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EFFICIENCY IN THE OPERATION
OF THE COURTS

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FINAL REPORT OF THE

SUPREME COURT

COMMITTEE ON EFFICIENCY

IN THE OPERATION

OF THE COURTS OF

NEW JERSEY

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Summary

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THIS REPORT PRESENTS the findings and recommendations of the Committee on Efficiency in the Operations of the Courts in New Jersey, developed from February, 1980 to July, 1981.

Overall, the Committee found a Trial Court System staffed by many competent and dedicated people, who are attempting to carry out their responsibilities within a fragmented organizational structure, using outmoded technology and administrative practices designed for a much smaller caseload than exists today.

The benefits of the court system reforms of 1947 and 1978 are evident. However, they have largely been overtaken by the vast increase in caseload during the intervening years. In that time, the annual volume of case dispositions has increased from 20,524 for the 1947-1948 court year to approximately 655,000 in the 1980-1981 court year; the total cost of the Trial Court System has grown from approximately \$34,500,000 in 1968 to \$104,600,000 in 1979. Additionally, the number of employees in the Trial Court System has grown to approximately 6,000 in 1980. It is not surprising, therefore, that the Committee found problems which would not have been evident three decades ago.

While the work of the courts has grown dramatically, the resources of the Trial Court System have become progressively constrained by the State's "CAP" law, which has limited county funding, and by strong competition for State government funds.¹

Both trends, increasing workload and limited resources, are expected to continue and intensify. Therefore, management reforms in organizational structure, work procedures, and personnel management practices are not only desirable to improve efficiency today, they are absolutely essential to keep the court system viable in the future.

The Committee found that a cohesive Trial Court Support "system" does not, in fact, exist. Rather, it is a fragmented set of individual offices. While these units clearly perform integral functions in the adjudication of cases, there is an absence of a sense of the whole. People perceive of themselves as employees in independent of-

fices, rather than as a part of a larger system and they act accordingly. This seriously limits the cohesiveness and effectiveness of the trial courts of the State, particularly in such central functions as caseload management.

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The court system lacks a strong statewide administrative structure based upon manageable trial court units. In theory, the Chief Justice is the "Chief Executive Officer" of the Judicial Branch, just as the Governor is of the Executive Branch. But the management responsibilities of the judicial branch at the trial level as they relate to the support offices have not been clearly defined nor are the normal management controls over budget and personnel available to those who manage the courts. The management arm of the Chief Justice, the Administrative Office of the Courts, has not expanded its capability to provide central direction to the support system. While the Assignment Judges report to the Chief Justice and are the "line managers" in each vicinage, they do not generally assert their management authority over court support units because their authority is unclear. Furthermore, Trial Court Administrators, also lacking clear role definition, have not provided the strong and experienced management support that might be expected from that position. Normally, executives lead by giving direction. But lacking a coherent management structure, the New Jersey trial courts are not responsive to direction. Assignment Judges can make systems work only by persuasion, force of personality, court orders, and threats of court orders, a most awkward and inefficient way to manage.

The fragmented nature of the Trial Court System is further accentuated by the fact that its employees are covered by personnel systems designed for county employees outside of the judicial branch. Most employees are under the jurisdiction of the statewide Civil Service System, which has been found to be rigid and unresponsive to the unique requirements of the judicial system. Within the 21 counties, there are many different appointing authorities for judicial personnel. Employees belong to a myriad of bargaining units, many of which also include executive branch employees at the county level. The Trial Court System has done little to offset this fragmentation. It has not attempted to establish its own statewide personnel management system incorporating

training, career development, job classification, salary administration, and other important human resource functions.

The work of the courts involves processing a large volume of paperwork and maintaining extensive records. Yet, the system has persisted in using outdated clerical methods. The use of new technology — word processing, microfilm, computers — for increasing office productivity is a rarity. The courts have also lagged in adopting modern records management systems with the result that space and security problems affect the current large volume of basic court records.

The management of any organization must be able to assess its needs, have accurate information on its human, fiscal, and technological resources, and be able to reallocate resources as necessary. The Trial Court System is unable to do any of these things. In fact, there is no single, centralized control over the allocation or use of court resources. Even if control were sought, there is no accurate information on the extent of available resources because the information is kept in a multitude of different places and in a vast number of different ways. More importantly, because the Trial Court System is heavily dependent on the 21 county Boards of Freeholders for funding, each using different criteria to fund the needs of the courts, it is virtually impossible to allocate and transfer resources.

In light of these findings, the Committee has developed recommendations designed to introduce modern management methods and technological advances, which should improve the efficiency of administrative procedures and enable employees to be more effective.

Five major recommendations have overriding importance.

1. *Finance the Trial Court System completely at the State level.*

The trial courts and their support systems are, in essence, one system composed of trial courts located in 21 counties presided over by State judges who administer State law and follow policies established at the State level. It is inconsistent that a system with statewide orientation should be funded individually by the counties. More-

over, control of the budget inevitably brings control over operations. As long as there are 21 centers of budgetary control, it is virtually impossible to bring cohesion and strong central management to the system as a whole.

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2. Establish a separate judicial personnel system.

The Chief Justice's major resource — people — is beyond his authority and control. Unification of the courts' human resources into one personnel system responsive to the Judiciary is critical to the efficient functioning of the State's courts. This unification would include a separate judicial civil service system and the creation of collective bargaining units for judicial employees alone.

3. Establish stronger management by the Judiciary over its own system.

Changes must be made in many areas to enable the management structure of the court system — the Chief Justice, the Assignment Judges, the Administrative Office of the Courts, and the Trial Court Administrators — to impart coherent direction.

4. Establish direct control by the Judiciary over all court clerical support operations presently exercised by the County Clerk in connection with pending cases.

The clerical processing of court papers is an integral part of the adjudication process. Divided control over these processes between judicial and semi-autonomous entities is not consistent with the principles of caseload management. The courts must have uninterrupted authority over all aspects of a court case from filing to disposition if they are to be held accountable for their performance.

5. Install within the Trial Court System, as quickly as possible, modern methods of information processing and records management.

The trial courts of New Jersey are unnecessarily labor intensive. This is costly, time-consuming, and inefficient. The courts simply must move into the twentieth century before the twenty-first is upon us.

Chapter 1: Introduction

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THE COMMITTEE ON EFFICIENCY in the Operations of the Courts was appointed by Chief Justice Robert N. Wilentz in early 1980 to conduct a critical study of the operations of New Jersey's Trial Court System. Specifically, the Committee was asked to study and make recommendations in the areas of organizational structure; reporting responsibilities; management effectiveness; personnel policies, practices, and performance; systems and procedures; and relationships among units of the Trial Court System and county and State governments. The Chief Justice sought to reduce the cost and increase the effectiveness of the State's court support system. The Committee was selected for the expertise and experience of its members with operations management, the functioning of Trial Court Support units, and State and county government. It included the Chief Executives and other high level executives from some of the nation's largest corporations located in New Jersey; the Dean of the Rutgers Graduate School of Management; two private sector management consultants with substantial government experience; two county freeholders; four county administrative officials; two Judges, a Surrogate, a Trial Court Administrator, a County Clerk, a Sheriff, a Chief Probation Officer; and a city authority director. The appointment of the Committee marks the first time that experts from outside the New Jersey judicial system have made a critical appraisal of the State's trial courts. The members of the committee are listed in Appendix 1, at the end of this chapter.

The broad scope of trial court operations prompted the Chief Justice to limit the Committee's mandate to Trial Court Support units serving the Superior Court, the County District Court, and the Juvenile and Domestic Relations Court. Certain other areas of court operations were excluded because they are the subject of concentrated attention by other committees.

A judicial performance and evaluation program is being designed for trial judges. Jury operations are the subject of detailed review in conjunction with a federally funded reform effort. Court reporters were the subject

of a recent extensive study commissioned by the Administrative Director of the Courts.

For purposes of this study, the Committee on Efficiency divided into seven subcommittees, each to study one court support group: Clerks, Probation, Surrogates, or Sheriffs; or one administrative function: finance, records, or personnel. Each subcommittee reported its findings and recommendations. In addition, an Organization and Management Subcommittee was established to consider management and organizational matters once the work of the seven subcommittees was completed.

In light of the magnitude of this task, the National Center for State Courts was selected to serve as consultant to the Committee on Efficiency.

The Committee's report is divided into four sections. Section I is a brief historical narration of court reform in New Jersey and description of the present Trial Court Support System. Section II puts forth the findings of the Committee with regard to the operation of the Trial Court Support System. It includes analyses of the personnel, finance, and management information systems of the Trial Court Support organization and an examination of four functional areas — Clerks, Sheriffs, Probation, and Surrogates. Section III presents the Committee's recommendations with regard to these areas. Section IV presents some preliminary ideas on implementation of the Committee's recommendations.

APPENDIX 1
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THE COMMITTEE ON EFFICIENCY IN THE COURTS

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SECTION I:
Background

This section presents a history of court reform and describes the structure of the Trial Court System in the State at the time the Committee began its study.

Chapter 2: The History of Court Reform in New Jersey

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THE PRIMARY FUNCTION of the judicial system is to provide an appropriate forum for the adjudication of disputes between parties and for the determination of criminal charges.¹ Legal scholars agree that “unification, flexibility, conservation of judicial power, and responsibility”² are the basic principles which should govern the organization of our courts. Unification is essential in order to achieve optimum utilization of available resources, eliminate unnecessary duplication of effort, and ensure fairness in the administration of justice. Flexibility is the fundamental characteristic which enables a court system to evolve, adapt, and keep pace with the demands placed upon it by a changing society. Conservation of judicial power is a *sine qua non* of efficiency,³ and responsibility is the motivating force which ensures accountability to the State, the Bar, and the litigants for whose benefit the system was created.

The most significant call for court reform during this century was Harvard Law School Dean, Roscoe Pound’s 1906 address, “The Causes of Popular Dissatisfaction with the Administration of Justice,” before the annual convention of the American Bar Association, St. Paul, Minnesota.⁴ He described the American judicial system as “archaic” and criticized the multiplicity of courts, the preservation of concurrent jurisdictions, and the waste of judicial manpower which were prevalent throughout our society at the turn of the century. Dean Pound advocated the consolidation of all state appellate and trial courts into a single Supreme Court of Judicature which would have two branches, a court of first instance and a court of final appeal.⁵ This simplified structure later became the prototype for the American Judicature Society and American Bar Association (ABA) standards for court reform.⁶

Since 1906, several model judicial articles have served as guidelines for more effective court systems.⁷ The American Judicature Society, in 1920, proposed a three-tiered system, *i.e.*, a supreme court to handle all appellate business, a district court to handle trials, and a county

court for the "special convenience of each separate county." The system was to be financed locally unless otherwise provided by the Legislature. An annual judicial conference was prescribed, court statistics were to be collected centrally, and the Chief Justice was vested with such administrative responsibilities as publishing an Annual Report, presiding over Judicial Council meetings, and acting as the executive head of the judicial branch. From 1920 to 1937, the Society's efforts were instrumental in the creation of several state judicial councils and the return of inherent rule-making power to the state courts from the legislature.⁸

The next significant breakthrough came in 1938 when the ABA adopted 66 resolutions for court reform drafted by its Judicial Administration Section. The ABA resolutions drew heavily on Dean Pound's original suggestions, which called for returning rule-making power to the courts, quarterly judicial statistics, the utilization of judicial manpower to the fullest extent possible through centralized administration and the reassignment of judges to relieve congested dockets.

By the 1940s, the situation in New Jersey was not dissimilar to other states. The New Jersey judicial system, known for its unique dispensation of "Jersey justice," had been criticized widely for its proliferation of courts with overlapping jurisdiction, the multiplicity of duties assigned to members of the higher courts, inordinate delays in the administration of justice, and a general lack of centralized supervision.⁹ In 1942, the New Jersey Legislature appointed a special commission to study the old court system and make recommendations for improvement. The commission's report served as the basis for the Judicial Article proposed by the Judiciary Committee at the 1947 Constitutional Convention.

This revolutionary Judicial Article was modeled after the ABA and Poundian reform standards. Thus, the 1947 Constitution, grounded in the Constitutions of 1776 and 1844, made several fundamental and substantive changes in the structure of the New Jersey Courts.

The new system created by the 1947 Constitution consisted of a Supreme Court, a Superior Court, 21 county courts, and such inferior courts as authorized by the Legislature, *i.e.*, the Juvenile and Domestic Relations

Courts, the County District Courts, and the municipal courts. It also charged the Chief Justice with the administrative responsibility for supervising the courts and granted the Supreme Court absolute rule-making powers over all courts in the state.¹⁰

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The Honorable Arthur T. Vanderbilt, former President of the American Bar Association and Dean of the New York University School of Law, became the first Chief Justice to be appointed under the new Constitution. Less than one year after his appointment on December 15, 1947, Chief Justice Vanderbilt implemented a new set of court rules to standardize court practice and procedures and abolished the vestiges of home rule and favoritism which characterized the former system. In an effort to alleviate court calendar backlog, he extended court hours and promoted the extensive use of pretrial conferences to encourage settlements. He also demanded accountability from judges by introducing judges' weekly reports. Furthermore, he was mindful of the Judiciary's responsibility to the public and instituted an annual judicial conference to review the work of the courts, consider amendments to court rules, and provide a forum for discussion of issues relating to the administration of justice. Finally, with the support of the Legislature, he established an Administrative Office of the Courts and appointed an Administrative Director of the Courts to assist him in carrying out his administrative responsibilities. Under his direction, the New Jersey judicial system was widely heralded as the best state court system in the country.

The initiatives introduced by Chief Justice Vanderbilt were continued by his successor, the Honorable Joseph Weintraub, who served as Chief Justice from 1957 to 1973. During that period, Trial Court Administrators were introduced into all 12 vicinages to help alleviate the administrative burden of the Assignment Judges; meaningful clinical programs were introduced in the State's law schools; Advisory Committees on the Unauthorized Practice of Law and Professional Ethics were established; and the Clients' Security Fund program designed to compensate clients defrauded by their attorneys was instituted. The role of the Administrative Office of the Courts was also greatly expanded under the direction of

Administrative Director Edward B. McConnell, who developed and implemented several new programs to improve the administration of Probation services, centralize appellate research, and initiate computer technology into the judicial environment. In 1969, the court rules were again revised in their entirety in an effort to streamline and reform court procedures.

Numerous accomplishments were achieved under Chief Justices Vanderbilt and Weintraub and were built upon during the tenure of Chief Justice Richard J. Hughes and the brief tenure of Chief Justice Pierre Garvin. Exemplary of the continued reform movement was the address of Director McConnell at the 1969 Judicial Conference of New Jersey:

... the New Jersey courts no longer serve as an example for others to emulate but rather as an example for the old maxim that to stand still is to fall behind."

Accordingly, McConnell proposed a "Blueprint for the Development of the New Jersey Judicial System" and recommended: (1) consolidating the Superior and County Courts; (2) eliminating the Juvenile and Domestic Relations Courts and creating a statewide family court, which would include matrimonial as well as other family-related matters; (3) abolishing the Municipal Courts and expanding the jurisdiction of the County District Courts to take their place; and (4) having the Surrogates' function assumed by the Clerk of the Superior Court acting through deputy clerks in the several counties.

McConnell's blueprint reflected similar comments made by Morris M. Schnitzer at the 1947 Constitutional Convention:

The primary duty of judges is to try cases. Yet no court could function without a varying number of administrative officials to maintain the court records, file papers, serve documents, execute judgments, make transcripts of court proceedings and assist in preserving order in the court room. At present, such duties are distributed among a number of officials, variously appointed, subject to different discipline and without central direction either as to procedure or performance.

Centralized judicial administration, controlled by the courts themselves, would be only partially effective unless the activity of non-judicial officials, concerned with the administration of justice could be integrated as well.¹²

McConnell's proposal for consolidating Superior and County Courts recognized the fact that the reforms of the 1947 Constitution necessitated a compromise.¹³ *The Proceedings of the Constitutional Convention* made clear that the Judiciary Committee proposed complete unification by abolishing the County Courts. In fact, the County Courts did not appear in drafts of Article VI and were included by way of an amendment from the floor of the convention.¹⁴ Chief Justice Vanderbilt readily acknowledged that there was room for improvement, but Pound's ideal of a totally unified court system had to give way to the political reality of the times.

The potentiality of a completely unified court system that inheres in the constitutional provision for the Superior Court was considerably weakened by the provision for County Courts in Article VI, Section IV of the new constitution. It was said at the convention that county courts are closer to the people than state courts and should, therefore, be retained. Political considerations also played their part in the inclusion of these courts in the new constitution.¹⁵

The call for reform continued throughout the 1947-1978 period. In 1953, Governor Driscoll, in his Sixth Annual Message to the Legislature, advocated the integration of the County and Superior Courts.¹⁶ His plea, however, was ignored by a disinterested political body. In 1957, the consolidation issue was proposed again by Chief Justice Weintraub,¹⁷ and again, the political climate frustrated efforts for further unification. It was not until 1978, some 31 years after the historic Judicial Article was approved, that the work of these early reformers finally reached fruition.

By 1978, it had become obvious that the litigation explosion of the 1960's had taken its toll on the State's judicial structure. New Jersey rated no better than 19th in a nationwide survey on unification¹⁸ reported in *The Justice System Journal*, (Spring, 1978).

Out of a possible 16 points in each category, New Jersey scored well in centralized rule-making (16 points) and centralized management (14 points), but fared poorly in overall court structure (4 points), and centralized budget and financing (5 points).

In an attempt to remedy these deficiencies, the Legislature and the electorate approved a constitutional

referendum in 1978 which integrated the 21 County Courts into the statewide Superior Court system. This reform, attributed largely to the efforts of Chief Justice Richard J. Hughes, and the Honorable Arthur J. Simpson, Jr., Acting Administrative Director of the Courts, continued the tradition of reform within the Judicial Branch designed to culminate in the complete unification and managerial integration of the court system.

The integration resulted in 116 County Court judgeships becoming part of the Superior Court system, making a total of 236 judgeships in the several divisions and parts of the Superior Court. Thus, 75 percent of all full-time judgeships in New Jersey are part of a substantially unified judicial system.¹⁹ In contrast with their efforts to achieve judicial unification, New Jersey and other states have done little to achieve unification and centralized control over trial court support services. By and large, State courts lack even rudimentary managerial controls.

The managerial issues confronting trial court systems were brought into focus by the American University's Court Management Project in 1979.²⁰ The project team emphasized the total lack of "internal administrative coherence" in trial courts throughout the United States and cited deficiencies in three main areas: fiscal, personnel, and records management. The budgets of local trial courts were found to be inextricably dependent on separate submissions of other county officials.²¹ With respect to personnel, the study cited the prevailing lack of control over supporting staff and the absence of any coherent organizational structure.²²

Ineffective records management procedures were also criticized as antiquated and devoid of modern technology.²³ The study concluded that many trial courts throughout the United States simply did not meet public administration norms of internal administrative coherence, but rather functioned as a loose coalition of organizations or agencies, each of which possessed a considerable degree of administrative autonomy.

The increased emphasis on court management as distinct from court structure is manifest in the recommendations of the American Bar Association's Standards of Judicial Administration Project, which established

the following critical norms for all court systems based on successful experiences around the nation:

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1. A court organization should have a unified structure with authority vested in the Chief Justice and should be administered through clear and distinct lines of authority pursuant to policy established by the Chief Justice or State Supreme Court.²⁴
2. All non-judicial court support personnel, including clerks, bailiffs, and probation officers, should be selected, supervised, retained, and promoted by the court system pursuant to a uniform system of position classification and compensation.²⁵
3. Financial support, sufficient to permit effective performance, should be provided by the State and administered through a uniform budget.²⁶
4. The court system should have a modern information system which includes uniform forms and procedures for gathering, storing and retrieving information.²⁷

Aware of the need for change within the judicial system's Trial Court Support operations, Chief Justice Wilentz has undertaken to usher in still another era of court reform within the State. It is hoped that the work of this Committee will provide the basis for an enlightened revitalization of this system.

-
1. Vanderbilt, "The First Five Years of the New Jersey Courts under the Constitution of 1947," 8 *Rutgers Law Review* 289, 303 (1954).
 2. Pound, "Principles and Outline of a Modern Unified Court Organization," 23 *The Journal of the American Judicature Society* 225 (1940).
 3. *Id.* at 225.
 4. Pound, "The Causes of Popular Dissatisfaction with the Administration of Justice," American Bar Association Annual Convention, 1906, reprinted at 20 *The Journal of the American Judicature Society* 178 (1936).
 5. Berkson, Carbon and Rosenbaum, *Court Unification: History, Politics and Implementation* (1978), at 3. See also Ashman and Parness, "The Concept of a Unified Court System," 24 *DePaul Law Review* 1 (1974), at 28-33.
 6. Berkson, Carbon and Rosenbaum, *supra* note 5, at 4.
 7. Ashman and Parness, *supra* note 5, at 5.
 8. *Id.* at 7.
 9. Harrison, "New Jersey's New Court System," 48 *Rutgers Law Review* 60, 73 (1948).
 10. *Id.* at 76-77.
 11. McConnell, "A Blueprint for the Development of the New Jersey Judicial System," 92 *N.J.L.J.* 369 (1969).
 12. Proceedings of the Constitutional Convention of 1947, Vol II, at 1656.
 13. Vaurio, "New Jersey's Master Plan: Toward a Unified Court System?," 77 *N.J.B.J.* 16, 17 (1976).
 14. Proceedings of the Constitutional Convention of 1947, Vol. I, at 565-580.
 15. Harrison, *supra* note 9, at 84-85.
 16. Driscoll, 6th Annual Message to the Legislature, January 13, 1953, at 9-10.
 17. Weintraub, Address before the 10th Annual Meeting of the Constitutional Convention Association, 80 *N.J.L.J.* 621 (1957).

18. Berkson, "Unified Court Systems: A Ranking of the States," 3 *The Justice System Journal* 264 (1978).
19. 1977-1978 *Annual Report of the Administrative Director of the Courts of New Jersey*, at 4.
20. Tobin, American University, Court Management Project, *Trial Court Management Series: Financial* (1979), at 1-4.
21. *Id.*
22. Tobin, American University, Court Management Project, *Trial Court Management Series: Personnel Management* (1979), at 1-8.
23. Short and Doolittle, American University, Court Management Project, *Trial Court Management Series: Records Management* (1979), at 1-4. Also Skupsky, National Center for State Courts, *Technology and the Courts: An Update* (1979), at 9.
24. American Bar Association Commission on Standards of Judicial Administration, *Standards Relating to Court Organization* (1974), Standard 1.11, at 3.
25. *Id.*, Standard 1.42, at 91.
26. *Id.*, Standard 1.50, at 97.
27. *Id.*, Standard 1.60, at 107.

Chapter 3: Structure of the New Jersey Trial Court System

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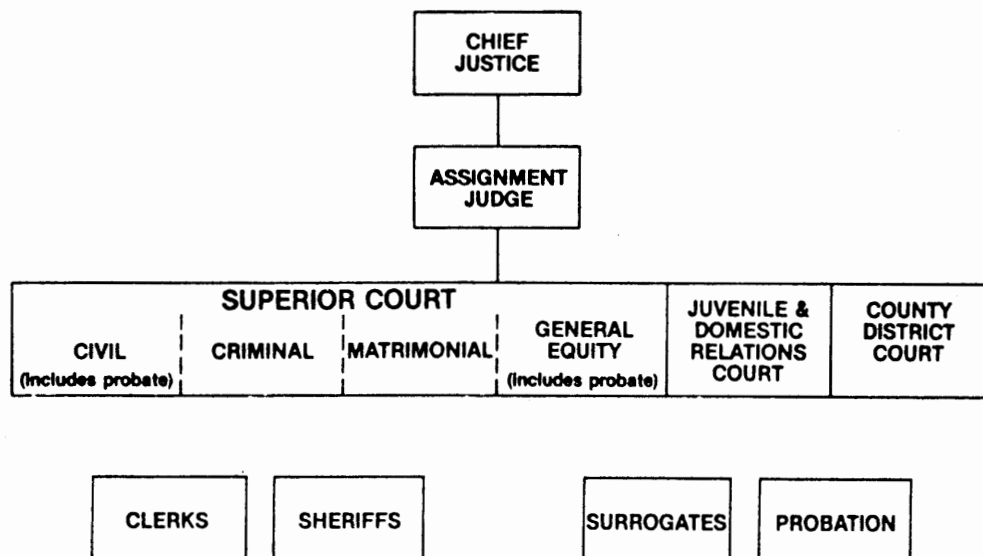
THE COURTS OF NEW JERSEY comprise a separate and distinct branch of government. The New Jersey Constitution, patterned after the Federal Constitution, states:

The powers of the government shall be divided among three distinct branches, the legislative, executive, and judicial. No person or persons belonging to or constituting one branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution.¹

Over the years, the judicial branch of State government has evolved into a court system with five major components: (1) the Supreme Court, which serves as the State's highest appellate court; (2) the Appellate Division of the Superior Court, which is the intermediate court of appeals; (3) the trial courts, which include the Superior Court, the Juvenile and Domestic Relations Court, and the County District Court; (4) the Tax Court; and (5) the Municipal Courts. [See Figure 1.] Central authority and responsibility for all of these courts is vested in the Chief Justice of the Supreme Court.

Figure 1

THE TRIAL COURT AND ITS SUPPORT SYSTEM

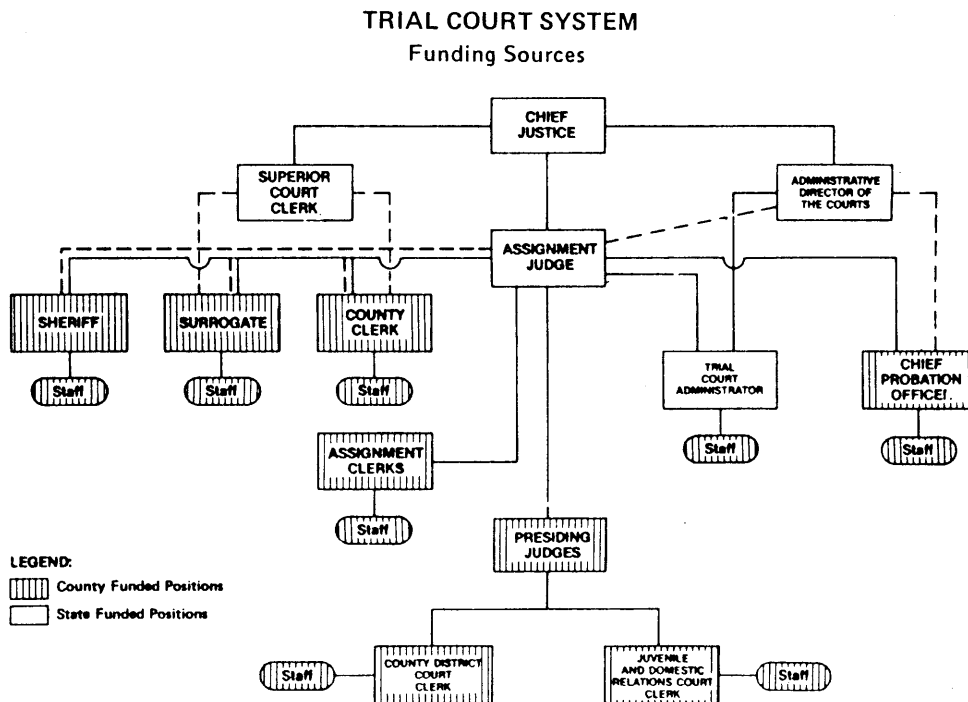


The State's trial courts and the support services which enable them to function comprise the New Jersey Trial Court System, the focus of the work of the Committee on Efficiency.

The trial courts of the State, empowered to hear all types of cases, are of great importance to the citizens of New Jersey. During the court year ended August 31, 1980, they disposed of approximately 655,000 cases.² These matters involved the combined efforts of approximately 300 full-time judges and 6,000 support personnel working in courthouses in each of the 21 counties.

The salary costs for these individuals, together with operating expenses, amount to over \$100 million per year. Since the trial courts are the focal point of the Committee's assignment, a brief profile of the jurisdiction of each of the trial courts is presented. The funding sources for the State's trial courts are shown in Figure 2.

Figure 2



*In those counties where Superior Court Judges serve in this capacity, these positions are State funded.

PART I: ORGANIZATION OF THE COURTS

SUPERIOR COURT

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The New Jersey Constitution divides the Superior Court into two trial divisions: the Law Division, in which all major civil, criminal, and some probate cases are heard; and the Chancery Division, which has jurisdiction over most general equity, matrimonial, and some probate matters.³ Most jury trials are heard in the Law Division of the Superior Court. Civil cases handled by the Law Division include personal injury suits arising out of automobile accidents, medical malpractice, and defective products. Many Law Division criminal cases involve crimes of violence, *i.e.*, murder, rape, and armed robbery.

The Chancery Division has jurisdiction over all matters pertaining to divorce, including alimony, child support, and equitable distribution of property. The general equity part of the Chancery Division hears those cases where something other than, or in addition to, money is essential to give the parties adequate relief. Examples of the relief sought in this part are ordering specific performance of a contract, cancelling or re-writing a contract that is in dispute, and forbidding certain conduct harmful to another party.

The Superior Court is the only trial court with statewide jurisdiction, *i.e.*, litigants are not constrained to file in the county where the action arises. The judges of the Superior Court sit in each of the 21 county court-houses and hear the more complex cases of the Trial Court System. During the most recent court year ending August 31, 1980, 101,206 cases were disposed of by approximately 230 judges of the Law and Chancery divisions of the Superior Court.⁴

JUVENILE AND DOMESTIC RELATIONS COURT

This court of limited jurisdiction handles offenses committed by persons under the age of eighteen. If committed by adults, these offenses would be criminal in nature and would be heard in the Law Division of the Superior Court. In creating this court, the Legislature recognized that young offenders require a court with emphasis on rehabilitation. The court's jurisdiction also

includes such domestic relations matters as temporary support and custody of children, and child and spousal abuse.

There is a Juvenile and Domestic Relations Court in each of the state's 21 counties and during the court year ending August 31, 1980, a total of 188,364 cases were processed to completion.⁵

COUNTY DISTRICT COURT

There is one County District Court in each of New Jersey's 21 counties. It is also a court of limited jurisdiction. It has jurisdiction over all civil actions where the amount in controversy is \$5,000 or less, as well as jurisdiction over landlord and tenant matters. Nineteen county District Courts have Small Claims Divisions with jurisdiction over contract cases and property damage negligence cases in motor vehicle accidents where the amount involved is \$1,000 or less.⁶ Procedures in the Small Claims Division are simplified to allow litigants to present cases without attorneys. Whether a County District Court has a Small Claims Division is a decision of the County Board of Chosen Freeholders.

The County District Courts are the highest volume full-time trial courts, having disposed of 365,721 cases during the last court year.⁷

PART II: TRIAL COURT ADMINISTRATION

The responsibility for the administration of the Trial Court System is vested in the Chief Justice and the Supreme Court, which is charged with the responsibility for promulgating all ". . . rules governing the administration of all courts in the State and, subject to law, the practice and procedure in all such courts."⁸ To assist the Chief Justice in administering the courts, the Constitution specifies the position, Administrative Director of the Courts, reporting directly to the Chief Justice.⁹ The Administrative Director is the chief executive officer of the Administrative Office of the Courts.¹⁰ This office is deeply involved in all aspects of New Jersey's Judicial System and its responsibilities are extensive. They are detailed in Chapter 11. The Chief Justice and the Administrative Director are the persons charged with primary responsibility

for the administration of all trial courts in the State of New Jersey.

The Administrative Director has general supervisory responsibility for the operations of the trial courts, the Appellate Division, and the Supreme Court. Specific duties include preparing appropriation requests for those court operations funded by the State, collecting and analyzing statistical data, and presenting recommendations to the Chief Justice for the improvement of the courts.¹¹ Pursuant to court rules, the Administrative Director is responsible also for the implementation and enforcement of the rules, policies, and directives of the Supreme Court and the Chief Justice.¹²

The Trial Court System is organized by judicial districts or "vicinages" which consist of one or more counties. At the vicinage level, the Assignment Judge and the Trial Court Administrator have primary administrative responsibility. The former is appointed by the Chief Justice, while the latter is appointed by the Administrative Director of the Courts upon recommendation of the Assignment Judge. The Assignment Judge is responsible for the administration of civil and criminal justice in all courts in his vicinage, including all aspects of court operations.¹³

The Trial Court Administrator is responsible to the Assignment Judge for court operations and to the Administrative Director for the implementation of statewide programs and policies. The actual involvement of the Trial Court Administrator varies greatly from vicinage to vicinage and is the focus of much of this study.

The administrative structure of the trial courts of the State is outlined in Figure 3.

PART III: TRIAL COURT SUPPORT PERSONNEL

The administrative staffs which serve the Trial Court System consist of about 6,000 persons, most of whom are organized into these functional areas: clerk, Probation, Sheriff, and Surrogate. The allocation of staff among the primary court support functions in a county of mid-size is shown on Figure 4. The work of each area is detailed on the following pages.

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Figure 3

TRIAL COURT SYSTEM Allocation Of Major Administrative Responsibilities

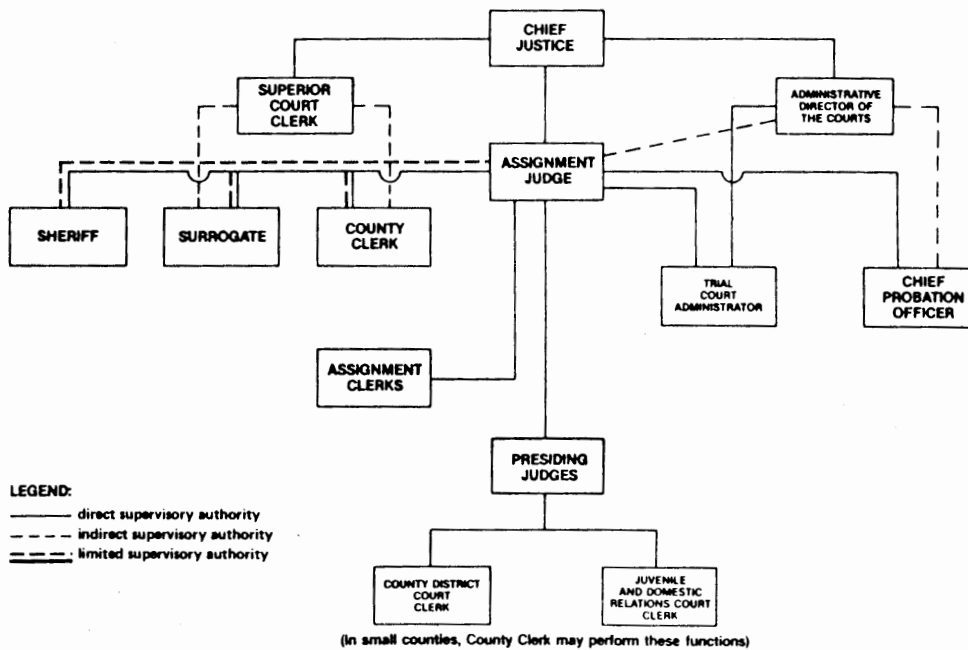
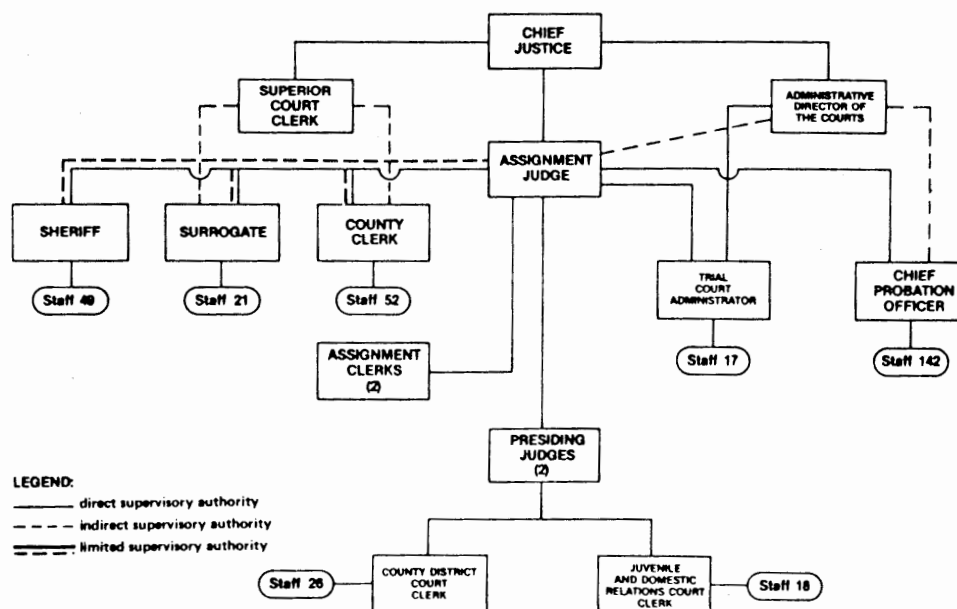


Figure 4

TRIAL COURT SUPPORT STAFFING LEVELS OF A MID-SIZE COUNTY



CLERK

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The County Clerk is an elected official whose position is created by the New Jersey Constitution.¹⁴ He is also the Deputy Clerk of the Law Division of the Superior Court.¹⁵ The County Clerk is responsible for providing court clerks to attend each session of the Superior Court¹⁶ and is usually the custodian of Superior Court records for the county. He is required to "perform such duties and maintain such files and records on behalf of the Clerk of the Superior Court as may be required by law and rule of court"¹⁷ and is under the general supervision of the Assignment Judge.¹⁸

The County Clerk creates and maintains a file on every case brought in Superior Court. All papers filed in any case must be received, recorded, and consolidated in a case file. These functions involve a "quality control" factor which entails review of material to assure compliance with court rules and procedures and payment of appropriate court fees. Notices to attorneys and litigants of any formal court proceeding are sometimes sent by this office.

1. Juvenile and Domestic Relations and County District Court Clerks.

The majority of counties have separate non-elected clerks for each of these courts. In the less populated counties of New Jersey, the County Clerk may serve as clerk of one or both of these courts in addition to his duties as Deputy Clerk of the Superior Court.¹⁹

In counties where separate Juvenile and Domestic Relations Court and/or County District Court Clerks are appointed, they perform the clerical support functions outlined for their respective courts. These clerks and their supporting staffs are appointed by the presiding judges of the courts and are funded by the County Boards of Freeholders. The major difference between the offices of the clerks of these courts of special jurisdiction and the office of the County Clerk is that the former are comprised of judicial employees under the direct control of the Assignment Judge, even though paid by the counties.

2. Civil Assignment/Criminal Assignment Clerks.

Pursuant to court rule,²⁰ the Assignment Judge of each vicinage may appoint Assignment Clerks to serve at

his pleasure. Such clerks are responsible for managing the movement of cases through the system. Caseload management involves assigning cases to judges, moving cases from filing to disposition, and providing information to judges for the management of their calendars.

Caseload management requires coordinating these independent entities: judges, court administrators, clerks, Surrogates, Sheriffs, Probation departments, attorneys, prosecutors, and public defenders.

3. *Superior Court Clerk.*

The Superior Court Clerk is a constitutional officer appointed by the Supreme Court.²¹ His office is located in Trenton and he is responsible for keeping the official records for all Superior Court civil cases throughout the State and performing attendant clerical functions.²²

The Superior Court Clerk's office has a wide range of responsibilities related to the processing of civil cases. Some of them are duplicated at the county level, while others take the place of activities which would otherwise have to be performed in all 21 counties.

The employees of this office are classified members of the State Civil Service System.²³ The majority are involved in the routine functions of receiving and recording case documents and filing fees. Some 109,187 new cases were processed by the Office of the Superior Court Clerk during the last court year.²⁴

PROBATION

Probation is a service which operates at the county level. Each Probation Department is managed by a Chief Probation Officer, who is a member of the Classified Civil Service appointed by the Assignment Judge. The latter sets salaries for Probation officers.²⁵ The Chief Probation Officer is statutorily empowered to appoint Probation personnel.²⁶ About 38% of all persons who work for the court are employed by county probation departments. Except for a relatively few federally funded programs, New Jersey's entire probation service is funded by County Boards of Freeholders. Probation, as an "arm of the court," provides service in three areas: (1) conducting investigations to assist the judge in decision-making; (2) providing follow-up services incidental to the disposition

of a case by supervising persons convicted of criminal offenses and by collecting alimony and child support for litigants, and (3) administering special programs consistent with the court's rehabilitative function.

SHERIFF

The Sheriff is an elected constitutional officer²⁷ who is statutorily responsible for the performance of both judicially-related and law enforcement functions. The Sheriffs are authorized to appoint all persons necessary to assist them in carrying out their statutory responsibilities.²⁸

The majority of court duties performed by the Sheriffs are performed for the Superior Court. The involvement of the Assignment Judge with the Sheriff is generally limited to specifying the number of persons required to attend court and conferring on problems that may arise in areas pertaining to other judicial functions, such as courtroom security and service of civil and criminal process.²⁹

SURROGATE

The Surrogate is also an elected constitutional official.³⁰ He is considered to be a "judicial officer" and is supervised by the Assignment Judge, as well as by the Supreme Court with respect to quasi-judicial functions. The Surrogate's primary functions are to probate wills and to supervise minors' trust accounts. He is statutorily authorized to select, appoint, promote, and terminate all employees who work under his supervision.³¹

1. *N.J. Const.* (1947), Art. III, par. 1.

2. *1979-1980 Annual Report of the New Jersey Judiciary*.

3. *N.J. Const.* (1947), Art. VI, Sec. III, par. 3.

4. *Supra* note 2.

5. *Id.*

6. Warren and Union Counties do not have Small Claims Divisions.

7. *Supra* note 2.

8. *N.J. Const.* (1947), Art. VI, Sec. II, par. 3.

9. *N.J. Const.* (1947), Art. VI, Sec. VII, par. 1.

10. *N.J.S.A.* 2A:12-1.

11. *N.J.S.A.* 2A:12-3, 4 and 5.

12. *R.* 1:33-2.

13. *R.* 1:33-3.

14. *N.J. Const.* (1947), Art. VII, Sec. II, par. 2.

15. *N.J. Const.* (1947), Art. XI, Sec. VI(c); *N.J.S.A.* 2A:2-15.

16. *N.J.S.A.* 40A:9-68.
17. *Supra* note 15.
18. *R.* 1:34-2.
19. *N.J.S.A.* 2A:4-10 and 2A:6-18.
20. *R.* 1:33-3(b).
21. *N.J. Const.* (1947), Art. VI, Sec. VII, par. 3.
22. *N.J.S.A.* 2A:2-5; *N.J.S.A.* 2A:2-12.
23. *N.J.S.A.* 2A:2-7.
24. *Supra* note 2.
25. *N.J.S.A.* 2A:168-8.
26. *N.J.S.A.* 2A:168-7.
27. *Supra* note 14.
28. *N.J.S.A.* 40A:9-117.
29. During the term of this study, improvements have been made in the involvement of the Assignment Judge and Sheriff regarding the court budgetary process. The Sheriff's judicial function budget is prepared in cooperation with the Assignment Judge. That portion of the Sheriff's budget is endorsed by the Assignment Judge prior to submission to the Freeholders.
30. *Supra* note 14.
31. *N.J.S.A.* 2A:5-16

Three functions cut across all parts of the Trial Court System: personnel, finance, and records and information systems. In general, the strengths and weaknesses in each of these functions were found to be similar, whether viewed from the perspective of the Clerks, the Sheriffs, the Chief Probation Officers, or the Surrogates. Therefore, all of the Committee's findings in these three areas are presented in the first part of this section. The final four chapters contain other findings specific to the operation of the key support groups of the Trial Court System.

SECTION II:
Findings

Chapter 4: Personnel

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THE PERSONNEL SYSTEM which provides human resources for New Jersey's trial courts is complex and intricate — far more so than is found in organizations of comparable size and function. The basic roots of the system, which are embedded firmly in the county governments of the State, are political rather than administrative.

PART I: OVERVIEW OF TRIAL COURT PERSONNEL

The State's county governments provide almost all support personnel for the Trial Court System. In 1980 about 6,000 persons were provided by the 21 counties of the State.¹ These employees hold more than 200 different job titles, most of which are encompassed within six functional areas. Three areas account for 70% of the employees. They are Probation, accounting for nearly two-fifths of the employees; Sheriff's Office, one-sixth; and County Clerk, one-eighth. The four other principal functional areas are Superior Court, Surrogate, Juvenile and Domestic Relations Court, and District Court. The distribution of trial court employees by functional area is summarized below in Table 1 and detailed by county in

Table 1

NEW JERSEY TRIAL COURT SYSTEM PRINCIPAL COURT FUNCTIONS

Trial Court Function	Number of Employees Mid-1980	
1. Probation	1,467	
Officers and Investigators	1,467	
Clerical Staff	840	2,307
2. Sheriffs Office, court employees		1,075
3. County Clerk, court employees		778
4. Superior Court staffs		540
5. Surrogate staffs		273
6. Juvenile and Domestic Relations		205
7. District Court		530
8. Other Functions		261
Total Employees		5,969

Source: Administrative Office of the Courts.

Table 2. The data used in this chapter on personnel cover the years 1977-1981. They derive from court personnel studies, the most thorough of which are by Druz and Piscopo. Over these years there have been no significant changes in either the total number of persons employed by the courts or their distribution by function.

Table 2
NEW JERSEY TRIAL COURT SYSTEM
TRIAL COURT SUPPORT POSITIONS FUNDED BY COUNTIES

County	Superior Court	County Court 1	County Court 2	Juvenile & Domestic Relations Court	Jury Commissioners	Law Library	Probation (Clerical)	Probation (Officer)	County Clerk & Investigators	Judicial	Sheriff (Judicial)	Surrogate	Court Administrator	Pre-Trial Intervention	Juvenile Intake	Criminal Justice Com.	Court Interpreter	Prosecutor (Grand Jury)	Grand Jury	Jury Control	TOTALS
Atlantic	12	8	17	7	3	--	25	40	19	57	8	--	--	--	--	--	3	--	--	199	
Bergen	--	63	76	24	8	2	59	98	34	60	29	--	--	--	--	--	--	--	--	453	
Burlington	6	5	13	1	3	1	43	59	18	45	6	--	--	--	--	--	4	--	--	204	
Camden	14	20	32	9	7	--	57	130	57	94	12	--	--	--	--	--	--	--	--	432	
Cape May	--	5	4	7	3	--	15	17	7	10	7	--	--	--	--	--	2	--	--	77	
Cumberland	--	18	6	9	3	1	13	37	11	6	9	--	--	--	--	--	3	--	--	116	
Essex	33	31	89	30	8	2	111	264	168	194	30	--	--	--	--	--	--	11	7	978	
Gloucester	1	8	13	--	3	--	27	35	17	24	7	--	--	--	--	--	--	--	--	135	
Hudson	57	22	52	43	8	1	53	86	52	55	24	--	--	--	--	--	--	--	--	453	
Hunterdon	--	6	4	--	3	1	7	9	8	12	7	--	4	--	--	--	--	--	--	61	
Mercer	8	9	12	1	3	--	45	54	41	69	9	25	--	--	--	--	3	--	--	279	
Middlesex	2/	2/	42	2/	3	2	70	144	102	81	12	50	--	--	--	--	3	--	--	509	
Monmouth	16	4	22	2	11	--	37	62	41	72	19	--	--	6	3	6	3	--	--	304	
Morris	5	26	15	8	5	1	36	66	33	35	14	--	--	--	--	--	--	--	--	244	
Ocean	3	10	21	--	4	1	24	49	35	45	16	--	--	--	--	--	2	--	--	210	
Passaic	32	21	47	28	11	2	107	106	55	69	20	--	--	--	--	--	--	--	--	498	
Salem	--	7	10	--	4	--	12	16	3/	3	6	--	--	--	--	--	4	--	--	62	
Somerset	9	8	10	--	3	--	27	60	13	46	9	4	--	--	--	--	1	--	--	190	
Sussex	--	6	3/	--	4	--	9	17	10	4	5	--	--	--	--	--	--	--	--	55	
Union	56	8	39	36	--	--	53	105	49	87	19	--	--	--	--	--	3	--	--	455	
Warren	--	3	6	--	3	--	10	13	8	7	5	--	--	--	--	--	--	--	--	55	
TOTALS	252	288	530	205	100	14	840	1,467	778	1,075	273	79	4	6	3	6	31	11	7	5,969	

1 Category no longer applicable since the abolition of the county court. Most personnel were transferred to the Superior Court.

2 Under Court Administrator.

3 Under County Court.

Source: William Druz and Robert Piscopo, A Judicial Personnel Merit System for Unified and State Financed Court System for New Jersey, Phase I, March, 1978.

The State's trial court employees are distributed across 12 vicinages, each encompassing from one to four counties. With the exception of Essex and Monmouth, the vicinages are remarkably equal in size when measured by number of trial court positions. Ten of the 12 vicinages each employ between 350 and 560 persons in trial court

work. The number of persons employed in Essex and Monmouth are 980 and 304, respectively. The distribution of persons among vicinages is shown in Table 3.

Table 3

**NEW JERSEY TRIAL COURT SYSTEM
COURT SUPPORT PERSONNEL BY COUNTY AND VICINAGE**

Vicinity Number	County	Number of Positions	
1	Atlantic	199	
	Cape May	77	
	Cumberland	116	
	Salem	<u>62</u>	454
2	Bergen		453
3	Burlington	204	
	Ocean	<u>210</u>	414
4	Camden	432	
	Gloucester	<u>135</u>	567
5	Essex		978
6	Hudson		453
7	Mercer	279	
	Somerset	190	
	Hunterdon	<u>61</u>	530
8	Middlesex		509
9	Monmouth		304
10	Morris	244	
11	Sussex	55	
	Warren	<u>55</u>	354
11	Passaic		498
12	Union		<u>455</u>
	Total Employees		5,969

Source: William Druz and Robert Piscopo, *A Judicial Personnel Merit System for Unified and State Financed Court System for New Jersey, Phase I, March, 1978.*

The responsibility for managing the personnel of the Trial Court System lies with Assignment Judges, who are the chief judicial operating officers of each vicinity. These judges normally assign operating responsibility for administrative functions to their Trial Court Administrators, who either supervise or coordinate personnel matters within the vicinity, depending on how much re-

sponsibility for personnel TCA's have assumed. About 65% of court support employees are selected by court officials — either the Assignment Judge, Trial Court Administrator, Presiding Judges of the County District Court and Juvenile and Domestic Relations Court, or the Chief Probation Officer. The remainder, about 35%, are not hired directly by the Trial Court System but by officers of the county, *i.e.*, Clerk, Sheriff, and Surrogate.

The sharing of authority for personnel matters between the Trial Court System and county officials results in recognizable administrative problems, including jurisdictional conflicts, difficulty in establishing lines of responsibility, and insufficient managerial control over employees. The fragmentation of authority arises because counties fund most trial court employees and because the funding is through separate budgets for individual segments of court work operations. In no county are there fewer than six separate personnel budgets for trial court support and in some counties there are as many as 12. [See Table 4.]

Since all of the counties of New Jersey, except for some offices in Somerset, elected to become part of the New Jersey Civil Service system, most of the 6,000 court support positions are subject to Civil Service rules. About six percent, however, do not fall under Civil Service jurisdiction for reasons discussed later.

Those appointed under Civil Service must perform successfully on competitive examinations and during a short on the job probationary period. A substantial number of those hired as temporary or provisional employees achieve permanent status subsequently. According to the Department of Civil Service, about 38 percent of permanent appointees to all types of Civil Service positions in the State originally held provisional status.

The Civil Service Department prescribes job classifications and descriptions, establishes and administers selection and promotional examination procedures, and sets minimum levels of skill for all positions. The Department also establishes rules for separation and discipline, including procedures for layoffs, demotions, and removal for cause. Finally, Civil Service statutes specify certain terms of employment, such as annual vacation and sick leave policies.

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As of June 1980, about 344 or about six percent of the State's court support employees were not under Civil Service jurisdiction because they held appointments made under New Jersey Court Rule 1:33-3(b).⁴ This rule gives Assignment Judges the authority to appoint em-

Table 4
NEW JERSEY TRIAL COURT SYSTEM
PERSONNEL BUDGETS REQUIRED AT THE COUNTY LEVEL FOR OPERATION OF THE TRIAL COURT SYSTEM

County	Superior Court	County Court 1	Juvenile & Domestic Relations County Court	County Court	Court Administrator	Probation	Law Library	County Clerk	Sheriff	Surrogate	Criminal Justice Com.	Jury Commission	Court Information Sys.	Juvenile Intake	Ple Trial Intervention	Jury Control	Grand Jury	TOTAL
Atlantic	X	X	X	X		X		X	X	X	X							9
Bergen	X	X	X	X		X		X	X	X	X							9
Burlington	X	X	X	X		X		X	X	X	X							9
Camden	X	X	X	X		X		X	X	X	X							9
Cape May		X	X	X		X		X	X	X	X							8
Cumberland		X	X	X		X	X	X	X	X	X							9
Essex	X	X	X	X		X	X	X	X	X	X					X	X	12
Gloucester	X	X		X		X		X	X	X	X							8
Hudson	X	X	X	X		X		X	X	X	X							9
Hunterdon		X		X		X	X	X	X	X	X				X			9
Mercer	X	X	X	X	X	X		X	X	X	X							10
Middlesex				X	X	X	X	X	X	X	X							8
Monmouth	X	X	X	X		X		X	X	X	X	X	X	X				12
Morris	X	X	X	X		X	X	X	X	X	X							10
Ocean	X	X		X		X	X	X	X	X	X							9
Passaic	X	X	X	X		X	X	X	X	X	X							10
Salem		X		X		X			X	X	X							6
Somerset	X	X		X	X	X		X	X	X	X							9
Sussex		X				X		X	X	X	X							6
Union	X	X	X	X		X		X	X	X								8
Warren		X		X		X		X	X	X	X							7
TOTAL	14	20	13	20	3	21	7	20	21	21	1	20	1	1	1	1	1	186

¹ The information for this table was gathered prior to the abolition of the county courts. These expenses are now generally submitted under Superior Court.

Source: William Druz and Robert Piscopo, A Judicial Personnel Merit System for Unified and State Financed Court System for New Jersey. Phase I, March, 1978.

ployees in sensitive functions or to positions requiring special skills, *e.g.*, Assignment Clerks with knowledge of caseload management and calendaring. The rule states:

The Assignment Judge, subject to the approval of the Chief Justice, may delegate to any trial judge sitting in the county or to any officer or employee of the courts of the county such of the responsibilities, duties and functions imposed upon him by this rule as, in his discretion, he shall consider necessary or desir-

able. To assist him, he may designate, to serve at his pleasure, from among the Court Clerks and other employees of the courts in the county such assignment Clerks and other assistants as he may deem necessary or desirable.

In practice, Rule 1:33-3(b) is applied differently from county to county. The types of positions filled under the rule and the number of such appointments in each vicinage are shown in following Tables 5 and 6.

Table 5

**NEW JERSEY TRIAL COURT SYSTEM
TYPES OF APPOINTMENTS UNDER RULE 1:33-3(b), JUNE, 1980**

Office of Assignment Judge	16
Pretrial Intervention	26
County District Courts	8
Assignment Clerk	66
Grand and Petit Jury	13
Juvenile and Domestic Relations Courts	16
Juvenile Intake Program	37
Trial Court Administrator	29
Other Rule 1:33-3(b) Appointees	<u>133</u>
Total	344

Source: Administrative Office of the Courts

Table 6

**NEW JERSEY TRIAL COURT SYSTEM
APPOINTMENTS UNDER RULE 1:33-3(b) BY VICINAGE, JUNE, 1980**

Vicinage		As a Percent of all Court Employees
1 Atlantic, Cape May, Cumberland, Salem	14	3.1%
2 Bergen	18	4.0
3 Burlington (9), Ocean (1)	10	2.4
4 Camden (23), Gloucester (3)	26	4.6
5 Essex	12	1.2
6 Hudson	20	4.4
7 Mercer, Hunterdon, Somerset	38	7.2
8 Middlesex	58	11.4
9 Monmouth	8	2.6
10 Morris, Sussex, Warren	40	11.3
11 Passaic	77	15.3
12 Union	<u>23</u>	<u>5.1</u>
Total	344	5.8%

Source: Administrative Office of the Courts

Assignment Clerks account for the largest number of unclassified appointments. This position requires individuals with specialized knowledge of caseload management and calendaring, and, according to Assignment Judges, such persons cannot be obtained from Civil Service ranks. Other categories for which the rule is used include judges' personal secretaries and law clerks (both requiring unclassified service), and professionals in juvenile and pretrial intervention programs. These positions account for about two-thirds of all Rule 1:33-3(b) appointments.

Appointment to an unclassified position under this rule generally involves a promotion from classified service within the Trial Court System. Appointments under the rule are attractive because the Assignment Judge has the authority to set salaries for unclassified positions, which could be higher than those set by the county. It is difficult to determine if annual salaries are higher, in fact, since unclassified and classified positions generally represent different skill levels.

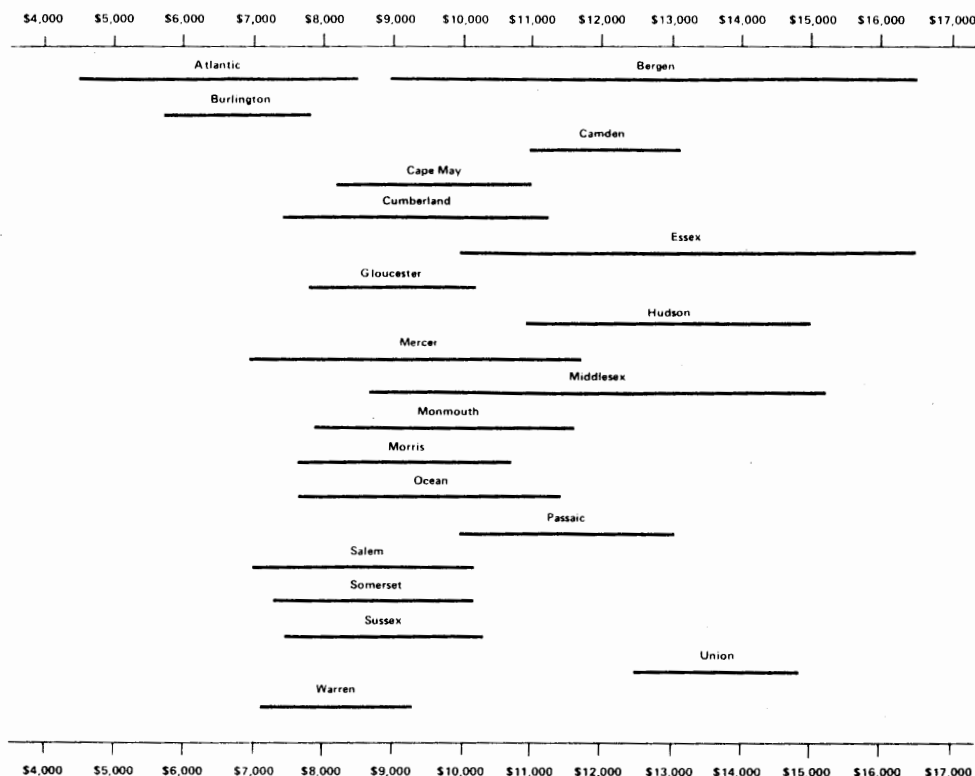
Contrary to widespread belief, Civil Service does not set salaries or specify the manner in which county salaries should be increased. Funding for court support positions is the responsibility of individual county governments. While all Superior Court Judges and all Trial Court Administrators are paid by the State, the counties assume almost all other salary expenses. As of October, 1979, the total payroll cost for the Trial Court System's approximately 6,000 court support employees was about \$74 million, exclusive of fringe benefits, which are approximately an additional 22 percent of base salaries.

Salary levels and ranges for the same types of jobs differ substantially from county to county because individual counties set their own salary rates and fund personnel budgets of the vicinages without centralized control. The varying salary ranges for Court Clerk in 13 counties as of May, 1977 are shown on Table 7. The position had a low range of from \$4,465 to \$8,473 annually for 35 hours per week in Atlantic County, to a high range of \$9,900 to \$16,475 for 37 hours per week in Essex County. According to the *Druz Report*, the level of salaries provided depends on such factors as:

... the county's geographical area, the income of the residents and the fiscal condition of the county government, opinions held of government employees, the political strength of employees, the extent of employee organization and the aggressiveness of their representatives, and the effectiveness of salaries in recruiting and retaining employees, especially in positions requiring special skills.²

Table 7

SALARY RANGES FOR COURT CLERKS PROVIDED THE TRIAL COURT SYSTEM
BY NEW JERSEY COUNTIES, 1977



Source: Druz Report, Phase I, at 49

Collective bargaining contracts are an important factor impacting the personnel function of the New Jersey courts. Approximately 4,000 court support employees or two of three are in units represented by unions. These unions negotiate 67 labor contracts, county by county.⁶ [See Table 8.] Individual contracts between counties and labor unions frequently apply to broad categories of county personnel, not just to those working for the courts. Therefore, critical personnel issues are often de-

cided in negotiations in which the Trial Court System plays no role.

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The contracts generally deal with specific terms and conditions of employment, including sick and vacation leave, health benefits, salary increases, overtime provisions, and grievance procedures. Key bargaining units include American Federation of State, County and Municipal Employees for several major categories of employees; Probation Officers Association; Civil Service Association for clerical employees; Policemen's Benevo-

Table 8

NEW JERSEY TRIAL COURT SYSTEM
NUMBER OF EMPLOYEES PER BARGAINING UNIT
(Figures in parentheses indicate number of employees)

County	Bargaining Unit (Number of Employees)	Total Number of Organized Employees	Total Number Of Employees
Atlantic	Atlantic County Probation Officers Association (23) PBA #77 (16) FOP #16 (32)	166	199
Bergen	AFSCME #52 (78) CSA #88 PBA #134 (60)	226	453
Burlington	Burlington County Probation Officers Associations (43) CSA #69 PBA #248 (45)	157	204
Camden	Teamsters #102 (79) CSA #10 (136) Camden County Court Clerks Association (23) PBA #248 (45)	283	432
Cape May	Cape May County Probation Officers Association (12) IBPAT #369 (52)	64	77
Cumberland	Cumberland County Probation Officers Association (20)	20	116
Essex	Essex County Probation Officers Association (213) Essex County Employees Association (341) Essex County Court Clerks Association (63) PBA #183 (179) Supervising Officers Association (9)	805	978
Gloucester	Gloucester County Probation Officers Association (20) PBA #211 (14)	34	135
Hunterdon	Teamsters #288 (182) Hudson County Sergeant-At-Arms Association (8) Hudson County Court Clerks Association (22) Hudson County Deputy Court Clerks Association (2) FOP #36 (55) Hudson County Probation Officers Association (72)	341	453
Hunterdon	Hunterdon County Probation Officers Associates (6) CSA #15 (30)	36	61
Mercer	Teamsters #102 (40) AFSCME #2922 (130) PBA #187 (51)	221	279
Middlesex	AFSCME #2290 (21) Teamsters #102 (80) Probation/Investigators Association (40) CSA #7 (218) OBA (75)	434	509
Monmouth	Teamsters #102 (45) Monmouth County Court Clerks Association (15) Monmouth County Court Attendants Association (46)	106	304
Morris	AFSCME #2654 (50) CSA #6 (80) PBA #151 (17)	147	244
Ocean	Ocean County Probation Officers Association (43) CSA #12 (97) Ocean County Sergeant-At-Arms Association (5) PBA #171 (31)	176	210
Passaic	Principal Probation Officers Association (11) Probation Officers Association (70) Probation Clerks Association (91) CSA #3 (111) PBA #197 (65)	348	498
Salem	Salem County Probation Officers Association (11) CSA #21 (37)	48	62
Somerset	Somerset County Probation Officers Association (50) PBA #277 (11)	61	190
Sussex	Sussex County Probation Officers Association (11) CSA #20 (24)	35	55
Union	Principal Probation Officers Association (11) Teamsters #102 (62) CSA #8 (179) Sergeant-At-Arms Association (9) PBA #108 (84)	345	455
Warren	CSA #17 (31)	31	55
TOTAL		4,084	5,969

Notes: AFSCME = American Federation of State County and Municipal Employees

FOP = Fraternal Order of Police

CSA = Civil Service Association

PBA = Policemen's Benevolent Association

IBAT = International Brotherhood of Painters and Allied Trades

Source: William Druz and Robert Piscopo, A Judicial Personnel Merit System for a Unified and Self-Financed Court System for New Jersey, Phase I, March, 1978.

lent Association and the Fraternal Order of Police for Sheriffs' employees and Court Attendants; and the Association for Court Clerks.

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PART II: EVALUATION OF NEW JERSEY'S TRIAL COURT PERSONNEL MANAGEMENT SYSTEM

A. New Jersey does not have a Trial Court Personnel Management System, but rather 21 systems which form a composite with all the consequent strains and conflicts which such mosaic-like structures produce.

While the New Jersey courts came under centralized administrative authority with the New Jersey Constitution of 1947, in practice, State court officials have not achieved centralized administrative control over the Trial Court System's personnel function. The primary reason is counties carry the basic responsibility for funding trial court support services. Consequently, much administrative control is retained at the vicinage level. In contrast with steps taken to achieve judicial unification, former Chief Justices have not been successful in their attempt to have the State take over the funding of trial court support services and thus unify personnel and other administrative functions on a statewide basis. As a result, there are wide differences in the organization, administration, and funding of court support services among counties.

The Committee on Efficiency has concluded that the most significant obstacle to effective management, and thus to the efficient functioning of the courts, is the absence of centralized control over employees. Presently, control is divided among trial court officials, Department of Civil Service, unions which represent court support employees, and counties. Each group plays a role in determining terms and conditions of employment and how work is to be performed. Thus, the lines of authority over trial court employees are intertwined and often in conflict. While Assignment Judges have responsibility for the efficient functioning of the courts, they lack authority and control over employees.

The involvement of the counties, discussed throughout this study, has been highlighted in an unfair labor practice complaint filed May 20, 1980 with the

Public Employment Relations Commission by the Fraternal Order of Police, Lodge No. 36 A.B. C. against the County of Hudson, the vicinage Assignment Judge, and the Sheriff of the County of Hudson.

The charge concerns compensating court officers through overtime pay rather than compensatory time. The Assignment Judge sought to have employees accept the former because compensatory time hampers court operations.

The union objects to the county allowing the Judiciary and the Sheriff's Office to administer their agreement with the county.

5. By allowing public employers, other than itself, to administer the collective negotiations agreement the County has interfered with, restrained and coerced the employees. . . and has refused to negotiate in good faith with the FOP concerning compensation of the terms and conditions of employment. (Complaint. Emphasis added.)

A second objection is that different instructions were issued by the Assignment Judge and the Sheriff.

This dispute poses a question fundamental to the efficient functioning of the Trial Court System: Who has authority over the system's employees?

The Committee believes that responsibility for the functioning of the Trial Court System and authority and control over court employees are inseparable if the system is to operate effectively and efficiently.

B. There is general dissatisfaction among trial court officials with the rules, procedures, and functioning of New Jersey's Department of Civil Service.

Instead of considering Civil Service as an aid in hiring, promotion, and personnel rule-making, many trial court officials view Civil Service as an obstacle to the efficient functioning of the courts. Their criticisms include the rigidity with which Civil Service interprets rules, inordinate delays in dealing with the department, and its failure to view trial court personnel as part of an integrated statewide system.

1. Civil Service Examinations

To qualify for permanent State and county employment in New Jersey, an applicant must be among the three highest on an open competitive examination. Many

of those interviewed for this study point out that ability to score high on an examination, particularly a multiple choice type, does not necessarily correlate with ability to perform a specific job or to work effectively with others. They say, in effect, that test score is too simplistic a criterion for selection. This Committee accepts this criticism and suggests that State government broaden its selection factors to also include those used by the private sector, *i.e.*, personal interview, motivation measures, past experience, and recommendations.

2. Pay Levels and Minimum Skills

The Committee finds that Civil Service examinations may not be meaningful for trial court employment purposes because minimum skill levels set by Civil Service frequently are not adequate for the Trial Court System. In typing performance tests, the minimum is 25 words per minute after subtraction of errors. This standard is clearly inadequate for the performance of daily typing duties. A Civil Service spokesman agrees that the level is low but says that even with the low standard, there are not enough applicants available to fill the statewide demand for typing positions and that Affirmative Action Programs require the use of low minimum standards. This Committee contests this view since it ignores the needs of the courts and the realities of the State labor market.

Low salary scales for county-funded positions ranging from entry-level clerks to court managers were cited by almost all respondents interviewed for this study and by the other subcommittees as barriers to the efficient operation of the courts. Salary scales in most counties are so low that it is difficult to attract employees of adequate quality to trial court employment.

County governments generally pay substantially less than the private sector for persons who are supposed to have similar skills. In several counties, clerks start at about \$5,700 annually for a six-hour workday.³ In contrast, a large New Jersey utility operating throughout the state pays entry-level clerks between \$8,500 and \$12,500 a year for an eight-hour workday, depending on prior experience. If this private sector salary range is adjusted to a 30-hour week basis, the utility's salary range for clerks

becomes \$6,375 to \$9,375. The mid-point of this starting salary range, *i.e.*, \$7,875, is 38 percent higher than several county governments pay for an entry-level clerk.

The Committee on Efficiency finds that it is critical for the Administrative Office of the Courts to set pay and performance levels for each person in the Trial Court Support System.

The Committee finds that inadequate performance levels derive largely from the pay levels set by county officials. When county officials set low levels of pay, Civil Service sets low performance levels, below those needed by the courts. The Committee believes that the State would be better served with pay levels adequate to consistently attract those fully capable of performing the work required by the trial courts. This would include paying enough to compete with private industry for disadvantaged persons so that Affirmative Action goals can be met. Realistic levels of pay would not only attract better qualified persons to the system, but they would also create incentives for persons to upgrade their skills, increasing the applicant pool still further. There is every evidence that realistic pay levels are critical to achieving an efficient court support system. Such pay levels should be established by the Administrative Office of the Courts, rather than by officials in the State's 21 counties.

3. Frequency of Civil Service Examinations for Trial Court Positions

The infrequency of specific Civil Service examinations for trial court positions is a vexing personnel problem. The Subcommittee on Probation reports that Civil Service examinations are given too infrequently. According to their report, this causes delays in promotions which impair the management of the function.

Several Probation Officers interviewed had been with Probation five to ten years and were still unable to reach Senior Probation Officer positions. Unless Probation Officers have advanced to Senior Probation Officer positions, they cannot be considered for management positions. The last examination for Senior Probation Officer was offered three years ago in one county, and prior to that, nine years ago. The Probation Officers had no idea when the next examination for that level would be given.⁴

The Committee on Efficiency has concluded that the timing and scheduling of examinations for Trial Court

System positions should be set by the Administrative Office of the Courts.

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4. *Veterans Preference*

According to Civil Service Rule 4:1-11.2, disabled and other veterans who pass open competitive examinations move to the top of the eligibility list in order of their final ratings. Consequently, other candidates with more knowledge may be passed over by veterans, causing the rule to be cited as discriminatory, especially by provisional employees who perform well on the job and who might otherwise score among the three highest. The New Jersey Legislature has considered modification of veterans preference in each of its last three sessions. Among the supporters of veterans preference are Sheriffs' who find veterans more qualified to serve in court security positions.

5. *Trial Court Job Classification*

The Department of Civil Service has created more than 200 different job titles for court support positions, each with its own position description and classification. The fact is that the same or very similar work has been described in different ways over the years, leading to an extraordinary duplication of titles.

Trial court functions can be classified into 18 basic categories and job titles cut from 212 to 59, if Roman numerals are used to indicate increasing levels of responsibility in a position category, *e.g.*, Clerk I, Clerk II, Clerk III. The new list of titles appears at the end of this chapter in Table 13, which presents a detailed comparison of current and suggested titles.

The presence of fewer, more uniform class titles and job descriptions, if adopted across the court system, would allow more flexibility in recruitment, selection, classification, and compensation programs.

6. *'Out-of-title' Work Limitations*

Civil Service rules (especially Rule 4:1-6.4) and extant union contracts covering trial court employees restrict employees from working in tasks outside their approved job titles. These rules and union contracts, coupled with the complex system of trial court job titles, restrain severely the freedom of court administrators to

manage. Specifically, administrators find themselves unable to assign people from areas of surplus to areas having temporary manpower shortages. While there is a Civil Service rule (4:1-15.2) which permits employees to be transferred for six months to another unit with a shortage of personnel, it may be very difficult to make such assignments because of union contract limitations.

Seven of the State's 12 vicinages have counties with union contracts which limit out-of-title work for some trial court employees. Most of the contracts with limitations specify the circumstances under which such work will be permitted, including the length of time and pay at higher classified job titles. The details are given in Table 9. Only one union contract, Warren County's with the Civil Service Association, Council Seventeen, allows no out-of-title work. The other two counties which comprise Vicinage Ten, Morris and Sussex, do not have similar union contracts prohibiting out-of-title work.

This Committee finds that such limitations impair the efficiency of the courts and that a unified personnel system would help speed their elimination in a manner fair to employees.

7. Provisional Appointments

The Civil Service backlog in the production of eligibility lists appears to be the primary reason so many provisional appointments are made in New Jersey. Civil Service estimates that provisionals make up about 10 percent of the current work force of 186,000 classified employees. Specific figures for court support employees serving under provisional status are not available. The Subcommittee on Probation found one county Probation department operating with 60 to 70 percent of its staff in the provisional category.⁵ Reliance on provisionals can encourage patronage in the selection of employees. Furthermore, provisional appointment gives rise to conflicts between Civil Service objectives, which seek to give all applicants an equal chance at selection, and county officials who seek to give preference to provisionals they have selected. Civil Service estimates that 38 percent of its permanent appointees in all job titles statewide originally held provisional appointments. In one county Probation Department, over the past four years 50 percent of

Table 9

**NEW JERSEY TRIAL COURT SYSTEM
UNION CONTRACT LIMITATIONS ON OUT-OF-TITLE WORK**

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<i>Vicinage One</i>	
Atlantic County, AFSCME, Local 2252	Pay at higher out-of-title job rate if more than four hours per day.
Cape May County, IBPAT, Local 1983	Pay at higher out-of-title job rate if five or more days.
<i>Vicinage Two</i>	
Bergen County, Civil Service Association, Council Five	Civil Service Rules apply.
<i>Vicinage Three</i>	
Ocean County, Civil Service Association, Council Twelve	Pay at higher out-of-title job rate if five or more days.
<i>Vicinage Four</i>	
Camden County, Civil Service Association, Council Ten; Policemen's Benevolent Association, Local 208	Pay at higher out-of-title job rate for up to three consecutive weeks at minimum of 50 percent of time. Thereafter permanent change in job title and pay required.
<i>Vicinage Six</i>	
Hudson County, Teamsters, Local 286	Pay for higher classified job if other than an emergency situation.
<i>Vicinage Ten</i>	
Morris County, Policemen's Benevolent Association, Local 151	Add four hours pay per day for each day Sheriff Officer serves as Sergeant.
Warren County, Civil Service Association, Council Seventeen	No out-of-title work permitted. Disputes appealed to Civil Service Department or contract grievance procedure.
<i>Vicinage Twelve</i>	
Union County, Civil Service Association, Council Eight	Out-of-title work allowed only in emergencies and only two to four weeks.

Source: *Druz Report*, *op. cit.*, Phase I, Appendix F.

the provisional Probation Officers who took the examination attained permanent status.

Other problems with provisional appointments include (a) the time and effort spent to train persons who do not attain permanent employment and (b) the perceived unfairness to employees who perform well over long periods but then lose their job because of low scores on an examination or because they are bumped by veterans.

This Committee believes that present procedures for provisional appointments cause substantial personnel problems for trial court support services and could be

minimized if appointment procedures and the length of the probationary period were adequate to the needs of the trial courts.

8. *Probationary Period*

There appears to be general consensus among Trial Court System officials that the 90-day probationary period specified by Civil Service for the evaluation of new employees is too short. After 90 days there is little chance of terminating unsatisfactory employees, *i.e.*, they can look forward to virtual lifetime tenure in employment. This automatic tenuring has long been recognized as a serious shortcoming of New Jersey's Civil Service System. Therefore, the recently proposed Civil Service Reform Bill recommends extension of the probationary period to one year and this Committee recommends the same. The *Druz Report* suggests a period of either six months or one year, depending upon "the level, complexity, salary level, and other characteristics of the job which make performance evaluation more or less difficult to accomplish."⁶

Although important, it is not the length of the probationary period which is necessarily the source of the problem. Rather, it is the failure of managers to observe and, then, to record in detail each new employee's strengths and weaknesses. Apparently, regular employee performance appraisals are not common for employees of New Jersey's trial courts. This is unlike personnel practices in better managed private sector enterprises.

9. *Evaluation of Employee Performance*

Although the Department of Civil Service has statutory authority to require the formal evaluation of employees, it has not required employing units to undertake evaluations on a periodic basis. Standard evaluation forms are not available through Civil Service. The Committee has been told that a standard form is being developed.

Only a few of those court officials interviewed say that they evaluate their employees regularly. The majority of officials interviewed, representing all functional areas, believe it to be "a waste of time" to evaluate employees. Their reasons indicate a lack of willingness to assume managerial responsibilities. They say that super-

visory personnel dislike making evaluations which are shown to employees who might object to their contents and that few employees have realistic chances for promotion even if they perform well. Presently, exceptional performance does not lead to merit increases or bonuses. Also, these officials believe that employees with poor evaluations have little chance of being terminated. But, most respondents believe that they have informal knowledge of which employees are not performing adequately and some say that they try to persuade employees to increase productivity.

If there are exceptions to the general conclusion that court officials have an aversion to employee evaluations, they may be among some Sheriffs. According to the *Report of the Subcommittee on Sheriffs*, eight of the 17 Sheriffs who responded to a subcommittee questionnaire say that they have formal evaluation procedures for employees.⁷

County Clerks seem less inclined than Sheriffs to measure the performance of their employees. In response to a questionnaire from the Subcommittee on Clerks, half of those who responded said that they keep track of employee productivity, mostly through supervisor observation. Only two County Clerks said they make detailed employee appraisals.⁸

The Committee on Efficiency finds that uniform evaluation procedures and their acceptance by court officials are essential to efficient functioning. Equally essential are specific work goals, objectives, and norms for each unit of the Trial Court System. Otherwise, measures of the performance of individual employees may well be highly subjective. Put another way, evaluating the performance of employees is inherently linked with the evaluation of the performance of their units. Unless the latter is undertaken, the former is likely to be unproductive and possibly unfair.

C. The lack of control over court support personnel has caused the Judiciary to use Rule 1:33-3(b), creating conflicts with county executives.

Rule 1:33-3(b) is lauded by the Judiciary for the ability it provides them to manage effectively, while it is decried by county officials because it deprives them of

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budgetary authority and control. Under provisions of Rule 1:33-3(b), an Assignment Judge may:

designate to serve at his pleasure, from among the Court Clerks and other employees of the courts in the county such assignment clerks and other assistants as he may deem necessary or desirable.

These positions are funded by the counties in most cases and the use of the rule by the Judiciary has generated friction with county executives. But, county executives themselves have used the rule to insulate trial court employees from county budget cuts.

As noted above, only 344 persons, approximately six percent of all court support employees, held appointments under this rule in June, 1980. Of the 344, 67 were law secretaries, judges' personal secretaries, and grand jury clerks, whose positions could have been filled by the Judiciary without the use of Rule 1:33-3(b). Twenty-nine positions were in Passaic County, where the Board of Freeholders, faced by a shortage of revenue, would not approve appointments to any court position unless ordered to do so by the Chief Justice. Consequently, the rule was used to appoint persons to positions for which there was existing statutory authorization, *i.e.*, judges, secretaries, and law clerks. The remaining 248 appointments under Rule 1:33-3(b) comprised only 4.2 percent of all trial court employees.

There is no consensus within the Trial Court System on the merits of Rule 1:33-3(b) appointments. Those who favor the rule do so because of the flexibility it provides in securing persons better qualified than would be produced by Civil Service and/or provisional appointment procedures. Those who oppose the rule, some County Clerks, for example, say that the rule permits substantial disparities in salaries and the elitist nature of these appointments generates resentment among employees and affects morale adversely. There is obvious conflict between the rule and the usual standard of appointment and promotion.

Concern with Rule 1:33-3(b) caused the Chief Justice to ask Assignment Judges making such appointments to certify that they are consistent with the purpose of the rule.

The certification narrated by the Chief Justice attempted to clarify the fact that the (Rule) 1:33-3(b) appointee assists the Administrative Judge or his delegee in the performance of administrative rather than regular judicial duties. (Letter of Robert D. Lipscher to Morris C. Ianni, Department of Civil Service, May 15, 1980.)

From May through October, 1980, 32 requests were made by Assignment Judges to the Chief Justice for appointments under the rule. All requests were approved. The salaries ranged from \$11,300 for an Assistant Assignment Clerk, Criminal to \$26,360 for an Acting County District Court Clerk. The impression is that the rule is being used to make appointments outside formalized personnel and budgeting procedures, presumably because appointments under Civil Service are inordinately cumbersome and unproductive or because of local budget constraints. The rationale is that the rule must be used to enable the courts to function effectively. This Committee believes that the creation of a unified personnel system would enable the Trial Court System to make the appointments it requires while maintaining the control of budget and personnel required for effective management, thus eliminating the need to resort to special rules for the appointment of persons with particular expertise, such as Rule 1:33-3(b). But, until a unified system is created, Rule 1:33-3(b) will be required. We urge that it be used sparingly and only in exceptional circumstances.

D. New Jersey's Trial Court System lacks meaningful career path opportunities for most of its employees.

This conclusion is notwithstanding opportunities for advancement within certain job categories, for example, progression from entry-level bookkeeper to Chief Clerk Bookkeeper. The interviews revealed that employees see certain jobs, such as Court Attendant, as dead-ended. The fact is that employees rarely move from one vicinage to another to apply for and fill openings with greater responsibilities and with higher pay. Nor is it evident that there is significant upward mobility within vicinages to upper level positions in each. The system is highly compartmentalized in these respects.

The employment histories of the State's 12 Trial Court Administrators in office in early 1979 indicate that

only three of the 12 achieved their top position through progressive promotion within various trial court functions. At least five of the 12 were appointed to the top administrative position in their vicinage without any prior trial court experience of any significance.

Once appointed, Trial Court Administrators see no real opportunities for advancement within the system. The *Druz Report* states that:

Interviews with the individual trial court administrators indicated satisfaction with the challenge and importance of their work, but they generally expressed the opinion that the Trial Court Administrator position was a dead-end with few, if any, opportunities for advancement in the New Jersey court system.⁹

A primary barrier to career development for court support employees is the fact that many counties restrict employment to county residents. Also, transfers to and from local, State, and Federal government positions are not encouraged under the present system.

In the absence of a realistic system of recognizing and rewarding superior employees, some officials give valued employees higher salaries by "promoting" them to positions with managerial titles. Consequently, some departments have a proliferation of such managerial job titles and according to one respondent, "Our department has more chiefs than it does Indians." In actuality, there is often little difference in responsibilities between higher and lower-level job titles. The Subcommittee on Probation believes that this practice is partly responsible for "a considerable number of mediocre or unqualified individuals" rising to high positions in Probation departments.

Presently, court officials use a variety of subterfuges to provide adequate "promotional" opportunities for deserving employees. For example, this Committee found that a valued employee was moved to a higher position under Rule 1:33-3(b) in order to entitle her to a larger salary. Here, too, we see the rule used to remedy a system-wide problem, *i.e.*, the absence of system-wide career opportunities.

The Committee on Efficiency believes that a unified personnel system for the courts would quickly discover this elementary principle of personnel practice: em-

ployees must be given internal opportunities for advancement if the best among them are to be retained and competent new persons are to be attracted to employment.

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E. There is no evidence that employee turnover in the Trial Court Support System is unduly high.

That low salaries may contribute importantly to employee turnover under certain circumstances of employment is affirmed in numerous personnel studies. Therefore, based on complaints about the low level of trial court salaries, it is not surprising to find what appear to be high turnover rates for the system. But, these high rates characterize employee turnover in State and county government and private corporations, and are not peculiar to the Trial Court System. [See Table 10.] It is not possible to say, therefore, whether the turnover rates of the Trial Court System are too high and disruptive to the efficient functioning of the courts. There is modest evidence on both sides of this issue. On one side there are the statements of court officials interviewed for this study that turnover is a problem, as well as the turnover rates shown in Table 10, *i.e.*, trial court employee separations in Mercer and Monmouth Counties and for the State Judiciary. These rates are somewhat higher than in some parts of the private sector but are lower than for the Executive Branch of the State Government.

On the other side of the issue, we have the Report of the Subcommittee on Clerks which states that two-thirds of the County Clerks, in response to a questionnaire, say that more than 70 percent of their employees have more than five years of service. The Subcommittee states that "there is no documentation that low salaries are causing high turnover."

Relevant objective standards for evaluating turnover rates include added compensation required to retain employees, the costs of hiring and training replacements, disruption to work flows, and impact on unit productivity. Employee turnover is costly and disruptive when key individuals leave, particularly highly motivated experienced workers with good alternative employment opportunities. Trial Court System officials should be

deeply concerned, therefore, when valued, experienced employees give evidence of dissatisfaction. This is usually well before they actually leave.

Table 10

**EMPLOYEE TURNOVER RATES FOR NEW JERSEY
GOVERNMENT EMPLOYEES vs PRIVATE SECTOR EMPLOYEES**

Proportion of Employees Replaced Annually for Reasons of Voluntary Separation, Retirement, or Cause	
<i>State Government, Executive Branch (1976)</i>	
Clerical Employees	21.9%
Professional Employees	13.8
Law Enforcement Employees	14.2
<i>Court Support Personnel¹ Provided by Counties</i>	
Hudson County (9/77 to 6/79)	5.9%
Mercer County (1/78 to 8/79)	13.0
Monmouth County (1/78 to 12/78)	12.7
State Judiciary ² (1/77 to 12/78)	8.9
<i>New Jersey Corporations</i>	
Major New Jersey Utility (1979)	6.0%
Major Utility #2 (1979)	12.0
Managerial	9.0%
Nonmanagement, including nonexempt	13.0
Major New Jersey Insurance Company	
Nonmanagement, New Jersey employees, including sales	15.0
Major Manufacturing Company (1979)	
Managerial	4.0
Nonmanagerial, including nonexempt	9.0

1. Exclusive of judges, secretaries, and law secretaries.

2. Exclusive of judges and law secretaries.

F. Trial Court Support System employees rarely receive pay increases for meritorious performance.

Virtually all Trial Court System employees move through their respective salary scales in lock-step fashion. Pay increases for merit are a rarity. Many of those interviewed for this study said that the absence of a merit system precludes them in rewarding and retaining those employees most qualified for their work. They tend to blame Civil Service rules, despite the fact that the Civil Service Department has no jurisdiction over salary scales and progression for court support personnel provided by county governments. However, Civil Service rules are applicable to salary matters for court employees with State appointments. Nevertheless, neither State nor most

county personnel systems in New Jersey have provisions for meaningful merit increases. We should recognize, however, that in the late 1960's the Civil Service Department attempted to introduce a merit pay system for State employees. It called for capping pay increases at step four in salary scales and granting movement for steps five through eight only if supervisors certified that meritorious service warranted an increase. The attempt was unsuccessful.

Awarding of bonuses or increases in salary for superior work performance is said to have the opposition of organized labor. Further, it is said that with few exceptions, unions seek to insure that all workers in a unit get the same percentage salary increase. In fairness to union officials, it must be said that there is no evidence that New Jersey State and county governments have made any serious and sustained attempts to introduce merit pay and bonus schemes. The few attempts that we have seen were aborted.

In contrast with State and county governments, New Jersey's major businesses make wide-spread use of salary increases and bonuses for merit within position classifications. Such adjustments in pay are deemed critical to maintaining an effective work force and reducing or containing the cost of employee turnover, according to personnel managers.

Also, in the case of the courts, as long as the vicinages remain small in terms of total number of persons employed, employees will have fewer immediate opportunities for advancement than employees in larger systems. Thus, merit payments could help the vicinages retain key employees. This Committee finds that merit increases for outstanding performance are important to motivating and retaining key court employees and should be instituted as soon as the personnel function of the courts is brought under State control and unified.

G. It is likely that the Trial Court Support System could function very effectively with fewer employees.

Have the counties provided New Jersey's Trial Court System with enough employees to function effectively? Or, have the counties provided enough employees, and is the problem that they do not produce

enough output? Or, would the system function more effectively if there were fewer employees but more of them at higher levels along with system-wide use of word processors, computerized record-keeping, microfilm record storage, and other modern devices designed to increase work output and accuracy and decrease the number of employees? Neither this study nor prior work by Druz and Piscopo undertook to answer these questions in depth since the determination of the appropriate number and use of employees for the Trial Court System is a major undertaking in itself. Nevertheless, both this study and the work by Druz and Piscopo reached tentative conclusions.

(i) *Trial Court System employees of some counties work too few hours.*

The number of hours per week worked by court system personnel varies by county, depending largely on union contracts. The details are given in Table 11, which shows that 17 of 40 union contracts require that trial court employees provided by counties work between 30 and 32.5 hours per week. Thus, they work considerably less than State government employees who work 35 hours per week, the same number of hours specified in about half the contracts or 18 of 40. In the case of only five union contracts the work week is the same as the norm for office work in the private sector, *i.e.*, 37.5 hours per week. Furthermore, there are substantial differences between contiguous counties. For example, Hudson County has four union contracts covering trial court employees which specify a work week of 30 hours. In adjacent Essex County, four union contracts specify 37.5 hours for essentially the same employees as covered by the Hudson County contracts.

There are several key reasons for increasing hours worked. First, there is general consensus among court officials that the backlog of New Jersey court business must be reduced substantially if the courts are to function effectively and fairly. For example, the Subcommittee on Clerks recommends in its report that the workday for court personnel be increased to eight hours, wherever it is less than eight. The purpose is to reduce court backlogs caused by personnel shortages.¹⁰ Second, present em-

employees are the most appropriate persons for reducing this backlog, provided their effectiveness not be impaired by extending their hours. There is a general shortage of qualified trial court employees given current county salary levels. Third, persons doing comparable work in the private sector give their employers substantially more hours of work each year. Fourth, the public sector has great need to increase its total work output without increasing costs proportionately. Obvious savings from extended hours include hiring and training costs. Other savings would include any gain from paying nothing or proportionately less for the extra hours.

Table 11

**HOURS WORKED PER WEEK UNDER FORTY UNION CONTRACTS
COVERING TRIAL COURT SYSTEM EMPLOYEES**

Hours Worked per Week	Number of Contracts
30.00 hours	6
31.75 hours	2
32.00 hours	2
32.50 hours	7
35.00 hours (Same as State Government)	18
37.50 hours	5
Total	40

Source: *Druz Report*, Phase I, Appendix F, at 253-337.

If the work week for all Trial Court System employees were to be increased to 37.5 or 40 hours, employee costs probably would not rise proportionately. At one extreme they might not rise at all, except for minor expenses associated with employment, *i.e.*, utilities, building maintenance, insurance, and the like. This assumes that employees and their unions would accept the burden of extra hours of work at the same total pay. This is not an heroic assumption. Employees in many industries have agreed to put in more work time at the same pay when pressed with the need to work longer hours. For example, employees of Public Service Electric & Gas Company now work 40 hours per week, up from 37 hours prior to 1979, with no increase in pay.

At the other extreme, the extra hours might cost proportionately more in direct compensation, but not proportionately more in total employee costs. This is so because the cost of fringe benefits, which is in excess of 20 percent of salaries, should not increase appreciably.

Between these extremes are a variety of possibilities. They include: a one-time settlement with all current employees on extra pay for extra hours, followed by a new schedule of hours for old and new employees beginning the next year; an increase in compensation less than the proportionate increase in hours; phasing in of increased hours and/or increased pay over several years.

The Committee on Efficiency is confident that the ingenuity of negotiators on both sides of bargaining tables can devise a workable scheme for increasing the total number of hours worked by Trial Court System employees to equal those of most persons in the private sector without rancor and labor strife.

(ii) *The Trial Court System is behind the private sector in work output per employee.*

Apart from number of hours worked per year and whether persons in business work harder, there is a general consensus that in government service meaningful work output per employee lags the private sector by a good margin.

A principal reason is that State and county governments in New Jersey have been very slow in acquiring word processors, computerized record-keeping, microfilm storage of documents, and the many other devices used in the private sector. Consequently, work output per employee is less and the cost of government higher than it might be otherwise.

Other principal reasons for the Trial Court System obtaining less work output from its employees than might be obtained otherwise include the absence of financial incentives and inadequate supervision. The Subcommittee on Clerks reports that some Assignment Judges interviewed believe court support functions could be carried out by "... perhaps as little as 50 percent of the present force, if financial incentives and organized supervision were introduced."¹¹ They suggest, also, that the key to reducing backlogs may lie in motivating present staffs to increase productivity.

Adequacy of supervision and its relationship to employee output has not been addressed by either this study or in the work of Druz and Piscopo. Nevertheless, many of those interviewed for this study said that the key to increasing the output of employees is in improving the management practices of the Trial Court System. Considering the absence of management training programs for supervisors, this response is not surprising.

H. The demise of Federal Employment Programs will increase locally borne court costs substantially.

To economize on county funds, county officials have hired court support personnel with funds provided by the Federal Government under the Comprehensive Education and Training Act (CETA) and through the New Jersey State Law Enforcement Planning Agency (SLEPA), which is funded by the Federal government.

The CETA Program supported 298 positions or five percent of all Trial Court System employees in 1979. The distribution of these persons across court functions is given in Table 12.

The CETA program was created by the Comprehensive Employment and Training Act in 1973, when Congress shifted responsibility for employment and training programs from the Federal government to the states, counties, and other local government units with populations of 100,000 or more. The CETA Program is aimed at providing permanent employment for economically disadvantaged, unemployed, and underemployed persons. The Federal government sets standards for and monitors State and local performance.

The maximum term for a CETA funded employee is 18 months, after which the person is laid off if they have not been made permanent. If funds are available, a new person can be appointed to fill the position. To gain permanent employment in New Jersey, CETA employees would have to be appointed under Civil Service rules.

Since some CETA employees were of low employability when appointed, it seems unlikely that they can attain Civil Service status within 18 months. This would be so for persons with little formal schooling and those who perform poorly on examinations. Therefore, Civil Service rules may pose a barrier to the appointment of persons even though they have performed court support

Table 12

**TRIAL COURT SYSTEM POSITIONS FUNDED BY
COMPREHENSIVE EMPLOYMENT AND TRAINING ACT, 1979**

	Number	Percent
Clerical	116	39%
Probation Officers and Investigators	68	23
Court Security	45	15
Bookkeeping	12	4
Pre-Trial Intervention	12	4
Special Projects	6	2
Secretarial	3	1
Juvenile Intake	3	1
Administration	3	1
Miscellaneous	<u>30</u>	<u>10</u>
Total	298	100%

Source: Administrative Office of the Courts.

work adequately, as measured by as much as 18 months employment. This is clearly incongruous with the purpose of the Comprehensive Employment and Training Act. We would expect that those units of government which accepted CETA funds embraced this purpose — training for employment those local citizens who are economically disadvantaged, unemployed or under-employed.

The demise of the CETA program will generate pressure on counties to fund many of the approximately 300 court positions now funded by the Federal government. The Committee on Efficiency has no view on whether the court system's efficiency would be impaired by this reduction in force. Nevertheless, the Committee believes that the State and its counties should extend all efforts to secure alternative public or private sector employment for those CETA court employees who may be terminated.

I. Compared with private industry, the New Jersey Trial Court System is deficient in providing training for most of its employees.

With the exception of court security personnel, most new employees are expected to acquire knowledge

of their function on the job. Furthermore, there is almost no training of established employees so that they may acquire new skills, learn how to manage, and discover how their counterparts in other jurisdictions handle common problems.

The exceptional group, Sheriffs' Officers, are required by law to attend a basic training course approved by the New Jersey Police Training Commission. These courses are provided by various county police academies and by the New Jersey State Police Academy at Sea Girt. According to the report from the Subcommittee on Sheriffs, such training should be supplemented by training directly related to court duties:

Many Sheriffs indicated that there is need for training programs that deal directly with court-related duties of the Sheriff's Officer, which, in many respects, is different from normal police officer duties.¹²

Training for Probation Officers is available through State programs, but these programs do not give professionals in Probation as much training as national standards suggest, *i.e.*, 40 hours per year.¹³

For other functional areas such as Court Clerk, there is no systematic training although some respondents report that in the past a few counties offered such training. Because of the dearth of training programs, some few county officials have developed their own training manuals to aid new employees. Other officials permit their staff personnel to take courses not related directly to their jobs, but useful for general skill improvement and important for morale building purposes.

The Committee on Efficiency finds that the Trial Court System has critical need for a comprehensive and unified program of training which would cover all employees.

J. *There is no evidence that disputes and grievances concerning employees are handled inadequately.*

Employee disputes and grievances are commonplace and the Trial Court System has its share. Some officials interviewed say they take the initiative to settle employee complaints before they become grievances. The consensus among officials interviewed for the study is that the procedures established by Civil Service and col-

lective bargaining contracts are adequate for the settling of disputes and grievances.

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* * *

Altogether, the many differences among counties on matters of personnel make the State's Trial Court System much less efficient than it could be were these differences reduced, if not eliminated. It seems obvious, then, that the State has great need to centralize responsibility for and authority over court support services through the creation of a Judicial Personnel System.

Table 13

**NEW JERSEY TRIAL COURT SYSTEM
PROPOSED AND EXISTING JOB TITLES
BY OCCUPATIONAL CATEGORIES**

Proposed	Existing
<i>Bookkeeping</i>	<i>Bookkeeping</i>
Bookkeeper I	Clerk Bookkeeper
Bookkeeper II	Senior Clerk Bookkeeper
Bookkeeper III	Principal Clerk Bookkeeper
	Account Clerk
	Senior Account Clerk
	Principal Account Clerk
	Execution Clerk
Bookkeeping Machine Operator I	Bookkeeping Machine Operator
Bookkeeping Machine Operator II	Senior Bookkeeping Machine Operator
Bookkeeping Machine Operator III	Principal Bookkeeping Machine Operator
<i>Bookkeeping Administration</i>	<i>Bookkeeping Administration</i>
Administrative Supervisor	Supervising Clerk Bookkeeper
	Head Clerk Bookkeeper
	Chief Clerk Bookkeeper
	Supervisor of Account Clerk
	Head Account Clerk
	Supervisor of Bookkeeping Machine Operators
	Supervising Execution Clerk
<i>Processing of Wills</i>	<i>Processing of Wills</i>
Probate Clerk I	Probate Assistant
Probate Clerk II	Probate Clerk
Probate Clerk III	Senior Probate Clerk
	Principal Probate Clerk
	Special Probate Clerk
Supervising Probate Clerk	Chief Probate Clerk
<i>Cashier</i>	<i>Cashier</i>
Cashier I	Cashier
Cashier II	Senior Cashier
Cashier III	Principal Cashier
Administrative Supervisor	Supervisor of Cashiers

Table 13 continued

**NEW JERSEY TRIAL COURT SYSTEM
PROPOSED AND EXISTING JOB TITLES
BY OCCUPATIONAL CATEGORIES**

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Proposed	Existing
<i>Miscellaneous</i>	<i>Miscellaneous</i>
Counsellor I*	Interviewer for Juvenile and Domestic Relations Court
Counsellor II*	Interviewer for Superior Court Family Specialist
Messenger	Messenger
Receptionist I	Receptionist
Receptionist II	Senior Receptionist
Telephone Operator	Telephone Operator
Clerk I	Mail Clerk
Clerk II	
Clerk III	
Court Security Officer	Sergeant-At-Arms
<i>Court Administration</i>	<i>Court Administration</i>
Trial Court Administrator	Trial Court Administrator (Administrative Assistant I Judiciary)
Assistant Trial Court Administrator	Assistant Trial Court Administrator
Administrative Analyst	Business Manager
	Statistical Analyst
	Statistician
	Administrative Analyst
Administrative Assistant	Administrative Aide
	Confidential Aide
	Confidential Aide to Surrogate
Municipal Court Liaison Officer	Municipal Court Liaison
Criminal Justice Planner	Criminal Justice Planner
	Criminal Justice Coordinator
Project Director	Program Coordinator
	Director of Alcohol Rehabilitation
	Director of Bail Unit
Project Specialist	Assistant Program Coordinator
	Assistant Director of Alcohol Rehabilitation
	Assistant Director of Bail Unit
<i>Jury Support</i>	<i>Jury Support</i>
Jury Commissioner	Jury Commissioner
Clerk to Jury Commissioner	Clerk to Jury Commissioner
	Clerk to Petit Jury
Clerk to Grand Jury	Clerk to Grand Jury
	Administrative Clerk to Grand Jury
Administrative Director to Grand Jury	Administrative Director of Grand Jury
Court Security Officer	Jury Security Officer
	Jury Room Attendant
Clerk I	Jury Management Clerk

*This is a general title applicable to a number of occupational groupings.

Table 13, continued

**NEW JERSEY TRIAL COURT SYSTEM
PROPOSED AND EXISTING JOB TITLES
BY OCCUPATIONAL CATEGORIES**

Proposed	Existing
<i>Jury Support (cont.)</i>	<i>Jury Support (cont.)</i>
Clerk II	Jury Control Clerk
Clerk III	Petit Jury Supervisor
	Jury Supervisor
	Assistant Jury Supervisor
<i>Legal Research</i>	<i>Legal Research</i>
Staff Attorney	Attorney
Law Clerk	Law Secretary
Research Associate I	Research Associate
Research Associate II	Research Assistant
Research Associate III	Research Analyst
	Para-Legal Clerk
Supervisor of Research	Supervisor of Research
<i>Probation</i>	<i>Probation</i>
Investigator I	Investigator
Investigator II	Senior Investigator
Probation Officer Trainee	New Entry Level Title
Probation Officer	Probation Officer
	Parent Group Coordinator
	Assistant Director of Parent Group
	Director of Probation Volunteers
	Coordinator of Probation
	Volunteers
	Hearing Officer
	Director of Individual and Family Therapy
Supervising Probation Officer	Senior Probation Officer
Administrative Probation Officer	Principal Probation Officer II
Assistant Chief Probation Officer	Principal Probation Officer I
Chief Probation Officer	Assistant Chief Probation Officer
	Chief Probation Officer
<i>Court Scheduling</i>	<i>Court Scheduling</i>
Assignment Clerk I	Assistant Criminal Assignment Clerk
Assignment Clerk II	Assistant Civil Assignment Clerk
Assignment Clerk III	Deputy Assignment Clerk
	Assistant to Assignment Judge
	Court Coordinator
	Criminal Assignment Clerk
	Civil Assignment Clerk
	Juvenile Assignment Clerk
	Assistant Assignment Clerk
	Assignment Clerk
<i>Library Services</i>	<i>Library Services</i>
Clerk I	Junior Library Assistant
Clerk II	Assistant Law Librarian
Clerk III	
Law Librarian	Law Librarian

Table 13, continued

**NEW JERSEY TRIAL COURT SYSTEM
PROPOSED AND EXISTING JOB TITLES
BY OCCUPATIONAL CATEGORIES**

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Proposed	Existing
<i>Foreign Language Translation</i>	<i>Foreign Language Translation</i>
Translator I	Interpreter
Translator II	Senior Interpreter
<i>Courtroom Services</i>	<i>Courtroom Services</i>
Court Clerk I	Dispositions Clerk
Court Clerk II	Clerk to the Judge
	Court Aide
	Court Clerk
	Senior Court Clerk
Supervising Court Clerk	Chief Court Clerk
<i>Court Security</i>	<i>Court Security</i>
Court Security Officer	Court Officer
	Court Attendant
	Sheriff's Officer
Sergeant, Court Security	Senior Court Attendant
	Sergeant, Sheriff's Officers
Lieutenant, Court Security	Lieutenant, Court Attendants
	Lieutenant, Sheriff's Officers
Captain, Court Security	Supervisor of Court Attendants
	Captain, Sheriff's Officers
	Chief, Sheriff's Officers
	Chief Court Officer
	Deputy Chief, Sheriff
<i>Pre-Trial Intervention</i>	<i>Pre-Trial Intervention</i>
Research Assistant	Court Liaison
Research Supervisor	Interviewer
Counsellor I	Assistant Counsellor
Counsellor II	Counsellor in Pre-Trial Intervention
	Pre-Trial Investigator
Supervising Counsellor*	Counsellor Coordinator
	Coordinator in Pre-Trial Intervention
	Supervisor in Pre-Trial Intervention
Assistant Director of Pre-Trial Intervention	Assistant Director of Pre-Trial Intervention
Director of Pre-Trial Intervention	Director of Pre-Trial Intervention
<i>Juvenile Intake</i>	<i>Juvenile Intake</i>
Counsellor I	Intake Worker
Counsellor II	Social Worker
	Domestic Counsellor
	Teacher
	Youth Group Worker
	Community Development Specialist

*This is a general title applicable to a number of occupational groupings.

Table 13, continued

**NEW JERSEY TRIAL COURT SYSTEM
PROPOSED AND EXISTING JOB TITLES
BY OCCUPATIONAL CATEGORIES**

Proposed	Existing
<i>Juvenile Intake (cont.)</i>	<i>Juvenile Intake (cont.)</i>
Counselor II (cont.)	Crime Intervention Officer
	Juvenile Conference Committee Coordinator
Supervising Counsellor	Supervisor of Youth Group Workers
Assistant Director of Juvenile Intake	Assistant Coordinator of Juvenile Intake
Director of Juvenile Intake	Coordinator of Juvenile Intake
	Administrator of Juvenile Intake
	Director of Juvenile Intake
<i>Records Retention</i>	<i>Records Retention</i>
Microfilm Operator I	Microfilm Operator
Microfilm Operator II	Senior Microfilm Operator
	Records Retrieval Operator
	Senior Records Retrieval Operator
	Principal Records Retrieval Operator
Administrative Assistant	Coordinator of Microfilm
Administrative Supervisor	Supervisor of Microfilm
<i>Data Processing</i>	<i>Data Processing</i>
Key punch Operator I	Key punch Operator
Key punch Operator II	Senior Key punch Operator
Key punch Operator III	Principal Key punch Operator
Data Control Clerk I	Data Control Clerk
Data Control Clerk II	Senior Data Control Clerk
Data Control Clerk III	Principal Data Control Clerk
Administrative Supervisor	Supervisor of Data Control Clerks
Data Entry Operator	Data Entry Operator
	Terminal Operator
Computer Operator	Computer Operator
Programmer I	Programmer
Programmer II	Senior Programmer
Systems Analyst I	Systems Analyst
Systems Analyst II	
Coordinator of Court Information System (CIS)	Coordinator of Court Information System (CIS)
Director of Court Information System (CIS)	Director of Court Information System (CIS)

1. Data are from the Administrative Office of the Courts.

2. See William Druz and Robert Piscopo, *A Judicial Personnel Merit System for a Unified and State Financed Court System for New Jersey*, Phase I, March, 1978, at 53. Henceforth this work will be referred to as the *Druz Report*. Phase II is dated December, 1978 and Phase III, October, 1979.

3. See Table 7.
4. *Report of the Subcommittee on Probation*, at IV-3.
5. *Id.*, at IV-2.
6. *Druz Report*, Phase I, at 18.
7. *Report of the Subcommittee on the Office of the Sheriff*, at 38 and Table 6, at 39.
8. *Report of the Subcommittee on Clerks*, Part 3, at 4.
9. *Druz Report*, Phase III, at 8.
10. *Report of the Subcommittee on Clerks*, Part 3, at 4.
11. *Id.*, Part E.
12. *Report of the Subcommittee on the Office of the Sheriff*, at 44.
13. *Report of the Subcommittee on Probation*, at IV-8.

Chapter 5: Finances

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THE TRIAL COURT SYSTEM depends importantly on the State's 21 counties for funding. In 1980, they provided approximately 61% of court system expenditures. Consequently, the system's sources of revenue are limited, and in the case of some counties severely so by the State CAP law. Also, multi-county funding means that there is no unified organization and control over trial court budgets and expenditures. Lacking a unified financial system, the trial courts must operate through literally hundreds of budgets. It is impossible, therefore, to accurately determine Trial Court System costs with any precision. Furthermore, decisions concerning the costs of the courts are so fragmented that it is difficult for the Chief Justice to effect fundamental administrative reforms.

PART I: COURT EXPENDITURES AND REVENUES

Court operations in New Jersey have grown steadily in cost and complexity during the past decade, while the CAP law has limited county revenue, the primary source of court financing. This law prohibits counties from increasing county tax levels in excess of five percent of the previous year's tax levy. Modifications of the statutory limit are permitted for debt service, emergency appropriations, capital expenditures from sources other than the county tax levy, expenditures mandated by State and federal law, and new construction. In counties growing in population, the CAP need not be onerous since enlargement of the tax base enlarges county revenue. In counties with little or no growth, the CAP law has the effect of reducing the level of services whenever the growth in tax revenue fails to match the rate of inflation.

While the impact of the CAP law is particularly heavy in the densely populated areas of northeastern New Jersey, it is felt, also, in those urbanized counties not expanding at a rapid rate. For example, Union County has projected that its mandated or required costs for 1981 will exceed its permissible CAP increase by \$1.5 million, indicating that existing services must be cut to meet the requirements of the law. For the Trial Court System as a whole, operating expenditures increased by about 9.0 per-

cent per year between 1975 and 1979, or less than the general rate of inflation. [See Figure 1.] In contrast, the number of cases disposed over this period increased by about 6.0 percent last year. Expenditures per case disposed, therefore, rose from \$148.50 in 1975 to \$169.00 in 1979, an increase far less than the inflation rate. In a real sense, the Trial Court System is operating with less funds presently than in the mid-1970's.

The enormous pressures on the Trial Court System to provide a reasonable level of service in the face of steadily declining real income has forced the judiciary to mandate appropriations for court operations, as permitted by law. This creates understandable resentment among county officials and strained relations between the Trial Court System and county governments.

Court generated revenues are not sufficient to provide the court system with meaningful relief from growing caseloads, limited sources of operating funds, and double digit inflation in costs. In fact, the proportion of court expenditures covered by court generated revenue has remained at about 28 percent over each of the past five years. [See Figure 1.]

Court revenue produced at the county level was \$19.6 million in 1979 or 68 percent of the revenue produced by the Trial Court System as a whole. The revenue derived by the counties is shown in Table 1.

Table 1

REVENUE TO THE COUNTIES FROM THE JUDICIARY, 1979

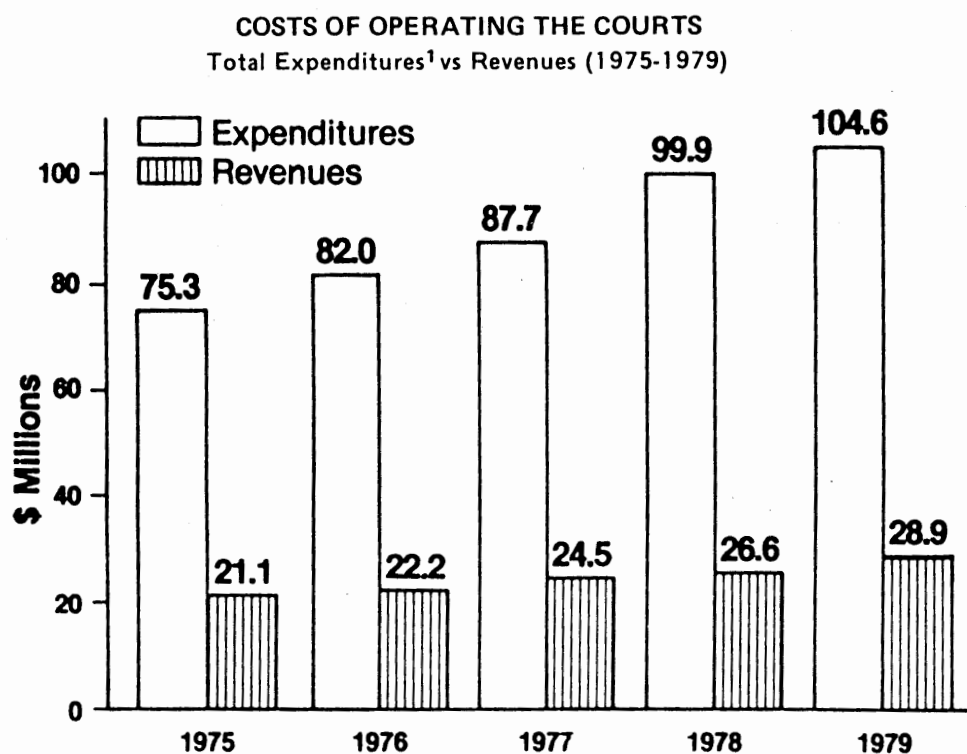
Superior Court	\$11,708,782
District Court	3,176,138
Surrogate	2,696,599
Probation	2,068,276
Total	<u>\$19,649,795</u>

Source: Administrative Office of the Courts

The \$20.0 million of court revenue received by New Jersey's counties fell short of court operating costs borne by counties by about \$80.0 million in 1979. Furthermore,

the county burden has been increased by recent legislation wherein the State has allocated a greater share of fines to itself. Moreover, counties receive a very small share of the fees collected in Superior Court civil cases by the Superior Court Clerk of the State's trial court divisions. Of the \$10.5 million in civil fees collected in Trenton, only \$1.5 million went to counties in 1980. While the State has not increased trial court revenue, it has enlarged county funding responsibilities. For example, the State has unified the court system through the merger of Superior and County Courts and accepted the burden of judicial salaries, but did not assume financial responsibilities for court support services.

Figure 1



¹Expenditures include all budget appropriations plus an estimated percentage for fringe benefits on salaries, but are exclusive of large capital costs or indirect costs.

There is a serious question whether New Jersey counties can or should be expected to continue to provide increased funds for the trial courts while the State re-

duces its share. Beyond some point, even court orders cannot extract budget increases from exhausted county treasuries.

These difficulties are compounded by the fact that the Trial Court System shares a characteristic with other branches of government — no measures of operating efficiency and few mechanisms and incentives to encourage officials to hold down costs. The legal authority of the Assignment Judges to mandate county expenditures may well impair serious efforts to economize. Moreover, many Assignment Judges are not equipped to create and impose the financial controls required by an increasingly complex system. Until not long ago, their main area of emphasis was the deployment of judges to handle trial court calendars. Now, the sheer size of the budgets in some vicinages has forced the Assignment Judge to become a financial manager, but with few guidelines and no training provided. In Essex County, for example, the judicial budget is about \$20 million per year.

The Committee on Efficiency recognizes that under current conditions the Assignment Judges' financial responsibilities are in many ways more difficult than those of an executive in a typical business organization. The Assignment Judge presides over a coalition of courts and court-related agencies with no clear authority to set budget levels. Budgets are developed separately by each supporting office. In varying degrees, they are coordinated by the Trial Court Administrator. In the end, however, most elected officials in the judicial system deal directly with county officials in negotiating their budget authorizations. Some Assignment Judges exercise strong control where they review and approve budgets before they go to the county, while others exercise little control over any budget beyond that of the Superior Court.

The budgets themselves are so fragmented that they fail to provide adequate management information for effective control of the resources employed by the Trial Court System. Moreover, current budgeting and accounting procedures:

- vary from county to county;
- do not include all costs associated with the Trial Court System; *i.e.*, capital expenditures and indirect costs.

These are the subject of the next part.

PART II: BUDGETS AND CONTROLS

The principal findings on finances are set forth in this part. They illustrate that there is no coherent financial system for the trial courts, budgets are fragmented, and financial controls are virtually unknown.

A. Meaningful analysis of trial court finances in New Jersey is rendered difficult, if not impossible, by the absence of uniformity in county budgets and accounts.

While there is some commonality in the major organizational components of county budgets for the Judiciary, the similarity ends with those broad components. There are no meaningful statements on:

- the organizational scope of a trial court budget;
- the internal administrative organization of county level trial courts; and
- the classification and categorization of even common items of expenditure, such as juror fees or paybacks to the State for court reporters.

As a result, we find widely different approaches to the organization and structure of county budgets for the Judiciary. Consequently, valid intercounty budget comparisons are not possible, nor can accurate statewide totals be compiled. This inhibits administration at both the State and local level, rendering it difficult to make informed policy decisions on financial matters for the trial courts.

B. A major obstacle to financial administration for the Trial Court System is the absence of complete and accurate information on the actual expenditures of the trial courts.

Neither the county Judiciary budgets nor the State budget for trial court operations fully reflects State or county appropriations since many types of court expenditures are not included in the Judiciary budgets. Moreover, there are a few costs included in trial court budgets which belong elsewhere. It is simply impossible to state with any degree of accuracy the budgetary resources of trial courts, which is, of course, a fundamental gap in management information at both the State and local level.

How the expenses for court security are allocated illustrates the point. Building security guards who perform important security functions for courts may not be in the Judiciary budget while various sergeants-at-arms

appear in court budgets with no defined security role. In fact, they do not have such a title or role in some courts.

County Clerks, like Sheriffs, allocate expenses between judicial support and other functions for budgetary purposes. Their decisions follow no apparent pattern. Where the clerk also serves County District Court and Juvenile and Domestic Relations Court, it is not possible to ascertain with certitude how clerical expenditures of each court are allocated without conducting an on-site analysis. Consequently, it is not possible to determine the costs of each of these courts.

Furthermore, many important categories of court-related expenditures are not included in judiciary budgets:

- Capital equipment acquisition is usually included in a separate capital budget request and does not appear in the judiciary section of the operating budget in some counties;
- Some contract services, especially for computer assistance, may be paid out of general administrative funds of the county;
- Space rental is rarely attributed to the court unit using the space, but may, instead, appear in the Building and Grounds section of the county budget;
- Furniture and furnishings for facility renovations or new construction may be payable from bond proceeds and not attributed to the judiciary budget; and
- There are variations in the way Sheriffs and County Clerks allocate their non-personnel costs between programs. These costs need not appear in the same sections of county budgets, making it impossible to make accurate statewide comparisons of county expenditures for court social service purposes.

Still another problem concerns mandated social programs concerning the courts. The Committee believes it is wasteful to have so many small, and yet functionally related units, operating independently. From an organizational perspective, the locus of these units is almost whimsical. The location decision is made on such grounds as the relationship between the Assignment Judge and the Chief Probation Officer. The organizational treatment of mandated social programs has contributed greatly to the lack of administrative coherence in courts and has caused deep concern among county managers about court management.

C. Assignment Judges have almost no guidelines concerning their responsibilities for financial administration.

In the New Jersey Trial Court System, Assignment Judges are powerful figures, operating with a broad grant of authority from the Supreme Court. Over the years, the financial aspects of the role have expanded in both scope and complexity as measured by the fact that expenditures for trial courts are now in excess of \$100 million annually. Assignment Judges have heavy financial management responsibilities, yet, few clear guidelines exist on what is expected of an Assignment Judge in his role as financial manager. As a result, Assignment Judges have approached their financial management responsibilities quite differently, creating disparities among trial courts in areas of financial management, budgetary process, budgetary structure, budgetary monitoring, purchasing, and basic financial relationships with county officials. Thus, financial management has sometimes been neglected or conducted in a highly personalized way.

D. The present manner of handling Trial Court System funds has basic weaknesses.

The various organizational units within the Trial Court System, excluding municipal courts, handle in excess of \$200.0 million annually. This money, which is collected and distributed according to State law and court judgments, flows into trial courts from a variety of sources. Hundreds of trial court employees are involved. Bookkeeping units in Probation offices bear the major burden, since the principal persons receiving court-collected funds are recipients of support and alimony payments. A relatively small percentage of court-collected funds go to the general funds of State and local governments.

The current system for handling these funds has two basic weaknesses: (1) it lacks organizational and managerial coherence, involving a profusion of small bookkeeping units largely unsupervised by Assignment Judges or Trial Court Administrators, much less the Administrative Office of the Courts; and (2) there is no management rationale for user costs and fees. They are not set in relation to the operating expenses of courts. Consequently, they are low and they change rarely to reflect cost increases.

E. *There is little incentive to operate the trial courts in a cost effective way, i.e., economical operation is not an important objective of administrators, nor is it encouraged.*

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Assignment Judges have been the guardians of judicial budgetary interests and have quite understandably focused on increasing the resources available to the Judiciary. This is not to say that economies have not been practiced. They simply have not been encouraged.

The present nature of court organization impedes efficiency, *i.e.*, many small units with occasional overlapping or redundant functions. Also, certain offices under the general budgetary control of the Judiciary have political traditions which encourage overstaffing, further complicating any attempt at economy.

Finally, there are no existing mechanisms for measuring efficiency or cost benefits. Although the State budget manual for counties encourages performance measurement, this Committee did not find such measurement used by trial court management in New Jersey. Moreover, even if such measures exist, they cannot be linked to judicial appropriations or expenditures data. Such data are not aggregated in any standard or comprehensive way.

Chapter 6: Records and Information Systems

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THE TRIAL COURT SYSTEM generates and processes millions of pieces of paper each year. These documents are essential to the movement of cases through the court system. They tell the court that an action has been filed, when a case is ready to be scheduled for trial, that a settlement has been reached, or that a verdict has been rendered.

Many of these papers become part of the permanent court record and have legal significance long after the final disposition of the case. For example, parties to a divorce action cannot remarry unless they obtain a copy of the divorce decree and a successful litigant cannot move to collect a judgment awarded by the court without producing the court order. As a result, the accuracy of these records, how safely they are stored, and the ease with which they can be accessed are of importance to the citizens of the State.

Despite this large paperflow and the importance of the documents, little or no attention has been paid to the form in which records are maintained, the method of storage after case disposition, or the timely destruction of court files. This has resulted in cumbersome case filing procedures which impede timely access to information essential to the courts' work and in unnecessary personnel, equipment, and storage costs.

Based on the subcommittee reports, the Committee on Efficiency has made the following major findings on court records and information which are summarized in Table 1.

A. The labor intensive nature of routine document processing indicates substantial opportunities for automation.

The principal finding of the Subcommittee on Records and Management Information is that many of the tasks essential to case processing are performed manually, whereas they could be automated. Specifically:

The offices of the courts are considerably behind the times in their use of automated data processing equipment and are still very much a labor intensive, hand processing operation. *Many of*

Table 1

STANDARDIZATION OF SYSTEMS AND EQUIPMENT

Subcommittee Report	Automation	Record-keeping	Forms Management	Records Retention
Records and Management Information.	Identified 17 major areas for automation.	File civil cases in the county of origin and trial rather than with the Office of the Superior Court Clerk in Trenton.	No uniformity in forms.	Determine if record retention schedules are being met or can be reduced. Establish a micro-recording system at the county level.
Probation	Identified nine major areas for automation.	Little information shared between court services resulting in duplication of effort and information.	-----	-----
Sheriffs	Volumes of work performed manually. Limited use of automated equipment.	Record keeping should be the subject of study.	No uniformity in forms.	Microfilm records.
Personnel	Work output suffers from lack of automation.	-----	Establish standard forms and computer software for processing forms and records.	Microfilm storage of documents needed to improve employees' performance.
Clerks	Expand computerized systems.	Poor coordination between State and counties, and among and within counties.	Standardize methods of operation for all court support functions. Create a method development group in AOC.	Study record retention and storage.

Source: *Records and Management Information Presentation*, New Jersey Judicial Conference, June 26, 1981.

the administrative operations in the court system lend themselves easily to automation. (Emphasis added.)'

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The list of manual tasks is a lengthy one and includes case scheduling and tracking, as well as jail inventories and docketing of cases. Processing of these types of documents is a repetitive task and requires the exercise of little or no judgment. The main emphasis, instead, is on productivity and timeliness.

The clerical staff of each of the trial courts expends a significant amount of time in preparing and maintaining routine records. For example, information regarding each court paper filed is entered by hand or typewritten into bound docket books daily. As Table 2 indicates, only limited efforts have been made to apply computer or word processing technology to such labor intensive tasks.

Table 2

**MANUAL AND COMPUTER HANDLING OF PRINCIPAL COURT SUPPORT
FUNCTIONS FOR CIVIL CASES BY EACH COUNTY AND VICINAGE,
AS OF MARCH 1980**

[Designation indicates whether function is handled
predominantly manually or by computer.]

Vicinage	County	Docketing	Schedule Notice	Calen- daring	Jury Selection
1	Atlantic	Manual	Manual	Manual	Manual
1	Cape May	Manual	Manual	Manual	Manual
1	Cumberland	Manual	Manual	Manual	Manual
1	Salem	Manual	Manual	Manual	Manual
2	Bergen	Manual	Computer	Manual	Computer
3	Burlington	Manual	Manual	Manual	Computer
3	Ocean	Manual	Manual	Manual	Computer
4	Camden	Manual	Manual	Manual	Computer
4	Gloucester	Manual	Manual	Manual	Manual
5	Essex	Manual	Manual	Manual	Computer
6	Hudson	Manual	Manual	Manual	Manual
7	Mercer	Manual	Computer	Computer	Computer
7	Somerset	Manual	Computer	Computer	Computer
7	Hunterdon	Manual	Manual	Manual	Computer
8	Middlesex	Manual	Manual	Manual	Computer
9	Monmouth	Manual	Manual	Manual	Computer
10	Morris	Manual	Manual	Computer	Computer
10	Sussex	Manual	Manual	Manual	Manual
10	Warren	Manual	Manual	Manual	Manual
11	Passaic	Manual	Computer	Computer	Computer
12	Union	Manual	Manual	Manual	Computer

Source: *Report of the Subcommittee on Records and Management
Information*, at IIA.

In addition to docketing, other court procedures found to be appropriate for automation include:

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1. *Indexing by Case Name*: All cases filed with the court are cross-referenced by name as well as docket number for easy access. This task, which is presently performed manually, could be automated easily.
2. *Case Calendaring*: The process of scheduling cases involves identifying trial ready cases, the length of trial, and available judge time. Automation would simplify this process and would reduce the time necessary to prepare a trial calendar.
3. *Case Tracking*: Monitoring the status of each case as it proceeds through the judicial system is essential to caseflow management. Without this information court managers cannot effectively calendar cases or allocate judicial and clerical resources. Present manual methods, however, frequently do not provide all of the needed data in an easily accessible form.
4. *County Jail Inventory*: A status listing of all county jail inmates, indicating whether they are pretrial or sentenced detainees and length of stay, is essential to establishing criminal calendar priorities. Existing manual methods prevent the timely compilation of such lists.
5. *Statistical Preparation and Presentation*: Data are collected manually in most courts. This delays the timely compilation of information necessary to allocate judicial and clerical resources.
6. *Noticing*: The court notifies all parties to a case of their court appearances. The information included on the notice is fairly standard and can be automated easily.
7. *Legal Research*: Present methods of case preparation may involve extensive library research. Automation would reduce the time expended on this activity.
8. *Text Editing/Typing*: Certain legal documents such as judicial opinions are revised frequently in the course of their preparation. An automated editing capability would reduce the time devoted to this task.
9. *Jury Selection*: The jury selection process could be expedited if automated procedures were used to select, notify, and schedule potential jurors.
10. *Records Storage/Delivery*: Many court records are retained in their original form, including dockets and case files. This is costly in terms of space, and data are often difficult to retrieve.
11. *Pay and Time Records*: The trial courts employ large numbers of people, and automation could reduce employee time in maintaining these routine records.
12. *Purchased Equipment, Inventories/Records*: Although not heavily automated, the courts employ a variety of equipment such as typewriters and adding machines. An automated inventory of these resources would be useful in rapidly locating equipment and in planning for future needs.

13. *Accounting*: The Trial Court System is responsible for the receipt and processing of fees, fines, bail, and other monies. Automation would expedite the bookkeeping procedures associated with the collection of such funds.

B. Existing automated systems are diverse with respect to application, equipment, and computer language.

Substantial investments in automated equipment have already been made by many counties throughout the state. As Table 3 shows, an absence of central guidance has resulted in over 20 different automated applications with 69 different systems installed on 15 types of equipment.²

None of these systems are compatible; they cannot support an overall plan or concept of operation; and they cannot be used or implemented in vicinages other than the vicinage of origin.³ This diversity has made it impossible to implement uniform security procedures that regulate access to court files.

The present approach to automation has also proved to be unnecessarily expensive. For example, the cost of automating and operating individual criminal case management systems in three vicinages has been estimated at \$620,000. If these costs were extended to all 12 vicinages the additional cost would exceed \$1.3 million. This means that if counties are allowed to proceed individually, well over a million dollars will be expended to reinvent, redevelop, and implement criminal case management systems.⁴

It is clear that the absence of centralized records and computer systems management prohibits automated procedures which would increase the efficiency of trial court operations. Automation must be accomplished through the use of standard systems and equipment if the courts are to establish a cost effective system that can efficiently process their increasing caseload.

C. The application of computer technology must be considered in light of fiscal and policy limitations.

Presently, most trial courts are dependent upon county government for the purchase of equipment, development of programs, and use of computer time. With considerable competition at the county level for limited resources, the trial courts are often unable to obtain ade-

Table 3

SURVEY OF COURT SYSTEMS — AS OF 3-18-80

	Atlantic	Bergen	Burlington	Camden (Same As Trenton)	Cape May	Cumberland	Essex	Gloucester	Hudson	Hunterdon
Hardware Type	IBM SYS 3 MODEL 15D	IBM 370 138 360 40	DEC 10 1091	BURROUGHS 1855	IBM S 34 13 D	NCR C/101	IBM 370 138 MAGNUSON M 80-4	None May hookup to Camden	IBM 370 115	
Terminals	None at Courts	150	3 at Courts	9	2		None at Courts	4	3 LOCAL 2 REMOTE	
Software Operating System	DSM	DOS	COPS 10	MCP 11	DSM		DOS VS DOS VS		DOS VS	
Language	RPG 11 CCP	COBOL FASTER	COBOL	COBOL	RPG	NEAT 3 COBOL	COBOL RPG		RPG 11 COBOL	
On-Line Inquiry	Yes	Yes	Yes	Yes	Yes	Cards	Yes		Yes	
On-Line Update	Yes	Yes	Yes	Yes	Yes	Cards	Yes		Yes	
On-Line Data Entry	Yes	Yes	Yes	Yes	Yes	Cards	Yes		Yes	
Court Systems Criminal		150 EL * Schedule Notice Calendar	25 EL * Schedule Notice Calendar	PROMIS 155 EL *						
Civil		Civil Law Schedule Notice							Civil Law 10 EL Batch	
Juvenile										
Court-Related Systems	Probation Pay-thru		Jain Inv. Jury Select Probation	Jail Inv. Jury Select Probation		Probation	Jury Select Probation		PT 1	Jury Select (Outside Service)
Computer Location	County	Courthouse County Computer	County	Courts Computer	County	County	County		County	

*Note EL Data Elements

Table 3 (Cont.)

SURVEY OF COURT SYSTEMS — AS OF 3-18-80

	Mercer	Middlesex	Monmouth	Morris	Ocean	Passaic	Salem	Somerset	Sussex	Warren	Union
Hardware Type	IBM 4331	IBM 370 148	BURROUGHS 1855	IBM S6	UNIVAC 9060	IBM 370 138		IBM S6			DG NOVA 1200
Terminals	10 at Courts	6 at Courts	2 at Courts			2 at Courts		1			4
Software Operating System	DOS VS	DOS VS	MCP 11		VS 9	DOS VSAM					Executive
Language	COBOL	COBOL RPG 11	COBOL		COBOL ASM	COBOL					Basic ASM
On-Line Inquiry	Yes	Yes	Yes		Yes	Yes					Yes
On-Line Update	CRT Batch	Yes	Batch		Yes	Yes					Yes
On-Line Data Entry	CRT Batch	Yes	Batch		Yes	Yes					Yes
Court Systems Criminal	130 EL* Schedule Notice Calendar	250 EL* Schedule Notice Calendar	80 EL* Schedule Notice Calendar			200 EL* Schedule Calendar Notice		30EL* Schedule Calendar Notice			125 EL* Schedule Calendar Notice
Civil	Civil Law 50 EL*		Civil Law 80 EL*	Civil Calendar	Computerized Micrographics Matrimonial			Matrimonial District Ct Gen. Equity			District Court Child Placement
Juvenile	60 EL*					Calendaring System					
Court-Related Systems	Jury Select Jail Inv Probation Sheriff's Warrant	Probation	Jury Select Probation	Jury Select Jail Inv (County)	Jury Select	Jury Select Jail Inv		Jury Select Probation			Jury Select Probation Jail Inv PT 1
Computer Location	County	County	County	County IBM Courts S 6	County	City of Paterson		Courts			Municipal Appeals Courts

quate computer support. This problem is compounded at the State level where executive branch restrictions frequently limit the ability of the Judicial Branch to pursue computer applications and, thus, to provide computer assistance to the trial courts.

D. There has been no systematic development of forms and as a result different forms are being used for the same function and the number of forms in use is unnecessarily high.

The multiplicity of functions performed in association with the processing of cases, and the different ways in which these tasks are performed, has generated approximately 6,800 forms within the Trial Court System. It is estimated that this number can be reduced to 300. Standardization of a routine document such as a trial notice, for example, would eliminate 1,350 forms alone. [See Table 4.]

The Committee on Efficiency has found that many of the forms are reproduced at local printing facilities, using mimeograph, ditto, or photocopy techniques, and that there is great diversity in their design.⁵ As a result, the costs associated with case processing are unnecessarily high and uniform procedures are often difficult to implement.

Most importantly, this proliferation of forms poses difficulties for judges, litigants, court personnel, and attorneys. It requires that each group master a variety of forms to perform their functions adequately. In fact, forms which were implemented to expedite the movement of cases often become the cause of delay.

E. Despite the fact that court records must be retained and stored, little attention has been paid to the creation and enforcement of appropriate records retention schedules.

Responsibility for records retention rests with the courts and the Bureau of Archives and History of the New Jersey Department of Education. Throughout the court system, there have been sporadic efforts at records destruction and records transfers to the State archives. There is no evidence, however, of a systematic records retention program to assess records accumulations.

Records management, which is performed differently by each county, is based on: (1) experience and

Table 4

FORMS IN USE IN THE NEW JERSEY TRIAL COURT SYSTEM

Category	Type	Estimated Number of Different Forms in Use	Number of Standard Forms Required
Pleadings	Summons and complaint	100	3
	Criminal complaints	2	
	Answers	100	3
	Motions	200	5
	Plea forms	50	3
	Affidavit	110	6
	Bail process forms	120	7
Case mainten- ance and re- cording	Case jacket	300	4
	Docket sheet/book	300	10
	Index book/card	300	7
	File checkout	252	1
Case manage- ment	Court calendars and schedules	400	20
	Court minutes, notes, worksheets	230	7
	CDR system reporting forms	5	5
	Case control, calendar cards	60	7
Notice, ser- vice of process and trans- mittals	Notice to case parties and attorneys	1,400	50
	Notices and transmittals to other agencies	900	50
	Internal memos and trans- mittals to other agencies	600	20
	Certification and exempli- cation forms	125	3
Case action discretion forms	Motions	300	6
	Dismissals	100	5
	Commitments	120	6
	Judgments	200	10
Administra- tive forms	Accounting		
	Receipts	100	4
	Bookkeeping	210	5
	Financial reports	60	3
	Statistical		
	Worksheets	100	10
	Reports (AOC)	10	10
	Miscellaneous		
	Records management	15	3
	Requisitions	25	25
Total number of forms:		6,804	300

Source: *Clerks of Court in New Jersey*, National Center for State Courts, at 47.

knowledge of the clerk of court, who has legal respon-
sibility for performance of this function; (2) relations with
the Trial Court Administrator and county officials; (3)

availability of resources; and (4) incentive of the clerk to carry out retention schedules. Some courts do better than others, but generally little records management is accomplished since only limited technical assistance has been provided to them.⁶

Those clerks and court administrators who, in fact, understand the New Jersey records retention schedules and procedures rarely "get around" to purging files consistent with existing schedules. Apparently, no one at the State level, either the Administrative Office of the Courts or the Bureau of Archives and History, has had the resources to publish the guidelines and procedures the courts need to implement a records retention program in compliance with statutory requirements.

The Bureau of Archives and History completed a 272,000 cubic foot warehouse in the Fall of 1981. With this facility, the Bureau should be receptive to accepting permanent court records. Negotiations are already in progress with the Superior Court in Trenton to house their accumulation of records. A few counties currently have their own archivist, and a spokesman for the Bureau of Archives and History stated that in such counties progress is being made because there is a single contact with whom the bureau can work.⁷

Space problems have been exacerbated by the retention of cases beyond their allowed date of destruction. Additionally, these records are frequently stored in such a haphazard fashion that working with files is difficult. Since the courts and the public access court documents frequently, both spend more time doing so than is necessary.

F. Microfilm procedures and standards vary throughout the State.

There are four major reasons commonly offered for microfilming records: (1) to create a security file if records are destroyed or damaged; (2) to record papers sent to Trenton; (3) to serve as a source of copies of documents; and (4) to permit destruction of old files. None of these purposes is adequately accomplished by present microfilm procedures in use in New Jersey trial courts.

In fact, present procedures militate against the effective use of microfilm. A number of different vendors

utilizing a variety of incompatible equipment have microfilmed court records. Additionally, there is limited guidance as to when records should be microfilmed, which documents should be recorded, and how the microfilm itself should be stored. As a result, records are retained needlessly and valuable storage space is being consumed.

G. Numerous units within the Trial Court System perform substantially similar recordkeeping functions, which results in a duplication of documentation.

The various Subcommittees found what they believed to be much duplication of work within the Trial Court System. Noteworthy is the finding that it is not unusual to have the same information recorded manually in several different information systems. While there are several reasons for this duplication, two of the most important are the lack of modern technology and limited attempts to evaluate the most efficient methods of performing recordkeeping tasks.

Duplication is evident in each of the trial courts, but it is more apparent in the processing of civil cases filed with the Superior Court. Under the present system, all civil cases must first be filed in Trenton with the Superior Court Clerk. Upon receipt of the first document, the complaint, the case is assigned a number, indexed alphabetically, the docket opened, and a file folder prepared. Documents relating to the case are received in duplicate, assigned the original case number, and also recorded in the docket book. The original document is filed in the case folder, while the copy is forwarded to the appropriate county for handling.

At the county level, the procedures performed by the Superior Court Clerk are duplicated, *i.e.*, a number is assigned, the case indexed alphabetically, a docket opened, and a file folder prepared. Subsequent documents are given the same case number, recorded on the docket, and filed in the county case folder.

Recently, however, attempts were made to reduce the duplication involved in initial case processing. Under the Computer Assisted Micrographic Information System (CAMIS), the essential data from all matrimonial and general equity pleadings are entered in a mini-compu-

ter. At the same time, the documents are photographed for microfilm purposes. This data base is then used to formulate a docket and index in easily accessible microfiche form.

CAMIS eliminates the need for the Superior Court Clerk to retain original documents, which can now be forwarded to the county of venue for court use. The time consuming and laborious processes of docketing and indexing are also eliminated at the county and State levels through the use of dockets and indices produced by CAMIS.

It is important to note that CAMIS applies only to some civil matters in the Superior Court and that other recordkeeping functions performed at the trial court level continue to be duplicated. For example, despite the fact that Juvenile and Domestic Relations, District, and Criminal courts docket and index daily, they each perform these tasks in different ways, using different forms and methods. While the individual needs of each of the trial courts must be recognized, it is unlikely that such diversity is necessary to perform this routine task. Furthermore the standardization of forms and procedures could contribute importantly to cost reduction.

While the Trial Court System has taken an important step in reducing unnecessary duplication with CAMIS, the progress to date has been limited and savings from improved case processing have yet to be realized fully.

1. *Report of the Subcommittee on Records and Management Information*, at 4-5.

2. *Id.*, at 4.

3. *Id.*

4. Records and Management Information Presentation, New Jersey Judicial Conference, June 26, 1981.

5. *Report of the Subcommittee on Records and Management Information*, at 14-15.

6. *Clerks of Court in New Jersey*, National Center for State Courts, at 25.

7. *Id.*, at 51-52.

Chapter 7: Clerks

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THE CLERICAL FUNCTION in support of the New Jersey trial courts is the responsibility of various clerks offices, including the offices of the County Clerk, Juvenile and Domestic Relations Court Clerks, County District Court Clerks, Civil Assignment Clerks, Criminal Assignment Clerks, and Superior Court Clerk. The specific statutory authority and functioning of these offices is discussed in Chapter 3. This chapter examines the similarities in the operations of these offices and evaluates the clerical systems which support New Jersey's trial courts.

PART I: GENERAL FUNCTIONS

The primary responsibility for each clerk's office is to receive, record, and maintain all information affecting individual cases. It is, therefore, the basic processing center for all cases within the jurisdiction of the courts. The court functions of clerks' offices are divisible into nine areas. How these tasks are performed, however, varies considerably from court to court throughout the State. The description of clerical functions below notes major differences.

1. *Case Initiation*: All trial courts have case initiation procedures, although specific filing requirements may vary. In all courts, papers may be filed in person or by mail. Applicable fees for District Court filing and service of process are collected at the county level, while Superior Court civil case fees are received at the State level.
2. *Case Processing and Recordkeeping*: While case processing and recordkeeping procedures are common to all courts, the manner in which they are performed varies considerably from court to court. All cases must be indexed, docketed, placed in a case jacket, and updated as additional information is received. Chapter 6 addressed areas of duplication in the case processing tasks for Superior Court civil cases, by the Superior Court Clerk and the County Clerk, a practice not common to the State's other trial courts.
3. *Service of Process*: This service includes the issuance of the original summons initiating a suit, issuance of warrants to bring individuals before the court, and execution and collection of judgments rendered by the court. The clerk's role with respect to these matters varies depending on the court. At the local level, the District Court handles its own service of process, while the Sheriff is responsible for Superior Court service.

4. *Calendaring*: The calendaring function refers to setting trial and motion dates, preparing and issuing trial notices, and preparing and distributing trial and motion lists. These tasks are performed daily in all trial courts. Once again, the manner in which they are performed varies greatly, and where there is an absence of automated support they are performed manually. In many counties, the County Clerk's role in the calendaring process has been assumed by separate Assignment Clerks in order to gain control over the caseload process.
5. *Courtroom Support*: This category refers to activities such as the preparation of case files for trial and recording of case dispositions and judgments. These clerical functions are common to all trial courts.
6. *Accounting*: The accounting function includes the collection of fines, fees, and bail, as well as the maintenance of all financial books and deposit accounts. The function is important because the trial courts receive millions of dollars annually. Bookkeeping systems vary considerably throughout the State and in most instances are categorized by the absence of modern technology. Because of the high volume of cases processed, the District Courts have extensive bookkeeping requirements. This subject is treated in more detail in Chapter 5.
7. *Records Management*: Information pertaining to each case filed must be recorded, updated constantly, and ultimately stored. There is a tremendous variation among counties in forms used, in filing procedures, and in records storage procedures. Some counties maintain alphabetical access systems, while others utilize numerical indices. Little or no distinction is made between pending and disposed case storage. Files are often kept for several years beyond the records retention schedule. There is only limited use of microfilming for reducing the storage costs of those records which must be retained. Furthermore security of records is generally poor. A complete discussion of the Committee's findings in records management is presented in Chapter 6.
8. *Miscellaneous Duties*: These tasks include gathering, compiling, and reporting statistical data; preparation of budgets; personnel management and the supervision of facilities.

PART II: EVALUATION OF CLERKS' OPERATIONS

A. Control of resources dedicated to court clerical systems is often divided among several groups within a county.

Control over the court clerical function is fragmented within most counties. This is primarily because the authority over the performance of judicial support personnel is not vested in the person or office responsible for performing these functions.

The elected County Clerk is authorized by statute to employ the necessary persons to perform judicial functions.¹ Thus, the County Clerk recruits, hires, trains,

promotes, and disciplines all employees who work under his supervision. But the court, through the Assignment Judge and the Trial Court Administrator, is responsible for the court functions performed by those employed by the County Clerk. With no direct lines of authority between the Assignment Judge and those providing services essential to the trial courts, the Chief Justice and other trial court officials have little real authority to manage the court system.

It is clear that due to the problem of divided responsibility versus authority, there is an absence of centralized judicial control of the clerk's support of the judicial functions. This absence has generated conflicts in the operation of the courts and deprives the Trial Court System of the management tools required to achieve efficiency and reduce costs.

B. Similiar clerical procedures are performed in a variety of ways by the different court support entities.

The ten functions of court clerks' offices listed above are performed by all or most of the offices that share in the responsibility for judicial support.

While the major share of these clerical operations is performed by the County Clerk, the Clerk of the Juvenile and Domestic Relations Court, the Clerk of the District Court, and the Assignment Clerks, other departments perform at least some clerical activities for some or all types of cases. In Essex County, the 10 clerical functions listed are performed to some extent by 14 major judicial offices or court-related departments. These include Probation offices, Sheriffs, and Judges and their staffs.²

While the five clerks' offices plus the Superior Court Clerk perform similar case management functions there is no coordinated management of caseflow. Nor is there uniformity of clerical methods and procedures. Each unit of the Trial Court System has been free to develop its own unique forms and records system, including indexing and filing methods. There exist, therefore, a variety of numbering systems, file jackets (some color coded, some not), index cards, docket formats, and other documents. There is an absence of procedural uniformity and as a consequence, the duplication of work. Many counties assign their own case numbers to Superior

Court civil cases, despite the fact that case numbers are assigned by the Clerk of the Superior Court.

Overall, the lack of standardized procedures, forms, and documents has thwarted the elimination of overlapping and duplicative operations, and virtually prohibited productivity improvement. The employees of clerks' offices across the State are not being used effectively and their cost to New Jersey taxpayers is much higher than it need be.

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1. N.J.S.A. - 40A:9-74.

2. National Center for State Courts, *Final Report on Clerks*, May 7, 1981, at 28.

Chapter 8: Sheriffs

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THE SHERIFF IS OFTEN perceived as performing primarily a security function. But, as discussed in Chapter 3, the Sheriff's office has many other responsibilities. This chapter identifies the court support responsibilities, comments on their appropriateness to the Sheriff's operation, and evaluates the effectiveness of the Sheriff in serving the Trial Court System.

PART I: GENERAL FUNCTIONS

Court support functions performed by the Sheriff include:

1. *Attending Court:* Assisting the trial judge by maintaining courtroom decorum and insuring courtroom security. Sheriff's Officers also serve as a source of information for the public. Sheriff's officers maintain guard over prisoners during criminal jury trials, protect and secure juries during deliberations and sequestrations, transport juries when necessary and provide security during judicial proceedings, when appropriate.
2. *Courthouse Security:* Maintaining security throughout the courthouse. In urban courthouses, Sheriff's Officers are sometimes stationed in the lobbies of courthouses to screen individuals coming into the building.
3. *Transporting Prisoners:* Transporting prisoners to the courthouse from the county jail, and accepting them from the custody of the Department of Corrections. Sheriff's Officers also transport juvenile offenders from the county juvenile detention center to the courthouse.
4. *Service of Process:* Serving process for the Superior Court. This includes service of summonses and complaints, civil and criminal warrants, subpoenas, court orders, jury summonses, writs, levies, and executions.
5. *Jury Management:* Paying juror fees,¹ and serving jury summonses when requested by the court. Sheriffs in some counties investigate prospective Grand Jurors and Petit Jurors.

In some counties, the Freeholders have designated the Sheriff as responsible for administering the County Jail. In conjunction with this responsibility, Sheriffs may administer related programs, *e.g.*, work release arrangements whereby those serving time in the County Jail are permitted to have jobs in the community while serving their sentences.

The Sheriff has responsibilities in addition to serving the Judiciary, primarily county law enforcement functions which include, in some instances, assistance with

investigations. Like the County Clerk, he is an elected official and, therefore, he submits his budgets to the Board of County Freeholders. The discretion for determining whether a function is judicial for budgetary purposes rests with the Sheriff.²

PART II: EVALUATION OF SHERIFFS' OPERATIONS

A. In their nonsecurity work, county Sheriff's offices often duplicate work performed by other court offices despite the availability of more appropriate personnel.

Sheriff's office employees perform work which may overlap with some of the functions performed by the court reporter, court clerk, and other security officers. Sheriff's employees assigned to perform security functions may also handle many non-security tasks for courts.

Among the non-security functions are:

- prepare courtroom facilities, *e.g.*, enough chairs, comfortable climate;
- make court announcements, administer oaths;
- direct parties, jurors, and witnesses to proper location in courtrooms;
- attend to the needs of jurors;
- serve as point of contact for public information;
- see to general courtroom decorum and orderliness.

Trial judges often consider the Sheriffs' court personnel as aides for the performance of these non-security functions, despite the availability of other staff, *e.g.*, court clerk, court reporter, secretary, and law clerk.

Inappropriate courtroom security staffing is frequent. For example, security needs in civil courts, excluding matrimonial and domestic relations courtrooms, are small, as is the personnel time required to perform the non-security functions. Nevertheless, some counties assign sergeants-at-arms to such courtrooms in addition to the Sheriff's Court Attendants and, as a result, unproductive personnel time can be substantial.

B. Multiple job titles contribute to lack of uniformity.

The proliferation of job titles designating court officers to handle Sheriff's functions has contributed to the lack of uniformity among the various Sheriff's offices. Sheriff's Officer, Court Attendant, and Sergeant-at-Arms are all titles which refer to individuals who assist the

Sheriff in either security or non-security functions. From county to county, the title of an individual performing a specific function may differ. There is no standardization of the job functions or title from one office to another. These variations make statewide direction of the Sheriffs' operation difficult.

C. Inefficiencies exist in courtroom security.

Despite overstaffing, precise delineation of court related functions is lacking and courtroom security is inadequate in some counties. In the counties surveyed for this study, responsibility for court security was found to be highly fragmented. Some building security is provided by county property guards employed by the Boards of Freeholders, while District Courts located in the county court buildings usually have court-appointed Sergeants-at-Arms.

In many counties, the architecture of court buildings fails to incorporate security features. In Camden and Union, transportation of prisoners to courtrooms is by public elevators and public hallways. Also, little use is made of low-cost detection devices. Only one county makes any attempt to screen people entering the courthouse. Additionally, planning for security seldom includes security considerations for the safe transportation of prisoners.

More fundamentally, court security is considered courtroom security. It is measured often by the capacity to act appropriately when dangerous incidents occur. It is rare for the security function to emphasize prevention and detection throughout the courthouse.

D. Service of process is handled efficiently by the Sheriff's office.

Service of process is official notification to litigants of a court action or proceeding against them.

Court rules allow service of summonses and writs by anyone the court appoints or authorizes, in addition to those authorized by statute.³ The Sheriff is charged with serving most process for the Superior Court, while Sergeant-at-Arms and other persons named by the court serve process for the District Court. The papers served for both courts include summonses and complaints, civil

and criminal warrants, subpoenas, court orders, jury summonses, writs of execution and levies.

There are vast differences among counties in the way Superior Court papers are served. In some counties, warrants may be served by either the Sheriff, the Prosecutor, or both. The extent to which service of subpoenas and court orders are a Sheriff's function also varies from county to county. Because of differences in county workloads, types of cases, record keeping methods, and geographic service areas, it is difficult to make meaningful intercounty comparisons of the efficiency with which these tasks are performed.

Variation also exists within each county as to type of service used by different courts. Generally, service of process at the District Court level is different from the Superior Court and is performed by Sergeants-at-Arms, constables, and by process servers at little expense to taxpayers. Process servers are paid a share of the fees received by the clerk from litigants plus mileage. Thus District Courts contrast with Superior Courts where only salaried Sheriff's office personnel on the public payroll serve documents.⁴ Service of process fees in the Superior Court are deposited in the county general fund.

The Committee on Efficiency found that service of process is performed by Sheriff's office personnel professionally and efficiently. There have been few, if any, complaints regarding abuses and officers have been found to be hardworking. This is consistent with the general findings that Sheriffs' offices perform their functions effectively and efficiently. In the few counties where inadequacies in their operations exist, they derive largely from the antiquated methods utilized.

1. N.J.S.A. 22A:1-1.

2. Recently, procedures implemented by the Assignment Judge call for budgetary consultation with the Sheriff. Consequently, the decision as to what constitutes a judicial function for budgetary purposes is made jointly by the Sheriff and Assignment Judge.

3. R.4:4-3 and R.6:2-3.

4. National Center for State Courts, *Final Report on Sheriffs*, May 13, 1981, at 55.

Chapter 9: Probation

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THE PROBATION OFFICE in each county in New Jersey is viewed largely as an “arm of the court” responsible for the supervision of individuals upon release by the courts. However, as outlined in Chapter 3, Probation is charged with providing a wide variety of social services. This chapter examines these numerous responsibilities, and attempts to evaluate the Probation services provided in support of the Trial Court System.

PART I: GENERAL FUNCTIONS

1. *Supervision of Adults and Juveniles Placed on Probation:* Supervision of adults and juveniles pursuant to court order. In addition to monitoring judicially imposed conditions of sentences, Probation Officers may also counsel clients directly or refer them to other agencies for job counseling, employment assistance, drug and alcohol rehabilitation, or mental health assistance. Such supervision necessarily entails personal contact between Probation Officers or Investigators and probationers. This has traditionally been viewed as the primary role of Probation.
2. *Pretrial Services:* Background investigations of accused offenders to assist the court in making bail decisions. This may involve supervision of individuals released on bail to assure that they meet conditions imposed by the court. Other services may include counseling defendants' families to alleviate the social and economic hardship entailed by the defendants' incarceration pending trial.
3. *Pretrial Intervention:* Identification of defendants amenable to rehabilitation and diversion from the formal criminal justice process. Probation departments are responsible for collecting and verifying information in support of a defendant's application, making recommendations to the court regarding acceptance or rejection, and supervising those whose applications are accepted.
4. *Presentence and Predisposition Investigations and Reports:* Investigation of the circumstances attending the commission of an offense, the defendant's history of delinquency or criminality, family situation, personal habits, and any other relevant physical or mental conditions.
5. *Juvenile Case Screening:* Mandatory review of all juveniles appearing before the Juvenile and Domestic Relations Courts throughout the State prior to formal court action.
6. *Admission of Juveniles to Detention and Shelter Care:* Investigation and development of recommendations on whether to retain juveniles in detention or shelter care facilities pending court hearing.
7. *Domestic Relations Conferences:* Conduct settlement conferences on support, custody and visitation matters. Con-

sensual resolution of issues reached during these conferences is presented to the court for judicial review and approval.

8. *Investigations in Domestic Relations and Matrimonial Cases*: Investigations to formulate recommendations to the court on child support, custody, and visitation.
9. *Juvenile Restitution*: Investigations to determine the appropriateness of requiring restitution, and monitoring satisfaction of the restitution where it is ordered.
10. *Child Placement Review Act*: Periodic review and investigation of children placed outside their homes by the State Division of Youth and Family Services. Tasks attendant to this responsibility include: assembling county review boards; providing staff for the review boards; preparing reports on the effectiveness of child placements; and monitoring the review board's performance.
11. *Collection of Funds*: Collection and disbursement of court ordered payments of alimony, child support, restitution, penalty assessments, payments to the Violent Crimes Compensation Board, court costs and similarly imposed charges. A substantial number of professional and clerical staff is also devoted to collection activities mandated by the Federal Child Support Program under Title IV-D.

In some counties, some services are performed independently under the supervision of the Trial Court Administrator. Other services, which may not be provided in every county, include: investigating minors who need the court's approval for marriage; reviewing applications for work release from county jail inmates; investigating prospective grand jurors; recruiting, training and supervising citizen volunteers for Probation service; and supervising countywide Neighborhood Dispute Programs.

PART II: EVALUATION OF PROBATION OPERATIONS

In the Committee's examination of the State's Probation system there generally was found to be an absence of statewide goals and standards, as well as a lack of uniformity in the organization and delivery of services at the county level. In addition, no statewide control mechanisms exist to ensure that services are provided appropriately, and efficiently, or to evaluate the various Probation programs.

A. *Ambiguities exist in the management structure of the Probation system.*

A lack of clarity persists as to the proper roles of the individuals involved in the Probation process, and the

overall objectives of the system itself. No written documents establish the goals and objectives of Probation services, and only minimal interest was evidenced in the establishment of short or long-term objectives by Probation officials.

One critical area of inconsistency concerns the reporting relationship of the Chief Probation Officer and the Assignment Judge. In certain vicinages, the functions relating to probationary matters are administered directly by the Assignment Judge; in others, these matters are delegated to rotating liaison judges, committees of judges, Trial Court Administrator, or directly to the Chief Probation Officer. In a few instances, Assignment Judges infrequently meet to discuss Probation program issues with either the Trial Court Administrator or the Chief Probation Officer.

The nature of this reporting relationship appears to be based primarily on the Judge's assessment of the Chief Probation Officer's effectiveness and personal style. In counties where pretrial services, domestic relations and juvenile intake are not under the control of the Probation Department, the primary reason given is the lack of confidence in the capabilities of the Chief Probation Officer. The authority of the Chief Probation Officer to make decisions regarding his department varies from no leeway to almost complete autonomy.

This ambiguity in the reporting relationship prevents both accountability within the individual vicinages, and standardization of management statewide.

B. The Administration of Probation services varies from county to county.

The 21 county Probation Departments provide three basic functional services: investigation, supervision, and the collection and disbursement of monies. Beyond this, the similarities end. Each county has a different organizational structure; the variations are numerous. In three of the 21 counties, adult and juvenile supervision are performed within the same division. In the remainder, they are separated. In many offices, Probation Officers do both investigative and supervisory work; in others, investigation and supervision are divided. One county has

staff members who supervise caseloads where adult and juvenile offenders are part of the same workload. In another, juvenile and adult probationers in volunteer programs are placed into two entirely separate caseloads under different managers.

All Title IV-D enforcement is accomplished by either a "Domestic Relations" or a "Family" Division. Some of these divisions perform the collection, or bookkeeping, function as well as the enforcement function. Other divisions by the same name just enforce Title IV-D. In ten counties, all administrative functions are performed by an administrative division; in others, support staff are scattered throughout the various divisions.

The decisions on how to organize the Probation Departments seem to have been determined by the Chief Probation Officer and Assignment Judge in consideration of the availability of funding for special programs. As an example, neither the department staff nor geographic size of the county appears to be the governing factor regarding organizational concepts. Some medium-sized county departments have more organizational divisions than the larger departments.

Additional variations were found to exist in the caseload of the Probation Officers in all counties. The study indicates that the completion of juvenile investigation reports by an individual officer varies from two to four per week; juvenile supervision ranges from 40 to 90 juveniles per caseload; adult investigation reports range from 10 to 16 per month; and adult supervision ranges from 75 to over 200 adults per caseload. These figures indicate that the method used for establishing caseload and offender contact is primarily a function of the staff available within a county and the policy of the Chief Probation Officer.

The burden of administering the Probation caseload has been complicated by the growth of the collection of fines, restitution, alimony, and child care support payments, especially pursuant to the Title IV-D provisions.

The variations in the administration of Probation services have prohibited the implementation of uniform statewide procedures and guidelines to achieve standardization within the system.

C. Physical facilities used by Probation services varies greatly across the counties.

Physical space and the location of Probation staff have a major impact on the effective delivery of Probation services. Little, if any, planning has been devoted to the development of standards and guidelines for the location of Probation departments. Few Chief Probation Officers or other top-level administrators were found to have extensive long or short-term plans for the physical facilities for staff.

Most Probation services are located in or near the courthouse; however, courthouses are usually overcrowded due to staff expansion or inadequate allocation of space. The Probation functions often operate in old, poorly ventilated buildings which are not conducive to interviewing or other office work that requires concentration. Probation staff frequently share office space with other court services, and, in some instances, offices do not have doors to ensure privacy for interviewers. Some offices housing diagnostic Probation Officers are located a considerable distance from the court, which means Probation Officers must either delay the court proceeding when they are summoned by the court or spend time in the halls waiting to be called into court. In addition, very few supervisory services are decentralized into neighborhoods where a high concentration of clients reside.

There also appears to be wide disparity in the interaction by Probation Departments with community resources. Similarly, the number and use of volunteers vary from county to county and so do opinions on their perceived value to Probation programs. Overall, the methods by which Probation services are delivered to the community and the way in which Probation offices interact with the citizenry differ considerably across the State.

D. Program research and evaluation is nonexistent.

Research and evaluation with regard to Probation programs is a critical factor in improving performance of the office. Yet, such study programs as have been carried on appear to have been proposed and implemented on the basis of the availability of grant funds rather than

on a long-range view of the development of Probation services.

Further, the evaluation of Probation programs in the state of New Jersey has been limited, confined largely to federally-funded evaluations made by the Administrative Office of the Courts. Also, there is little formal exchange among county Chief Probation Officers in the various counties. Thus, the Probation units of the State's 21 counties operate as separate entities with little coordination among them.

The overall assessment of Probation services in New Jersey is that the inefficiencies uncovered in this study are clearly the result of a poorly defined organization structure, the absence of service goals, the lack of staff planning, and a general absence of professional management. The shortcomings are not due to the lack of effort by Probation employees, many of whom are very dedicated to their duties, but rather to the organizational and administrative shortcomings outlined above.

Chapter 10: Surrogates

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THE SURROGATES' OFFICES have long served as an initial contact point between the State's citizenry and the Trial Court System. They are elected officials who are primarily responsible for the handling of uncontested probate matters. Their overall functions include ensuring the proper transfer of the property of deceased persons in cases of no doubt or difficulty, and assuring the protection of minor and incompetent beneficiaries. This chapter will assess the effectiveness of the Surrogates' offices in performing these functions and will examine the procedures utilized by individual county operations.

PART I: GENERAL FUNCTIONS

The Surrogate's functions are divisible into two categories: those that require the direct involvement of the Superior Court; and those functions that can be conducted independently of the courts. Pursuant to the Constitution, the Surrogate acts as the Deputy Clerk of the Superior Court whenever contested will proceedings, adoptions, appointments of guardians for incompetents, appointments of temporary administrators, assignments for the benefit of creditors and accountings are brought in the Law Division, Probate Part. The Chancery Division of the Superior Court has overlapping jurisdiction with the Probate Part in these matters. When matters are brought in Chancery Court, however, the Superior Court Clerk in Trenton serves as Clerk of the Court.

The large majority of functions performed by the Surrogate requires no action on the part of the Superior Court. Performance of functions frequently involves dealing with *pro se* citizens, that is, litigants who are not represented by an attorney. Examples include: probating uncontested wills; processing other uncontested estate matters, including some accountings; maintaining guardianship accounts; administering trust funds; appointing executors and administrators of estates; and processing forms for such items as adoptions and presumptions of death.

The Surrogate maintains and invests money judgments awarded to minors, which are deposited in court pursuant to court rule. These funds must be invested in interest-bearing accounts in accordance with applicable

guidelines set forth by the Administrative Office of the Courts. Surrogates must also maintain indices and retain files for all matters brought in the Superior Court, Law Division, Probate Part.

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PART II: EVALUATION OF SURROGATES' OPERATIONS

A. *Surrogates' offices are responsive to the needs of the citizenry.*

Probate procedure in New Jersey was found to be remarkably speedy and inexpensive. This is in part because of the procedures followed by the Surrogate courts of the State. Two particular aspects of the Surrogates' operation contribute to this fact: 1) the quick processing of routine cases by the Surrogates' staff without involvement of Superior Court judges, and 2) the availability of probate procedures to citizens without the need to retain an attorney.

The modern trend in probate procedure is to delegate decisions in uncontested cases to a person other than a judge, sometimes called a "registrar", while leaving contested matters to a judge. This method has been followed by New Jersey Surrogates for more than a century and it has marked the State as a leader in simplified probate.

In addition, Surrogates' staffs also actively search for irregularities, that is, "doubts or difficulties," in wills and other documents. Such cases are referred to the Superior Court whenever the irregularities might affect the outcome of the case, even if there is no disagreement among the parties as to the merits of the matter. This practice is noteworthy because probate cases, unlike most other court cases, are seldom presented in an adversarial setting. Therefore, some parties may be unaware of their interests.

The second important feature of the New Jersey probate procedure is the simplicity of proceedings. This simplicity enables litigants to feel comfortable in not retaining counsel. The Committee found that a large percentage of the parties in probate matters are not represented by attorneys and Surrogates' offices give these parties, who are handling these matters *pro se*, sufficient information and help to pursue their own cases.

The accessibility of a system that lends itself to the *pro se* resolution of matters and has capable people who

are eager to assist, more than anything else, accounts for the efficiency and inexpensiveness of the New Jersey procedure. Parties' expenses in a *pro se* case are limited to the fees, which are \$25 and \$35 for ordinary administrations and probates respectively.

The effectiveness of these various procedures appears to result from the simplified nature of the State's probate process so as to permit an individual to handle his own case, the long-term expert Surrogate staff members, and the sensitivity of the Surrogate to the needs of his constituents.

B. The position of the Surrogate in the management structure of the Trial Court System is poorly delineated.

The Surrogates' offices of the State of New Jersey are for all practical purposes, 21 separate entities without centralized management as a part of the State's judicial system. As the elected heads of these offices, Surrogates have specified statutory responsibilities, a personal base of support among the electorate, and extensive relationships with political entities and individuals at the county level. These relationships are influenced by politics, friendships, and the ever-present belief that the Surrogate, as part of the court support system, can obtain what the county will not give voluntarily.

Furthermore, Surrogates, as judicial officers, are under the supervision of the Chief Justice and Supreme Court through the Assignment Judges. In some vicinages, the Assignment Judge takes a strong management position in supervising all components of the court system, including the Surrogate's office. With the assistance of the Trial Court Administrator, the Assignment Judge oversees the development and management of the Surrogate's annual budget, even to the extent of making it a component of an overall court budget which the Assignment Judge presents and explains to county officials.

In other vicinages, the Assignment Judge has little involvement with the Surrogate on management issues, and the Trial Court Administrator has no involvement with the functioning of the Surrogate's office.

In some counties there are conflicts between Trial Court Administrators and Surrogates. This is due to the "line management" position of the Surrogate as an elected official and the "staff" role of the Trial Court Admin-

istrator in providing administrative support to the Assignment Judge.

Within this poorly delineated management structure, each Surrogate operates as independently as the court and county government officials permit.

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C. There is little uniformity in procedures used by Surrogates' offices in performing similar functions.

The bulk of work of Surrogates' offices involves routine cases, such as probating of wills, administration of estates, affidavits in lieu of administration, plus guardianship matters. The processing of these cases through Surrogates' offices is quite routine because the basic procedures are set by statutory requirements. Consequently, each Surrogate's office performs virtually identical tasks.

The basic task performed by a Surrogate's office in the ordinary case is typing information on one to a dozen papers, almost always on pre-printed forms. Some of the papers must be signed by the parties or by others outside the office. Some papers are signed by the Surrogate or his designee. In an ordinary probate case, for example, the person named as executor, or his counsel, must sign a complaint. The executor must also sign an executor qualification and a power of attorney. In most cases, a witness signs a witness proof. Then the Surrogate, or his designee, signs the probate judgment, letters testamentary, and probate certificates.

Notwithstanding the similarity, timing and order of tasks, and the position of the persons performing them, the procedures used by the individual Surrogates' offices vary widely. Examples of such variations follow. In counties such as Monmouth and Essex, advance information received from attorneys or clients over the phone or by mail is used to speed interviews at the Surrogate's Office. In some counties, *pro se* procedures are used less frequently than others. Overall, some offices have developed efficient methods for performing their tasks, while others cling to inefficient procedures.

Few efforts have been made to measure the productivity of Surrogates' staffs. In fact, most Surrogates feel that productivity measures would be out of place in offices which are dedicated to giving citizens as much time as they require, especially during periods of emotional

strain and grief. Nevertheless, some offices cross train employees and give them similar position titles to promote flexibility. But other offices are so rigidly structured that when one employee is absent no one does his work. It simply piles up unattended.

Despite the urgent need for cost reduction in government, some Surrogates' offices, like other Trial Court System components, are doing little to increase their efficiency. While many Surrogates' offices are utilizing microfilming of records and some are attempting to improve operating procedures, no consistent direction is being provided for them. Each Surrogate operates his office independently, conforming to legal requirements, but under no formal mandate to reduce costs and increase employee output.

E. Little formal training or information sharing is provided for Surrogates and their staffs.

The lack of uniformity and efficiency in the Surrogates' offices of the State is exacerbated by the absence of a formal training for these officials and mechanisms for sharing of information among offices. Some individuals elected as Surrogates have relatively limited knowledge of the probate law and the operation of the Surrogate's office. Others are familiar with probate procedures but have little or no managerial experience. Presently no formal training is provided to new Surrogates to train them. Moreover, Surrogates must rely on staff who have served under former Surrogates or on their own devices to develop their own expertise. Similarly, few Surrogates have developed training programs for their staffs. Staff training is primarily "on the job". Little written material exists for training purposes. Only one office was found to have a manual of procedures for training new employees.

Additionally, there is little sharing of information among the Surrogates of the State. While some sharing of information occurs at the monthly meetings of Surrogates, under the auspices of the County Officers' Association of New Jersey, Surrogates interviewed for this study feel there is insufficient time devoted to substantive discussions of specific operating problems.

Furthermore, it is not a common practice for Surrogates and Deputy Surrogates to visit other Surrogates' Offices to observe procedures or equipment.

In this section the recommendations for improving the operating efficiency of the Trial Court System are presented. The initial chapter treats the management structure of the statewide system. Then, as in Section II, recommendations are presented for personnel, finance, and management systems and records which apply across the system. Finally, recommendations are presented for the specific operations of the Clerks, the Sheriffs, the Chief Probation Officers and the Surrogates.

SECTION III:
Recommendations

Chapter II: Management Structure

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EFFECTIVE MANAGEMENT IS an essential component of efficiency. In the course of their review of the operations of the court, each subcommittee made various observations concerning the management of the system at the county and State levels. Those observations contributed to the Committee's conclusion that the system, as currently constituted, is not manageable. The present structure presents almost insurmountable barriers to effective leadership at the trial court level. The accountability of various court support units is so blurred between the Judicial branch and the county government that efficient integration of their various operations is almost impossible.

Article VI of the New Jersey Constitution has long been a national model in its grant of broad administrative authority to the Chief Justice. That authority, however, is not always exercised effectively by the Assignment Judges at the vicinage level. As the workload of the system has increased and become more complex over the years, the Assignment Judges have not, in general, asserted their increasingly essential managerial roles. Indeed, leadership at two levels must adapt to the changing complexities of the court system. The Chief Justice and the Administrative Director of the Courts at the State level, and the Assignment Judge and Trial Court Administrator at the local level, must be perceived as the leaders of a cohesive system.

The Committee offers the following recommendations to address these critical issues.

PART I: MANAGEMENT AT THE COUNTY AND VICINAGE LEVELS

Strengthen the position of the Assignment Judge by providing a clear definition of his managerial responsibilities at the trial court level.

The leadership potential of Assignment Judges has not yet been fully realized. In part, that is because the role expected of them has not yet been clearly defined. The Committee believes they should be strong line managers, not passive coordinators, of the various elements within the Trial Court System.

In broad terms, the Assignment Judge is responsible for the general administration of civil and criminal justice in all courts in his vicinage¹ including:

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- general supervision of all trial judges and of all court clerks and other personnel serving the trial courts;
- supervision and responsibility for the expeditious movement of the civil and criminal trial calendars in the county; and
- representation of the judiciary in all personnel and budget matters in his vicinage.

The Chief Justice must now promulgate more detailed guidelines, setting forth how the Assignment Judges are expected to carry out these responsibilities and providing the basis for their stronger management role. These principles will be important both for employees within the system and for other institutions, such as county governments, which relate closely to the courts.

Define a strong supervisory role for the Assignment Judge with respect to the performance of the court-related functions of the Surrogate, Sheriff, County Clerk and Chief Probation Officer.

This is perhaps the most important aspect of the overall definition of the role of the Assignment Judge. The court support offices, some with leaders elected by the county voters, all with budgets approved by the county government, have overlapping lines of accountability. In the absence of strong direction by the Assignment Judge, these offices tend to operate with considerable autonomy and do not mesh together as well as they could into a single, unified Trial Court System. As of now, there is no clear understanding of the managerial relationship between the Assignment Judge and these offices, and indeed, the relationships vary from county to county. The Committee feels strongly that these offices should report directly to the Assignment Judge. On matters pertaining to judicial functions, the Trial Court Administrator should relate to them on a staff basis only, as discussed under the next recommendation.²

Delegate significant managerial authority to the Trial Court Administrator with respect to nonadjudicative aspects of the Trial Court System.

The preceding recommendations have emphasized the need for the Assignment Judges to take a stronger management role. Yet, they already must manage their

own caseload and administer at least one courthouse in addition to acting as Chief Operating Officer of the vicinage. It is clearly necessary for them to delegate some of this workload. The position of Trial Court Administrator was created for precisely that purpose. Each Trial Court Administrator is appointed by the Administrative Director upon recommendation of the Assignment Judge. They serve at the pleasure of the Administrative Director and the Assignment Judge in the vicinage.

The extent to which Assignment Judges have been willing to delegate to the Trial Court Administrator has varied greatly depending on:

- the Assignment Judge's definition of those areas requiring his direct supervision;
- the extent to which the Assignment Judge is willing to delegate authority;
- the Assignment Judge's assessment of the Trial Court Administrator's capabilities; and
- the availability of county resources.³

Clearly, in future operations of the court system, Trial Court Administrators must play a larger role. Concurrently, their qualifications and level of performance must increase. The Committee recommends that existing standards should be reviewed and revised in light of their expanded responsibility and should be established for this position, and only individuals meeting these criteria should be permitted to hold this position.

Applicants for the position of Trial Court Administrator should have extensive prior managerial experience. Their backgrounds should include a working knowledge of personnel and financial administration and a familiarity with data processing principles. They should also be effective in dealing with people in an organizational setting. The statements concerning the need for training as articulated in Chapter 4 are particularly applicable to the Trial Court Administrator. As discussed earlier, the Committee believes that the support offices should report directly to the Assignment Judge.

The Trial Court Administrator should work closely, however, with the heads of each of the offices on a staff basis on matters pertaining to budget, personnel, records, and facilities. He should also be responsible for developing and overseeing efficient caseflow procedures for all trial courts in the vicinage.

Establish an advisory committee within each vicinage, appointed by the Assignment Judge, to assist him in establishing goals for the courts within the vicinage.

The membership of the committee would include representatives of the bench, trial court support units, the bar, and interested public members. The Committee would provide a formal means for the Assignment Judge to develop and communicate the goals of the Judiciary. It would also enhance regular communication between the courts and those they are serving and help to ensure that needs are being addressed.

Establish management committees to aid the Assignment Judge in discharging his administrative responsibilities.

The considerable administrative responsibility placed on the Assignment Judge by the Committee on Efficiency mandates the creation by the Assignment Judge of management committees composed of selected judges from within the vicinage and representatives of support units, where appropriate. These committees would provide a formal mechanism to tap the expertise and experience of its members in such areas as budgets, personnel, and caseload management. The committees should substantially improve communication vertically and horizontally across the structure of the Trial Court System at the vicinage level.

PART II: MANAGEMENT AT THE STATE LEVEL

Effective management in the vicinage is only possible in the context of a strong management structure in the Trial Court System at the State level. The following recommendation addresses this issue.

Re-define the role of the Administrative Office of the Courts to reflect a strong management support agency with emphasis on the provision of technical assistance, research and development, evaluation and monitoring services, and coordination so as to develop uniform practices and procedures in the Trial Court System.

While the AOC was created pursuant to statute to support the Administrative Director in his responsibility to assist the Chief Justice in executing his considerable

administrative responsibilities, the present statutory role of the AOC in the day-to-day administrative aspects of trial courts is minimal. The statutory functions include:

- examine the administrative methods, systems and activities of the judges, clerks, court reporters and employees of the courts and their offices and make recommendations to the Chief Justice with respect thereto;
- examine the state of the dockets of the courts, secure information as to their need for assistance, if any, prepare statistical data and reports on the business of the courts and advise the Chief Justice to the end that proper action may be taken;
- prepare and submit budget estimates of State appropriations necessary for the maintenance and operation of the courts and make recommendations with respect thereto;
- file requests for appropriations or permission to spend, as request officer for the Supreme and Superior Courts and, as approval officer, approve and sign all encumbrance requests and statements of indebtedness on behalf of said courts;
- make necessary arrangements for accommodations for the use of the Supreme and Superior Courts and the clerks thereof and for the purchase, exchange, transfer and distribution of equipment and supplies for said courts and clerks;
- investigate and collect statistical data and make reports relating to the expenditures of public monies, State, county and municipal, for the maintenance of the courts and the offices connected therewith;
- examine, from time to time, the operation of the courts, investigate complaints with respect thereto, and formulate and submit to the Chief Justice recommendations for the improvement thereof;
- act as secretary of the judicial conference held pursuant to Supreme Court rules;
- attend to such other matters as may be assigned by the Chief Justice.⁴

Among the other functions currently performed by the AOC are:

- assisting judges by keeping them up-to-date with respect to the recent developments in case law and administrative policy;
- the investigation of complaints concerning the conduct of lawyers and judges;
- the provision of professional and clerical staff to the numerous Supreme Court committees to assist them in the preparation of policy and rule recommendations presented to the Supreme Court;
- the presentation of educational programs primarily for judges; and
- initiating and evaluating special projects, *e.g.*, civil delay reduction program, speedy trial program, jury management program.

If the management of the total Trial Court System is to be improved, the AOC must perform a broader centralized support function. Only a statewide entity can act as a clearinghouse to identify the best techniques for accomplishing given functions, eliminate duplication in the development of new procedures and encourage operating consistency across the system.

The AOC should serve the Trial Court System in several ways:

Technical Assistance: The AOC must develop the capability to provide technical assistance as required by the trial courts in a multitude of areas, including budget and personnel management, administrative procedures, and data processing. This technical assistance is needed to assure continued compliance with policies and standards established by the Chief Justice and to avoid the need for the individual trial courts to develop costly expertise in such areas as forms design, practice and procedures, automated equipment, and complex statistical analysis.

Standardization of Procedures: The Trial Court Support System has thousands of conscientious employees who have considerable experience in all aspects of the trial courts. At present, there is no effective mechanism for them to exchange ideas across the State. The AOC should serve as a catalyst to bring these experts together and utilize their knowledge to incorporate the best of current practices in the development of improved forms, procedures, manuals and guidelines.

Training: The development of training programs for employees at all levels is an essential component of a statewide system and role in which the AOC must expand. These programs should be offered frequently and should include instruction in specific procedures, as well as in more generalized technical skills and management techniques. As a part of the overall training program, the AOC should also develop manuals which describe in detail how certain functions are carried out. Manuals codifying the most effective, efficient way of performing routine tasks are cost-beneficial in that they reduce the time required for employee training and personnel supervision. They also provide a training mechanism which

allows flexibility in clerical assignments within the same office and between related offices. Manuals which precisely define performance contribute to high morale and public satisfaction. When coupled with effective supervision, they assist in creating a work environment conducive to maximum productivity.

Monitoring and Auditing: In order to carry out his responsibilities to manage a large and complex Trial Court System, the Chief Justice must have the capability to monitor its performance at all levels. This is particularly true of fiscal matters, where the large volume of funds flowing through the system necessitates that an effective auditing program be maintained. The AOC is the appropriate organization to establish and maintain the monitoring and auditing capability.

Research and Evaluation: It is not sufficient for an organization to merely ensure day-to-day compliance with its practices and procedures. It must also continuously evaluate its existing programs and seek improved techniques based on changing needs, evolving technology, and new operating methods developed in other organizations. The AOC, using outside experts when necessary, should keep abreast of new developments as they happen. It should also develop the corollary capability of designing pilot programs for testing new concepts to assure continuous modernization within the Trial Court System.

Long Range Planning: The Chief Justice cannot be involved in only the day-to-day management of the Trial Court System. He must also develop a strategic view of the directions the courts should take in the future. For this, the AOC must develop a long-range planning capability. The AOC should provide staff support to the Chief Justice to develop a long range plan which anticipates trends in workload, financial resources available to the court, relevant political climate, and changes in judicial practices. This plan, which would be adjusted each year, would identify major actions that should be taken to meet projected long-term needs.

Conclusion

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These recommendations provide a framework for strong, cohesive management of the Trial Court System on a statewide basis. They also underscore the importance of an effective AOC in providing centralized administrative support to the trial courts. Finally, it is critical that they be implemented if the Chief Justice is to fulfill his responsibility to ensure the efficient operation of the New Jersey courts.

1. R. 1:33-3.
2. *Report of the Subcommittee on Probation*, at III-3; *Report of the Subcommittee on Surrogates*, at 8.
3. *The New Jersey Court System: An Overview*, Administrative Office of the Courts, February 1980, at 51-52.
4. N.J.S.A. 2A:12-3.

Chapter 12: Recommendations Relating to Personnel

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THE COMMITTEE ON EFFICIENCY's principal finding concerning personnel is that the unification of court support services for the New Jersey Trial Court System could increase appreciably the efficiency of the courts and reduce the system's cost substantially.

The Committee's principal recommendation is:

Establish a single statewide personnel system for all employees of the Judicial Branch of State Government.

The basis for unification should be personnel because the trial courts of New Jersey, including their diverse array of court support services, are primarily a "people system." People are the object of their work and people perform the work. Machinery and technology now play an insignificant role in the daily workings of the State's trial courts. But even as electronic devices come to be used more extensively, people will continue to dominate the system's functioning and cost.

A statewide judicial personnel system would standardize the terms and conditions of employment for all Trial Court Support employees across the State, including length of work week, pay levels, and collective bargaining agreements, among other things. Also, the system should establish improved appointment and promotion policies and procedures, designate position titles, prepare position descriptions, and perform and control those personnel matters now the business of the New Jersey Department of Civil Service. The new personnel system would enable the State to eliminate the proliferation of position titles and descriptions which have evolved over the years and which present a formidable barrier to the efficient functioning of the courts.

In addition, the new personnel system should achieve greater uniformity in the qualifications of persons doing the same work in the vicinages of the State, an objective which is not attainable presently. While the quality of personnel is high in some units, it is inadequate in others.

Additional recommendations follow.

Create the position, Personnel Officer for the New Jersey Trial Court System, with fundamental responsibility for personnel matters for all court support service personnel.

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The primary responsibility of the position would be to work to unify personnel policies and practices affecting State and county employees who provide services to the Trial Court System of the State. This position would be appointed by the Administrative Director. The specific responsibilities of the position would include managing the Trial Court Personnel System, building a cadre of professional court managers, standardizing position titles and descriptions, as well as terms and conditions of work, collective bargaining, initiating and managing employee training programs, and establishing unit and individual performance measures.

Designate key non-elected supervisory and professional positions at the vicinage level as systemwide positions.

The primary purpose is to create a core group of professional managers ultimately responsible to the Chief Justice for the efficient operation of the courts. Pending establishment of a statewide judicial personnel system, appoint such persons under Rule 1:33-3(b) and make them responsible to the Chief Justice and the Administrative Director of the Courts through Assignment Judges and Trial Court Administrators. Appointment and promotion of such persons from within the system should be encouraged.

Create Trial Court System employee bargaining units in those cases where these employees are among unionized employees unrelated to the courts.

The purpose is to bargain with unions which represent court system related employees so that the special needs of Trial Court System employment can be accommodated.

Until the State assumes responsibility for all Trial Court System personnel, have Assignment Judges and other appropriate Trial System executives designated as responsible for the implementation of collective bargaining agreements between counties and Trial Court System employee unions.

The purpose is to clarify the ambiguous position of Assignment Judges with respect to employees represented by unions which have agreements with county governments. Presently, the Judiciary does not have line authority over most trial court employees. The exceptions are covered by a few collective bargaining agreements which recognize that court rules or directives of the Administrative Office of the Courts are to be adhered to on matters of salary structure, fringe benefits, and employment conditions.

Standardize the terms and conditions of employment in the various union contracts covering Trial Court System employees.

The purpose is to eliminate the wide disparities among various contracts which create fundamental problems for system unification, disparate work and performance standards, and inequities for employees. These disparities include: large differences, as much as 100 percent, in pay scales; substantial differences, as much as 25 percent, in the number of hours worked each week; and large differences in limitations on out-of-title work and how these temporary assignments are compensated.

Establish standardized Trial Court System work procedures.

Presently, there are no Trial Court System work procedures. Each vicinage has been free to determine whether and how specific work assignments are performed. The objective is to establish standard work procedures and work requirements so that court system personnel can be managed efficiently and costs controlled. The other chapters further reflect the Committee's conclusion that the courts of the State use antiquated, labor intensive work methods, which have escaped standardization.

Establish a program of Trial Court Systemwide Training Programs.

The purposes are to increase the professionalism of employees, to assist employees attain their full potential, and to educate and train employees so that the system will operate at the highest level of efficiency possible. Training should be system-wide and include standardized courses for all new appointees, advanced training for established employees in each specific functional area,

as well as training which cuts across functional lines, for example, courses in management of court support units, computer systems applications, and budgeting and cost control.

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Create a central personnel file of key persons employed by the Trial Court System.

Presently, the Administrative Office of the Courts does not have such a systemwide personnel file. The objective is to enable the proposed Personnel Office of the Trial Court System to trace the progress of key employees and to monitor their performance. Such a file would be available to vicinages for the recruitment of qualified persons from other areas of the State.

Establish output and performance measures for each unit in the State's Trial Court System.

Presently, the court system of the State does not have any basis for determining whether individual units of the system are operating efficiently. Thus, the primary objective of this recommendation is to provide cost and efficiency measures for trial court work. Such measures are critical for effective management and necessary if the Chief Justice is to hold administrators accountable for the performance of units they manage. More importantly, such measures are essential for controlling costs.

Hold Assignment Judges accountable for the efficient and cost effective use of personnel at the vicinage level.

The primary purpose of this objective is to enable the Chief Justice to manage the system for which he is responsible. It would be expected that Assignment Judges would assign this responsibility to their Trial Court Administrators, who might well have Personnel Officers on their staffs. The needs of vicinages would best determine whether vicinage Personnel Officers are required or whether the personnel functions can be handled through a position on the staff of the Trial Court Administrator.

Conclusion

The recommendations on personnel should be considered in the context of the findings and recommendations

concerning other functions. The single most important finding of the Committee on Efficiency is that people, whose costs are the predominant portion of Trial Court System costs, are not being managed effectively from a systemwide viewpoint. The unification of personnel into a single judicial personnel system is critical to effective management and efficient functioning. It is also critical to improving the quality of justice in New Jersey and the speed with which it is dispensed.

Chapter 13: Finance and Budget

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MANY CHANGES MUST BE MADE before the Trial Court System can gain appropriate control over the allocation and use of resources necessary for its functioning. This chapter presents a series of recommendations designed to bring necessary improvements into the fiscal systems of the court.

Finance the Trial Court System completely at the State level.

The Committee on Efficiency believes that this step is the most important of all finance-related recommendations in its report. It is an essential step in the consolidation and unification of the courts into one cohesive system accountable to the Chief Justice. Funding at the county level, with budget decisions being made by 21 governing bodies outside of the judicial system, is not consistent with the concept of strong central management at the State level. Nor does it allow the Chief Justice to allocate resources throughout the total system according to priorities set by the Judiciary.

Strengthen the financial management roles of the Assignment Judge and the Trial Court Administrator; provide technical assistance from the Administrative Office of the Courts to support this role.

As the "Chief Executive Officer" of the trial courts at the vicinage level, the Assignment Judge should be responsible for the fiscal management of all court support resources at the vicinage level. Clarification of this financial management role and the manner in which it is to be exercised is essential if Assignment Judges are to be held accountable for implementing the fiscal policies of the Chief Justice.

Establish within each county a court budget and planning committee, consisting of the Trial Court Administrator, the Assignment Judge, and county officers.

The development of a rational budgetary framework and the establishment of reasonable budgetary priorities requires the active participation of all those affected. In order to maximize the professional expertise available to him, the Assignment Judge should establish a formal structure to continuously draw on the advice

and counsel of his senior managers and others in government.

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Establish a uniform budget system throughout the State.

Meaningful financial management requires that the Trial Court System operate with a standardized system of accounts. The new budget system should be all-encompassing, including resources from all levels of government, employee fringe benefits, and all appropriations clearly allocable to the courts but not currently included in county budgets for the Judiciary.

Enunciate a policy of cost effectiveness and implement this policy by improving the organizational structure and financial management of the Trial Court System.

Increasing caseloads and expanding judicial programs in an inflationary era make it imperative that the Supreme Court take the lead in establishing the importance of economizing in every aspect of court related work. The ability to extract additional resources from the State and county should no longer be looked upon approvingly. Rather, the current universal shortage of resources available to government demands that the Assignment Judge's financial management role give primary emphasis to the provision of necessary services at minimum cost without compromising quality.

Review all cost and fee schedules in the light of actual trial court operating costs for the purpose of assessing more realistic user fees.

The Committee on Efficiency does not believe that citizens having business with the State system should necessarily bear all costs of its operations through the payment of fees. Access to the courts for all citizens in New Jersey regardless of economic status must be preserved. However, in view of escalating court operating costs, there must be a more rational correlation between the fees charged for court services and the related cost or the value of the service to the litigant.

Develop a financial reporting and accounting system and document it in a comprehensive written manual.

The purpose of these systems is to promote practices for the courts that will:

- provide adequate financial information and comparative operating statistics on court operations to State and county officials and to the public;
- provide safeguards over public funds;
- assist Assignment Judges and operating management in performing their responsibilities; and
- provide the AOC with the information it requires to perform its statutory functions.

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Conclusion

The Committee believes that State funding of the Trial Court System is required for many reasons, most particularly because it will facilitate effective centralized management by the Chief Justice. Beyond State funding, several important steps must be taken to meet the overall goals of accounting and financial reporting which are:

- provide financial information useful in making economic and social decisions, and demonstrating accountability and stewardship, and
- provide information useful for evaluating managerial and organizational performance.

Chapter 14: Recommendations on Records and Information Management

THE DEVELOPMENT OF A RECORDS and information management system is essential to an efficient trial court organization. A well designed records program will reduce personnel costs and provide accurate and easily accessible data, thereby expediting the courts' work. The following recommendations focus on the components of a cost beneficial records improvement program.

1. *Computers*

Maintain the present moratorium on further development of automated systems in the trial courts until a standard, unified plan is adopted.

Continued operation under present policies and procedures which permit development of automated systems by courts in individual counties in relative isolation would be extremely unwise. It will lead to a costly patchwork of incompatible systems which can provide assistance only to the trial court of origin. This approach takes advantage of only a fraction of the efficiencies possible in computerized operations. It will also result in very high cost to convert to uniform and compatible systems at a future date.

Unification and standardization of hardware, operating software and programming language.

It is impossible to meld the myriad types of equipment supporting the courts across the State into a standard system. The net result is a perpetuation of the independent, "home grown" variety of systems that currently exists. If the courts are to free themselves from the present inefficient and costly methods of intensive manual operation they must unify and standardize hardware, operating software and the programming languages used in automated systems.

Initiate a study to determine the requirements for automated equipment for the trial courts and the office of Superior Court Clerk.

Assign the AOC an active leadership role in both data and word processing.

Substantial opportunities are available for court automation which will improve the administration of justice and present opportunities for cost savings. The courts are considerably behind the times in their use of automated equipment which would reduce manual processing. They are still very much a labor intensive operation, even though many of the routine tasks performed by the court system easily lend themselves to automation. Efficiency and economy dictate the need for further development in this area.

Establish the prerogative of the courts to select data processing equipment and install and operate it.

The independence of the Judiciary as a separate branch of government, the necessity for information on a priority basis, and the need to assure appropriate safeguards for confidentiality require that the administration of data processing operations for the Judiciary, including the purchase, installation and operation of equipment be totally independent of any other governmental branch.

2. Word Processing

Acquire and utilize word processing equipment where it is cost-effective.

Much of the work of the Trial Court Support staff involves the processing of standardized forms or information in standardized formats. Significant savings in time and cost can be achieved by the intelligent utilization of word processing equipment, particularly in the absence of computerization or in those instances where computers would not be cost-beneficial.

3. Microfilming

Develop and implement an efficient and economical standard system for the utilization of microfilm for court documents.

Establish quality control standards and film negative monitoring procedures.

Standardize film security, storage and disposition.

Expanded use of microfilming to replace the present widespread practice of retaining complete case records in their original form would substantially alleviate cost and space shortage problems now being experienced.

4. Records Management

Establish standards for active and inactive filing and record storage systems.

Review records retention schedules and determine whether these schedules are being met. In addition, these schedules should be reviewed to determine if they can be reduced.

Implement existing appropriate records retention schedules and destroy eligible records.

Segregate inactive case records now intermingled with active case records and not yet eligible for destruction. Acquire equipment for storage of the inactive records.

Adopt a simple retrieval system for receiving and returning records in remote storage areas.

Assign the State Library the storage costs for records held beyond retention date for archival review or transfer these records to the State Library storage facilities to relieve critical storage space in the court system.

To the extent that costs and other considerations preclude maximum use of microfilm, the courts must scrutinize the substance of what portion of a case file should be physically retained after judgment is rendered and for how long it should be retained. This approach coupled with timely responses by the State archivist will alleviate, to a limited degree, some of the critical space shortage problems.

Develop a forms management program within the Administrative Office of the Courts to promote the standardization of forms used in the court system.

As discussed in Chapter 6, the Committee observed an excessive proliferation of forms with the Trial Court System. This lack of standardization represents an unnecessarily high cost in itself, and stands as a barrier to other steps toward efficiency.

Firm action must be taken to eliminate this problem, and as discussed in Chapter 11, the AOC is ideally suited to take on such responsibility. Where necessary, outside consultants should be brought in to assist.

Conclusion

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Records and information management is an important part of the work of the Judicial Branch. Yet the court system has fallen far behind modern technology in carrying out these functions. With some capital investment and training of personnel, however, the courts can rapidly modernize their methods and quickly realize significant cost savings.

Chapter 15: Recommendations Relating to Clerks

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THE COMMITTEE'S MAJOR FINDING with regard to the operations of the State's numerous clerks' offices is that the fragmented and sometimes overlapping clerical support functions, not all under the direct control of the court, are restricting the efficiency and the effectiveness of some very critical court support operations. Major changes will be required to correct this situation, as indicated in the following recommendations.

Consolidate all trial court clerical support functions performed with respect to pending cases into a single organization under the direct control of the Judicial Branch.

The existing system as described in Chapter 3 is a mixture of County Clerks — largely autonomous elected officials — and other clerks who are under the direct line of supervision of the Assignment Judge. In general, the key officials carrying out the clerical functions are mutually committed to working together to provide the best possible support to the trial courts. The Committee has concluded, however, that the structure is too fragmented with too much divided authority to be as efficient and responsible as will be necessary to handle the ever-increasing case workload of the 1980's and beyond.

Terminate certain judicial support functions of the County Clerk.

In the unified structure contemplated by the Committee, the court related functions now performed by the elected County Clerk would be appointed by the Administrative Director of the Court on the recommendation of the Assignment Judge. The constitutional office of County Clerk would continue to retain its other, non-judicial responsibilities including:

- certification;¹
- commercial transaction filings;²
- deeds and conveyances;³
- elections;⁴ and
- storage of disposed court records.

This recommendation does not reflect on the manner in which County Clerks have been performing their duties. Rather, it reflects only the courts' need to manage

costs efficiently from the filing of a complaint to ultimate disposition, by making one person totally responsible for all clerical operations within a vicinage.

Designate Case Managers responsible for caseflow in each of the courts.

Effective case management is central to achieving the desired consolidation of clerks' functions across the Trial Court System. The present responsibilities of County Clerks, where they serve in the capacity of Clerks to the District Courts and Juvenile and Domestic Relations Courts, should be transferred to the new position Case Manager. Existing clerks of those courts should be considered for this new post. The Case Managers for these trial courts should be responsible to the respective Civil and Criminal Assignment Judges, the Presiding Judges of the District, and Juvenile and Domestic Relations Courts, and the Case Coordinator in accordance with the organization chart in Figure 1.

As a part of this organizational change, the existing clerk functions at the county level — whether for civil, criminal, general equity, matrimonial, probate, juvenile, domestic relations, or district court matters — should be merged according to type of court, *i.e.*, civil (including general equity, matrimonial, and contested probate), criminal, juvenile and domestic relations and district. These groups should then be regarded primarily as case management entities.

Appoint a Case Coordinator in each vicinage.

A new position, Case Coordinator, should be created to insure the efficient operation of the newly merged judicial support system. Case Coordinators would be employees of the AOC appointed on the recommendation of the Assignment Judge. Each coordinator would be responsible for monitoring and coordinating all filings, calendars, and caseflow in each trial court of the county. All other clerks and clerical employees serving in existing clerks' offices (the case management entities discussed above), should be transferred to the supervision of the Case Coordinator and should be in a consolidated court budget.

In short, Case Coordinators would supervise the performance of all judicial support functions now provided by all court clerks and would act within the

direct sphere of judicial control. Furthermore, they would allocate and manage all personnel involved with the movement of cases within vicinages. The present system does not lend itself to this centralized management.

The establishment of the position, Case Coordinator, and the definition of its duties are central to the improvements recommended by the Committee. As a deputy to the Assignment Judge and reporting directly to the Trial Court Administrator, the Case Coordinator would be accountable for attaining the operational goals set by the court and facilitate communication between clerks' offices and the remainder of the trial court administrative structure. This should result in better control of the resources applied to the clerks' functions, increased control over case process, and a minimization of the variations in procedures followed in clerks' offices across the State.

To be effective, Case Coordinators will require wide authority to deploy staff, shift cases, alter procedures, coordinate calendars, and inaugurate records management improvements, all within the policy guidelines of the court.

The creation of the positions of Case Coordinator and Case Manager, along with the associated organizational structure should permit the introduction of effective caseload management. Specifically, these changes should generate the following improvements:

- identification of a single Judicial Branch staff member responsible for caseload and records management operations;
- provision of a staff capacity for the Trial Court Administrator to enable the introduction of modern caseload management principles;
- centralization under direct and exclusive court control of separate case, budget, financial, personnel, and facilities management;
- ability to shift cases to make optimum use of judicial resources;
- increased efficiency in the deployment of clerks and other support staff;
- creation of a master list of all cases in the trial court inventory;
- creation of a central clerical point for the resolution of attorney conflicts;
- central case tracking and monitoring of processing time;
- creation of a central locus for the accumulation and verification of statistics;

- interchange of innovative procedures and standardized forms; and
- transfer of responsibilities now discharged in the Superior Court Clerk's Office in Trenton to the counties.

Give additional assignments to Deputy Court Clerks to promote better use of their worktime.

All Deputy Court Clerks (Minute Clerks) should be given secondary assignments so that they may assist in other clerks' office operations when not attending court or performing other courtroom-related duties. These court clerks should be integrated into the clerks' office staff under the direction of a court clerk supervisor.

The Deputy Court Clerks should also assume responsibility for the preparation and/or issuance of judgments, orders, remands, commitments, or any other papers that must be signed by the court and issued immediately at the conclusion of court in the presence of the parties.

By reassigning Deputy Court Clerks when court is not in session or when presence in the courtroom is not required, other staff savings may be realized. This recommendation will permit better utilization of Deputy Court Clerks who are generally knowledgeable, experienced, and relatively well-paid.

Establish a user committee of Case Managers from throughout the State to develop and implement under the supervision of the AOC a manual of standardized forms, guidelines, and procedures applicable to clerks' functions in the trial courts.

Clerks at the county level process cases differently, despite the fact that filing, docketing, indexing services, calendaring and issuance of notices, judgements, and orders require the same steps wherever performed. These steps should be standardized following the determination of the most efficient procedures and written guidelines should be prepared so that routine tasks may be performed with minimal training.

Eliminate overlapping functions now performed by the Superior Court Clerk.

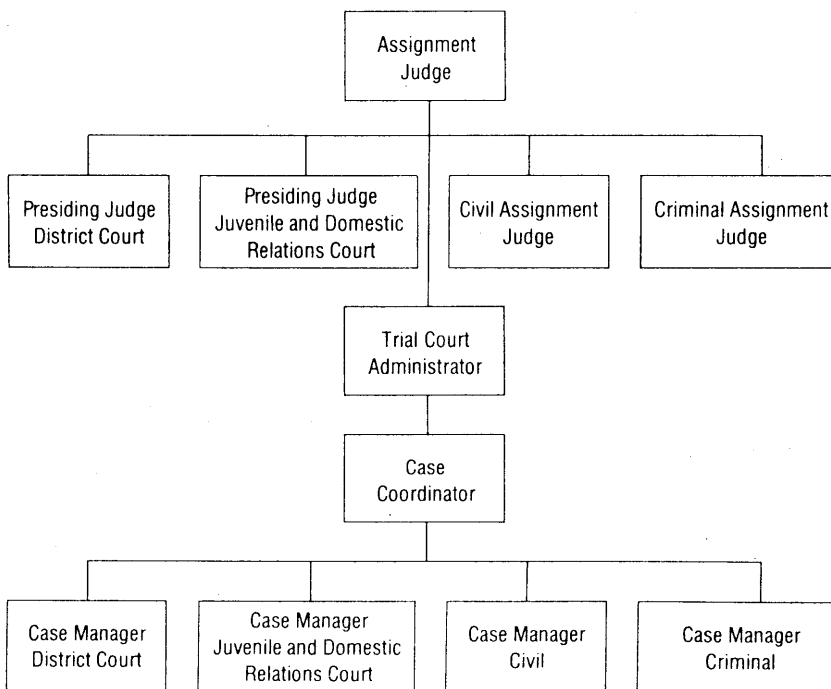
The present duplication of work between the Clerk of the Superior Court in Trenton and clerks at the county level has been discussed in Chapter 7. Such duplication

generates delays in processing and adds burdensome costs without offsetting advantages.

Since the primary user of the Superior Court case file is the judge at the county level, elimination of filing in Trenton may be the more appropriate approach. Eventually, all cases should be filed in the county with filing fees paid directly to the county. Wills and other documentation should no longer be retained with the Clerk of the Superior Court in Trenton. The Superior Court Clerk should continue to maintain an index to all Superior Court civil actions and judgements, an index to all wills probated, and a foreclosure unit.

Figure 1

PROPOSED ORGANIZATION



Conclusion

The recommendations set forth in this chapter are designed to permit the unification of all clerical support functions under direct, judicial control and to create a

system which will allow the most effective and efficient use of existing resources. It is believed that this centralization of the clerical functions will provide the courts with the needed opportunity to manage their total operations.

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1. *N.J.S.A.* 15:11-10.
 2. *N.J.S.A.* 12A:9-40.1.
 3. *N.J.S.A.* 40A:9-80.
 4. *N.J.S.A.* 19:19-1, 19:8-17, 19:16-8.

Addendum

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Dissenting comments regarding the recommendations in this Chapter are included in the following Minority Report which has been submitted by the County Clerks Section of the New Jersey County Officers Association.

Minority Report by County Clerks As Clerks of Court

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Prepared By: The County Clerks Section
of the N.J. County Officers
Association

The Committee on Efficiency of the Operation of the Courts in New Jersey has issued findings and recommendations on the organization and operation of the Trial Court System subsequent to a detailed analysis of that system from February 1980 to July 1981.

The basic findings of the overall Committee as reflected in its report is that the Trial Court System is a "fragmented organizational structure, using outmoded technology and administrative practices designed for a much smaller caseload than exists today." In support of this basic finding, additional specific areas of concern are delineated leading to the conclusion that "the court system lacks a strong statewide management structure."

The contention which is used to support this recommendation is that "the Courts must have uninterrupted authority over all aspects of a court case from filing to disposition if they are to be held accountable for their performance."

Initially, it must be noted that the case processing and record-keeping functions of the Trial Court System are under the control of the Assignment Judge under Rule 1:33-3 (a) (3) of the New Jersey Court Rules. The County Clerk has no responsibility or control over case processing. Pursuant to Rule 4:36-2 of the New Jersey Court Rules, the County Clerk of the county in which a Superior Court action is to be tried "shall, when the first answer is filed, place the action upon the trial calendar of the Law or Chancery Division according to the caption of the complaint, unless the court otherwise orders." Therefore, the only duty of the County Clerk is to list the case on the trial calendar. The only duplication is caused by the fact that cases are filed originally in Trenton with the Superior Court Clerk. However, there must be a record for the vicinage where the case will be tried, according to the very Rules of the Court, if not for management purposes.

In addition, the accounting functions of the Clerks of Court list the collection of funds for child support payments under the Title IV-D Program. It must be noted that the collection, recordation and accounting for these funds is a function of the Probation Department in each county.

However, the major flaw in the findings or evaluation of the Clerk's operation concerns the control of resources dedicated to Court Clerical systems. It is apparent that the elected County Clerk in each county is being framed as the heart of the management problems which have been found to permeate the entire judiciary system in the State of New Jersey. The report finds that:

"The elected County Clerk is authorized by statute to employ the necessary persons to perform judicial functions. Thus, the County Clerk recruits, hires, trains, promotes, and disciplines all employees who work under his supervision. But, the Court, through the Assignment Judge and the Trial Court Administrator is responsible for the court functions performed by those employed by the County Clerk. With no direct lines of authority between the Assignment Judge and those providing services essential to the trial courts, the Chief Justice and other trial court officials have little real authority to manage the court system. It is clear that the absence of centralized judicial control of clerks has generated conflicts in the operation of the courts and has denied the Trial Court System the management tools required to achieve efficiency and reduce costs."

This finding is obviously the basis for relegating County Clerks to keepers of disposed cases. Yet, this statement is fallacious at best. To give the impression that the County Clerk is elected, and as an elected official is clearly independent of any management structure in the Trial Court System is wrong. The County Clerk has duties and responsibilities in the county Trial Court System through his standing or position as Deputy Clerk of the Superior Court. He is, in fact, accountable to the Assignment Judge and the Clerk of the Superior Court (see Rule 1:33 and 1:34), since he is the representative or agent of the Clerk in the county in which he is elected and accountable to the Assignment Judge for all court related matters. The Clerk of the Superior Court is directly accountable to the Chief Justice of the New Jersey Supreme Court. In addition, the Administrative Director of the Courts reports directly to the Chief Justice, and the Assignment Judge of each vicinage and Trial Court Administrator report di-

rectly to the Administrative Judge, who in turn, has the responsibility for the Assignment Clerks and Trial Court Administrators and their respective staff.

Therefore, the claim that there are no direct lines of authority is wrong. To use this as the basis for the recommended organizational change is wrong. The recommendation is clearly without basis. There is no claim that the Assignment Judge of each vicinage is a management expert. Nor is there a claim that an Assignment Judge should be a management expert, for he is a judge elevated to that prestigious position based on his legal knowledge and seniority on the bench. The Superior Court Clerk and the Administrative Director of the Courts are responsible for the management of the Trial Court System through their delegation of responsibilities respectively to county based officials.

Finally, the statement that the absence of centralized judicial control of the Clerks has generated conflicts in the courts and denied the Trial Court System of management tools to achieve efficiency and reduce costs is plainly untrue.

The trial court officials have control of the Trial Court System, not the County Clerk. The County Clerk, in fact, is only responsible for listing cases and assigning docket numbers. The County Clerk is not responsible for delays caused by various judge's calendars; by lawyers who ask for adjournments; for plaintiffs, defendants and witnesses who fail to appear; or any of the other causes of the calendar backlog. It is respectfully submitted that not one case has ever been held or delayed due to the operation or fault of a County Clerk or his office.

It appears that the cause for these statements is the apparent envy which the judiciary has of the County Clerks since they are elected. It must either be envy or disdain. Regardless, the County Clerks will jealously guard their status as elected officials. Yet, it is maintained that the managerial problem is not caused, nor is in any way affected, by the elected status of County Clerks as Constitutional Officers. There is a central management system which must be utilized in order to have it operate properly. The problem is that those individuals charged as managers in the Trial Court System have failed to exercise *their* responsibility and are now looking for a scapegoat.

Chapter 16: Recommendations Relating to Sheriffs

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THE ROLE OF THE SHERIFF in the Trial Court System has steadily expanded to include many routine functions unrelated to security. The Committee has developed several recommendations to better define the Sheriff's proper role in the court system.

Continue the current relationship wherein the Sheriff, an elected constitutional officer, provides security to the court.

Primary responsibility for the court security function should rest with the Sheriff's Office. All court support functions having to do with non-security courtroom procedures including courtroom attendant chores should be handled by other court employees.

As a result of overlapping job descriptions, the non-security functions of the Court Attendant position have become confused with the Sheriff's security functions. The mixing of both security and non-security functional roles has resulted in the less efficient handling of both. Segregation of these functions should permit more effective performance.

Assign to the Sheriff operational command of all peace officers and others acting in courthouse security.

Courthouse security is most effective if administrative responsibility is centralized under the principal peace officer, the Sheriff. It is appropriate, therefore, for the courts to look to the Sheriff's Department to provide court security. Courts now using security personnel who are not employees of the Sheriff's office should bring them under the control of the Sheriff.

Require each Sheriff to develop a courthouse security plan for consideration by the Assignment Judge.

Periodically, the Assignment Judge and Sheriff should review the courthouse security plan and assess the effectiveness of its implementation. Policy controlling the wearing of firearms, the use of electronic search equipment, such as metal detectors, and manual search procedures should be addressed in each county's security

plan. Movement of personnel should be treated as an integral part of the courthouse security plan. Special consideration should be given to problems posed by security and transportation of juveniles. Each sheriff should be responsible for developing a detailed procedures manual for implementing the county court security plan. The Administrative Office of the Courts should play a major role in assisting Assignment Judges with the development of objectives and goals to be incorporated in each county's security plan.

Security officers should be assigned in criminal, juvenile, and domestic relations and matrimonial courts as standard practice, and in other types of cases only at the request of the trial judge.

Security should be provided in the courts whenever necessary. However, there are many cases where a security risk is unlikely to exist. Skilled Sheriff's Officers should not be utilized in such instances at the expense of their other law enforcement responsibilities.

Transfer responsibility for non-security 'Court Attendants' from the Sheriff to the courts.

Direct supervision of Court Attendants should be with the courts. Consolidated management of this function by the court helps assure flexible assignment to courtrooms as needed. Moreover, law enforcement training and physical dexterity are not necessarily a prerequisite for Court Attendants and they need not be Sheriff's Officers. A new job title and job description should be developed for the performance of courtroom attendance work. This job might be referred to as "Court Aide" and the duties might include the following:

- calling court to order and making announcements;
- preparing the court room, *i.e.* chairs, temperature and ventilation;
- directing juries to proper location and caring for juries during waiting periods and deliberation time;
- serving as contact person for public information; and
- maintaining courtroom decorum and orderliness.

Continue to assign to the Sheriff service of process for the Superior Court.

The Committee found that the Sheriffs' performance in the service of process is highly satisfactory and the present arrangement should continue.

Conclusion

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Most of the recommendations set forth here are aimed at concentrating Sheriffs' court responsibilities in areas of their expertise. Implementation of the changes should permit a more effective use of Sheriffs' personnel, an improved level of security throughout the Trial Court System and a more efficient use of personnel who attend court.

Chapter 17: Recommendations Relating to Probation

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THE FUNCTIONS OF THE PROBATION offices have been steadily broadening and their workload has grown rapidly in recent years. It is clearly time to review the central purpose of this office and consider changes to better reflect current operations. Toward these ends, the following recommendations are made.

Establish clear long-term and short-term goals and objectives for the Probation system.

The multiplicity of functions presently being performed by Probation offices has fostered confusion and consequent job alienation which inhibit effective and efficient job performance. The development of a mission statement which sets forth goals and objectives could alleviate present disaffection and contribute substantially to improved productivity.

The Committee recommends that the mission of Probation in New Jersey should be to serve the community and the court in the following ways:

- maintain control over persons before the court for adjudication and disposition. Institute controls which assure that a person complies with all orders of the court at all stages of case process. This involves making certain that persons appear in court as ordered and that the court dispositions are carried out fully.
- offer services to persons under court control to help assure that they are not a threat to community safety and well-being during the period of court control and to promote the well-being of the individuals supervised; and
- provide information about persons to support judicial decision-making.

Assign to the Administrative Director the authority to appoint the Chief Probation Officer upon the recommendation of the Assignment Judge.

The nature of services performed by Probation and the direct responsibility of the Chief Justice for service delivery require that appointment to this position be made at the State level. This would ensure that the leadership in each county possesses the requisite experience, training, and personal qualifications to administer this office effectively, and assure responsiveness to judicially determined priorities.

Establish a uniform definition of the services performed by Probation offices.

As noted in Chapter 9, the responsibilities and methods of service delivery by the Chief Probation Officer vary significantly throughout the State. The Committee believes that a reasonably consistent set of functions should be adopted on a statewide basis. These functions would include: pre-trial intervention services, juvenile intake, domestic relations services, diagnostic services, supervision services, staff development services, including training, community resource development, volunteer services, evaluation and research, management information services, mental health aftercare services, special experimental treatment services, and Title IV-D probation supervision services, but *not* Title IV-D collection.

Transfer the Title IV-D collection function to a more appropriate administrative setting.

Collection for the Title IV-D Child Support Enforcement Program is a major administrative task in each county Probation Department. While initial intake and subsequent enforcement functions are properly located within the Probation offices, operating the collection function calls for administrative skills, *i.e.*, similar to those in a collection agency. These functions do not require the skills and knowledge of Probation staff members. This collection function could be consolidated with other judicial administrative tasks at the county level.

Change the Name of the Probation office.

The title "Probation" no longer adequately describes the set of functions carried out by this office. A more appropriate title would be "Community and Court Services" agency or a similar designation.

Realign the organizational structure of the Probation office.

The Committee suggests that the Probation offices be reorganized into three major divisions along functional lines. Proposed divisions are a Pre-adjudication Division, Compliance Division, and Administration Division. Specific activities within the three functional divisions follow.

Preadjudication Division - Juvenile Intake, Juvenile Diagnostic/Investigation, Family Diagnostic/Investigation,

Adult Diagnostic/Investigation, Pretrial Release and Pretrial Intervention.

Compliance Division - Juvenile Supervision, Adult Supervision, Family Supervision, Volunteer Services, Fines and Restitution, Child Support and Alimony, Penalty Assessments, Supervision for Paternity Cases, Specialized Caseloads, Domestic Relations Services, and Aftercare Mental Health Services.

Administration Division - Information Systems, Evaluation and Research, Staff Development/Community Resources, Finance and Budgeting, Report Production Service, and Agency Liaison Services.

The heads of these three Divisions should report directly to the Chief Probation Officer.

The Committee believes this is a more rational structure than the present one and it should improve coordination and the flow of communication within the Probation organization.

Change the physical location of where certain Probation activities are performed.

The physical location of Probation activities influences their effective operation. The Committee recommends that where possible all adult intake and investigative services be located within the county courthouse. This will permit the Judiciary to have immediate and direct access to staff services and promote timely court proceedings.

Additionally, since considerable time is spent interviewing juveniles in lockup and consulting with prosecutors and defense attorneys in the courthouse, intake services for juveniles should be located in the courthouse also.

A primary role of a diagnostic Probation Officer is to prepare reports that will help the judiciary make sentencing decisions. Locating these offices in the courthouse where there will be ready access to information such as court dockets and to key criminal justice personnel, is the most logical and efficient plan.

On the other hand, supervisory Probation services should be located in the more densely populated regions of the community or in mobile units in rural areas. This would provide juvenile and adult offenders ready access to Probation staff and services, removed from the court-

house and its staff. The location of supervisory offices in the community would also free valuable space in the courthouse for use by other judicial offices.

Establish a weighted workload system for each Probation Department.

Currently, the practice in New Jersey is that all caseloads consist of the same number of offenders regardless of the supervisory needs of individual offenders.

A high priority should be the implementation of a weighted workload system for each Probation Department. Through use of a predictive Probation model, or other appropriate methods, the Probation Department should weigh its caseloads according to the supervision level required, such as high-risk, medium-risk, and low-risk. Since the low-risk offenders need less supervision than high-risk individuals, a standard number of home, office, and collateral services could be identified for each category. Probation Officers could then be assigned caseloads on the basis of such required supervision. For example, a workload of 25 high-risk offenders might be equal to a workload consisting of two hundred low-risk offenders. Such a classification system could help to maximize the use of staff resources and thus facilitate more efficient supervision of offenders.

Enhance the Probation function in each county with private agencies and volunteers.

It is well recognized and accepted that volunteers can play an extremely important role in the delivery of quality Probation services. Volunteers are presently successfully used in the following capacities:

- Probation aides;
- Tutors;
- Volunteer attorneys;
- Compilation of community resource manuals;
- Liaison with community agencies;
- Child care, while child is awaiting court action;
- Court computer programs;
- Volunteer doctors and dentists;
- Job counselors;
- Public relations work;
- Administration of recreation programs;
- Financial advisors to offenders;
- Alcoholics Anonymous members working with offenders; and
- Training of staff.

Focus the 1982 New Jersey Judicial Conference on the court and community support functions now called 'Probation' services.

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Appoint a community and court support board including private citizens speaking for their communities to carry out the program policy review effort and report to the Judicial Conference.

Following the conference, continue the community and court support board as the policymaking body for the services to be delivered; the board's decisions would be subject to the veto of the Chief Justice.

Probation services are provided to meet the needs of the community, the court, and the client. They are designed to bring them in closer touch with one another, to make the Judiciary's task easier, and to benefit New Jersey's citizens. The role of defining Probation services needs to be an ongoing one. A necessary ingredient is a structure suitable to determine current needs and future growth. Therefore, it is recommended that there be an administrative re-examination of current Probation functions from the point of view of the court and the community to determine the proper objectives and necessary scope and content of services. To insure the effectiveness of this process, representatives of the communities to be served, crime victims, and persons previously under court control should also be included.

Conclusion

The functions of the Probation office are among the most far-reaching of any within the court system. The foregoing recommendations underscore the Committee's view that considerable attention must be given to updating all aspects of this office to reflect the requirements of contemporary society.

Chapter 18: Recommendations Relating to Surrogates

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THE COMMITTEE FOUND that Surrogates were highly responsive to the needs of those they serve. The recommendations in this chapter are designed to improve the efficiency of their operations and to explore the possibility of making better use of their expertise.

Retain Surrogates as elected, constitutional officers.

The Committee believes the Surrogates' fine record of responsiveness to the public is related, in part, to the fact that they are elected officials. There is an alternative position which asserts that the Surrogate should be abolished as an elected, constitutional officers and his duties and functions transferred to and integrated into the unified court system. The Surrogate, however, is a special case for two reasons:

- many of his functions are largely self-contained and do not affect other parts of the court system; and
- for many people the Surrogate is the first or only direct contact with the judicial system. They come not because of problems with the law but to obtain a necessary service at a time of emotional stress.

The Committee, therefore, has concluded that Surrogates will function best if they continue to be accountable to the citizens through the process of election.

Develop and implement a training program for Surrogates and their staffs.

The need for training Surrogates was discussed in Chapter 11. It is raised again here in a more specific context because the Committee believes it could have a particularly beneficial impact on the operations of Surrogates. Formal training programs should exist for the orientation of new Surrogates and for their ongoing professional development. Special training programs for staff members should also be developed depending on identified needs. Training and procedures manuals should be designed to support the training program. These programs and materials should be developed by the Administrative Office of the Courts with the active participation of Surrogates.

Develop and implement a program of technical assistance for the Surrogates.

The subject of technical assistance as a general need of the Trial Court System was discussed in Chapter 11. For the Surrogates, the Committee found several specific areas where efficiency could be significantly improved through the application of better operating methods. These areas, many of which apply to the other support offices as well, include:

- Cross-training and other actions to increase the flexibility of staff utilization;
- Effective procedures to expedite probating uncontested wills; including greater use of *pro se* procedures and acceptance of information over the telephone and by mail prior to a litigant's visit;
- Maintenance and storage of records, including clear policy and procedures governing the disposition of documents and an efficient and economical program for the utilization of microfilm;
- Annual management audits of each Surrogate's office for the purpose of assisting the Surrogate in identifying ways to increase operational efficiency; and
- Effective space utilization, including the provision of adequate privacy for the interviewing of citizens in such matters as probate and adoptions.

Transfer the Surrogates present clerk function for contested probate matters to the Case Coordinator.

The Committee found Surrogates' offices to be efficient in the preparation, calendaring, and disposition of contested matters on behalf of the Superior Court. However, there is an overriding need to streamline the total process of caseload management within the Trial Court System.

The Committee believes that increased efficiency and better management direction by the courts can be achieved if clerical functions related to contested probate matters now handled by Surrogates are consolidated with all of the other present clerk functions to a new organizational structure under the control of the new Case Coordinator. This proposal is presented in more detail in Chapter 15.

Authorize a pilot study to evaluate the use of Surrogates to hear matters such as accountings, adoptions, and uncontested cases of doubt and difficulty.

With the recommended shift in the clerk responsibilities of the Surrogates set forth above, an opportunity

would be created to add a new function which could absorb the growing workload from judges. The categories of cases being proposed are those for which the Surrogates already possess the greatest expertise within the Trial Court System. The Committee recommends that this step be thoroughly tested on a pilot basis before any permanent changes are made. If the test indicates that the concept is feasible then statewide implementation should follow.

Prohibit Surrogates and their staffs from the practice of law in the areas of probate and estate planning.

In order to eliminate even an appearance of conflict of interest, it is recommended that Rule 1:15-1 be amended to prohibit Surrogates and their staffs from maintaining law practices which include the preparation of wills and the advising of clients in the areas of probate or estate planning.

Conclusion

It may seem a contradiction to talk about efficiency in the context of service to bereaved relatives or deceased persons. The Committee believes that the sensitive and responsive performance demonstrated in the Surrogates offices will only be reinforced by the recommendations presented in this chapter.

Chapter 19: Implementation

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THE COMMITTEE ON EFFICIENCY has proposed sweeping changes for the Trial Court System. They range from routine noncontroversial measures which could be effected immediately to those which might require Constitutional amendment. The implementation process is formidable, therefore, and may well require many years. For these reasons, the Committee suggests that implementation move progressively through several phases.

In the first phase, the Chief Justice should seek to gain understanding and support for the recommendations of this study from the Governor, the Legislature, the Judiciary, and the State Bar Association and the citizenry in general. During this phase, we propose that the Chief Justice appoint a group representing the diverse interests of the Trial Court System to work with the Administrative Office of the Courts to formulate an action plan and a timetable for implementation.

The second phase calls for making those changes which can be accomplished within the constraints of extant legislation, regulations, and practices. There are, in fact, many improvements to be made which require judicial determination only, but which could affect the efficiency of the courts greatly. For example, we have no doubt that if the Chief Justice were to request the Department of Civil Service to respond promptly and in more meaningful fashion than heretofore to the needs of the judicial system, they would do so. Should they not, the need for the personnel reforms we advocate becomes even more urgent.

Until now, the Judiciary has not had a coherent program of action for administrative reform and, lacking it, the tendency has been to allow county governments to determine the pace at which outmoded methods of work are modernized. In this phase of implementation, therefore, the Chief Justice should assert forcefully that the State can no longer afford an uncoordinated approach to providing and controlling court support services. He and his colleagues on the Supreme Court must stress the primacy of the Judiciary in matters concerning the manner in which county governments provide court support services.

The third phase would include legislative action, and the most important act required to achieve the objectives of this study is State funding of court support services. It is crucial, therefore, that the Chief Justice and members of Judiciary articulate the need for State funding before the Legislature and citizens of the State. To have the State assume this burden, however, will require skillful argumentation. The Committee on Efficiency believes that it has provided substantial documentation of court circumstances which cry for improvements but which are possible only through State funding. Since convincing a Legislature is a formidable task, the Committee on Efficiency stands ready to assist the Chief Justice and his colleagues. The Chairman and key members of the Committee are prepared to testify on the findings and recommendations which have evolved from many months of study.

If it should prove that statutory changes are not sufficient to effect all of the major recommendations proposed, a fourth phase will be required. The burden of this phase will be to amend the New Jersey Constitution as necessary to implement certain recommendations.

Ultimately, the major recommendations of this study should earn broad public support. They include shifting the major burden of funding Trial Court Support services from county to State government and creating a judicial personnel merit system. Thus, citizens of New Jersey will be required to make choices inherent in the democratic process. There will be those with a stake in the vast inefficiencies of the present Trial Court Support System who will seek to resist change. Countering them should be the clear, resounding, and unified voices of those who seek to move the courts into the twentieth century and, thus, to improve the efficiency with which Justice is dispensed.

