origin in colonial times (justice of the peace), others were established by the 1885 constitution. Still others have been established to deal with specific problems as social changes bring large numbers of cases within the purview of the courts — e.g. traffic cases, child welfare, etc. Courts of the same name frequently have different jurisdictions, and procedures have been established to serve various geographical or governmental units. The result is a complex system of at least 15 different kinds of courts — i.e. Supreme Court, District Courts of Appeal, and at least 13 kinds of trial courts. The system has been described as presenting "an almost bewildering multiplicity of courts, and in terms of jurisdiction there is a degree of variety that is difficult to imagine."

The basis for this variety may be found in Article V, which alone remained unchanged when the rest of the Florida Constitution was revised in 1968. In the report<sup>2</sup> on a seven-year study of the trial court system by the Florida Judicial Council, the situation was analyzed as follows:

"The basic defect of the existing judiciary article has been the fact that while it is extremely flexible as to the power of the legislature to create new courts, it is correspondingly rigid in placing limitations upon the number of judges that may be provided for existing courts. The consequence of this defect was inevitable. As the state has grown in population and commerce, there has been a corresponding growth in the need for judicial services. Unfortunately, though the legislature has struggled valiantly to provide judicial machinery to meet these needs, it has been forced by the circumstance indicated to do so through the creation of new courts rather than through the adaption of exisiting ones. The result is the present hodge-podge of thirteen different kinds of trial courts, most of them exercising but a fragment of the jurisdiction previously vested in the original courts."

Since the same court may have been established by a different law whose provisions varied from that of another county, the rights of the citizens are different in different parts of the state. Some courts are well staffed and can handle their caseload expeditiously; others are understaffed and cannot cope with the caseload.

This sprawling conglomeration of courts gives rise to a number of problems and inequities, most notably the problem of securing justice as a litigant before the numerous and autonomous courts. Many courts are limited to hearing only one type of case or one aspect of a total issue.

This <u>fragmented jurisdiction</u> results in two major problems: first, that of selecting the proper court for a given case; and second, the frequent impossibility of obtaining complete relief in a single court. This can be best illustrated in the field of family

matters, with one troubled family before three or more courts at the same time. A delinquent child might be in one court, such as the juvenile court; parents charged with neglect might be in the criminal court; and marital separation action would be in the circuit court. No one judge surveys the total family problem and decisions are made without the judge's knowledge of the other family problems.

In other situations, such as decedents' estates, claims against the state and counterclaims, litigants are frequently required to enter several cases in separate courts in order to obtain complete relief. Fragmented jurisdiction is expensive to litigants and taxpayers, requiring as it does the time of several judges, court staffs and court facilities, not to mention the increased legal fees.

Often two or three courts have authority to hear the same type of case. This overlapping and concurrent jurisdiction results in additional problems of unnecessary delay and expense. Maneuvering to have a case heard in a particular court by a particular judge frequently causes delay. Cases that should be heard in minor courts are often entered in higher courts, causing congestion of the calendar and extraordinary burdens on those courts where salaries and costs are highest.

It has been olvious to Florida Leagues, since their initial study of constitutional revision, that the many separate courts needed to be consolidated and simplified into a few courts of broad jurisdiction that would function uniformly throughout the state. Several proposals have been made to consolidate the large number of trial courts into just two or three "tiers" of courts. In the two-tier system, all the trial courts (except municipal courts) would be replaced by a uniform system of circuit courts and magistrate's courts. County judges, juvenile court judges, and judges of civil and criminal courts of record would be elevated to the circuit court. The magistrate's court would replace the justice of the peace courts or their equivalent. In the threetier system, proposed by the circuit judges, the circuit court would remain essentially as it is at present; an intermediate "tier" of courts, called county courts of record, would be formed from the consolidation of civil courts of record, criminal courts of record, juvenile courts and county judge's court. Various compromises have been proposed, one of which was submitted to the voters in November, 1970. This plan, which was defeated, would have provided a two-tier system in large counties (over 100,000 population); three tiers in smaller counties. The smaller counties would have then had a circuit court, a county court and a magistrate's court. They could, by local referendum, abolish one or the other of the latter two. In this proposal, juvenile and county judges in the larger counties would have become circuit court judges, as would most judges of courts of record. has every in sopplet

Although there has been a broad consensus on the part of the Florida Bar, the judiciary and the legislature on the need for unification of the court system, the various proposals have been met with rigid opposition by particular groups within and without the system. Some pleaded for the exemption of certain courts from the proposed consolidation; many political interests sought to preserve the status quo. Circuit court judges have opposed a two-tier system which would have elevated juvenile judges and county judges to the circuit court bench. Juvenile court judges have opposed the three-tier system on the grounds that the same fragmentation of family matters would still exist. The Florida Bar, while vigorously advocating constitutional judicial change, has members on both sides of the two-tier versus three-tier discussion, and was unable to reach a position either of support or opposition to the 1970 proposal. Meanwhile, the legislature tries to come to terms with the magnitude of the needs for judicial services; the laws continue to proliferate; jails become more and more overcrowded; law enforcement becomes increasingly difficult; and the public suffers.

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#### COURT STRUCTURE

The basic structure of the Florida Judicial System is shown in Figure 1, at the end of this chapter. The chart shows the appellate courts (supreme court and four district courts of appeal) and the courts in the trial court system -- i.e., the courts of original jurisdiction. The lines on the chart indicate the route of appeal.

The chart shows the broad, general outline of Florida court structure. It does not show all the different types of courts because of the complexity and non-uniformity of the court system. There is great variety in jurisdiction, both criminal and civil, of the inferior trial courts, which in turn affects the jurisdiction of the circuit courts. In counties in which the criminal jurisdiction of the courts within the county is limited to misdeameanors, all felony charges are filed in the circuit court. In counties in which there is a criminal court of record or its equivalent, only capital offenses are filed in the circuit court.

Similar situations in civil jurisdiction result in a variation in the "lower limit" of circuit court jurisdiction from as little as \$250 in one county to \$10,000 in another. It cannot be assumed that two courts with the same name in different counties will have the same jurisdiction. Also, the number of courts and their jurisdiction may change in a county from one legislative session to another. It is therefore advisable to check the Florida statutes to see which courts are in operation in a given county at a given time.

#### THE COURTS AND THEIR JURISDICTION

#### (1) Florida Supreme Court - one w visatbroning space of action area (anthropy

- . Composed of seven justices, with chief justice rotated every two years, chosen by members of the court. Five justices constitute a quorum; concurrence of four necessary to a decision.
- . Staggered six-year terms; elected by voters of the state at large.
- . Has the power to prescribe rules of procedure in most courts in the state.
- . Has original jurisdiction to issue extraordinary writs to public officers.
- Has appellate jurisdiction from trial courts in judgements involving death penalty passing upon validity of state statutes, construing constitutional provisions or in bond validation proceedings.
- Has appellate jurisdiction from district courts of appeal in decisions on validity of state statutes, construing constitutional provisions, affecting constitutional officers.

#### (2) District Courts of Appeal - four and to meet the west thought and the court of the court of

- . Established by the constitution
- . One court for each of four appellate districts (see Figure 2):
  - . Tallahassee, for 37 counties in north and northwest of state;
  - . Lakeland, for 18 counties in central and southwestern part;
- . Miami, for Dade and Monroe Counties;
- . West Palm Beach, for 10 counties in central and southeastern part.
- . Three judges minimum in each district; legislature may increase or reduce the number as needed; presently five in each, usually sitting in panels of three.
- . Jurisdiction
- Original: may issue extraordinary writs;
  - Appellate: hears most appeals from trial courts, juvenile courts, county judge courts in probate and guardianship matters. May issue all writs necessary to the complete exercise of its function.

are filed in the circuit court,

THE COURTS AND THEIR JURISDICTION

in bond validation proceedings.

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#### (3) Circuit Courts - 67

- . Constitution authorizes a maximum of 20 judicial circuits with one circuit judge for each 50,000 inhabitants in each circuit. Presently there are 20 circuits. (See Figure 3.) Circuit court is the only court not organized on a county basis.
- Are both trial courts and appellate courts. They are the trial courts of general (unlimited) jurisdiction, including jurisdiction of most equity matters. Also serve as appellate courts for misdemeanors tried in other trial courts and civil cases from county judges' courts, county courts, municipal courts, small claims courts and justice of the peace courts.
- Each is presided over by a circuit judge, elected for six-year term by voters in the circuit.
  - . Each circuit has
- . a prosecuting attorney called "state attorney", elected for four-year term by voters in the circuit;
- a "public defender" elected for four-year term, whose duty is to represent indigent persons accused of non-capital felony (special counsel is appointed for capital cases);
  - . an executive officer who is the sheriff of the county where the court is operating.
  - . Jurisdiction
    - . original jurisdiction to issue extraordinary writs; \$1000 people about (1)
  - exclusive original jurisdiction in all cases of equity; all civil cases of law not cognizable by an inferior court; all cases involving legality of taxes, assessments or tolls; ejection actions and other actions involving titles or boundaries of real estate; all criminal cases not cognizable by an inferior court.
- final appellate jurisdiction in all civil and criminal cases arising from county courts or before county judges; all misdemeanors tried in criminal courts; all cases arising in municipal courts, small claims courts and courts of justices of the peace.

#### (4) Court of Record of Escambia County - one

- . Established by the Florida Constitution, 1956.
  - . Two or more judges as the legislature may provide.
  - Elected for six-year terms by voters of the county; salaries fixed by the legislature.
  - . Jurisdiction
    - same as circuit court, except it cannot summon a grand jury or exercise jurisdiction over capital cases;
    - exclusive jurisdiction of all non-capital criminal cases constitutionally given, but statute (Chapter 61-2131, Laws of Florida) confers certain criminal jurisdiction (certain misdemeanors) on the justice of the peace courts;

. One court for each of four appellate districts (see Figure 2):

the complete emercise of its function,

. juvenile court is a division of this court.

# (5) Criminal Courts of Record - seven

Constitution authorizes legislature to establish in any county; presently established in populous counties of Dade, Duval, Hillsborough, Monroe, Orange, Palm Beach and Polk.

courts in probate and quardiaments matters. May issue all write necessary to

(B) Juvenila (courte (continued)

into enery Vi

. Jurisdiction -

#### (5) Criminal Courts of Record (continued)

- . One or two judges, depending on size of county and law.
- . Elected for four-year term by voters of county.
- . Each criminal court of record has
  - . a prosecuting attorney called "county solicitor" elected for four-year term;
- . a clerk, elected for four-year term;
- . judgo, at his discretion, may trat an executive officer who is the sheriff of the county.
  - . Jurisdiction
- of the Peace Courts 41 counties all non-capital criminal cases. (In effect, this provides for more judges to handle criminal cases that would otherwise burden the circuit court judge.)

election new Limits the number to five per county, but

# (6) County Judge's Court - 67 de não equalização est . saixa od emitado vom adois

- sect to approval by the electors of the county; many . Constitution requires a county judge's court in each county.
- . One or more county judges, as provided by the legislature.
- . Elected for four-year term by voters of the county.
- . Salaries fixed by the legislature.
- . Jurisdiction, 0018 of ou pulviount examina livio paixsod vilatanop , bedimil . . civil: settlement of estates of decedents and minors, probation of wills and probate duties generally; county-wide jurisdiction in cases involving property up to \$100; a fury trials
- . juvenile: in counties having no separate juvenile court, over dependent and delinquent children. (only 12 counties have separate juvenile judges at this . Florida law (Chapter 61-2131, Laws of Florida) conform certain cy (cemit juris-
  - . criminal: misdemeanors (in counties having no county court or criminal court of record):
  - . power of committing magistrates; alimit notifications out appoints .0082
    - . proceedings relating to forcible entry and unlawful detention of lands.

- (7) County Courts 21 (Success to estate bodalidates and engineered abtrois edf. . Constitution authorizes the legislature, at its discretion, to organize or abolish a county court in any county; presently there are 21.
  - . Presided over by the county judge (see County Judge's Courts above.)
  - . Jurisdiction (similar to county judge's court)
    - . civil: involving property of value up to \$500;
    - . criminal: misdemeanors;
    - . proceedings relating to the forcible entry or unlawful detention of lands.
  - . Each county court has a prosecuting attorney elected for a four-year term by the voters of the county; duties and salary fixed by the legislature. Commissioners. The purpose is to provide as informal forces in which small civil

#### (8) Juvenile Courts - 67 (55 of these under the county judge)

. Under Florida Constitutional authority, the legislature passed the Juvenile Court Act in 1951, providing for the establishment of a juvenile court in any county or in any district of two or more counties. In 11 of the larger counties, it is a separate court; in Escambia County, a specialized division of the court of record. In the remaining 55 counties, the county judge presides over the juvenile court.

(5) Criminal Courts of Record (continued)

. Each criminal court of record has

. Salaries fixed by the legislature,

#### (8) Juvenile Courts (continued)

- . Judges elected for four-year term by voters of the county or district.
- . A counselor is appointed by the juvenile judge to assist him.
- . Jurisdiction

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- exclusive original jurisdiction of dependent and deliquent children under 17 years old;
  - . judge, at his discretion, may transfer jurisdiction to the appropriate adult court and must do so if the juvenile is 16 and charged with a capital offense.

### (9) Justice of the Peace Courts - 41 counties

- . In 41 counties, there are one to eight justice of the peace courts. The Florida Constitution now limits the number to five per county, but existing justice districts may continue to exist. The legislature can abolish justice districts subject to approval by the electors of the county; many counties have done so.
  - . One justice of the peace is elected for each justice district for four-year term.
  - . A constable is elected by the voters in each justice's district; duties prescribed by law.
  - . Jurisdiction
  - . limited, generally hearing civil matters involving up to \$100, and acting as committing magistrates;
- in a few counties, may also try misdemeanors in which there is no demand for a jury trial;
- . may hold inquests for the dead;
- . Florida law (Chapter 61-2131, Laws of Florida) confers certain criminal jurisdiction, although the constitution gives exclusive jurisdiction of all noncapital criminal cases to the court of record in those counties having one;
  - . Florida law confers on some of these courts jurisdiction in civil cases up to \$500, although the constitution limits their civil jurisdiction to \$100.

. proceedings relating to forcible entry and unlawful datemilon of lands,

### (10) Courts of Record - six.

- The Florida Legislature has established courts of record, exercising civil and criminal jurisdiction, in several counties including Alachua, Brevard, Broward, Lee, Sarasota and Manatee. In addition, there is a Civil and Criminal Court of Record of Pinellas County.
- . Jurisdiction
  - . civil: from \$1,000 in Alachua to \$10,000 in Broward and Manatee;
  - . criminal: generally all felonies except capital. In Alachua, all misdemeanors.

. Jurisdiction (similar to county judge's court)

#### (11) Small Claims Courts - 45 Minu to yours aldiotal and of published applications

- . By a general act in 1951, the legislature provided for the establishment in each county of a small claims court when "activated" by any county's Board of County Commissioners. The purpose is to provide an informal forum in which small civil claims can be collected with a minimum of expense and time.
- . Almost all counties have small claims courts, 41 of which have separate judges; in the remaining counties, the justice of the peace or county judge presides.
- . Judges elected for four-year term by voters of the county.
  - . Jurisdiction varies from county to county, from \$250 to \$1,000. (No criminal.)

### (12) Municipal Courts O Jisario la noiskeld as Japon silmount la omidacad hostoront (E)

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- . Powers conferred by general statute or from charter provisions.
- . By constitutional authority, the legislature regulates the practice of municipal courts by special or local law.
- . Jurisdiction nlapped mort mercord truco of inever sol drogge talement wedged . . local in character, dealing with the violation of city ordinances within city limits:
- . some city charters provide that action which would be a misdemeanor under COLLEGE state law may be tried in municipal court as a violation of local ordinance.

# (13) Other Courts Established by the Florida Legislature

- Civil Courts of Record have been established in Dade and Hillsborough Counties. Judges are appointed by the governor with confirmation by the senate for fouryear terms. Jurisdiction: civil cases involving not more than \$5,000.
  - and in the amendment presently . Felony Courts of Record in Leon and Volusia Counties.
- Pinellas District County Court, presided over by justices of the peace. Jurisdiction: misdemeanors when there is no demand for jury trial.
  - . Magistrate's Court, Brevard County. Jursidiction: civil, up to \$500; criminal, misdemeanors including traffic offenses.
  - . Magistrate's Courts, Hillsborough and Polk Counties; presided over by justice of the peace. Jurisdiction: all misdemeanors inluding traffic offenses.
  - . Small Claims-Magistrate's Court, Palm Beach County. Jurisdiction: civil, up to \$1,000; criminal, all misdemeanors.
  - . Traffic Court, Duval County. Jurisdiction: traffic misdemeanors.
  - . Metropolitan Court of Dade County; part of Dade Metropolitan government. Jurisdiction: violations of county ordinances and ordinances of municipalities which have transferred jurisdiction to the county-wide court.

. Some of the judges of the present separate juvenile courts are not qualified to

# JUVENILE COURT MERGER WITH CIRCUIT COURT: PRO'S AND CON'S

PRO: The advantages of merging the separate juvenile courts into the circuit courts as divisions can be listed under three headings:3,4 Isnordibard and mort frage bon ain

#### (1) Consolidation of Jurisdiction Over All Family-Related Problems in Single Court

- . Elimination of conflicts between the jurisdiction of the circuit courts and that of the juvenile courts. , inch of the exalted purpose of the juvenile court nov
- . Utilization of the special competence and experience of the judge of the family and children's division, and that of his professional staff, in matters coming before the circuit court which involve the custody, welfare and support of children. defeat the purpose of the court by putting the judge too far away
  - . Shifting the influence of the courts from the dissolution of marriages that are in jeopardy to the saving of them, through the greater utilization of the specialized resources of the family and children's division.

#### (2) Organization of Juvenile Court Services on Circuit, Rather Than County, Basis

- . Multi-county caseload sufficient to justify the provision of adequately trained, professional staffs.
- . Handling of juvenile matters by judges specializing in that field, rather than by county judges as in some counties at present.
- . Encouragement of a state-wide system of family courts.

### (3) Increased Prestige of Juvenile Court as Division of Circuit Court

. Greater public understanding and support.

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- . Increase in voluntary submission to the jurisdiction by persons in trouble.
  - . Better qualified persons attracted to the juvenile court bench.
- . Greater financial support for juvenile court program from legislative appropriation.

The principle of vesting all juvenile jurisdiction in a division of the highest court of general jurisdiction has been recommended by leading authorities in the juvenile court movement, including the National Probation and Parole Association, the Children's Bureau of the National Department of Health, Education and Welfare, and the Institute of Judicial Administration. It is included in the 1959 revision of the Standard Juvenile Court Act, and was supported in a study by the National Conference of Commissioners on Uniform State Laws. In Florida, the principle was included in proposed revisions of the judicial article supported by the Judicial Council of Florida, the Florida Bar, and in the amendment presently proposed by the House Judiciary Committee. In addition, the principle has been tried successfully in the Court of Record of Escambia County, a court which for most practical purposes can be considered part of the circuit court.

CON: The Judicial Council of Florida has for years proposed the merging of separate juvenile courts into the circuit courts as juvenile and domestic relations divisions. In a position paper<sup>5</sup> published by the council, a list of arguments against the proposal was included:

Jurisdiction: misdemoners when there is no damend for jury trial.

- . The whole proposal represents just so much tinkering with the basic law.
- . The juvenile division of the court of general jurisdiction would be constantly overwhelmed with cases assigned from the other divisions of the court.
- . The rotation of judges from one division to another must result in the juvenile division's being occasionally presided over by a judge who is out of sympathy with the objectives of the juvenile court movement.
- . Some of the judges of the present separate juvenile courts are not qualified to serve as circuit court judges and therefore should not be transferred to that court.
- . The juvenile court is not really a court, and therefore it should be kept separate and apart from the traditional courts.
- . The juvenile court would tend to become submerged in the court of which it became a part and thereby lose its identity.
  - . Much of the exalted purpose of the juvenile court movement will be defeated by virtue of the fact that children coming before the juvenile division will necessarily mingle with criminals coming before other divisions of the court.
  - . Organizing the juvenile court on the basis of circuits instead of counties will defeat the purpose of the court by putting the judge too far away from the children in trouble to be able to serve them efficiently when they need help.

(2) Organization of Juyonile Court Sarvices on Circuit, Rather Than County, Basis

ised mesourous of the family and children's division.

county judges as in some counties at present.

. Faccuragement of a state-wide system of family courts.

professional staffs.

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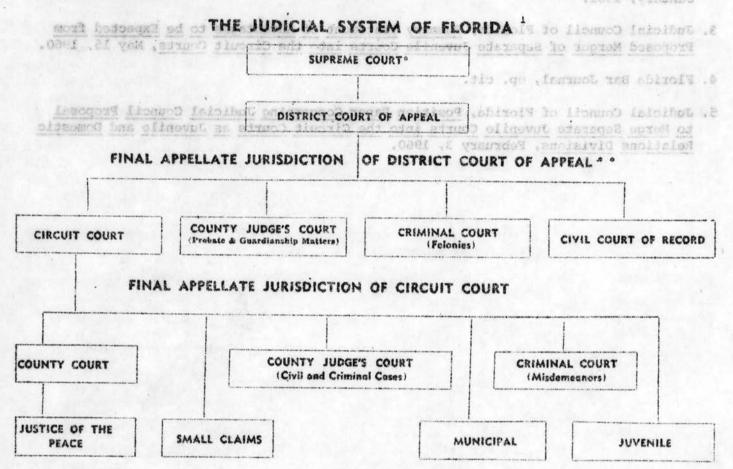
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Appeal may be taken directly to Surreme Court from cold courts in capital court, cases involving constitutions questions and bond validation cases.

\*\*Appellate decisions of District court are reviewable by Suprere Court under certain coroupesances.

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- 1. American Par Association Traffic Court supply, A Summary of a Florida Traffic Court Study, March 22, 1965, Undertaken for the Florida Judicini Council.
  - 2. Florida Bar Journal, & Proposed Revision of Florida's Trial Court System. January, 1961.



- \*Appeal may be taken directly to Supreme Court from trial courts in capital cases, cases involving constitutional questions and bond validation cases.
- \*\*Appellate decisions of District Court are reviewable by Supreme Court under certain circumstances.
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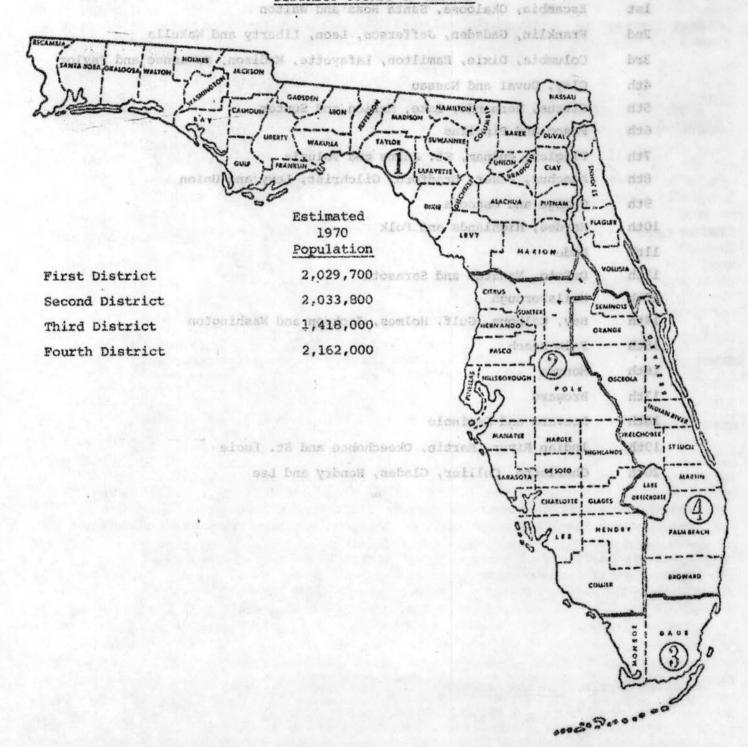
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CIRCUIT

#### Figure 2

CIRCUIT COURTS

## DISTRICT COURTS OF APPEAL



# Figure 3

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## CIRCUIT COURTS

ADDRESSOR THAT PER TRANSPORTED TO A TOTAL PROPERTY OF THE PERSON OF THE								
1st Escambia, Okaloosa, Santa Rosa and Walton	Escambia, Okaloosa, Santa Rosa and Walton							
2nd Franklin, Gadsden, Jefferson, Leon, Liberty and Wakulla								
3rd Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee and T.	aylor							
4th Clay, Duval and Nassau	00/5							
5th Citrus, Hernando, Lake, Marion and Sumter	SENS.							
6th Pasco and Pinellas								
7th Flagler, Putnam, St. Johns and Volusia	Flagler, Putnam, St. Johns and Volusia							
8th Alachua, Baker, Bradford, Gilchrist, Levy and Union								
9th Orange and Osceola								
10th Hardee, Highlands and Polk								
11th Dade The Dade Th								
12th DeSoto, Manatee and Sarasota	Figure D							
13th Hillsborough 000 EEO. A Hillsborough	Second							
14th Bay, Calhoun, Gulf, Holmes, Jackson and Washington	o bulnt.							
15th Palm Beach Good Sales Solemen	dance.							
16th Monroe								
17th Broward								
18th Brevard and Seminole								
19th Indian River, Martin, Okeechobee and St. Lucie								
20th Charlotte, Collier, Glades, Hendry and Lee	1000							

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#### od bol and avidentia V. FISCAL RESPONSIBILITY AND FISCAL PROBLEMS

"Last year, out of a total state budget of over \$1 billion, only some \$14 million was allotted to the judicial department, which represents approximately one percent of the total state budget. This one percent figure is insufficient to insure justice for the people of this state." Chief Justice B. K. Roberts

In California's Emergent Counties it states, "Next to public assist The fiscal complexity and confusion in Florida's courts stems from many sources: local fiscal administration, lack of uniformity, antiquated laws, lack of professional court administrators and outdated court procedures. Transfer at date and the salvage design and

# LOCAL NATURE OF COURTS SURED THOSE III COMPASS SYNT DESCRIPTION OF COURTS SURED THOSE III COMPASS SYNT DESCRIPTION OF COURTS SURED THOSE STREET COURTS SURED THOSE SUR

an attempt to institute uniformity and accountability. New York Fiscal administration of Florida courts is very similar to the supervisory administration of them. (See chapter on administration.) It has been predominantly a local function. Except for the Supreme Court and the courts of appeal, the courts are largely staffed and financed on the local level. The state pays the salary of the circuit court judges and supplements the salary of the state attorneys, public defenders and court reporters; but all other expenses are carried by the counties. The budgets of the Judicial Qualifications Commission, the Judicial Council and the Judicial Administration Commission are also included in the state's judicial budget, which for the fiscal year 1970-71 totaled \$14,634,135. This budget provided for:

the other	Supreme Court	\$ 628,040
don't print	Appellate Courts	00.1,551,166
, yaili	Circuit Courts and an Ayantahan end	6,008,944
	State Attorneys and Public Defenders	6,347,587
aaorld ants	Judicial Administration Commission	58,398 PHENERS MAINORY SERVINA
the court	Judicial Qualifications Commission	10,000
es Many	Judicial Council	30,000
axed a	Conference of Circuit Court Judges (\$15 dues for 140 judges)	courts that collect free 100, sure the court to move the move the move the move the court to the

All of the above, except circuit court and state attorney-public defender budgets, include salaries for judges and staff, and office space and courtrooms in state buildings.

The state has provided for a contributory pension plan which is financed by 8% from a judge's salary and a matching sum from the state. All state judges participate in this plan, we difference in civil and non-civil service positions, the waterest

All other court personnel, including the staff of the circuit courts, is financed by the counties. The county chooses court locations, builds and finances the court buildings, and pays the salaries of all the court personnel. All court expenses are paid by the county and all state law violators are prosecuted by the county. The county does receive all filing fees and licenses, as well as some fines and bail forfeitures. Fines from local traffic violations are given to the county if the violation occurred in the unincorporated area, but they are given to the city if the violation occurred Changing the base of funding for the courts and achieving uniformity are only a be-erad

The cities pay for the salaries of the municipal judges as well as their non-judicial staff, city attorneys, supplies, buildings and upkeep. The city also decides where the buildings are to be located and finances their construction. so that certain two

The expenses of the jurors are carried by the state for both grand and petit juries. Witness fees are divided between the state and local governments.

The problem created by the local nature of courts originates in the 20th century urbanization explosion, with 70% of the population now living in urban areas. This figure

is expected to reach 80% in the next half-century. Increasing urbanization has led to restrictions on individual freedom, impersonalization and irresponsibility. The traditional transmitters of values and rules — family, school and church — have become less effective. As a counter-influence to these results of urbanization stand the courts. However, their effectiveness has been continually threatened by increasing workloads, inefficiency and insufficient financing. It is because their financing is local, and local government has been least able to finance urban services, that the problems arise. In <u>California's Emergent Counties</u> it states, "Next to public assistance and general government, public protection, which includes courts, police and corrections, has been responsible for the largest increase in county budgets....It is a government service which is outdistancing population growth several times over."<sup>2</sup>

Hawaii and Alaska, since statehood, have assumed all court costs at the state level in an attempt to institute uniformity and accountability. New York State has progressed part way along this road. The New York Judicial Administrative Board recommended uniform court budgets, with courts staffed in accordance with need, and qualified personnel whose salaries would be in proper proportion to the job performed. But, they point out that these standards then come up against the budgets of each of the cities and towns, suffering variously; and the legislature becomes besieged with legislation exempting some localities from abiding by one or more of these standards. Despite this, they explain why they are not discouraged. "Arguments against a single administrative body and a single judicial budget, raised in the early days of court reform, remain the same...local governments resent administrative supervision...they feel that they are at least 'closer to home' than a single statewide body would be. On the other hand, the original opposition to a single state judicial budget has generally given way to rising court costs. Harrassed local governments are more and more recognizing that the third branch of state government, the Judiciary, is the state's responsibility, and represents a financial burden with which they can no longer cope."3

Another problem arising out of the local nature of court administration concerns those inferior courts which operate under the fee system. Where the judge's salary and court expenses are paid for by court fees or where the judge is also the mayor and the court fees become part of the city budget, the situation is fraught with possiblities. Many courts that collect fees now turn them over to the local government and are in turn supported by a regular budget from that government.

# LACK OF UNIFORMITY bildery restate atate and state out to the short property

As we have noted in the previous chapter on court structure, the varying names and kinds of courts, with varying jurisdictions in courts of the same name, have made it extremely difficult to pinpoint accountability and to obtain comparative statistical information. The differences in civil and non-civil service positions, the variances in qualifications of the non-judicial personnel and the unequal salaries in proportion to the job performed have further confused the issue of comparisons. (See charts at the end of this chapter.) These difficulties have been recognized, and increasing efforts have been made in recent years in many states to adopt uniform, simplified court systems.

## LAW REFORM to moistafoly and it wils and to they are given to the will the violation of MARONE WAR.

Changing the base of funding for the courts and achieving uniformity are only a beginning for effecting solutions to their inherent fiscal problems. Many suggestions have been made, and some tried, for improving the efficiency of the courts. Major decreases in case loads would occur if the law itself, or the community use of it, were changed so that certain types of cases were no longer handled by the courts. Often called radical reform, this approach includes no-fault auto insurance and no-fault divorce, and might be extended to remove all morals cases from the courts. (Alcoholism and sexual acts between consenting adults are the two most frequently mentioned.)

ization employion, with 70s of the population now living in urban areas. This figure

Fines from local traffic violations are given to the county if the violation o

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Compiled from local League studies.

#### PROFESSIONAL ADMINISTRATORS AND ELECTRONIC EQUIPMENT

Aside from changing the number of cases that come before the courts, much can be done to increase the efficiency of the present system. Trained court administrators and computerization of administrative procedures are most frequently suggested. At the present time, 12 counties in Florida are utilizing electronic data processing equipment. Better use of judges might also result if they could be relieved of administrative chores, could be shifted between courts, and could control their calendars. One author suggests improved judicial education and standards as being of paramount importance.

#### UPDATED COURT PROCEDURES

state a local

Court procedures are another area commonly cited as needing modernization. Possibilities in this area include the pre-trial conference, split trials, compulsory arbitration of small claims, the auditor procedure, and individual and central calendaring.

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The charts on the following pages are partial lists gleaned from local League studies and have been included to demonstrate the disparaties from county to county of court budgets and financing.

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Dash indicates no information cathered.

# STAFF AND FINANCING OF FLORIDA COURTS\*

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Cir-	No. of Judges	Judge's Salary	Non-Jud. Staff	Non-Jud. Salaries	Court Budget	Source of Financing
lst	ovid7:ds	\$30,000	3 secys.	\$7700-4500	100.000	state & local
2nd	4	eschadare		owen courts, and co	-	_
3rd	-		an entre on corr	THE THE PERSONS	-	
4th	13	30,000	-	7000-5200	8,8400	state & local
5th	bdlen2	30,000	1 clerk	13,000	tentrogs or	and the second second second
6th	12	30,000	12 secys.	87,504+	150,360	state & local
7th	-	-	-		-	
8th	Moo lo y	30,000	l clerk l deputy secys, ll secclk.	9,700 5179-4188 7363-3972		state & local of the star and t
9th	7	30,000	-		-	state & local
10th	5	30,000	7 secys.	51,528	-	state & local
11th	22	28,500		. 1971.	for Line	1. Florida Bar Jour
12th	gold 5 one	30,000	5 secys. 4 clerks	onin's Emergent Cou		2. Gladfeldatping Sacramanto, 1988
13th	10	020F 43	olicial Resource i			3. League of Women
14th	1-E1 -dd	reser (st	r namosasi ratara	en fandau stadt man :	TO STREET	Transit to may be at
15th	7	30,000	25 clerks	5200-3900	-	state & local
16th		******	Lanacece. August	TOT ABSTROLA TO ON	- 100	(O 8,304To330HO)
17th	13	30,000	rk, David Noway C	the Courts. Now You	175,379	state & local
18th	7	30,000	7 secys.	6,000	14,764	state & local
19th	-		-	-		Hall, 1965.
20th	1	28,500	1 secy.	125/wk.	colVIn /	state & local

<sup>\*</sup>Compiled from local League studies. Dash indicates no information gathered.

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26,500

30,000

21,000

30,000

26,000

26,500

JUVENILE COURTS

Source of	30 VO 1008 STUDEN DATE OURTS STUDENTS						
County	Judge's Salary	Non-Jud. Staff	Non-Jud. Salaries	Total Control of the	ource of inancing		
Alachua <sup>1</sup>	\$17,200	1 counselor	~ \$ 9,339	\$ 41,853	County		
	41,853()00.04	2 asst. counc.	8,229				
	110,310(juv.di	1 secy.	4,347	24,000	Broward		
Brevard <sup>1</sup>	24,000	1 counselor 8 asst. counc.	86,628	110;310	County		
Country	2415	5 secy.	23,685	18,000	Charlotte		
Broward	22,500 -	1 chief counc.		28,500 -	County		
County	300,881	l dir. court serv	14 secys.	25,000	Lawel		
County	160,184	12 intake	20 sccys.	20,625	Escambia		
County		16 probation	onuco .vot ē	21,000	Loc		
Dade	26,500	-	2 secyes.	-	- 0		
Escambia <sup>2</sup>	30,000	1 counselor	A chiek	239,462	County		
County	127,387	11 asst. counc.	151,499	20,000	nond		
nea?		2 students }	6 clurks 1 sacy,	18,000	Narkon		
Duval	30,000	3 secys. 1 clerk	528/mo. 13,200	95,557	County		
Yourop\ass9		1 chief deputy	680/mo.	30,000	Palm Donoh		
		9 asst. dptys.	29 clerks				
Leon Value	10,000	17	81,300	96,050 <sup>3</sup> +17.000 (dete	County ntion center)		
Orange		17 counselors		19,000			
Orange odad2		2 secys.			adone and		
yanny		7 clerks	amont 1	17,000	Seminolo		
Palm Beach 4	30,000		T sech.	0.032412	County		
Pinellas	21,000	18 counselors }	COUR	548,110	County		
Page/country		12 secys.		22,800	Federal		
		5 adminstrators}	400,930	28,800	grant		
County		2 clerks }	2 secys.				
Country	239,462	5 maintenance }	L secy.	30,000 (Gen.)	Encombia		
Polk	24,500	6,552	l bailtif	-	County		
Sarasota	24,320	1 administrator	-	146,881	State		
Country		1 counselor		27,500	Lec		
		11 asst. counc.					
Seminole	17,000	20,775	2 secy: 1 reporter	33,500	County		

A secoy.

l clork L deputy

9 secrys.

2 весув.

City/county

City/county

City/county

24

5,750

5200=7030

CIVIL COURT OF RECORD

<sup>1.</sup> County judge presides.

<sup>2.</sup> Division of Court of Record

<sup>3. \$3</sup> million in child services not included in court costs.

<sup>4.</sup> Includes Domestic Relations.

County	Judge's Salary	COUNTY COURT - C Non-Jud. Staff	Non-Jud. Salaries	Court Budget	Source of
Alachua	\$17,200	1 deputy 1 clerk 17½ secys.	\$12,500 * 7,820 6947-3741	\$ 71,381(n-j.) 100,556 41,853(juv.d	Fees/county
Brevard	24,000	•	*Apss T	110,310(juv.d	iv.) County
Broward	11,500	8627,88	1 conselor 8 asst. counc.	- 000,85	Fees
Charlotte	18,000	5 clerks	75-100/wk.	-	County
Dade Yamaa	28,500		I distof counc.	22,500 -	Broward
Duval	25,000	14 secys.	98,393	188,906	County
Escambia	20,625	20 secys.	116,724	160,184	County
Lee	21,000	5 juv. counc. 2 secys.	16 probation	26,500	County
County		1 clerk	1 counselor 1	30,000	Secure 12
Leon	20,000	9 secys.	11 aget, counce	127,387	County
Marion	18,000	6 clerks 1 secy.	4,200+	-	Fees
Orange	23,000	10 secys.	3 sacys. 1 clerk	000,08	Fees/county
Palm Beach	30,000	• on4\08/i	I chief derucy	-	Fees/county
Pinellas Polk	24,000	29 clerks	fees=10,400	229,000	Fees/county County
St. Lucie	19,000			-	County
Sarasota			17 commedors 2 secs.	79,972	State
Seminole	17,000	1 secy.	7 clerks	28,311	County
Country	548,110	COURT	OF RECORD	21,000	Pinellas
Alachua	16,500	000,930	30,304 CI	64,277	Fees/county
Brevard	28,800	2 secys.	2 clerks	•	County
Escambia	30,000 (Gen.)	<pre>l secy. l bailiff </pre>	12,993	239,462	County
State	30,000 (Juv.)	1 secy.	6,552 151,499	24,320	Saranota
Lee	27,500	-	11 asst., quanc.		County
Pinellas	22,000	2 secy. 1 reporter	20,975	68,595,00,7.6	County
Sarasota	29,000	1 secy. 4 clerks		45,400	County
D. J.	26 500	CRIMINAL C	OURT OF RECORD	n of Court of Ba	2. Division
Dade Duval	26,500 30,000	l clerk )	cvices not include	on in child ser	3. \$3 mill
Juvai	30,000	1 deputy } 9 secys.	172,172	278,526 mod	City/county
Orange	21,000	2 secys.	5,750		City/county
Palm Beach	30,000	-	5200-7030	-100	City/county
Polk	26,000	CIVIL CON	RT OF RECORD	Evil. Times	City/county
Dade	26,500	-	- TECORD		

CHARLOTTE

1. Mayor prasides.

Punca Gorda pare-time none none

County	Judge's Salary	Non-Jud. Staff	Non-Jud. Salaries	Court Budget	Source of Financing
Financing	Rudgiet	JUSTICE OF T	HE PEACE COURTS	alary	- City S
Charlotte \$	7,200+exp.	none	none	county space	Fees AUROAJA
Escambia	912-10,000	12 secys.	\$58,065	\$113,186	County
Duval	12-17,000	7 secys.	3200-7400	357,592	County
Orange	9-10,000	none	l city clerk	-	Fees/county
Pinellas	9-12,000	14 secys.	5680-11,870	161,130	Fees/county
Polk and	74.5	Laon	l city clerk	*****	Fees
St. Lucie	7,500	ваоа	1 police chief	-	County
Sarasota	800/mo.+exp.	2 secys.	-	42,996	County
Seminole	7,500+exp.	3 secys.	-	- 009'9	Fees
		MAGISTE	ATE COURTS		GRAWOZE
Brevard	21,600	2 secys.	6,700	2,400	County
Palm Beach	24,000			- 5	Fees
Polk	26,000	25/seesion	1 clerk	250/100	County
TILD		SMALL CI	AIMS COURTS	18,000	Millsbore E.
Broward	15,000	1 clerk	1 clkpolice.	0.004	Fees
		1 deputy	} }	attoa '	Sea Rapch L.
City	7 2001	1 pt.time dpty	WIDIO I	3,600	Landordalo
Charlotte Dade	7,200+exp.	l pt.time clk.		p.) -	Fees de vo
Date	25,000	50/session	xe⊃to.€		Cooper City
Duval	20,000	1 clerk 1 deputy	7,598	184,951	County
City		16 secys.	6852-3545	7,000	Osklassi Fask
Escambia	6,000	2 secys.	11,270	22,700	County
Lee Valo			1 glerk	• 6 5	County
Leon	-	•	4100-4400	fees	Fees/county
Marion	7,500	l clerk l pt.time clk.			Fees
Orange	9,000	1 clerk 4 deputies	d sest. drtys. d d traffic l secy.		County
Palm Beach	24,000	10/session	1 clerk	160/200*	Fees/county
Polk valo	10,000	overtime	l clkpolice.	600 /mo.	County
St. Lucie	6,000_	-	1 oily atuny.	1. 75/80.	County
Sarasota	7,500	1 secy.	1 clerk	23,100	Fees/county
Seminole	9,600	2 clerks	is sueps.	005/81	State/county

2, Total collected, 3, Judge acts as city attorney. (continued)

			IRTS

	ige's	Non-Jud.	Non-Jud	Court	Source of
- City Sal	lary	Staff	Salaries	Budget	Financing
ALACHUA Gainesville \$10	000,000	1 clerk 3 secys.(total)	\$ 6,474 14,583	\$ 51,266	City City
Alachua <sup>1</sup> 2	2.00/fee	none	none	6,778 <sup>2</sup>	Fees favod
Hawthorne <sup>1</sup>	, 200	1 city clerk	none	1702	Fees spasso
High Springs 9	061,1ar	1 Police chief	none	6,4712	Fees
Newberry <sup>1</sup>		l city clerk	none	7412	Fees Mioq
Waldol	-	1 police chief	none	17,1252	Fees and Ja
BREVARD (about	12 courts)	-	2 secys.	800/mo_+exp.	Serasota
	6,600	-	3 secgos.	7,500+mp.	Senirole
BROWARD Margate 2	2,400	SATE COURTS	_	18,450	City
Coral Springs		VVN 10	2 secys.	21,600	-
Lighthouse Pt.	250/mo.	1 clerk	25/session	none	
Hillsboro B. 18		1 clkpolice.	-	26,000	City
	4,800	1 clkpolice.	ID ALIAME	-	City
Sea Ranch L.	none	1 police chief	1 clurk 1 depany	15,000	Broward
Lauderdale 3	3,600	1 Clerk	1 pt. time lpt: 1 pt. time cik	7,200+exp.	City
Cooper City		1 clerk	50/session	- 000, 85	
Wilton Manors	184,951 -	1 police-clk.	1 clesk	20,700 -	
Oakland Park	7,000	1 clerk	1 deputy		City
Pompano Park 1	1,500	l clerk l typist	7,542 5,522	33,774	City Aldmhosd
Hallandale	-4-4	1 clerk			City 99J
Frees/county		2 secys.	-	-	Lacet
Hollywood	•	100	12,000 g	7,500 -	Fines/city
County		14 asst. dptys. 4 traffic 1 secy.	1 clork 0 deputies	9,000	Occupe.
Lauderhill	160/mo.	1 clerk	10/session	24,000_	Fees
Plantation	600/mo.	1 clkpolice.	overtime	10,000	CLUI
Hacienda Vill.	75/mo.	1 city attny.3	-	_00049	Fees
Ft: Lauderdale	7,700 - 18,500	1 clerk 23 secys. 3 temp.	17,000	292,181	City carred alonimos
CHARLOTTE Punta Gorda	part-time	none	none		
1. Mayor pre	sides.	2. Total collecte	d. 3. Judg	e acts as city	attorney.
					(continued)

MUNICIPAL COURTS (Continued)

County	Judge's	Non-Jud.	Non-Jud.	Court	Source of
- City	Salary	Staff	Salaries	The state of the s	Financing
DUVAL		puneral categories			
Jacksonville	\$22,500	1 probation 4 secys.	\$ 6,648	\$121,472	City
ESCHIDIA	nation and e	inna neerrang (6)	6372-4560	(40,409 nor	n-jud.)
	5,500 -	l clerk	molifos 9,906,5ns	17,000	City (2)
	7,500	bailiff	7,000 one	(non-jud.)	cant variation
LEE Fort Myers			Skeoutive	t by the Chief	(1) Appointment
	1 hoteloous	major courts are			
m-11 to Library	מ פועבל ול. ככ	You send of the	legislatura, the	on't vel colden	or with courter
Claims are no	12,500	6 clkpolice. 1 secy.1	3200-6225	his includes M	City
MARTON OF THE	ii, New Jera	t, Dolaware, Hawa of the judges of m	rnia, Connecticu	well as Califo	appointed, as
		of boxes of to			
petion opide	everyone ele	miffcance to the	considerable sic	to era adapat	akogas alagani
Dunellon	add to asoi	i. Of the 35 Jest	for a full term	(aubivide) da	Teca/ City
	1,200	the court by app	Tabu Laur IC	ons vos Agomo	Fees/city
PINELLAS St. Petersburg	g 6.000 =	26 secys.	lature	174,000	esutatogaš (S)
aure mulects			tha, Virginia ar		
St. Pete. Bch	4,360	1 city clerk			
Treasure I.	loal a deed a				
san box and a half	- Aller State Day	THE JOIN SOON TONE	hod, am opposed htment, the gove	10,400	on a secondary
Madeira Beach	the hand of	ar faint b se th	that the govern-	one considers	City
So. Pasadena	1,200	l city clerk	TRACTOR TO A ST		City - yding
Redington Bch.	. 900	l city clerk		nels notice	City (E)
Kenneth City	1,080	1 city clerk	ferred to as the	framously v	City
Gulfport and	nsig sig .	1 procedutor3	conferre to anistante	are analysis against with a	COLL CONTRACT
ST. LUCIE	skania dinom	Clabona, Utah, Ver	Ma, Colorado, Ok	ts in Californ	for major cour
noparioni andoniar II	11,000	les. It has been und seming board m	a humber of citi	Nebraska and	City
SEMINOLE					
Altamonte Spr.		-	carize the plan:	1,500	City
		1 deputy			
list of	e from the l	3 clerks	t of judges by t	cey appointmen	2. Mandat
Longwood	in secon th	1 clkbail.	ta satakona <b>ac</b> od) 1		on knows one eluis E
North Orlanda	daryaw eb	l clkbail.	lw lo noldsepp el	sed on the sel	oggodu
			4.5	PARTICIPAL SIDE	5131823185E
Oviedo	100/mo.	l clkbail.	merit Recention'	nt, known as	The last eleme
Sanford	410/yr.	1 clerk	is a beam of pres	thalones to be	newly appointed
the voters:	vd bedeen	the question of x cortification is a	no beroggone en	it ile then in	encoaed himsol
1. Secretar	y used in i	udge's law firm.	somi no anothers	a decth. rests	when there is
2 Marrowla	atfocus	E the plan go into	other elements of	r exists, the	When a vacandy

- 2. Mayor's salary
- 3. City clerk serves as prosecutor.
  - 4. Retainer

MURICIPAL COURTS (Continued)

St. Petersborg 6,000 -

a'eobut

Salery

#### VI. SELECTION AND REMOVAL OF JUDGES 1

#### SELECTION OF JUDGES

718

Methods of selecting judges fall into five general categories: (1) appointment by the chief executive with or without confirmation by the legislative body, a council or commission; (2) appointment by the legislature; (3) nonpartisan appointive-elective system known as the "merit retention plan"; (4) partisan nomination and election; (5) nonpartisan nomination and/or election. Within each category there are significant variations in use throughout the fifty states. Many use two or three methods.

#### (1) Appointment by the Chief Executive

In nine states, some or all of the judges in major courts are appointed by the governor with confirmation by the legislature, the state senate or a special council or
commission. This includes New York, where the 12 judges of the Court of Claims are so
appointed, as well as California, Connecticut, Delaware, Hawaii, New Jersey, Maine,
Massachusetts and New Hampshire where most of the judges of major courts are so selected. In the majority of states, the governor is empowered to fill vacancies and such
interim appointments are of considerable significance to the eventual election or
appointment of an individual for a full term. Of the 36 Justices of the Florida Supreme Court between 1887 and 1964, 26 came to the court by appointment.<sup>2</sup>

### (2) Appointment by the Legislature

In Rhode Island, South Carolina, Virginia and Vermont, the state legislature selects the judges. Although this method is customarily referred to as "appointment", these judges are actually elected by legislators who have themselves been elected on partisan ballots. Under this method, as opposed to that requiring approval by the legislature or a governor's appointment, the governor does not participate. This is significant when one considers that the governor, as a rule, is the head of the majority party.

#### (3) Merit Retention Plan

This method is frequently referred to as the "Missouri plan" since that state was the first to adopt it for the selection of judges in major courts. The plan is now used for major courts in California, Colorado, Oklahoma, Utah, Vermont, Alaska, Iowa, Kansas, Missouri, Nebraska and a number of cities. It has been partially established elsewhere to cover the selection of school and zoning board members as well as judges.

Three basic elements characterize the plan:

- 1. Nomination of slates of candidates by nonpartisan/lay-professional nominating committees or commissions.
- 2. Mandatory appointment of judges by the chief executive from the list of nominees.
- 3. Subsequent review of the appointments at an election in which the judges run unopposed on the sole question of whether their records warrant their retention in office.

The last element, known as "merit retention", permits an incumbent judge, "either newly appointed or concluding a term of prescribed length," to file a certificate to succeed himself. He then runs unopposed on the question of retention. A vacancy exists when the incumbent fails to file the certificate; is rejected by the voters; when there is a death, resignation, or impeachment; or when a new position is created. When a vacancy exists, the other elements of the plan go into effect.

Problems have been encountered in the operation of this plan and few would claim that it is perfect. Proponents and critics alike see the nominating commissions as the key

to the success or failure of the plan. The commission must carefully judge all those suggested for judicial office by professional, civic and political groups, seek out qualified persons on their own, and fairly evaluate those who put themselves forward as willing to accept appointment. It must resist pressure from political, religious and ethnic groups. It must assess the extent to which an individual possesses those intangibles that combine with legal training and experience to produce an excellent judge.

wherever the plan has been established, the appointing authority is under obligation to appoint from a list of names submitted to him by the nominating commission. If he refuses to do so, a stalemate may result as it did in Missouri in 1953. The commission submitted separate panels of three names for each new judgeship to the new governor, a Democrat. One panel listed three Republicans; one, three Democrats from a faction of the party opposed to the governor; one, three Democrats who had supported the governor. Although all had the minimum legal qualifications for judicial office, the governor refused to appoint anyone, claiming that the political affiliation of the nominees had dictated the choice. The nominating commission in turn refused to reconsider their recommendations and the impasse continued until the term of one commission member expired. With his replacement, a majority of the commission determined to end the stalemate and nine names originally submitted were rearranged on the three panels "to give the Governor a choice." He thereupon filled the three positions that had remained vacant for two years.

Since 1953, Bar Associations and civic groups in Missouri have advocated an amendment to their constitution to provide for appointment by the chief judge of the highest court should the governor again refuse to make an appointment from the list submitted to him. This provision has been included in the plan as established in other states.

The last phase of the plan is the <u>retention</u> <u>vote</u> when voters are asked to vote "yes" or "no" on the question of whether a sitting judge should be continued in office for another term. The beliefs of most organization working for changes in judicial selection on this topic are well expressed by the Nebraska League of Women Voters:

"Many well qualified lawyers do not like to enter a political campaign. A good vote getter does not necessarily have the qualifications which would make him an acceptable judge...(it) simplifies the ballot and relieves the voter of the helpless feeling he has when confronted with a list of candidates whose names and qualifications are unknown to him. The voter has presumably had the chance to find out if the judge has been fair and honest in his administration of justice....The judge is spared incurring obligations to campaign workers and contributors....It is beneath the dignity of a judicial candidate, not as a man but as a judge, to have to resort to vote-getting tactics."

The plan has been in effect in Missouri for 25 years and in Alaska for seven years. One judge has been rejected during that time in each of these states. A judge, appointed by the Governor of Missouri before the establishment of the merit plan, was "regarded as a legal light weight, exhibited prejudice toward some lawyers...made selection of grand juries largely upon a political basis." When his term expired the plan was in effect, requiring him to run on his record without political endorsement or support. His overwhelming defeat was hailed by proponents of the plan as proving that voters could appraise a judge's performance in office.

A situation in Alaska in 1964, on the other hand, raised serious questions as to the security the plan provides for a judge. The Alaska Supreme Court had incurred the wrath of the Bar Association and during the same period had handed down an unpopular decision concerning the right of teachers to criticize their school boards. A judge who had participated in the decision and publicly supported the court's attempt to curb the Bar was rejected by a two to one vote when he stood for re-election. The Bar Association and several school groups actively campaigned against him while the judge, himself, had little if any organized support.

tion on this topic are well a

The value of the retention vote depends in large part on the information made available to the voter. In this connection the Missouri League of Women Voters says: "The newspapers are generous in giving information about judges running for retention and the Bar Association also sends its recommendations to the newspapers;" while the Ancharage, Alaska LWV remarks: "The merit retention race was well covered by the press. fi. "se na combon to a commission bar graining and experience to produce an estimated

As an additional aid to voters, it has been suggested that a "commission on judicial" appraisal" be required to report prior to the vote. This report would be based on observations of the judge in action, on interviews and on court records, and would be widely publicized. These commissions could also double as "tenure commissions." (See section on Tenure below.) : data not someth and to alense educate bedaling note

The best available evaluation of the operation of the Missouri Plan was the Missouri Bar Survey conducted in 1966. In this study, 1,233 lawyers answered questions in three major areas: method of selection preferred for choosing appellate and trial court judges; opinions on operation of plan and its effect on judges; improvements needed.

Lawyers in all parts of the state preferred the merit plan for selecting appellate judges. Their responses on the preferred method of selection for trial court judges were given on a statewide basis as well as according to the type of community in which the lawyers practiced: | sexult sit beill't nequerant all ".epioda a tonnevod and swim of"

Method Preferred	Statewide	Major Cities	Suburban	Urban/Sub.	Rural
Merit Retention	61%	70 - 79%	40%	over 50%	36%
Partisan Election	12%	e to make an app	aqa <b>#2</b> refus	tomewop 6%1 i	30% 1700
Nonpartisan Election	16%	nard out as pand	30%	27%	27%
Other	118 5[80	entich vole when sitting judge sh	s is the rep	ase of the pla	do "on" to

As to the operation of the plan and its effect on judges:

- . Approximately 2/3 agreed that the plan recruits better judges.
- . Approximately 2/3 agreed that it gives the judges greater independence and encourages decisions on merits of the case.
- . Charges that the plan makes judges arrogant, favors selection of defendants and corporation lawyers, were rejected approximately two to one.
- . 38% believe it has removed "politics" from judicial selection; 41% believe it has not;
- over 50% believe it has substituted Bar Association and gubernatorial politics.

Among the improvements felt to be needed were: you of groups of sweet of .splay a

- . Removal and retirement procedures. The removal with the state of the
- . Changes in the retention phase. (1/3 would increase the vote required from a simple to a 2/3 majority; others suggest vesting the nominating commissions with authority to remove judges.) bestulking the low shell seed a se believes
- . Increase salaries for judges. solding a door graptal as you bear to make our se
- . Requirement that courts represent as equally as possible both major political or support. His overwholming defeat was helled by proposents of the planter or

### that voters could appealso a judge's jor foreance in office; (4) Partisan Nomination and Election

t signation in Aleska in 1964, on the other b Nineteen states elect some or all of their judges through the same political process employed for the election of other public officials. They are nominated by the political parties and appear on the ballot with all other candidates on their party's slate. In some states, including Florida, vacancies on the bench are filled by election of a judge to serve only for the balance of an unexpired term, thus assuring that only a specified number of judicial offices will be open in any given year. In some states, the election process is designed to insure that judges on the highest court

will come from every district even though they are elected on a statewide basis.

Devices are also used to assure the minority political party of positions on the highest bench.

always to place judicial qualifications shoul of political expediency." Thus, interim

### (5) Nonpartisan and Special Judicial Elections Comment of the Valley of

SE

In many states, judges are elected by methods that vary from the normal political process of partisan nomination, campaign and election. These include nonpartisan nomination and election, separate judicial ballot, and separate judicial election. These methods have been instituted in an attempt to remove the influence of partisan politics and/or national and state political figures and issues from the selection of judicial officers.

Nonpartisan nomination and election of some or all judges has been adopted by 16 states. There is little uniformity as to the details of the method used. In general, voters at a primary or general election choose from a list of candidates who are not identified as member of a particular political party or independent group.

In a nonpartisan primary, candidates for judicial office may have their names on the ballot by payment of a fee or by petition containing a specified number of signatures. Any registered voter, regardless of party enrollment, may vote in this primary. The candidate receiving the largest vote is deemed elected in some states; in others, the two candidates polling the largest number of votes run in the general election. A nonpartisan election of judges may or may not have been preceded by a nonpartisan primary, depending upon the state. In any event, candidates names appear without any qualifying identification on the election ballot, either apart from the party slates or on a separate ballot.

The statute providing for nonpartisan election of judges which was passed by the 1971 session of the Florida Legislature provides that all judicial officers shall be elected in nonpartisan elections to be held at the same time as the state primary elections. If there are only two candidates, the election will be at the second primary.

Separate election of judicial officers represents an additional attempt to remove the influence of partisan politics from the selection of judges. In some states, voters receive two ballots. One ballot lists candidates for judicial office, with or without political party identification; the other, all other candidates for public office. Elsewhere, election of judges occurs on a day other than the general election and, depending upon the state, may be conducted as a partisan or nonpartisan election.

terms who have continued in office after age, illness or general decrepitude have rend-

ered them unfilt. In some cases, judges

#### FILLING INTERIM VACANCIES IN JUDICIAL OFFICE

The death, resignation or removal of the incumbent judge or the addition of new positions result in interim vacancies. The provisions for filling these frequently affect the final selection of a judge for the full term or for life, depending on the tenure provisions. In most states, vacancies are filled by the executive and there is considerable variation as to the length of the appointments. Where judges are elected, the appointment may last until the next election. Where the merit retention plan is used, vacancies are filled as they occur by appointment from a list supplied by the nominating commission. Where the plan is partially used, the governor's appointees are subject to confirmation by the Commission on Judicial Appointments.

Surveys indicate that interim appointees, in most cases, are eventually elected or appointed to the office. The American Judicature Society states that in elective states, as many as 50% of the judges are initially appointed by the governor to fill vacancies. There are many reasons why the appointee so frequently secures the full term. An incumbent judge, through distribution of patronage, may have the inside track on his party's nomination and secure the endorsement of the other party by the same means. Frequently, newspapers and the mass media place their support behind an adequate incumbent rather than take their chances with an untried person with no experience on the bench.

Glen R. Winters, Executive Director of the American Judicature Society, has referred to the authority of chief executives to fill vacancies as "one man judicial selection." Noting that "all governors are human," he states that it is "too much to expect them always to place judicial qualifications ahead of political expediency." Thus, interim appointments may go to a former campaign manager, a faithful party member who suffered defeat at the last election or to one who makes significant contributions to the party. They may be used to strengthen the executive's influence with one side or the other when there is a fight in the party or to increase his popularity with important ethnic, religious or racial groups. methods have been instituted is an attempt to remove the

Sometimes the governor delays in filling a vacancy in order not to influence the outcome of a local, intra-party battle. Judicial posts in New York State have remained vacant for several months because of this type of strife. Monpartisen nomination and

These factors mean that, at times, the best qualified person may be passed over while local and state politics play a significant role in interim appointments. To minimize this, several chief executives (Colorado, Massachusetts, Pennsylvania, New York City) have established nonpartisan or bipartisan nominating commissions to recommend persons for interim appointments. These commissions do not have legal status, however, and their effectiveness depends upon the chief executive himself and the force of public candidate receiving the largest vote is deemed elected in some states; in oth

#### two candidates polling the largest number of votes run in the general election. JUDICIAL TENURE a vd babosourg good swed for year to year apply; to maldrada mealdragdon

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Securing highly qualified, impartial and independent judges involves more than just a consideration of the method of selecting them. How long and under what conditions they can retain office is a closely related question. "Tenure" involves provisions for retirement, procedures for discipline, reprimand and removal, when necessary, as well as the actual term of office. session of the Plorida Legislature provides that all ye

Terms of office must be long enough to protect the judge from political intimidation or reprisal. Competent persons are not apt to give up flourishing law practices for a short judicial term knowing that, when the term expires, the source of their nomination or appointment may be in the minority, may have been offended by decisions rendered, or may need to fill the position with someone else to satisfy the demands of practical politics. They are also reluctant to assume office if they can be arbitrarily removed by the executive and/or legislative branches. Elsewhore, election of tod

On the other hand, there are many examples of judges with life tenure or extremely long terms who have continued in office after age, illness or general decrepitude have rendered them unfit. In some cases, judges believed to be guilty of actual misconduct have gone unchallenged because of the cumbersome, costly and politically difficult problems involved in impeachment. Procedures for mandatory retirement, while protecting the judge from arbitrary action, must, at the same time, protect the public from incompethe final selection of a judge for the full term tence in office. The system and the calculation of the calculation of the calculations of the calculations

siderable variation as to the length of the appointments. Whose judges trement in the appointment may last until the next election. Where the merit ret At least 21 states provide for complusory retirement at a specified age and all provide a pension or retirement plan for at least some of their judges. In Florida, the retirement age for judges is 70. Calbut an actual and the product of the calbut and the calbut and

Aside from age, the problem of retirement is to find a way to compel judges to leave office when they become disabled by poor health, mental or emotional instability, alcoholism or the like. The Florida Constitution provides for a commission composed of one justice of the Supreme Court, two judges of the district courts of appeal, two circuit judges and two county judges to decide on retirement for disability.

#### (2) Discipline I wante about posts about many and has a suprement victories at least

In 1966, Florida voters approved an amendment to the Constitution which provided for the establishment of a judicial qualifications commission to take charge of investigat-

on his carry's nomination and secure the endorsement of the chief party by the same

ing complaints and recommending to the Supreme Court the discipline or removal of justices of the Supreme Court, judges of the district courts of appeal and judges of the circuit courts when 2/3 of the commission concur in the recommendation.

#### (3) Removal from Office

BE

Four methods of removing judicial officers are in use throughout the fifty states -- recall, impeachment, address and judicial action.

Recall is basically a procedure under which the filing of a petition containing a specified number of signatures requires an incumbent to submit his record to the electorate before the conclusion of his term. Only eight states use the system and in many states where recall is authorized for other public officers, judges are specifically exempted. It is not authorized in Florida.

Impeachment is a procedure in which charges are brought by the lower legislative house and tried by the upper house. As a rule, it is used only for the most serious offenses. The decision is final and not subject to judicial review. It has been attacked as cumbersome, costly and essentially a political, rather than judicial, process.

Two judges have been impeached in Florida in recent years. In neither case did the trial in the senate result in conviction, but the cost of the two proceedings was close to \$250,000.

Address is a formal request addressed to the executive by one or both branches of the legislature, requesting him to perform some act. As a means of judicial removal, address is thus a combined legislative and executive action.

Judicial Action, in Florida, is initiated by the judicial qualifications commission. It may recommend removal of certain types of judges to the Supreme Court, as mentioned above in connection with discipline. The Supreme Court reviews the proceedings of the commission and orders removal, discipline or retirement of the justice or judge or rejects the commission's recommendation. This type of procedure was established in Calfornia in 1960 and since then several other states, including Florida, have adopted it.

# (VURLOD \* REFERENCES \*\*\* \*\*\* \*\*\*\*)

(May be provided in any county by logislature)

County-wide, nonpertisan election, 4-veer

- League of Women Voters of New York, <u>Judicial Resource Kit</u>, 1969.
   Much of the material prepared for this kit on the subjects of selection and removal of judges is equally valid for Florida. Information applicable to Florida has been added.
- Allen Morris, Florida Handbook 1971-72. p. 150.

Same as For Gounty Court,

Plotidn Bar.

1. Judicial vecancies are filled by ephernatorial appointment (except municipal judges.)
Governor hakew has volunteered to make appointments from recommendations of nominating councils — one council per directi, one statewide. Each council vould be com-

posed of three errinted by governor, three by Florida Bar, and three leynon sydcint-

2. Qualifications stipulated by Florida Constitution.
3. Qualifications which may be set by Florida Legislature.

COMMET. : Citimen of Florida,

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#### SUPREME COURT (Seven Justices)

10-year member in good standing Florida Bar.

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which charges are brought by the lower legislative house As a rale, it is used only for the most serious offenses

(staggered). Chief Justice chosen by his colleagues for 2-year term, usually rotated by seniority.

CONST. 2: Citizen of Florida. Statewide, nonpartisan Impeachment by 2/3 vote of election, 6-year term House, trial by Senate, conviction results in removal. Or, Judicial Qualification Commission may recommend removal. Retirement at 70 years, except last half of term may be completed. Retirement for disability at 2/3 pay after 10 years if approved by comas before goed eaf it welver inisibut of goodge mission of judges wistoub adt

(3) Removal from Office

# DISTRICT COURT VIALITIES DOLL VISEOU CHORNOCHED

(Four or more judges per district)

CONST.: Same as for Supreme Court.

District-wide, nonparti- Same as for Supreme Court. san election, 6-year add to sedement doed to ent term (staggered) . Degrathe desuper Lamed a al sayable

California in 1960 and since then several other states, incl

#### CIRCUIT COURT Tree of the pridesuper stude lead As a means of 'unitality to ansem a sa

(One judge for every 50,000 inhabitants or major portion in each circuit. Limited to 20 circuits)

CONST.: Citizen of Florida, 25 years old. 5-year member of Florida Bar. LEG. 3: may designate place of residence for additional judges in same circuit.

san election, 6-year term. refeats the commission's recommendation. This type of p

Circuit-wide, nonparti- Same as for Supreme Court.

#### COUNTY COURT

(One or more judge per county)

CONST .: Citizen of Florida. Resident of county. LEG.: may require a judge to be member of Florida Bar subject to referendum approval in that county.

County-wide, nonpartisan election, 4-year shird for Florida Suspension by governor for cause. Senate votes for or against removal. Retirement for age and disability same as for Supreme Court.

#### CRIMINAL COURT OF RECORD

(May be provided in any county by legislature)

CONST.: Citizen of Florida, 25 years old. Member of Florida Bar.

County-wide, nonpartisan election, 4-year term.

25 150

Same as for County Court.

Allen Merris, Plorida Handbe

- 1. Judicial vacancies are filled by gubernatorial appointment (except municipal judges.) Governor Askew has volunteered to make appointments from recommendations of mominating councils -- one council per circuit, one statewide. Each council would be composed of three appointed by governor, three by Florida Bar, and three laymen appointed by first six.
- 2. Qualifications stipulated by Florida Constitution.
- 3. Qualifications which may be set by Florida Legislature.

Judicial Qualification

Selection Process

Removal Process

### COURT OF RECORD OF ESCAMBIA COUNTY -txsaromas actions and participation (Two or more judges)

LEG.: Same as and ginerallib aredent to dee gove a de Mood file apbut one gifernish will. Consequently, there is a large discrepancy in the actual sentences trucing

36

CONST.: Same as County-wide, nonpartisan Same as Circuit Court.

Circuit Court. and apply election, 6-year term.

JUSTICE OF THE PEACE COURT (One justice for each justice district, and the state of maximum of five districts per county)

Hartin Dychman's article Jiog I sami" proderada CONST.: Citizen of Florida, District-wide, nonpartisan Same as County Court. election, 4-year term. Inginize no perofessor palonesmon resident of county served.

# "Florida courts make a mockery of the Truco Lavid Justice Under the Law". Equal just-

is, as they sit in prisons and now-CONST.: Citizen of Florida, resident of county served.

as that of a white man, and

County or district-wide, Same as County Court. nonpartisan election, about to 4-year term. would all

ice is a myth, an univeny joke, to

"It's a myth to the black man-

#### 'quility' is at least twice as high, research inch

(In counties where activiated by County Commission)

CONST: Citizen of Florida, resident of county served.

ompare sentences

County-wide, nonpartisan election, 4-year term.

Same as County Court.

"James Ivey, Superintendent at

# CIVIL COURT OF RECORD - DADE COUNTY & DUVAL COUNTY1

CONST: Citizen of Florida, resident of county served.

Appointed by governor and confirmed by senate for 4-year term.

Same as County Court.

### DADE COUNTY COURT OF CRIMES 1 r robbery and attempted breck-

CONST.: Citizen of Florida, resident of county served. confirmed by senate for

candy and a revolver; James,

Appointed by governor and Same as County Court. find rol .signed & to wred4-year term. tor st. mrsay & winner shed . RI . warni

their first folony.

# MUNICIPAL COURT1

CONST.: Citizen of Florida, resident of county served. Appointed or elected as provided by city charter. As provided by city speriors charter. edsy judgoments un

1. These courts are created by statute or charter, which may include judicial qualifications in addition to the stipulation in the Florida Constitution that "The judges of other courts shall be citizens of this state and residents of the county served." "so Plorida's prison sentence also varies;

3. In many cases, according to whether the defendent was foolish enough to insist on his constitutional right to a jury trial.

2. According to which judge drawn his case, and what the judge's personal prejudices

1. According to where the law breaker broke the law, not simply which law he broke.

"Prison officials any that it is common knowledge that orings against property are punished more nevertly in Morth Florida than in the urban south, and that crimes against

Judicial Coalitication

dents of the county served."

### VII. CRIMINAL SENTENCING PROCEDURES IN FLORIDA

Selection Process

#### LACK OF UNIFORMITY

There is no uniformity in sentencing procedures in criminal cases throughout the state of Florida. Each criminal statute carries a general sentencing limitation as to maximum permissive sentence. This gives the judge absolute discretion to sentence for any lesser number of years as in his judgement appears to be wise under the circumstances. Naturally, one judge will look at a given set of factors differently than another judge will. Consequently, there is a large discrepancy in the actual sentences given by different judges for the same offense in the state of Florida.

#### "FLORIDA'S MYTH OF JUSTICE" was solder most and solder and

Martin Dyckman's article "Florida's Myth of Justice" in the <u>St. Petersburg Times</u> report on prisons provides a better understanding of the facts surrounding the inequality of sentencing procedures in criminal cases in Florida:

"Florida courts make a mockery of the motto 'Equal Justice Under the Law'. Equal justice is a myth, an unfunny joke, to Florida's convicts, as they sit in prisons and compare grossly unequal sentences.

"It's a myth to the black man. His chances of going to prison once the jury says 'guilty' is at least twice as high, research indicates, as that of a white man, and the black man's sentence will be longer.

"It's a myth even to the prison wardens, counsellors and teachers who compare sentences just as the inmates do.

"James Ivey, Superintendent at Sumpter Correctional Institution reached into his desk for random contrasts the Division of Corrections has prepared:

- 1. Ronald, 18, from Escambia County, a life sentence for an unarmed robbery in which he stole 2 bottles of whiskey; Lucius, 22, Dade County, 5 years for a gang robbery involving 2 revolvers and a shotgun. For both men their first felony conviction.
- Roger, 17, from Escambia County, doing 21 years for robbery and attempted breaking and entering, his loot having been cigarettes, candy and a revolver; James,
   Dade County, 3 years for a \$250 grocery hold-up. For both their first felony.
- 3. Samuel, 25, Escambia County, 20 years for driving the get-away car in 4 robberies; Larry, 18, Dade County, 4 years for strong-arm robbery of 4 people. For both their first felony.

"Theory teaches two sensible reasons for varying sentences: What it takes to protect society from the individual lawbreaker, and what it takes to reform him. Those aren't easy judgements under the best conditions; of course, there is no textbook formula for the judge's guide.

"What's worse, is that 151 different Florida judges have the power to send men, women and children to prison and the discretion to send them there for a long while, a little while, or not at all.

"So Florida's prison sentence also varies:

- 1. According to where the law breaker broke the law, not simply which law he broke.
- According to which judge draws his case, and what the judge's personal prejudices are.
- 3. In many cases, according to whether the defendent was foolish enough to insist on his constitutional right to a jury trial.

"Prison officials say that it is common knowledge that crimes against property are punished more severely in North Florida than in the urban south, and that crimes against

\*Italios added.

persons, assault for instance, provided no robbery is involved - get off lightly in the farm land and are treated sternly in the cities.

"'There's no justice at all as far as the time is concerned,' complains Major Curt Mackenzie, Chief of the Guards at Raiford. 'It's the thing I hear bitched about more than anything else,' says Raiford chaplain, Norman L. Redding. 'The thing I would like to see more than anything else is the uniform sentencing law.'

"Florida disparities are not only unfair; some may be unconstitutional. 'In this county' said Miami attorney Phillip Hubbart prior to his installation as Dade's Public Defender, 'not only are you penalized for going to trial, you are penalized for going to a jury trial.' 'I see,' he said, 'no logical reason for giving a man more time for taking up more of the court's time in a jury trial - there is an unwritten rule around here that if you ask for a jury trial you get a stiffer sentence. I would accept maybe one judge.'

"Some judges say a guilty plea signifies remorse, bettering the risk of probation or light sentence - the first step toward rehabilitation. Nonetheless, each man has the right to a jury trial."

# THE INDETERMINATE SENTENCE PRINCES OF THE PRINCES O

The St. Petersburg Times report on prisons indicated that Florida's indeterminate sentence law was a failure. It is still very much on the books and in use. At one time, this indeterminate sentence law was the pride and joy of progressive judges. Justice Thornal extolled the virtues of the indeterminate sentence by maintaining that deterence and rehabilitation are the results desired by sentencing an individual and that these purposes are accomplished when an indeterminate sentence is imposed. He expressed the belief that such sentencing provides similar treatment in similar cases, and that it provides a more flexible opportunity for rehabilitation. In essence, indeterminate sentence constantly holds out to the individual law violator the incentive to minimize his term of imprisonment.

For all practical purposes, as stated in that report, it works so that a defendent receives a straight term of sentence. Florida statute 921.17-18 provided for an indeterminate sentence, permitting a judge to sentence a defendent who has been convicted of a non-capital felony to "an indeterminate period of six months to a maximum period of imprisonment," which maximum may be less than that authorized by law for the particular violation. Under this provision, the exact period of imprisonment is determined by the parole commission, a situation which led to the newspaper's evaluation of the law as "a miserable failure."

So judges have been issuing between 400 and 600 indeterminate sentences a year since 1963. The St. Petersburg Times pointed out that only 86 inmates have been released on indeterminate sentences.

As the months stretch into years for convicts imprisoned under indeterminate sentences, they learn for all practical purposes that a man receives a straight maximum sentence having little to do with his ability to rehabilitate himself.

# FACTORS IN DETERMINING SENTENCE

Paul Barnard, Professor of Law at Stetson University College of Law has stated"

"A distressing problem today presents itself in the factors utilized by a sentencing judge in arriving at his conclusion as to the amount of sentence for any particular case. There is no general consensus as to all of the elements that should be considered and many judges have individual pet theories which they believe to be in the best interest of society, but which are peculiar to the individual sentencing judge entertaining such theory. Such factors as chronological age, mental condition, harm to the community, circumstances of the offense, and prognosis for rehabilitation, plus others should be considered by all judges. In my opinion, there should be a protection of

the judges exercise of discretion within the limitations of the penal provision of the statute. If this is not protected the law becomes inflexible and in turn produces more hardships than we had to begin with. On the other hand, it seems that there must be some kind of uniformity in the underlying factors utilized by the judge in determining the sentence. This would have the effect of more clearly coordinating the discretionary sentences given in the various judicial circuits, and create a greater respect for the entire process, and would give the attorneys a more definite basis on which to represent their clients. All of these reasons would appear to be in the best interest of the community at large."

The five circuit court judges and two criminal court judges in Polk County were mailed a questionnaire asking each judge to give his opinion on uniform sentencing procedures and to describe how he goes about determining the sentence for an individual defendent.

Presiding Judge of the Circuit Court, The Honorable William K. Love, compiled the answers for the other four judges of the circuit court as well as himself as follows:

- "I. The sentencing of defendents in criminal cases, in all except capital cases, is discretionary with the court. This discretion is limited by the penalty provisions of the law as to a maximum period of incarceration or fine. In capital cases, (murder in the first degree, rape, kidnapping for ransom, treason, etc.) the verdict of guilty carries with it a mandatory death penalty unless the majority of jurors recommend mercy. In the latter event the sentence is for life with some provision for a lesser sentence in the discretion of the courts.
- " II. Except in capital cases the verdict of the jury has no control of the sentence.

  The jury may make a recommendation, but this is very unusual.
- "III. In sentencing a defendent the judges of the Circuit are happy to receive recommendations from the prosecutor and defense attorneys, but primarily rely upon pre-sentence investigation made for the Court by the Florida Probation and Parole Commission. Quite naturally, our own experiences in similar cases and related cases are involved as a factor in the determination of sentence. In this connection, let me emphasize the great value of the presentence investigation. This confidential report, by competent and trained personnel, covers a wide field, and we would be severely handicapped if deprived of this aide.
- "IV. Except in capital cases, there is no standard of uniformity in sentencing. Current sociological studies criticize this condition. The writer, however, believes that there would be no greater inequity in justice if equality of sentences are required. We must consider in each case the possibility of relabilitation, the likelihood of future violations, and all other factors leading to the determination of a just sentence.\* As an example, should the same sentence be meted out to a youthful first offender as to an habitual criminal? Compare if you will, in one of our few instances of mandatory sentences, the effect of a revokability of a driver's license and a fine of \$250 in the case of a) The indigent laborer who neither owns an automobile nor has need of driving in his work, but without funds to pay the fine. b) A wealthy physician whose practice depends upon his ability to drive to the aide of those acutely ill, but to whom the fine would be of no importance. c) The professional bus driver with 5 children who cannot afford a \$250 fine and whose career and earning capacity are destroyed by the loss of his license.
- " V. I feel strongly that the matter of sentences should be left within the discretion of able, experienced, and fearless judges."

The Honorable Roy H. Amidon of the Criminal Court of Record of Polk County stated that in sentencing a defendent he takes into consideration the recommendations of the defense attorney, recommendations of the prosecuting attorney, probation officer's report, his own past experience in related cases, and what other judges in similar cases are

should be considered by all judges. In my opinion,

doing. Judge Amidon noted that there should be some uniformity in sentencing procedures throughout the state in criminal cases, but that the judge handling a specific defendent is best able at the time to sentence within his own discretion. In other words, there should be some type of uniformity in sentencing procedures but not a rigid penal code which would take away completely the judge's discretion.\*

The Honorable Thomas M. Langston of the Criminal Court of Record of Polk County answered the questionnaire in the following manner:

"In sentencing an individual I primarily take into consideration factual information concerning the offense, and the individual, giving perhaps greatest weight to: 1. Prior offenses, if any; 2. Job stability; 3. Dependents, all of which are set forth in the probation officer's report. I would be less than honest if I stated that my decisions are clear-cut in all instances and in cases which are borderline insofar as whether a defendent is placed in prison or placed on parole I do give consideration to recommendations of the defense attorney, the prosecuting attorney, as well as others who may take it upon themselves to make any recommendation.

"In some instances - because of a person's prior record and lack of any job stability, I may sentence a person to jail or to state prison, and in other instances for the exact same offense the person may be place on probation. Where all matters are equal, I strive for uniformity in the sentencing of individuals, and it may be said that experience with prior related cases has bearing on the sentence. Even so, a statistical study may prove otherwise, and this would be because of an individual's background and his (or her) apparent ability or lack of ability to respond to a period of supervision while on probation.

"With regard to uniformity throughout the state, I would say that if there is uniformity it should be by chance as opposed to design. I have here-to-fore requested from the Division of Corrections a statistical report showing the length of sentences imposed for the various crimes occurring most frequently in order that the court could use the information as a guide in imposing sentences. Such requested information has never been forthcoming.

"With regard to sentencing an individual, I believe that a trial judge should have discretion to 1. sentence to the county jail for a period of one year or less; 2. place on probation; or 3. sentence to the state prison. If the place of confinement is to be the state prison I would recommend that the trial judge impose a sentence of not less than one year and allow an appropriate reviewing authority to determine the length of the sentence, such authority would have current progress reports while the defendent is in prison and could better determine an expiration of sentence date.\*"

#### SENTENCING AND PAROLE

On January 13, 1970, the Young Lawyers Section of the Florida Bar created a select committee on prison reform, chaired by Phillip Hubbart of Miami. The committee's report included the following statements:

"Prison sentences imposed on inmates around the state have little or no uniformity. For instance, we found startling differences in sentences for the crime of robbery. Florida law empowers the trial judge to sentence a person convicted of robbery for any term of years up to life imprisonment. Although given inmates have committed the same type of robbery and have roughly the same background, they are frequently given divergent sentences ranging from two years as compared to life imprisonment. This inevitably causes great resentment and bitterness in the inmate.\*

"There is some evidence that prison inmates are denied parole consideration by the Florida Probation and Parole Commission if inmate appeals are pending in the courts in their respective cases. The was the official policy of the Parole Commission from 1963-67. Although this policy was officially rescinded in 1967, it is still considered

as a factor in the parole decision process. Moreover, we found a copy of the 1963 directive of the Parole Commission on the bulletin board of one of the prison institutions. We further discovered that officials of the Parole Commission were until recently instructing new inmates upon their reception into the prison system at the Lake Butler Institution that no parole consideration would be given to inmates whose cases were still on appeal in the courts. These unfortunate practices have apparently been officially eliminated, but it still remains true that a pending appeal in the courts works against the inmates' chances for parole and as a factor to be nsidered on a case-bycase basis in the parole decision process. This inevitably causes great bitterness among the prison inmates who feel they were wrongfully convicted and wish to appeal."

# offenses, if any: 2. Job stability: 3. Dependents; all of which are set forth to the Large stability of it I stated that m MROFFS WALL

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The report by Phillip A. Hubbart, committee chairman, stated as one of its three major directions in the area of prison reform -- "our criminal code should be revised to provide a more rational system of imposing sentences." The report continued:

"...Law Reform - The entire Florida Criminal Code should be revised to provide for uniformity in sentencing procedures. In this connection, we strongly recommend the adoption of the American Bar Association's Minimum Standard Project on Criminal Justice, Standards Relating to Sentencing Alternatives and Procedures, especially Appendix B which contains portions of the Model Penal Code. We further recommend the same Project's study on Appellate Review of Sentences. The adoption of these recommendations would result in a more uniform method of imposing prison sentences. We further recommend the adoption of a statute prohibiting the Florida Probation and Parole Commission from considering the pendency of an inmate's appeal in the courts as a factor in the parole decision process."

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IX. ADDITIONAL REPERBUCES

FELONY - Any crime punishable by death or imprisonment in the state prison.

MISDEMEANOR - Every crime that is not a felony.

# JURISDICTION STREET AND ADDITIONAL AND ADDITIONAL AND ADDITION OF THE PROPERTY OF THE PROPERTY

- CONCURRENT Two or more courts may deal with the subject matter at the choice of the suitor.
- EXCLUSIVE No other kind of court has juridiscition of this kind of case from its inception.
- ORIGINAL Courts that have jurisdiction of a case from its inception, try it and pass sentence; but other courts may have the same function.

## Whiteker, "The Florida Supreme Court - Internal Procedures," Vol. 4, .x. . 70 TIRW

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- CERTIORARI Reviews a performed judicial duty; brings before the court for inspection the record of proceedings of an inferior tribunal, for review as to whether the inferior court exceeded its jurisdiction or has not proceeded according to law.
- HABEAS CORPUS To obtain immediate relief from illegal confinement. I not be used to determine the guilt or innocence of a prisoner, only to ascertain where he is restrained of his liberty by due process of law.
- MANDAMUS Used to compel the performance of any and all official duties, where the official charged by law with the performance refuses to or fails to perform.
- PROHIBITION Used to prevent a tribunal possessing judicial or quasijudicial powers from exercising jurisdiction over matters not within
  its cognizance, or exceeding its jurisdiction. Writs of mandamus and
  prohibition are counterparts of each other -- mandamus compels performance, prohibition arrests performance.
- QUO WARRANTO (ancient) Designed to try the right or title to the office and to oust the intruder; requires the office holder to show by what right he exercised the office or franchise.

1, Thego references, as well as most ciners previously cited, are available

from the Florida State Library, Tallahasses, Florida.

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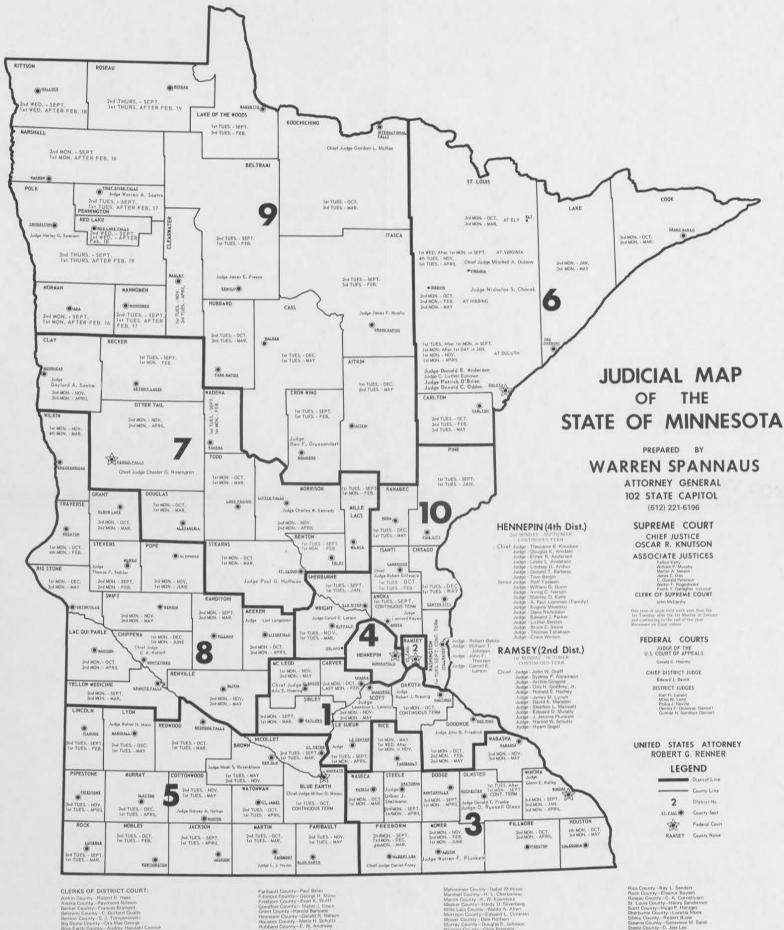
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Fillmore Country - George H. Mither Presborn Country - Seva R. WUH! Great Country - Hard Bertress Hennight Country - Gerald R. Nelson Houston Country - Hard R. Schultz Backbon Country - Deale B. Schultz Backbon Country - Deale B. Schultz Backbon Country - Deale B. Schultz Backbon Country - Jewis B. Lindgren Lake Of the Winder B. Lindgren Lake Of the Winder - Jewis Backbon B. Lindgren Lake Country - Jewis B. Lindgren Lake Country -

Mathati County - H. L. Cherdomeau Matrin County - H. W. Komender Mexice County - Hardy O. Silverberg Mills Lace County - March A. After M. Martin County - Hardy O. Silverberg Mills Lace County - Walde A. After M. Marrey County - Dough Et Johnson Nicollat County - Cher Fettom Nicollat County - Cher Fettom - Mills - Mi

Risc County - Hay L. Benders Rock County - Hay L. Benders Rock County - Hearn Staysen Rock County - Hearn Staysen St. Jouts County - Hearn Staysen Staysen County - Hearn Staysen Steven County - Lorests More Staysen County - Lorests More Staysen County - Hearn Staysen Steven County - Hearn Hearn Hearn Hearn Washington County - Water H. Kingman Wabsaho County - David E. Meyer Washington County - Margaret Cesanove Washington County - Margaret Cesanove Washington County - Hearn County - Hearn Hearn Hearn Washington County - Hearn County - Hearn Hearn