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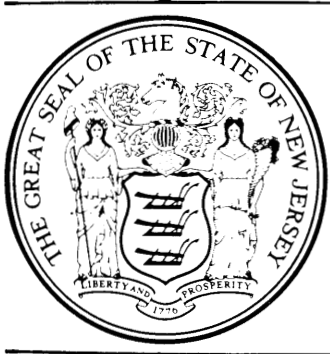
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**State of New Jersey
County and Municipal Government
Study Commission**

JUDICIAL UNIFICATION

July 1987

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GOVERNMENT STUDY COMMISSION**

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TO HIS EXCELLENCY GOVERNOR THOMAS H. KEAN, HONORABLE MEMBERS OF THE SENATE AND GENERAL ASSEMBLY, AND THE STATE AND LOCAL EXPENDITURE AND REVENUE POLICY COMMISSION

The County and Municipal Government Study Commission is pleased to submit its thirty-fifth report, *Judicial Unification*.

This report focuses on the organizational and financial needs of the State Trial Court System. It notes the historical shift from a county based to a State based court system which is occurring in New Jersey and throughout the nation. In 1983, by Constitutional amendment, the people of this State voted to unite the State court system by transferring all remaining county court judges to the State and eliminating the last of the county courts. The employees serving the judges have not yet been transferred to the State. The Trial Court System, therefore, still exists as a partially integrated system with separate and distinct service levels, staffing patterns, caseloads per employee, and salary levels in the twenty-one counties.

This report requests action by the Governor and the Legislature to transfer an additional 5076 county judicial employees to the State to continue the process, approved by the voters in 1983, of uniting the court system at the State level of government. This proposal will provide \$119 million of property tax relief to the State's taxpayers. It will also unite the management and financing of the State courts and provide uniform judicial services to all.

The Commission hopes that the Governor and the Legislature will achieve these objectives by enactment of the legislative changes recommended in this report.

Respectfully submitted by the members of the County and Municipal Government Study Commission.

/s/ Carmen A. Orechio, Chairman

/s/ John A. Lynch Jr.

/s/ Henry P. McNamara

/s/ Rodney P. Frelinghuysen

/s/ John A. Girgenti

/s/ Garabed "Chuck" Haytaian

/s/ Stephen Capestro

/s/ Fred G. Stickel III, Vice Chairman

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/s/ Guy E. Millard

/s/ John E. Trafford

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EXECUTIVE SUMMARY

CHAPTER 1: INTRODUCTION: THE COURT REFORM MOVEMENT

New Jersey and most other states are going through a slow process of uniting their courts at the state level. Twenty-eight states have assumed at least 50% of the funding of the trial courts. In New Jersey, county government funds 82% of the cost of the trial courts. The experiences of other states suggest that the definition of state funding and the method of its accomplishment should be individualized in each state.

New Jersey has made great progress in the area of court reform and the modernization of the trial court structure. The constitutional amendment of 1978 transferred 120 county court judges to the State, and abolished the county courts. The constitutional amendment of 1983 transferred the final 80 county court judges to the State. These constitutional amendments expressed the public's desire for a united court system. An additional recent milestone was the report of the Supreme Court Committee on Efficiency in the Operations of the Courts of New Jersey. The committee was appointed by Chief Justice Robert N. Wilentz in 1980, and presented its final report in May, 1982. The Committee on Efficiency made major recommendations in an effort to streamline and centralize court operations. Of particular significance was the recommendation that the Trial Court System should be financed completely at the State level. The rationale was that it was inconsistent that a system providing services under statewide management should be funded individually by the twenty-one counties.

The Management Structure Committee, also appointed by Chief Justice Robert N. Wilentz in the Fall, 1982, was charged with reviewing the recommendations of the Committee on Efficiency concerning the management of the trial courts. The Management Structure Committee made several recommendations which were implemented by court rules in 1983.

The major objective of this report is to review the changes in the State Trial Court System, and to recommend whatever additional steps may be necessary to achieve uniform judicial services for all the citizens of the State. The Commission approached this task with a strong desire to provide property tax relief to the State's citizens and to provide that management and financing of programs be united at the appropriate level of government.

CHAPTER II: TRIAL COURT MANAGERIAL STRUCTURE

Prior to the passage of the 1983 constitutional amendments regarding the Judiciary and the adoption of the 1983 court rules, the Trial Court System for processing cases was fragmented, uncoordinated, and inefficient. The most significant change included in those court rules was the introduction of new

court support structures for the criminal, family, and civil courts. With the new court support structures, most of the employees of the various judicial agencies of county government are under the supervision of case managers, a newly created position.

The new structure has a significant impact on the offices of the county clerks and the vicinage chief probation officers, because many of the employees of those offices are now under the day-to-day supervision of the case managers.

Findings:

The county employees of the County Department of Courts are defined for purposes of this study as all of the employees who do not work for the constitutional officers or the vicinage chief probation officers. These employees perform mostly clerical functions that prior to reorganization were performed by a number of different personnel from different judicial departments of county government. There are 2005 employees in this category.

Recommendation II-1:

The Commission recommends that all of the employees of the County Department of Courts should be transferred to the State, in order to unify the Trial Court System administratively and financially.

Findings:

Included in the category of the County Department of Courts are 141 jury management employees who staff the Jury Commission. The Jury Commission is an autonomous agency of the courts and of the counties. The Jury Utilization and Management Task Force, appointed by the court, recommended major jury management reforms. The reforms included the elimination of the Jury Commission and the transfer of its powers to the assignment judge.

Recommendation II-2:

The Commission recommends the elimination of the Jury Commission.

Findings:

A very important aspect of the new Trial Court Management Structure is the reorganization of the county probation departments. The pre-dispositional probation employees are now under the supervision of the case managers in the criminal and family court support structures. Prior to reorganization, these employees were supervised by the vicinage chief probation officers. These functions include investigative responsibilities for adults and juveniles prior to disposition, and decisions as to pretrial release, custody of children, and the establishment of restitution. There are 797 employees reassigned who perform pre-dispositional probation services.

Recommendation II-3:

The Commission recommends that the county employees providing pre-dispositional probation services should be transferred to the State, in order to unify the Trial Court System administratively and financially.

Findings:

The post-dispositional probation services are under the day-to-day supervision of the vicinage chief probation officers. These services primarily involve the supervision of adults and juveniles, and Title IV-D child support enforcement. While these employees are under the supervision of the vicinage chief probation officers, and the pre-dispositional probation services employees are under the supervision of the case managers, both categories of employees are in the budgets of the vicinage chief probation officers. With this arrangement, there is a flexibility in providing these services, and a greater opportunity for the cross training of staff. There are 1125 county employees performing post-dispositional supervision services and 955 county employees performing Title IV-D services.

Recommendation II-4:

The Commission recommends that all of the post-dispositional probation employees should be transferred to the State, in order to unify the Trial Court System administratively and financially.

Findings:

The county clerks have judicial responsibilities which are clerical in nature, and include case processing and maintaining records for the Superior Courts. The county clerks' judicial responsibilities are interwoven throughout the court support structure at various stages in the processing of cases through the court. The county clerks' employees represent approximately 20% of the staff in the Criminal, Family, and General Support Divisions, and 50% of the staff in the Civil Division.

The county clerks' role in the State judicial system is a complex and evolving one. The Commission is of the opinion that additional changes are necessary in the relationship between the county clerks and the State Judiciary. However, there is resistance on the part of the county clerks to have their judicial employees transferred to the State Judiciary, and the Judiciary and the county clerks are in the process of developing a supervisory role for the county clerks within the Civil Court Support Structure. The county clerks have 885 judicial employees, many of whom have been reassigned to the case managers under the matrix management strategy adopted by judicial rules.

Recommendation II-5:

The Commission recommends that all of the judicial employees of the county clerks remain funded by the county governments until such time as the Judiciary and the county clerks have worked out a satisfactory agreement as to the proper role for the county clerks within the Trial Court System.

Findings:

The county clerks also have significant non-judicial responsibilities. These responsibilities include: the processing of applications for passports, the naturalizing of aliens in the U.S. Naturalization Court, and election

responsibilities. In most counties the county clerk performs the register of deeds functions.

The Commission believes that the existing relationship of the county clerks to the county government is the appropriate relationship for the county clerks executive responsibilities.

Recommendation II-6:

The Commission recommends that the county clerks continue as constitutional officers, that the county clerks remain as autonomous officials in the executive branch of county government, and that the county clerks continue as elected officials.

Findings:

The Constitution provides that the sheriffs be elected by the people of their respective counties at general elections, and serve a term of three years. The other elected constitutional officers, the county clerk and the surrogate, are elected to terms of five years.

Recommendation II-7:

The Commission recommends that the Constitution be amended to change the sheriffs term of office to five years.

Findings:

The sheriff has judicial security functions which have traditionally been defined to include courtroom and courthouse security. The sheriff also has personnel assigned to the courthouse who perform non-security functions such as preparation of the courtroom, juror assistance, maintenance of orderliness in the court, making announcements, and ensuring that lawyers, litigants, and others are ready for court proceedings to begin. These non-security functions are duplicated by other court personnel. In 1982, the Legislature enacted permissive legislation allowing the sheriffs' non-security personnel to become sheriffs' officers. The intent was to eliminate the sheriffs' non-security personnel by attrition, and replace these employees with court aides supervised by the assignment judges at lower wages. Most of the sheriffs do not currently have any non-security judicial employees. There are, however, still 191 sheriffs' employees performing these judicial functions.

Recommendation II-8:

The Commission recommends that the remaining non-security employees of the sheriff be transferred to the assignment judge.

Findings:

The sheriffs' judicial functions have been traditionally defined to include courtroom and courthouse security. In the Commission's previous two reports on judicial unification, the Commission recommended that these officers be transferred to the State. There are 537 sheriffs' officers performing judicial security functions. The Commission is of the opinion that these employees should be redefined as executive employees of the sheriff. With this change,

the sheriffs would have a total of 3547 employees providing public safety functions within county government.

Recommendation II-9:

The Commission recommends that the sheriffs' judicial security functions be redefined as executive, and remain funded at the county level.

Findings:

The sheriffs are responsible for service of process except in the Special Civil Part of the Civil Division of Superior Court. In this instance, special civil part officers are appointed by the assignment judges to serve papers. These officers are paid a statutory fee for each service of process or collection of judgments. There are approximately 150 officers statewide.

Recommendation II-10:

The Commission recommends that the sheriffs be made responsible for all service of process, and that the special civil part officers be supervised by the sheriffs.

Findings:

The surrogates are primarily responsible for the handling of uncontested probate matters. The surrogates also act as deputy clerks of the Superior Court whenever there are contested will proceedings.

The surrogate heads a limited jurisdiction agency of the court. None of the surrogates' employees are reassigned to case managers under the matrix management strategy that has been utilized by the courts with the employees of the county clerks and the employees of the vicinage chief probation officers performing pre-dispositional probation services. Because the surrogate does not have an equivalent degree of interaction as do the other components of the Trial Court System, the Commission is of the opinion that it is not necessary to transfer the functions of the surrogate to the State to accomplish organizational unification of the Trial Court System.

Recommendation II-11:

The Commission recommends that the surrogates' functions remain at the county level.

Findings:

The surrogates fees have not been raised since 1977. The Commission is of the opinion that the fees should be raised and changes made in the fee schedule so that the revenue collected would cover the county cost of funding these services. The 1986 county cost for funding the surrogates services is \$7.3 million, and the fees for services rendered amount to \$3 million annually.

Recommendation II-12:

The Commission recommends that the surrogates fee schedule be increased and revised to cover the full county cost for funding these services.

CHAPTER III: TRIAL COURT FINANCIAL STRUCTURE

Findings:

The State Trial Court System is primarily funded by county government. The State Judiciary has 610 employees working for the trial courts, of which 319 are judges. The counties have 6231 employees working for the State Trial Court System.

Counties provide 91% of the personnel and 82% of the expenditures. The 1986 **net** county cost for funding the State Trial Court System is \$174.3 million. This situation is made further inequitable when comparing the amount of revenue raised by the State to that raised by the counties. The State receives 43% of the revenue, and the counties receive 57% of the revenue.

The total county cost for funding the State administered Trial Court System is further imbalanced when one takes into account the funding and disparities between counties. Generally speaking, the urban counties that must spend the most on judicial functions have lower per capita incomes and a greatly reduced ability to raise revenue. ***The significant disparities that exist between counties, which require major expenditures for judicial services and which do not have the property tax base to finance these services, seriously affects the provision of uniform quality judicial services to the State's citizens.***

The voters have already approved the unification of the State Judiciary by the constitutional amendments of 1978 and 1983. Full unification cannot come without action by the Governor and the Legislature.

The counties have no management authority over the Trial Court System. Nevertheless, they are required to raise the vast majority of the funding through continually increasing property taxes. There needs to be a State policy that the government that manages a program should also finance it.

Recommendation III-1:

The Commission recommends that all of the judicial functions, except those of the county clerks and the surrogates, be transferred to the State in the first year of the program, and that the counties pay to the State in successive years a constantly declining share of the costs of financing the Trial Court System. The Commission further recommends that the State receive the accompanying revenue beginning in the first year of the program. The total number of county employees recommended for transfer at this time is 5076, and the total net county cost for funding these operations is \$119.2 million. It is recommended that the phase-in occur over a five-year period. Extending a transfer of this magnitude over an even longer period can lead to confusion, manipulation, and unintended consequences.

In the first year and each subsequent year the State would pay an additional \$24 million, and in the five subsequent years, county payments to the State would be \$95 million, \$71 million, \$47 million, \$23 million, and, \$0 respectively. Any increase in costs would be assumed by the State from

day one of the five-year transfer. Between 1980 and 1986, the county cost has increased over 11% annually.

Recommendation III-2:

The Commission recommends that the cost of capital and maintenance be paid by the State to the counties beginning in the sixth year of the program. The annual county cost for capital and maintenance is \$32 million.

COMMISSION RECOMMENDATION

1986 County Expenditures and Revenue

Program Area	Gross Exp.	Revenue	Net Exp.	# of Employees
Cty. Dept. of Courts	\$ 60.8 mill.	\$ 4 mill.	\$ 56.8 mill.	2005
Pre-Disp. Prob.	20.8 mill.		20.8 mill.	797
Sheriff (non-sec.)	3.5 mill.		3.5 mill.	191
Post-Disp. Prob.	53.2 mill.	15.1 mill.	38.1 mill.	2083
Total	\$138.3 mill.	\$19.1 mill.	\$119.2 mill.	5076
Cap. & Main.	32.0 mill.		32.0 mill.	
Grand Total	\$170.3 mill.	\$19.1 mill.	\$151.2 mill.	5076

Note: This report does not recommend the transfer to the State of the 885 judicial employees of the county clerks at a 1986 county cost of \$18.8 million at this time.

Recommendation III-3:

The Commission recommends that the title of all furniture and equipment owned by the counties and used by the State Trial Court System be transferred to the State at the same time the 5076 county employees are transferred. From that day forward, the State would be responsible for all purchases and maintenance of furniture and equipment.

Recommendation III-4:

The Commission recommends that the counties should be required to reduce their county purpose tax levy by an amount equal to their net savings from the State assumption of the judicial costs.

The Commission believes that at least five benefits would be realized by implementation of these recommendations:

1. Significant property tax relief to taxpayers;

2. A unified administration of the trial courts and of the trial court support staff by the New Jersey judiciary;
3. Improved quality of judicial services because there would not be different levels of funding which results in staffing and caseload variations and disparities;
4. Relief for county governments from the combined pressure of State mandated costs and the CAP law, so the county governments can better address the delivery of local services; and
5. An overall reduction in court system costs over time, with the consolidation of responsibilities within the unified judicial system.

CHAPTER I

INTRODUCTION: THE COURT REFORM MOVEMENT

The New Jersey Trial Court System has evolved from a system widely criticized for its proliferation of courts with overlapping jurisdiction to a system that is becoming unified as best it can due to fiscal and administrative constraints. In an effort to understand the complexity of the Trial Court System, it is necessary to place the current system as it exists today in its historical context. Chapter I sets the stage for the understanding that is essential for developing the Commission's recommendations to improve the State Trial Court System. Chapter II describes the Trial Court System as it exists after the 1983 court rules were adopted. Chapter III details the State and county personnel assignments, and the State and county expenditures for funding the Trial Court System.

HISTORICAL PERSPECTIVE

The final report of the Supreme Court Study on Efficiency in the Operations of the Courts of New Jersey, published in 1982, contains the following historical perspective on court reform:

The most significant call for court reform during the century was Harvard Law School Dean, Roscoe Pound's 1906 address, "The Courses of Popular Dissatisfaction with the Administration of Justice," before the annual convention of the American Bar Association, St. Paul, Minnesota. 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. This simplified structure later became the prototype for the American Judicature Society and American Bar Association (ABA) standards for court reform.

Since 1906, several model judicial articles have served as guidelines for more effective court systems. 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.

The next significant breakthrough came in 1938 when the American Bar Association adopted 66 resolutions for court reform drafted by its Judicial Administration Section. The ABA resolution 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 extent possible through centralized administration and the reassignment of judges to relieve congested dockets.¹

NATIONAL COURT REFORM

States are increasingly moving toward systems of centralized financing for all the courts in the state, with varying degrees of centralized budgeting and management to accompany the shift.

Twenty-eight states have assumed primary responsibility for funding trial courts, (See Figure 1).² Even though few of these states have assumed total financial responsibility, the scope of assumption has been very broad, and the shift has been a swift one, with 21 of the 28 states having switched to state financing in the last fifteen years.

In 1979, Harry O. Lawson, "State Funding of Court Systems," identified twenty-two states as having primarily state-funded court systems: Alabama, Alaska, Colorado, Connecticut, Delaware, Hawaii, Kansas, Kentucky, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia, and West Virginia.³ Since 1979, Michigan has passed legislation calling for a phased-in state assumption of trial court operating costs; New Hampshire has assumed trial costs, through a phase-in beginning with personnel and court operating costs, with facility costs being transferred soon; Wyoming has assumed significant portions of trial court costs; Oregon is moving to state financing; and Indiana passed legislation in 1983 providing for the shift in financial responsibility for district courts from the counties to the state over a five-year period. Iowa assumed the cost of jury/witness fees in 1983; the cost of court reporters in 1984; bailiffs and juvenile probation in 1985; clerk's office in 1986; and will assume costs of indigent defense in 1987. As of July 1, 1986,

¹Supreme Court of New Jersey, "Final Report of the Supreme Court Committee on Efficiency in the Operation of the Courts of New Jersey" (Trenton, 1982), pp. 9-10.

²Robert W. Tobin, "Managing the Shift to State Court Financing," *Justice System Journal*, 7/1 (1982), pp. 70-102.

³Harry O. Lawson, "State Court System Unification," *The American Law Review* 31, No. 2, (Winter 1982), pp. 273-279.

FIGURE 1

**PERCENTAGE OF COURT SYSTEM EXPENDITURES FINANCED
BY STATE APPROPRIATIONS**

Fiscal Year 1985-86

0%-25%	25%-50%	50%-80%	80%-100%
Arizona	Florida	Iowa	Alabama
Arkansas	Idaho	Kansas	Alaska
California	Illinois	Maryland	Colorado
Georgia	Louisiana	Missouri	Connecticut
Indiana	Minnesota	Nebraska	Delaware
Mississippi	South Carolina	Virginia	Hawaii
Montana	Pennsylvania	West Virginia	Kentucky
Nevada	Utah		Maine
New Jersey	Wisconsin		Massachusetts
Ohio			Michigan
Tennessee			New Hampshire
Texas			New Mexico
Washington			New York
			North Carolina
			North Dakota
			Oklahoma
			Oregon
			Rhode Island
			South Dakota
			Vermont
			Wyoming

the elected clerk's position became an appointed position, and all current county clerks were grandfathered in.

Until recently, state financed court systems were concentrated primarily in the less populous states. Early state funded court systems tended to be located in the New England area, such as Maine (1961), Vermont (1961), Connecticut (1965) and Rhode Island (1965); to these were added Alaska (1959) and Hawaii (1965). State financing subsequently spread to other parts of the country, emerging as an element of major court reform movements in North Carolina in the late 1960s and later Colorado (1970) and South Dakota (1972).

Only since 1977 has state funding been achieved in the more populous states with populations over 5 million: New York, Massachusetts, North Caro-

lina and Michigan. In these states, state funded judicial systems were enacted to provide a vehicle for relieving the financial burdens of local taxing authorities.

There are varying means of shifting to state financing. Most states have phased-in court financing, although a few have made a one-time assumption (Alabama, Colorado, Kentucky, Massachusetts). Even these states, however, initially omitted facilities.⁴

Typical methods of phased assumption are:

- geographic assumption, absorbing courts in one part of the state and gradually including the remainder of the state (South Dakota);
- percentage increments, in which the state pays a gradually increasing percentage of trial court operating costs (Kansas, South Dakota, New York). New York assumed 50% of the Trial Court costs in 1979 and 100% in 1981;
- incremental assumptions based on adding new functional areas or new objects of expenditure (Missouri, for example, is assuming personnel costs only, and not all of these); and
- incremental assumption according to the levels of courts. (Where states have unified their limited jurisdiction courts, it is not uncommon that these courts are wholly state financed, while total state financing of general jurisdiction trial courts is deferred. In Delaware, Maryland, Nebraska, Virginia, and West Virginia, all with largely state-financed court systems, clerical personnel in general jurisdiction courts are still county-funded but there is some movement towards state assumption of these costs.)

Capital and maintenance costs are frequently not assumed by states, at least in the initial phases of state assumption. Assumption of these costs may be deferred to reduce the cost to the state, but also for some of the reasons described below:⁵

Cost Area

Reasons for Deferring Assumption

Capital and Maintenance	This is the most complex form of assumption, and it is also very costly to the state. It involves facility surveys to determine the relationship between space occupied by the courts and space occupied by other agencies, the divergent need for improvement or expansion of facilities in each of the counties, and endless negotiations with local governments and state officials as to the "best" way to accomplish the transfer. For these reasons, state assumption of capital and maintenance costs usually has been deferred.
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⁴Tobin, pp. 82-83.

⁵Ibid., 84.

There is also some difficulty involved with the State assumption of the cost of furniture and equipment. These costs, therefore, are generally deferred. If the State assumes full responsibility for furniture and equipment then there would have to be a transfer of title to the State, which in turn entails an inventory maintenance system, which in turn requires linkage to purchasing and appropriations accounting systems.

Figure 2 presents a comparison of major expenditure items financed by state appropriations in the first 22 state funded judicial systems.⁶ As shown in this chart:

- Thirteen of the 22 states pay a portion of probation expenses. Also of note is that probation functions typically exist as executive branch agencies or are included in the judicial budget in a limited way if at all. There are 26 state-run adult probation systems. Of these systems, twenty-two are administered by the executive branch, three are run jointly by the executive and judicial branches, and one (Hawaii) is administered exclusively by the judiciary.⁷
- Only in six of the 22 states are capital and maintenance expenses fully funded by state appropriations, while such expenses are entirely excluded from state judicial budgets in 14 jurisdictions.
- Judges are paid by the states in all 22 states.
- Court reporters are paid by the state in 21 of the 22 states.
- Court administration is paid by the state in 19 of the 22 states.
- County Clerk's expenses are paid by the state in 17 of the 22 states. In the 5 states that do not pay this expense, four of these states have the County Clerk as an elected position.
- Jury payments are paid by the state in 17 of the 22 states, and law library expenses are paid by the state in 16 of the 22 states.

In 1978, the Minnesota Judicial Planning Committee received survey responses from 10 states stating the advantages and disadvantages of state financing. ***The experiences of these states suggest that the definitions of state funding and the method of its accomplishment should be individualized in each state.*** Within that context, the primary issues of cost may be dealt with on a state-by-state basis and tailored to individual court structures, traditions and needs. In developing an outline for a state funded court system, it is suggested that each state consider the following in formulating an approach best suited to its unique requirement:

⁶Sue Dosal, "Current Status of State Financing of Trial Courts," *National Center for State Courts* (1982), pp. 124-136.

⁷Advisory Commission on Intergovernmental Relations, "Jails: Intergovernmental Dimensions of a Local Problem" (Washington, D.C., May, 1984).

FIGURE 2

**COMPARISON OF EXPENDITURE ITEMS FINANCED BY STATE APPROPRIATIONS
IN STATE FUNDED TRIAL COURT SYSTEMS, FY 1979**

States	Judges	Reporters	Admin.	Clerks' Office	Facilities	Adult Prob.	Juv Prob.	Jury Fees	Law Library
Alaska	X	X	X	X	X	N/A	N/A	X	X
Connecticut	X	X	X	X	X	X	X	X	X
Delaware	X	X	X	X	X	X ¹	X	X	X
Hawaii	X	X	X	X	X	X	X	X	X
Massachusetts	X	X	X	X	X ²	X	X	X	X
Kentucky	X	X	X	X	X	X ³	—	X	X
Rhode Island	X	X	X	X	X	N/A	N/A	X	X
Maine	X	X	X	X	—	N/A	N/A	X	X
New Mexico	X	X	X	X	—	—	X	X	X
Vermont	X	X	X	—	—	—	—	X	—
North Carolina	X	X	X	X	— ⁴	—	X	X	X
Alabama	X	X	X	X	—	—	—	X	X
Colorado	X	X	X	X	—	X	X	X	X
West Virginia	X	X	X	—	—	X	X	X	X
New York	X	X	X	X	—	N/A	N/A	X	X
South Dakota	X	X	X	X	—	X	X	—	X
Nebraska	X	X	—	—	—	X	X	—	—
Maryland	X	—	—	—	—	N/A	N/A	—	—
Oklahoma	X	X	X	X	X ⁵	N/A	N/A	X	X
Kansas	X	X	X	X	—	X	X	—	—
Missouri	X	X	X	X	—	N/A	X ⁶	—	—
Virginia	X	X	—	—	—	N/A	N/A	X	—

¹Presentence Investigation only.²A portion of facilities rental only.³Pre-trial release only.⁴Statutory docket fee surcharge retained by county for application to facilities expense.⁵Facilities are funded in whole or part by some counties.

Cost considerations

- Developing the functional scope of the court system in narrow terms to reduce state financing costs;
- Employing regional differentials, based on cost of living, to reduce the expense of transferring local employees to a state funded personnel system and to minimize potential disruption of local government compensation scales (this might be of a temporary nature to ease the financial burden of standardization which often accompanies a transfer in jurisdiction); and
- Permitting local government to retain some portion of court revenues to soften the revenue loss (as noted in Chapter 3, county government in New Jersey does not retain a significant amount of court revenues).

NEW JERSEY'S COURT REFORM INITIATIVES

The New Jersey judicial system under the first Constitution of 1776, and the subsequent Constitution of 1844, adhered to the notion that the practices and procedures in the various courts were controlled by legislative enactments as well as by special rules promulgated by individual courts and judges. Procedures of courts on the same level would in some instances vary among the counties according to prevailing local customs. The fact that no one judge was the responsible head of all the courts resulted in inefficient administrative control and supervision. There was overlapping jurisdiction of many of the courts, and most judges sat as judges of more than one court which added to the general inefficient administrative control and supervision.

The Constitution of 1947, which was drafted in a special constitutional convention, was ratified in that year by an overwhelming vote. The Judicial Article of the Constitution of 1947 became effective on September 15, 1948 and provided in Section I that "The judicial power shall be vested in a Supreme Court, a Superior Court, County Courts and inferior courts of limited jurisdiction. The inferior courts and their jurisdiction may from time to time be established, altered or abolished by law."⁸ The 1947 Constitution also provided that the Governor, with the consent of the Senate, appoints the judges of the courts (with the exception of the municipal courts serving a single municipality).

By Article VI, Section III, the Superior Court was given original general jurisdiction throughout the state in all causes and was divided into an Appellate Division, a Law Division, and a Chancery Division. Judges of the Superior Court were assigned to the various divisions by the Chief Justice.

The Constitution of 1947 specifically provided for a County Court in each county. It gave this new court all the jurisdiction which heretofore had been exercised by the Court of Common Pleas, the Orphans' Court, the

⁸New Jersey, *Constitution*, Article VI, Section I.

Court of Oyer and Terminer, the Court of Quarter Sessions and the Court of Special Sessions. **All of these courts handled criminal matters with a large degree of overlap.**

Of particular significance is the fact that the Constitution of 1947 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. **This rule-making power has been interpreted by the court to mean that the Supreme Court is autonomous from the other branches of government; and, therefore, court rules may not be overridden by legislation.**

In a 1950 Supreme Court case, *Winberry v. Salisbury*, the Supreme Court, under Chief Justice Arthur T. Vanderbilt, ruled on the intent of Article VI, Section II, paragraph 3, which states "The Supreme Court shall make rules governing the administration of all courts in the State and, subject to the law, the practice and procedure in all such courts."⁹ The case was argued on the meaning of the phrase, "subject to the law". The Supreme Court said this phrase does not mean subject to legislation, but means substantive law as distinguished from pleading and practice; and, therefore, the rule-making power of the Supreme Court is not subject to overriding legislation. The case was concerning an appeal. The statute stated that a person has one year for appeal, and the court rules stated forty-five days. Because the court interpreted that their rule-making power is not subject to overriding legislation, the appeal was rejected because the person did not file the appeal within the forty-five days.

There was one dissent by Justice J. Heher, and his argument was that the phrase "subject to the law" means "subject to statutory law." Justice Heher's opinion is argued on the fact that in 1942, a Joint Legislative Committee proposed what was known as a 1942 draft which was the parent of the series of drafts that culminated with the writing of the 1947 Constitution. This draft stated that "The Supreme Court shall make rules as to the administration of the courts, and, subject to law, as to pleading, practice and evidence, in all the courts."¹⁰ The 1944 draft which was submitted to the people for vote and defeated stated that "The Supreme Court shall make rules governing the administration of all the courts in the State. It shall have power, also, to make rules to pleading, practice and evidence, which may be applicable to all of the courts of this State and which shall have the force of law unless charged or abrogated by law."¹¹

In the summer of 1947, the Constitutional Convention assembled in New Brunswick and divided into committees including a Committee on the Judicial Article. Their tentative draft proposed this version of the rule-making power: "The Supreme Court shall, subject to law, make rules governing the administration and the practice and procedure in all the courts of the State."¹²

⁹*Winberry v. Salisbury*, 5 N.J. Super., 240 (1950).

¹⁰*Ibid.*, p. 249.

¹¹*Ibid.*, p. 258.

¹²*Ibid.*, p. 258.

This draft directed that not only the court's power to make rules as to practice and procedure should be "subject to law" but also that the power to make rules governing the administration of the courts also should be "subject to law." In the final form submitted to the people for a vote in 1947, the term "subject to law" was moved so as to apply to only the control of practice and procedure. Justice Heher suggests that the Constitution means that the court in making rules has a certain field (administration) in which it is not "subject to law," and that it has another field (practice and procedure) in which acts are "subject to statutory law."

In Justice Heher's dissenting opinion, he argued that in other parts of the 1947 Constitution the word "law" means statutory law, so it is not consistent that the term be interpreted differently depending upon the paragraph involved. For instance, the next paragraph of the Constitution, Article VI, Section III, paragraph 1 provides that "The Superior Court shall consist of such number of judges as may be authorized by law, but not less than twenty-four"¹³ The next section, Article VI, Section IV, paragraph 1, states there shall be a county court in each county which can be altered by law.

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. Chief Justice Vanderbilt implemented a new set of court rules to standardize court practices and procedures and abolished the vestiges of home rule and favoritism which characterized the former system. The Legislature established an Administrative Office of the Courts, and the Chief Justice appointed an administrative director, which is permitted by the Constitution, to assist him in carrying out his administrative responsibilities. Under his direction, the New Jersey judicial system was considered one of the best state court systems in the country.

Trial Court Administrators were introduced into all the then 12 (now 15) vicinages under the tenure of Chief Justice Joseph Weintraub (1957-1973). The trial court administrator's responsibility was to help alleviate the administrative burden of the assignment judges. The role of the Administrative Office of the Courts was also greatly expanded under the Administrative Director, Edward B. McConnell. In 1969, the court rules were again revised in an effort to streamline and reform court procedures.

A very significant step in New Jersey's history of court reform was a proposal written by Administrative Director Edward B. McConnell which was presented at the 1969 Judicial Conference of New Jersey. The proposal was entitled "A Blueprint for the Development of the New Jersey Judicial System."¹⁴ Mr. McConnell's purpose for this proposal was that he felt the New Jersey courts were no longer serving as an example for other states to emulate. Other jurisdictions had modernized their judicial systems, and as a system, the New Jersey courts no longer held the position of preeminence that it once occupied.

¹³New Jersey, *Constitution*, Article VI, Section III, paragraph 1, 1947.

¹⁴McConnell, Edward B., "A Blueprint for the Development of the New Jersey Judicial System," 92 *New Jersey Law Journal* 369 (1969).

To modernize the court structure, Administrative Director McConnell recommended the following changes.

1. Abolish the County Courts by constitutional amendment and transfer their jurisdiction and personnel into the Superior Court. The reason was that the jurisdiction of the County Court duplicated that of the Superior Court.
2. The Juvenile and Domestic Relations Court should be established as a full-fledged Family Court with comprehensive jurisdiction over the wide variety of civil and criminal actions affecting the welfare of the family unit. This should include such matters as adoptions, minor penal offenses involving husband and wife, and, divorce and other matrimonial causes. The Juvenile and Domestic Relations Court was established by the Legislature in 1929, and had exclusive jurisdiction over cases of juvenile delinquency, and legal obligations of family members with respect to domestic relations matters including the awarding of support and temporary custody of children but not extending to divorce.

Mr. McConnell felt no amendment of the Constitution would be required.

3. The Municipal Courts should be abolished and the County District Courts should be expanded to take on the additional volume of business. The County District Court was created by statute in 1898, and the jurisdiction was primarily civil, generally limited to \$1,000, except in cases involving motor vehicles where it had jurisdiction up to \$3,000.

Mr. McConnell believed that the Municipal Court could be abolished by the Legislature since it is a court of limited jurisdiction.

4. Surrogate's Court should be eliminated and its functions taken over by the Clerk of the Superior Court acting through deputy clerks in the counties. By the Constitution, the surrogate is an elected official in Article VII, Section II, paragraph 2, which deals with public employees. The office is not provided for in the Judicial Article (Article VI). By statute, provision is made for a Surrogate's Court in each county with the elected surrogate serving as both judge and clerk. Mr. McConnell felt it unacceptable that a judicial system otherwise staffed entirely by appointed judges would have probate matters under the auspices of an elected official who need not be an attorney.

At that time, Mr. McConnell believed that the Surrogate's Court could be abolished by the Legislature.

5. The county clerks should be appointed by the Clerk of the Superior Court as deputies, subject to approval by the Supreme Court. The county clerks are constitutional officers, just as are the surrogates, however, they were not provided for in the Judicial Article of the Constitution at that time. Since the Constitution did not specify their

duties, Mr. McConnell's opinion was that a change could be effected by legislation without a constitutional amendment.

It should be noted, that in 1978, the Constitution was amended. Article XI, Section VI, paragraph c states that "Unless otherwise provided by law, all county clerks shall become clerks of the Law Division of the Superior Court and all surrogates shall become clerks of the Chancery Division (Probate Part) of the Superior Court for their respective counties and shall 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..."¹⁵ While the Constitution, as amended, gives the county clerks and surrogates a role in the courts, the paragraph states "unless otherwise provided by law." Depending upon the definition of the word "law", it would appear that this paragraph could be altered by statute.

6. The State should completely finance the court system including facilities. The considerable variation in the ability and willingness of the counties and municipalities to shoulder the reasonable costs of their courts inevitably results in a wide variation in salaries, facilities and services which in turn is reflected in the caliber of justice. Mr. McConnell felt the situation should not exist, but feared it would continue as long as the courts are largely financed at the local level. The administration of justice should rightfully be a State not a local responsibility, according to Administrative Director McConnell.

In 1978 the County Courts were abolished by Constitutional amendment, and all 116 judges became part of the Superior Court System.

In 1983, the electorate approved a constitutional referendum to merge the County Judicial and Domestic Relations Court into the Superior Court and create a Family Part of the Chancery Division which would include matrimonial as well as other family-related matters. At that time, the County District Courts were also absorbed into the Superior Court as the Special Civil Part. The eighty county judges became part of the Superior Court System.

During the late 1970s, trial court managerial issues were surfacing, and a 1979 study concluded that many trial courts were functioning as a loose coalition of organizations, each possessing a considerable degree of administrative autonomy. New Jersey court management was functioning at the same level described by this report. In a 1978 survey, New Jersey rated 19th in a nationwide survey on unification; scoring well in centralized rule-making and centralized management, but poorly in overall court structure and centralized budgeting and financing.

Recognizing the need for court reform in the areas where New Jersey fared poorly, in 1980, Chief Justice Robert N. Wilentz appointed the *Supreme Court Committee on Efficiency in the Operations of the Courts of New Jersey*. The final report was presented in May, 1982.

¹⁵New Jersey, *Constitution*, Article XI, Section VI, paragraph c, 1978.

SUPREME COURT COMMITTEE ON EFFICIENCY IN THE OPERATION OF THE COURTS IN NEW JERSEY

The Committee on Efficiency found a system characterized by fragmentation, duplication and confusion. The Committee found that a cohesive Trial Court Support "system" did not exist. Rather, it was a fragmented set of individual offices. The fragmented nature of the Trial Court System was further accentuated by the fact that its employees were covered by personnel systems designed for county employees outside the judicial branch. Within the 21 counties, there were many different appointing authorities for judicial personnel. There was not a single, centralized control over the allocation or use of court resources. Because the Trial Court System was heavily dependent on the 21 county Boards of Freeholders for funding, it was virtually impossible to allocate and transfer resources. The work of the court involved processing a large volume of paperwork and maintaining extensive records; yet the use of new technology—word processing, microfilm, computers—was virtually non-existent. The Committee on Efficiency presented five major recommendations:¹⁶

1. Finance the Trial Court System completely at the State level. It was inconsistent that a system with statewide orientation should be funded individually by the twenty-one counties.
2. Establish a separate judicial personnel system. Unification of the courts' human resources into one personnel system responsive to the Judiciary was considered critical to the efficient functioning of the State's courts.
3. Establish stronger management by the Judiciary over its own system.
4. Establish direct control by the Judiciary over all county clerical support operations presently exercised by the county clerk in connection with pending cases.
5. Install within the Trial Court System, as quickly as possible, modern methods of information processing and records management.

The Committee on Efficiency also offered several recommendations in the following areas: County Clerk, Sheriff, Probation, and Surrogate.

County Clerk—The Committee's major finding with regard to the operations of the State's numerous clerks' offices was that the fragmented and sometimes overlapping clerical support functions, not all under the direct control of the court, were restricting the efficiency and the effectiveness of some very critical court support operations. Some of the recommendations were as follows:

1. 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;

¹⁶Supreme Court of New Jersey, "Final Report of the Supreme Court Study on Efficiency in the Operation of the Courts of New Jersey" (Trenton, 1982) pp. i-146.

2. Terminate certain judicial support functions of the county clerk, with the Administrative Director of the Courts appointing someone to perform these functions;
3. Designate case managers responsible for case flow in each of the courts; and
4. Appoint a case coordinator in each vicinage.

Sheriff—The role of the sheriff in the Trial Court System had steadily expanded to include many routine functions unrelated to security. The Committee developed several recommendations:

1. Continue the current relationship wherein the sheriff, an elected constitutional officer, provides security in the court;
2. Assign to the sheriff operational command of all peace officers and others acting in courthouse security;
3. Require each sheriff to develop a courthouse security plan for consideration by the assignment judge;
4. Transfer responsibility for non-security court attendants from the sheriff to the courts; and
5. Continue to assign to the sheriff service of process for the Superior Court.

Probation—The functions of the Probation Offices had been steadily broadening and their workload had grown rapidly in recent years. The Committee felt it was time to review the central purpose of the office and consider changes to better reflect current operations. Following are some of the recommendations:

1. Establish clear long-term and short-term goals and objectives for the Probation system;
2. Assign to the administrative director the authority to appoint the chief probation officer upon recommendation of the assignment judge (The local judges had been making these appointments);
3. Establish a uniform definition of the services performed by probation officers (these functions would include: pre-trial intervention services, juvenile intake, domestic relations services, diagnostic services, supervision services, staff development services, volunteer services, evaluation and research, management information services, mental health after care services, special experimental treatment services, and Title IV-D probation supervision services, but not Title IV-D collection);
4. Transfer the Title IV-D collection function to a more appropriate administrative setting;
5. Change the name of the Probation Office to "Community and Court Services";
6. Realign the organizational structure of the Probation Office into three functional divisions

Preadjudication Division—Juvenile Intake/Investigation, Family Diagnostic/Investigation, Adult Diagnostic/Investigation, Bail, Pre-trial release and Pre-trial intervention

Compliance Division—Juvenile supervision, adult supervision, family supervision, volunteer services, fines and restitution, child support and alimony, penalty assessment, supervision for paternity cases, specialized caseloads, domestic relations services, and after care mental health services

Administrative Division—Information systems, evaluation and research, staff development/community resources, finance and budgetary, report production service, and agency liaison services

The heads of these three divisions would report directly to the chief probation officer;

7. Change the physical setting of where certain probation activities are performed (Compliance Division services were considered best located in the more densely populated regions of the community or in mobile units in rural areas where the people are located); and
8. Establish a weighted workload system in each probation department.

Surrogate—The Committee found that surrogates were highly responsive to the needs of those they serve. The recommendations were designed to improve the efficiency of their operations and to explore the possibility of making better use of their expertise:

1. Retain surrogates as elected, constitutional officers;
2. Develop and implement a training program for surrogates and their staffs;
3. Develop and implement a program of technical assistance for the surrogates;
4. Transfer the surrogates present clerk function for contested probate matters to the case coordinators;
5. Authorize a pilot study to evaluate the use of surrogates to hear matters such as accounting, adoptions, and uncontested cases of doubt and difficulty; and
6. Prohibit surrogates and their staff from the practice of law in the areas of probate and estate planning.

MANAGEMENT STRUCTURE COMMITTEE

The Management Structure Committee was appointed by Chief Justice Robert N. Wilentz in the Fall, 1982 and was charged with reviewing the recommendations of the Committee on Efficiency concerning the management of the trial courts.¹⁷ The Management Structure Committee was asked to design an improved structure to remedy the deficiencies noted by the Committee on Efficiency.

The Management Structure Committee was in agreement with the findings of the Committee on Efficiency. To facilitate the recommendations of the Committee on Efficiency, the Management Structure Committee made the following recommendations to change the present management structure of the trial courts in 1983:

1. **Assignment Judge**—Each vicinage would be supervised by an assignment judge designated by the Chief Justice who would be responsible for the performance of all court and court support personnel in the vicinage.

There had been an assignment judge in each vicinage. His responsibilities, however, did not include a specification that he supervise the Judiciary within the vicinage and be responsible for its performance. The proposed rule would clarify that the assignment judge's authority extended to court support units including the offices of the surrogate and county clerk/judicial functions.

2. **Trial Court Administrator/Case Coordinator**—Specifies that the trial court administrator is the administrative arm of the courts in the vicinage. The trial court administrator under the proposed rule would be the general manager of the support system. His function would be to provide the assignment judge with technical advice and managerial support in order that the latter can efficiently manage the costs and support units within the vicinage.

The Management Structure Committee did not advocate the creation of a new position—case coordinator. They recommended that the trial court administrator assume the duties recommended for the case coordinator.

3. **Case Manager**—This is a new position under the proposed rule. The case manager would be responsible for calendaring and noticing and would produce and analyze reports on case management to ensure that cases are assigned when ready for judicial attention or administrative processing. This new position was also recommended by the Committee on Efficiency.
4. **County Clerk**

The Management Structure Committee's recommendation is different from the Committee on Efficiency concerning the county

¹⁷Supreme Court Management Structure Committee, "Final Report of the Management Structure Committee," *New Jersey Law Journal*, Thursday, August 4, 1983, pp. 1-11.

clerks. The Management Structure Committee recommended that the judicial staff of the deputy clerk of Superior Court (county clerk) retain responsibility for docketing and records management. The county clerk would continue to provide this staff, subject to the supervision of the assignment judge.

5. **Probation**—The Management Structure Committee differed from the Committee on Efficiency regarding probation. They agreed with the 1982 Judicial Conference on Probation which recommended that probation services be maintained as a single entity and not be divided among several judicial units. The Committee did not want to restrict the transfer of persons to meet demands nor inhibit career paths. It also reasoned that it would be impractical for some smaller departments to be so divided because of their size.

The Committee recommended that probation departments be organized according to vicinages rather than counties, and that probation services, while remaining a single department, should be categorized according to the nature of services performed as recommended by the Committee on Efficiency and the 1982 Judicial Conference on Probation (Preadjudicative, Compliance Supervision, Central Administrative Functions). Those recommendations, however, did not contemplate the proposed management reorganization of the courts by the Management Structure Committee. The recommendations assumed the continuation of the current administrative system with its duplication and ill-defined managerial authority.

The Management Structure Committee recommended that the chief probation officer be appointed by the administrative director after consultation with the assignment judge. The Committee differed somewhat from the Committee on Efficiency and the 1982 Judicial Conference on Probation. The conference recommended that the chief probation officer report directly to the trial court administrator on matters of local administration, including budget, personnel, and management information.

Under the Management Structure Committee's proposal, the chief probation officer would be responsible for post-dispositional (supervision) services and for the assignment of staff and resources to each judicial unit for pre-dispositional services. Direct supervision of the pre-dispositional probation staff would be explicitly recognized as the responsibility of the presiding judge within their units.

6. **Trial Court Managerial Structure**—The Committee recommended a reorganization of the courts based on the nature of their judicial activity and the court support units according to the courts which they serve. They recommended four managerial divisions (civil, chancery, criminal, family), each supervised by a presiding judge. Under the presiding judge would be a case manager, except in the

case of the civil and chancery managerial divisions which would share a case manager. Probation pre-dispositional services would be assigned to the appropriate unit, either criminal or family.

The purpose of this proposal was to improve the management of present resources; eliminate duplication; consolidate managerial positions where appropriate; eradicate managerial confusion; and strengthen the relationship between the court support units and the court.

IMPLEMENTATION STATUS REPORTS

After issuance of the final Committee on Efficiency report, a series of implementation committees were appointed for each of the areas studied. Following are some of the major recommendations from these committees as summarized in the Administrative Office of the Courts' Implementation Status Report:¹⁸

County Clerk—The Implementation Committee disagreed with the Committee on Efficiency's recommendation that certain of the county clerk's record keeping functions should be terminated. They were in agreement with the Management Structure Committee's recommendation that by virtue of his office as deputy clerk of the Superior Court, he is a member of the judicial family. Therefore, county clerk personnel performing record keeping functions should be included in the judicial budget and should continue to be subject to the assignment judges' supervision.

Case Manager—The Implementation Committee agreed with the Committee on Efficiency and the Management Structure Committee that there should be a new position of case manager.

Case Coordinator—The Implementation Committee disagreed with the Committee on Efficiency as far as a new position. They agreed with the Management Structure Committee that the trial court administrator should be the case coordinator whenever possible.

Sheriff—The Implementation Committee agreed with the Committee on Efficiency that the sheriffs' officers performing non-security functions in the courtroom should be performed by judicial personnel under the assignment judge and that a court aide title and job description be implemented.

Court Managerial Structure—The Implementation Committee endorsed the recommendations of the Management Structure Committee that all support units be divided into three units according to the courts they serve. The units are criminal, civil/chancery, family.

Surrogates—The Implementation Committee agreed with the Committee on Efficiency that the surrogate should continue to be elected.

¹⁸Administrative Office of the Courts, "The Committee on Efficiency and Beyond—Implementation Status Report" (Trenton, September 12, 1983).

The Committee did not agree with the Committee on Efficiency's recommendation that the surrogate's role in contested cases should be transferred. The Committee felt that the surrogate provided an expertise not otherwise available.

Probation—The Implementation Committee agreed with the Management Structure Committee that pre-dispositional services should be divided according to the court units they serve and should report to the presiding judges of these units. The chief probation officer would supervise directly the daily provision of all post-dispositional services.

Personnel—The Implementation Committee agreed with the Committee on Efficiency that a statewide personnel system for all employees of the judicial branch was critical to achieving significant improvement in the efficiency of trial court support services.

PRIOR COMMISSION VIEWS

In its 1984 report, "County Mandates: The State Judicial System and Human Services," the County and Municipal Government Study Commission recommended that the State assume complete programmatic and financial control of the State Judicial System. The Commission further recommended that the \$150 million savings to county governments be devoted to property tax relief.

As a result of the Commission's report, legislation was introduced to transfer total responsibility for the court system to the State in the first year of the program. The counties, however, would be responsible for payments to the State of a constantly declining share of the costs of financing the State Judicial System in successive years.

Under the bill so introduced, in the first year, the cost of the county department of courts, the surrogate and his staff, and the county clerk and the employees of the clerk's office performing judicial functions would be financed by the State. During the four following years, the state would absorb an additional 25% of the cost of probation, the judicial portion of the sheriff's budget, and capital and maintenance expenses would be assumed by the State during each of the subsequent three years. From the first year, the State would assume all increases in costs above present levels for these functions.

Early in the legislative process, the bill was amended to eliminate the transfer of the cost of capital and maintenance because of the expense and because of the procedural difficulties in transferring this cost. At the same time, the transfer of the responsibilities of the constitutional officers were also removed from the bill because of the expense involved and because they were not in full agreement that their functions should be paid by the State. The legislation, as amended, passed both houses of the Legislature in 1984 with an overwhelming majority; however, the bill was vetoed by the Governor.

In vetoing the bill, the Governor stated that he was not ruling out eventual transfer of county judicial costs to the State. The Governor indicated that

a recurring cost of this magnitude should only be assumed by the State after review of the overall relationship between the local and State tax and revenue systems. The newly created State and Local Expenditure and Revenue Policy Commission is responsible for conducting this review. The veto message stated that a decision as to whether or not the State should absorb the costs of the trial courts should wait until the State and Local Expenditure and Revenue Policy Commission has completed its analysis of this and related issues and made its recommendations to the Governor and the Legislature.

SCOPE OF THE REPORT

The major objective of this report is to present an updated analysis on the need for unification of the State Trial Court System in terms of administration and financing. The study is a cooperative work effort between the County and Municipal Government Study Commission and the State and Local Expenditure and Revenue Policy Commission. The South Jersey Center for Public Affairs has conducted numerous field interviews in four counties for the Commission.

The report reviews the arguments for administrative and financial unification of the State Trial Court System; considers alternative procedures for accomplishing this unification; and recommends interim and final steps to unify the State Trial Court System.

CHAPTER II

TRIAL COURT MANAGERIAL STRUCTURE

The New Jersey Trial Court System is going through a profound period of change. Prior to the adoption of the 1983 court rules proposed by the Management Structure Committee, the Trial Court System's procedures for processing cases was fragmented, uncoordinated, and inefficient.

The courts have developed a transitional strategy which allows them to move from their traditional departmental organization at the county government level to a new more efficient functional organization on a statewide basis. The courts have carried this strategy about as far as is possible without the assistance of the Governor and the Legislature. This chapter indicates how the courts are organized today and what organizational changes need to be made to provide a united statewide court system.

Progress from the traditional departmental organization of the courts to a unified functional organization of the courts requires major changes relating to the integration of the county clerk's judicial staff and the pre-dispositional staff of the county probation departments into ongoing court management. Chapter II includes the Commission's recommendations concerning each major organizational component of the Judiciary including the three constitutional officers. Implementation of these recommendations is essential for organizational unification of the State Trial Court System.

The Commission and the South Jersey Center for Public Affairs, Stockton State College, have conducted numerous field interviews.¹ The purpose of these interviews was to determine to what extent the various counties have implemented the new trial court structure, and the most common impediments to implementation. Where appropriate, Chapter II will identify the similarity of the interviewees' responses.

Of particular significance is the fact that the State Trial Court System is administered by the State Judiciary. Nonetheless, the system is primarily funded by county government. Chapter II will address this issue in the process of describing the changing State Trial Court System.

APPOINTMENT POWERS AND MANAGERIAL RESPONSIBILITIES

The 1947 Constitution of the State of New Jersey states that the Governor nominates and appoints, with the advice and consent of the Senate, the Chief Justice and associate justices of the Supreme Court, the judges of the

¹Please see Appendix A for a list of individual and group meetings.

Superior Court, and the judges of the inferior courts with jurisdiction extending to more than one municipality. Judges of Municipal Courts serving one municipality are appointed by the municipal governing body. Since 1978, by statute, all municipal judges must be lawyers. Justices of the Supreme Court and judges of the Superior Court must have practiced law in this State for at least ten years. These justices and judges hold their offices for an initial term of seven years. If reappointed by the Governor and agreed upon by the Senate, the justices and judges hold their offices until the age of seventy, unless removed from office. Justices of the Supreme Court and judges of the Superior Court, while in office, are not allowed to practice law or engage in any other gainful pursuit.

All justices and judges are now paid by the State. There are currently 319 Superior Court trial judges. In 1978, 120 County Court judges were transferred to the State. In 1983, 80 County District Court judges and County Juvenile and Domestic Relations Court judges were transferred to the State. ***The vast majority of the support staff of the trial courts remain as county employees working for the State courts.***

The Constitution states that the Chief Justice of the Supreme Court shall be the administrative head of all the courts in the state. He appoints an ***Administrative Director*** to serve at his pleasure.

The administrative director is responsible for the enforcement of the court rules, policies and directives of the Supreme Court and the Chief Justice relating to matters of administration.

By court rule, the Chief Justice appoints an ***Assignment Judge*** from the list of Superior Court judges to be the chief judicial officer within each of the fifteen vicinages. The ***Presiding Judges*** of each of the four functional units existing in each vicinage are also appointed from the list of judges, by the Chief Justice.

The assignment judge, by court rule, has the responsibility for the administration of all the courts within his vicinage. ***The 1983 court rule makes it clear that the assignment judge's responsibility includes supervising the functions of the surrogate and the deputy clerk of the Superior Court (county clerk).*** The assignment judge may also appoint and discharge any judicial support personnel subject to uniform minimum standards and conditions promulgated by the administrative director.

Each functional unit has a presiding judge. By court rule, the presiding judge is responsible for the implementation and enforcement of all administrative rules, policies, and directives of the Superior Court.

The 1983 court rules also provide for the appointment of case managers, trial court administrators and vicinage chief probation officers.

Trial Court Administrators are appointed by the administrative director, after consultation with the assignment judge, subject to the approval of the Chief Justice.

The trial court administrator, by court rule, is the administrative arm of the courts within each vicinage. The trial court administrator's

responsibilities include the provision of technical and managerial support to the assignment judge and administrative director with respect to budget development and expenditures, supervision of all judicial support personnel, program development and analysis, facilities and resource management, and the provision of such assistance as shall be necessary to advisory committees appointed by the courts.

The 1983 court rule makes it clear that the trial court administrator is the administrative arm of the court and also states that the trial court administrator is to serve as the case coordinator for the vicinage. The case coordinator is responsible for the efficient movement of cases within the vicinage, subject to the direction of the assignment judge.

Aside from the judges, the trial court administrator is the only trial court managerial position paid by the State. There are 15 trial court administrators, one for each vicinage.

Case Managers for each court support unit within each vicinage are appointed by the administrative director after consultation with the assignment judge.

Each functional unit has a case manager except for General Equity and Civil/Special Civil which share a case manager. The case manager is a newly created position by 1983 court rule.

The case manager's responsibilities include the management of the judicial support personnel and resources as have been allocated to his functional unit by the assignment judge and the trial court administrator. The case managers are responsible for support staff working in the various divisions, including staff formerly in the offices of the civil assignment clerk, criminal assignment clerk, juvenile and domestic relations clerk, county district court clerk, and county clerk.

All of these clerks, with the exception of the county clerk, are appointed by the assignment judge. ***The new court rule makes it clear that most of the judicial employees of the county clerk, and all pre-dispositional employees of the Probation Office are under the day-to-day supervision of the case manager and assignment judge.***

The discussion of each court support unit within each functional unit will be expanded in more detail later in this Chapter.

The case manager is a county employee. There are 45 case managers, three for each vicinage.

Vicinage Chief Probation Officers in each vicinage are appointed by the administrative director after consultation with the assignment judge, subject to the approval of the Chief Justice. It should be noted that prior to the adoption of the 1983 court rules, chief probation officers were appointed by the judges of the County Courts who were absorbed into the Superior Court

by a 1978 constitutional amendment abolishing the County Court. NJSA 2A:168-5 which provided for these appointments is still on the books.

The new court rule provides that each vicinage will have a vicinage chief probation officer. In a multi-county vicinage, the outlying counties continue to have chief probation officers who supervise the counties' Probation Departments and report to the vicinage chief probation officer.

The vicinage chief probation officer is the supervisor of post-dispositional services which includes juvenile and adult probation supervision, restitution, and Title IV-D services. For pre-dispositional services, the vicinage chief probation officer assigns to two of the functional units (Criminal and Family) such staff as is required. The staff assigned is directly responsible to the presiding judge and the case manager with regard to their day-to-day functions. The vicinage chief probation officer hires, fires and is responsible for disciplinary measures for the personnel assigned to the functional units. While these employees are assigned to the functional units for pre-dispositional services, they remain in the Probation budget. ***The vicinage chief probation officer and all of the Probation employees are on the county payroll.***

Prior to the 1983 court rules, both pre-dispositional and post-dispositional services were supervised by the chief probation officer.

In the performance of his professional duties over post-dispositional services, the vicinage chief probation officer reports to the assignment judge. In the performance of his administrative duties, he reports to the trial court administrator.

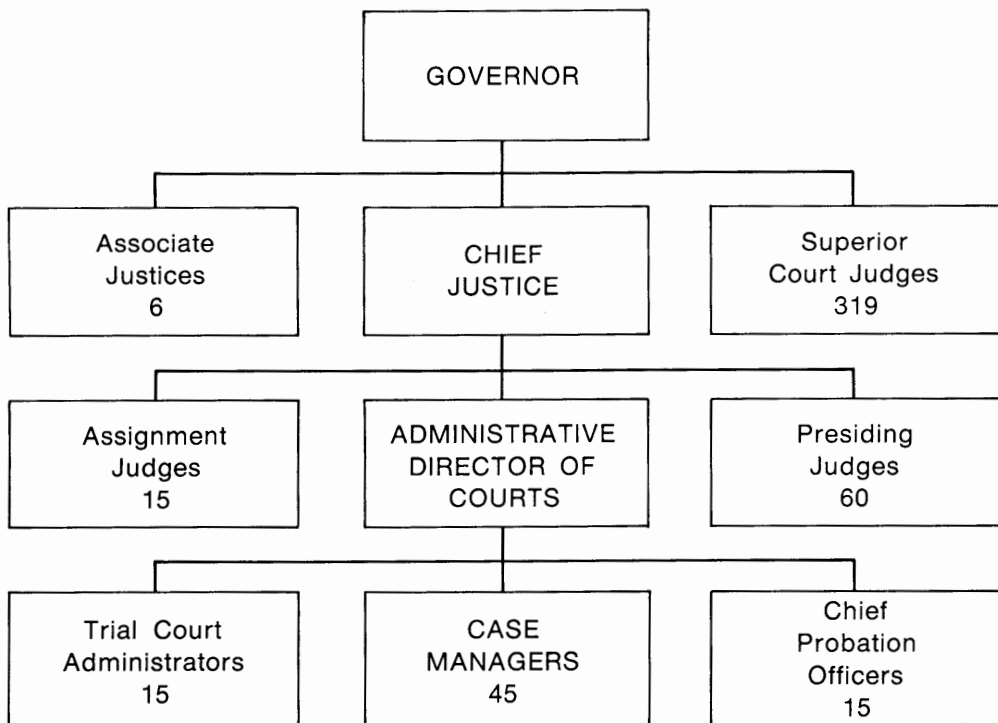
Please see Figure 3 for a diagram of the appointment powers described in this section and Figure 4 for a diagram of the new court managerial structure.

THE COURT SYSTEM

Article VI, Section I of the New Jersey Constitution states that the judicial power shall be vested in a Supreme Court, a Superior Court, and other courts of limited jurisdiction. The other courts and their jurisdiction may be established, altered, or abolished by law. The courts of limited jurisdiction are the Municipal Court, the Tax Court, and the Surrogate's Court.

The Constitution states that the Superior Court is divided into an Appellate Division, a Law Division, and a Chancery Division. The Appellate Division is the superior court of last resort. It processes all appeals from lower courts and state agencies. The Law Division handles all major criminal and civil cases, and also consists of a Special Civil Part which was until 1983 the County District Court. The Chancery Division has jurisdiction over general equity, and the family court established by a 1983 constitutional amendment. (See Figure 5 for a diagram of the Court System of New Jersey)

Figure 3
JUDICIAL SYSTEM APPOINTMENT POWERS



NOTE: All trial court judges are appointed by the Governor. From that list, the Chief Justice assigns certain judges as either assignment judges or presiding judges.

TRIAL COURT GEOGRAPHICAL AND FUNCTIONAL UNITS

The New Jersey Constitution gives the Supreme Court the authority to make rules governing the administration of the courts.

By court rule, the Chief Justice has the responsibility for dividing the State into as many geographical divisions as he deems necessary to facilitate the efficient administration of the courts. New Jersey now has fifteen divisions called vicinages as can be seen in Figure 6. Eleven of the vicinages are single county areas for the administration of justice. The other four are two or three county areas for the administration of justice. Some of these multi-county vicinages are inundated with a large number of cases.

Figure 4

TRIAL COURT MANAGERIAL STRUCTURE

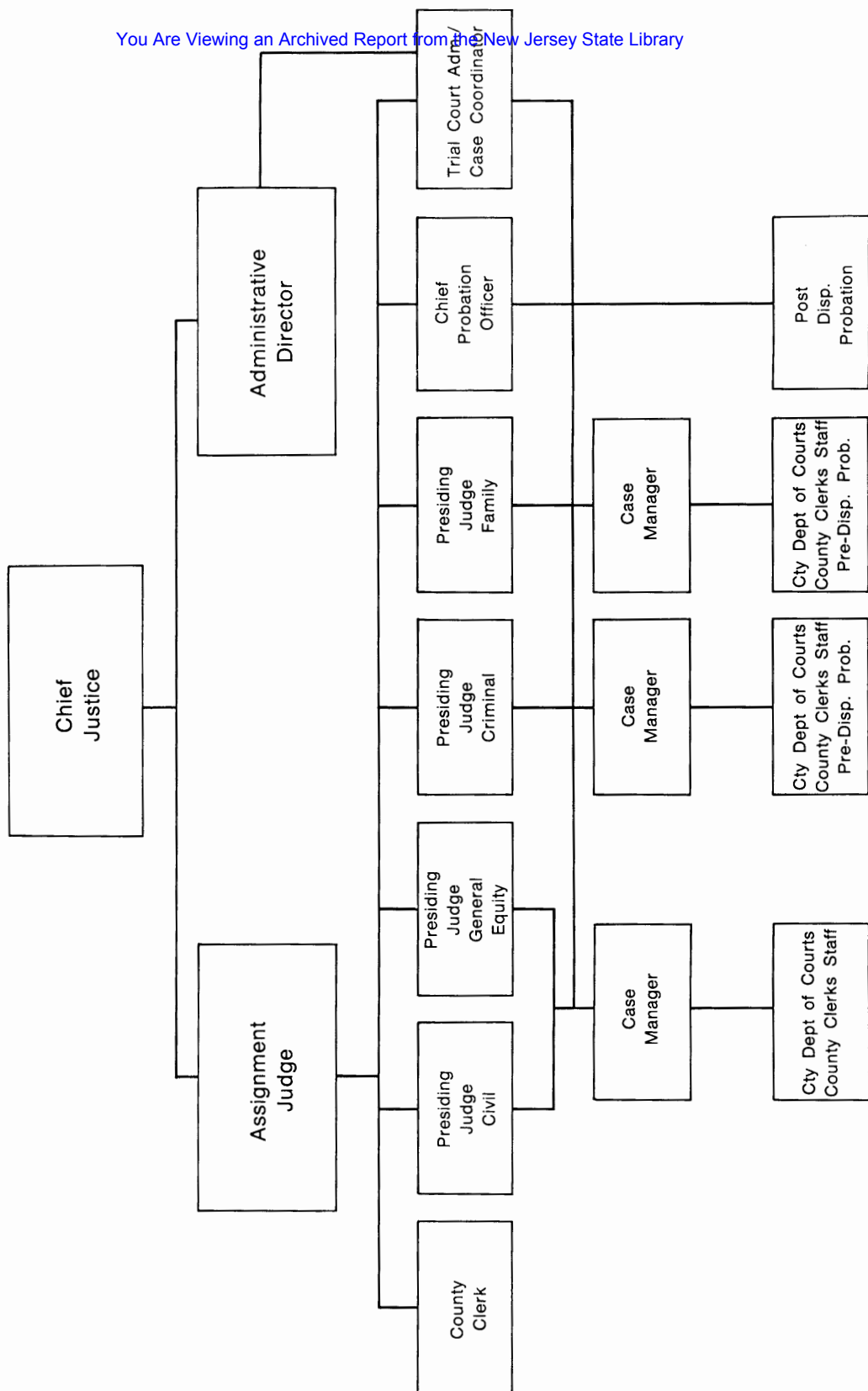
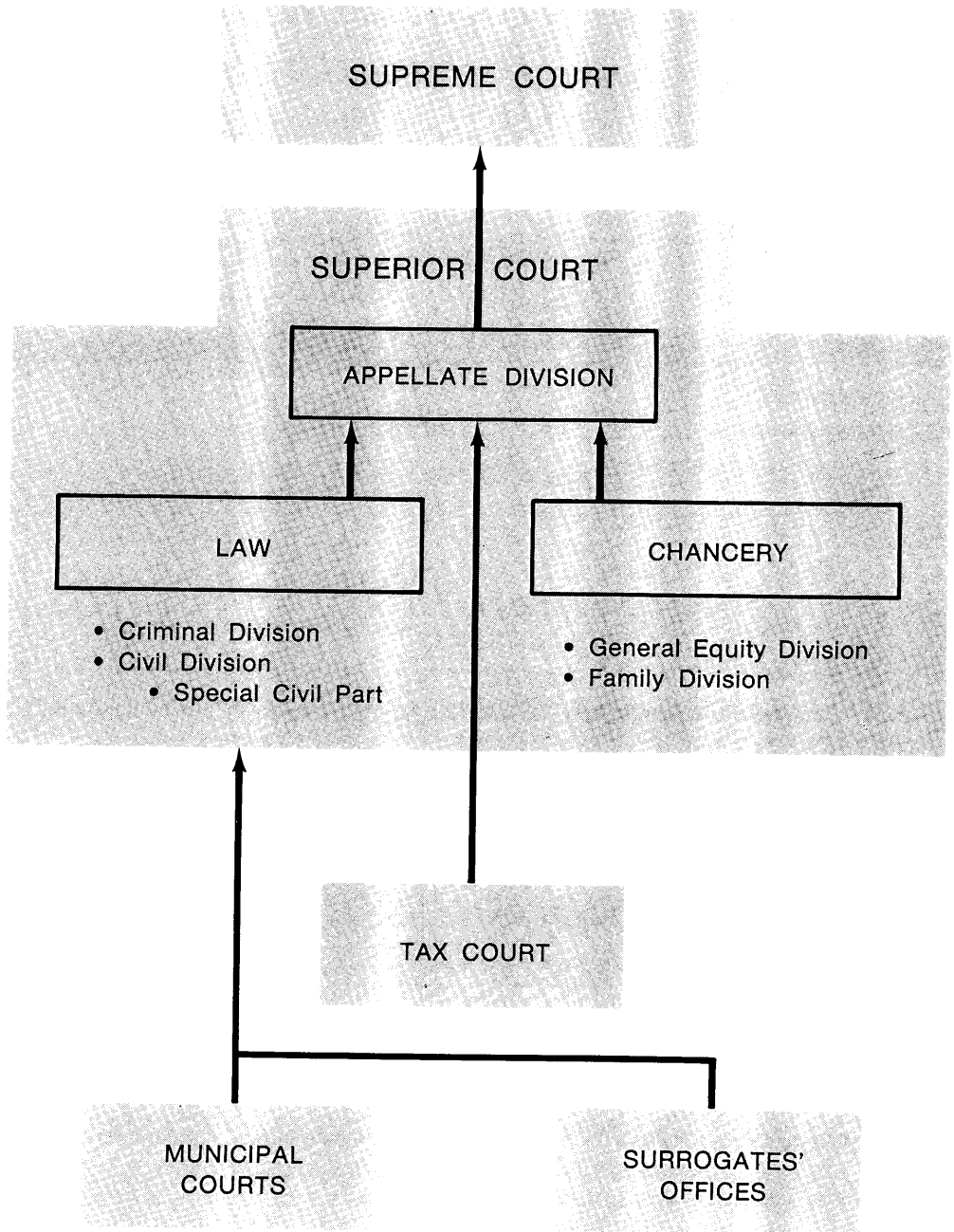


Figure 5
THE COURT SYSTEM OF NEW JERSEY





Source: Administrative Office of the Courts

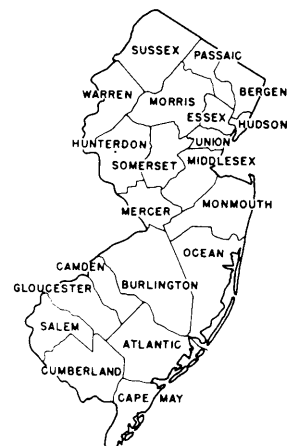
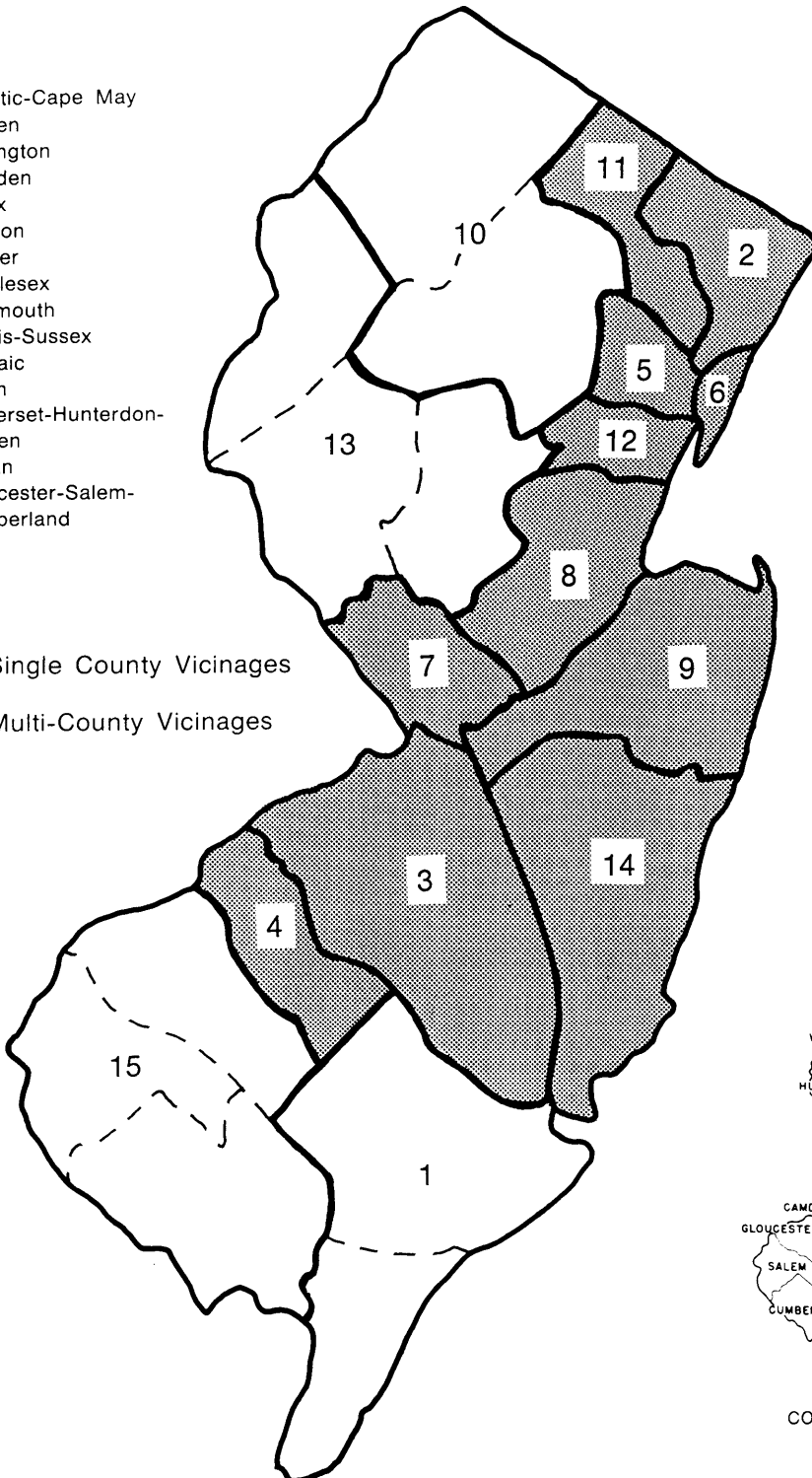
Figure 6
TRIAL COURT VICINAGES

Key

1. Atlantic-Cape May
2. Bergen
3. Burlington
4. Camden
5. Essex
6. Hudson
7. Mercer
8. Middlesex
9. Monmouth
10. Morris-Sussex
11. Passaic
12. Union
13. Somerset-Hunterdon-Warren
14. Ocean
15. Gloucester-Salem-Cumberland

 Single County Vicinages

 Multi-County Vicinages



COUNTY MAP

The courts should continue to utilize single counties for the administration of justice because: 1. there are 21 county courthouses within which most judicial activities take place; 2. many judicial employees are still county employees; 3. other county agencies will always need to have close relationships with the court, such as the prosecutor, probation, sheriff, welfare, juvenile facilities, county police and other human service agencies; 4. Each county has its own Bar Association which is closely associated with the operation of the State courts at the county level; and, 5. related State agencies are administered from offices in each of the twenty-one counties, such as the public defender and the Division of Youth and Family Services.

Therefore, the Administrative Office of the Courts should examine all relevant criteria and recommend to the Chief Justice the creation of new vicinages where appropriate.

The 1983 court rules which implement the Management Structure Committee's report, organize the trial court system into four functional units to facilitate the management within each vicinage. These units are: Civil/ Special Civil, Criminal, Family, and General Equity.

The **Civil Unit** hears cases such as contract and tort claims exceeding \$5,000 and other cases involving money judgments. **The Special Civil Part** handles cases that until 1983 were handled by the County District Courts. These cases involve small claims with judgments under \$5,000.

The **Criminal Unit** hears cases involving crimes of violence, such as murder, rape and armed robbery. These matters were handled primarily by the County Courts prior to the 1978 constitutional amendment merging the County Courts into the Superior Court.

The **Family Unit** handles offenses that if committed by adults would be criminal in nature. This court also handles domestic relations matters such as divorces, child support, adoptions, custody, and child and spouse abuse. This new unit handles all matters that were in the Matrimonial Part of the Law Division and in the Juvenile and Domestic Relations Court prior to the 1983 Constitutional amendment establishing a Family Part of the Chancery Division.

The **General Equity Unit** hears civil cases where something other than, or in addition to, money is essential to give the parties adequate relief.

It should be noted that in addition to these four functional units, there is a **Court Support Unit** providing administrative and clerical functions.

For the most part all of the employees in these functional units are county employees and funded by the counties except for the General Equity Unit. In the General Equity Unit, the State pays most employees' salaries and rental cost for the space occupied.

NEW TRIAL COURT SUPPORT STRUCTURE

The single most significant change in the Trial Court Managerial Structure is the introduction of a new court support structure as recommended by the Management Structure Committee. Among other changes, it drastically affects the offices of the Probation Department and the county clerk. The court has been divided into three court support units according to the courts they serve: Criminal, Family, and Civil/Special Civil/General Equity. The purpose is to facilitate case processing by weaving together the different support elements of the offices of the sheriff, the county clerk, the surrogate, the Probation Department and the County Department of Courts² into a unified whole, and clarifying the management relationships among the various parts of the judicial system. Following is a description of the new court support structures:

Vicinage Criminal Court Support Structure

The reorganization of the Criminal Division of the Superior Court involves the merger of investigation and case processing functions under a single management component headed by the presiding judge. A case manager is responsible to the assignment judge, presiding judge, and trial court administrator for the management of all support services and day-to-day supervision of personnel assigned to the division from the Probation Department, the Office of the County Clerk, and the County Department of Courts.

Prior to reorganization, there were several points of intake where the same information was collected about the defendant and the pending case. Separate files were maintained by each criminal court support unit, and the responsibility for case processing was split among a number of units, programs, and individuals in a variety of departments. Criminal case processing functions include the creating of files, index cards, schedules, calendar lists, motions, sending of notices, and contacting defendants, attorneys, prosecutors, and other court offices. The most glaring example of functional duplication related to the creation of files. The county clerk, criminal assignment clerk, Pre-Trial Intervention Program, Presentence Investigation Unit, Bail Unit, and in some counties, Treatment Alternatives to Street Crimes (TASC) all developed files on criminal cases. Many of these files contained the same information although it may have been used for different purposes.

The county clerk as deputy clerk of the Superior Court received the complaint. These complaints were filed and recorded in docket books and index cards. The county clerk recorded the defendants name, address, complaint number and the date of arrest. Every document which by law must be filed with the clerk was filed and maintained by the clerk. These documents included complaints, motion papers, search warrants, indictments and any other documents which pertained to the case or the defendant.

²For the purpose of this study, the County Department of Courts staff is defined as all staff not assigned to one of the constitutional officers or the vicinage chief probation officer.

The criminal assignment clerk was responsible for tracking all criminal cases. The assignment clerk assisted the presiding judge by keeping the judge abreast of any delay problems in cases which were lingering on the calendar or any other special problems that might arise.

The pre-trial intervention probation staff interviewed defendants for enrollment into the Pre-Trial Intervention Program. The staff prepared written reports including prior criminal records, family and social background, and employment history. Most of the factual background was obtained from the prosecutor's office. The participants were supervised by the same staff until completion of their diversionary goals. The pre-trial intervention program enacted in 1978 has two purposes: to divert individuals with high prospects for rehabilitation from traditional channels of criminal process, and to alleviate overburdened criminal caseloads by early resolution of appropriate cases which do not require full disposition.

Pre-sentence investigations were conducted by probation officers in most counties who interviewed defendants after plea or trial, investigated the background of the defendants, verified the criminal history, home address, and other personal information.

The Bail Unit functions in most counties were split among the county clerk, probation and bail unit staff. New Jersey developed Bail Units in order to provide a mechanism for the investigation and review of offenders committed to county jails. County clerks received the bail, and if the defendant could not make bail, the probation staff or bail unit staff did research and verified the background information which included the criminal history, family ties, and employment history.

The Treatment Alternatives to Street Crimes (TASC) staff was usually part of probation. Their responsibility was to investigate the defendants background in an effort to determine if the drug and alcohol problem of a defendant was such that he/she needed to be referred to an appropriate treatment program.

All five of these units, and in some counties even more units, while having common goals, were working autonomously. The result was an actual split or separation of the overall responsibility for case processing among a number of units and programs in a variety of departments.

It should be noted that the staffs of the county clerk, Probation, and County Department of Courts were heavily involved throughout the case processing with each function within each unit supervised by a different person. The county clerk's staff was supervised by the county clerk, the probation staff was supervised by the chief probation officer, and the county department of courts staff was supervised by the assignment judge.

With the new court structure, and the newly created position of case manager, all of these various units, and all of the staff are combined into a single Criminal Court Support Unit. The staff is under the day-to-day supervision of the case manager, while the county clerk and the chief probation officer maintain the authority to hire and fire their personnel. The staff as-

signed from the county clerk and probation still remain in the budgets of their appointing authority. This arrangement is referred to as matrix management and is an organizational strategy which recognizes the need for shared lines of authority among various large units within an even larger organization.

In extensive field interviews, the Commission staff and the South Jersey Center for Public Affairs heard numerous complaints concerning matrix management. It is confusing to the staff as they do not know to whom they owe their allegiance. The supervisory personnel in many cases are also confused as to what responsibility each has, and there are turf problems in some cases.

While the Commission recognizes that the matrix management strategy adopted by the Administrative Office of the Courts has caused some confusion and complaints from staff, it also recognizes, however, that it represents a major effort to achieve the reorganization recommended by the earlier studies in such a way as to preserve existing Civil Service rights for staff as well as to deal with the existing units of county government, especially the county clerk as a constitutional officer. In short, matrix management seeks to accomplish the same results as a legislatively-authorized reorganization without the necessity of legislation.

With the creation of the criminal support unit, there is one central intake unit and information is shared throughout the movement of the case. The intent is to cross train personnel so they can perform functions as a team.

The new organizational design for the criminal court support division includes the development of a Criminal Management Team headed by the criminal presiding judge with members including the trial court administrator, criminal case manager, chief probation officer, and county clerk. The team has the responsibility for developing and overseeing the implementation of the management and operational changes brought about under the redesign.

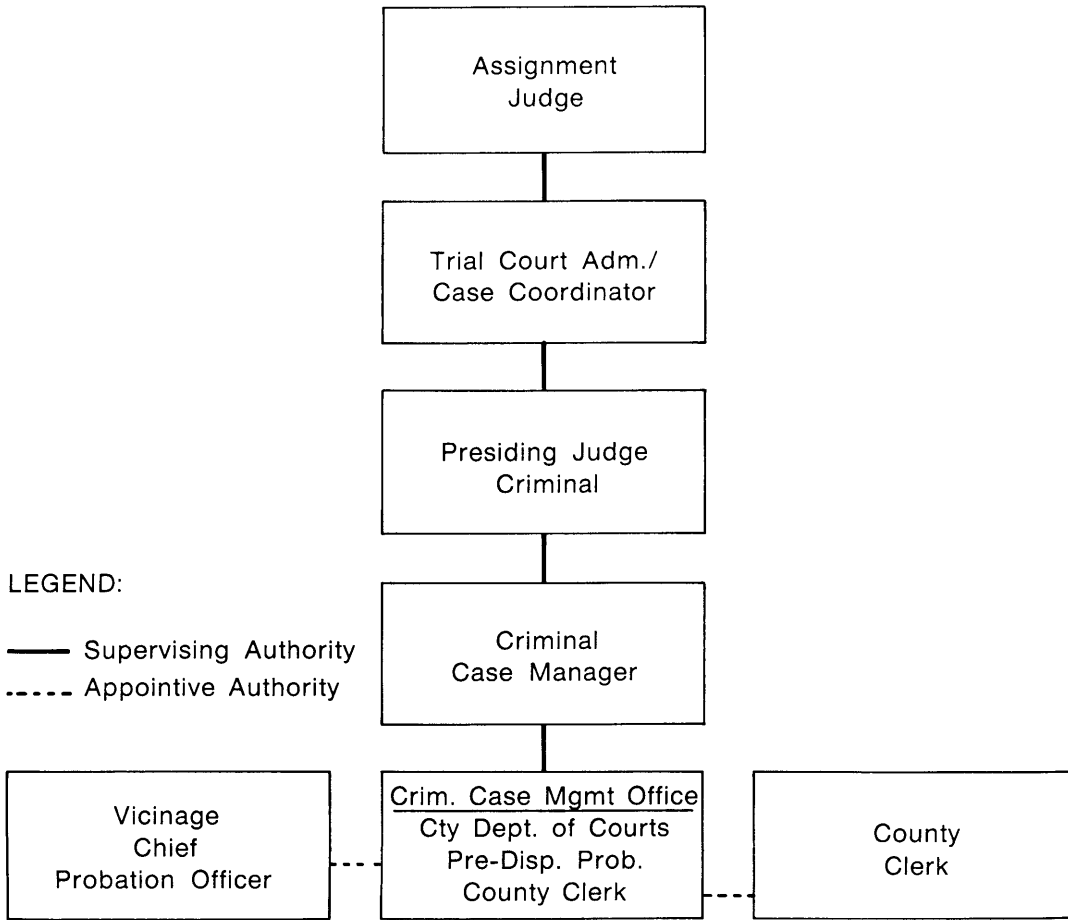
While the intent was for these teams to function only during the transition stage, interviewees found that in the vicinages where these teams have been on-going, there has been a smoother transition. In other counties, the management teams are not functioning, at least on a regular basis, and these counties tend to have more problems with implementation of the redesign. (Please see Figure 7 for the Table of Organization of the Criminal Court Support Structure.)

All of the staff in the Criminal Court Support Division are paid by the counties. The county clerk has 192 employees reassigned and probation has 480 employees reassigned to this division under the matrix management strategy. The remainder of the staff (305) are defined as the County Department of Courts.

Vicinage Family Part Support Structure

Two critical actions resulted in the establishment of the Family Court in New Jersey: 1) Voter approval of the constitutional amendment on November 8, 1983, and 2) Subsequent passage of the enabling legislation on Decem-

Figure 7
CRIMINAL COURT SUPPORT STRUCTURE



ber 20, 1983. Specifically, these actions abolished the Juvenile and Domestic Relations Court. In addition, the 1983 court rules created a Family Part of the Chancery Division which involved not only matters previously handled by the Juvenile and Domestic Relations Court, but also matters previously handled by the Matrimonial Part, Chancery Division.

Prior to the merger, the Matrimonial Part addressed cases involving marriage dissolution, including the related areas of child custody, child support, alimony and equitable distribution of property.

The former Juvenile and Domestic Relations Court generally handled complaints of juvenile delinquency, juveniles in need of supervision (JINS), non-criminal child abuse, and matters filed under the Child Placement Review Act. It also dealt with child support, custody, visitation and paternity matters.

There was overlap between these two courts in some areas such as child support and child custody. With reorganization, these courts were merged into a Family Part with the Family Part Support Structure under a case manager. The case manager is responsible for the management of all support services and day-to-day supervision of personnel assigned to the division from the Probation Department, the County Clerk, and the County Department of Courts.

The jurisdiction of the Family Division was extended to cover not only the juvenile, but also his parents, guardian, or a family member found to be contributing to a family-juvenile crisis.

For purposes of understanding the reorganization, "family actions" are described hereafter as follows: 1. juvenile delinquency; 2. non-dissolution; 3. dissolution; and 4. adoptions.

To be considered a juvenile delinquent, a juvenile under the age of 18 must have committed an act that if committed by an adult would constitute: a crime, a disorderly persons offense, petty disorderly persons offense, or a violation of any other penal statute, ordinance or regulation. The new Code of Juvenile Justice enacted in 1982 directed that the judicial system separate the serious juvenile offender from those charged with minor offenses. The intent was to have harsher penalties for juveniles committing graver acts, and more emphasis on alternative treatment and disposition in less serious cases.

All cases must first go before a Court Intake Service which was mandated for each county in 1982 legislation. This unit is staffed by personnel from the County Department of Courts, the Probation Department, and the County Clerk. The Court Intake Service is responsible for the screening of juvenile delinquency complaints and juvenile-family crisis referrals.

The Court Intake Service recommends to the judge whether diversion may be appropriate or whether the case should be referred to a judge. If the case involves juvenile delinquency, the Court Intake Service recommends either a Juvenile Intake Service Conference or a Juvenile Conference Committee. The more serious or repeat offenders are referred by the judge, after consultation with the Court Intake Service, to the Juvenile Intake Service Conference. This will be one person, in most cases a probation officer. If the case is less serious, referral will be to a Juvenile Conference Committee. The new juvenile code confirms the use of these committees as an appropriate mechanism for the diversion of minor delinquent complaints, particularly first-time offenders. A Juvenile Conference Committee is a panel of six to nine citizen volunteers, each appointed to serve terms of three years by the presiding judge, with the express purpose of providing a community resource as a volunteer alternative to a formal court hearing. Juvenile Conference Committees were officially authorized in 1952 by the New Jersey Supreme Court.

Under non-dissolution of "family actions", the Court Intake Service recommends to the judge referral of juvenile-family crisis cases to the newly created Juvenile Family Crisis Intervention Units. These units were mandated in each county by the Legislature in 1982. This unit responds in part to those juveniles who were previously referred to as Juveniles in Need of Supervision

(JINS). The units in many counties are staffed by probation officers and/or social workers depending on where the unit is placed. In ten of the twenty-one counties, the Juvenile Crisis Intervention Unit is operated by probation officers assigned to the Family Part Staff Support Unit, an agency of the Court. In the other eleven counties, either Mental Health or another county government agency, or private groups under contract with the county government operate these units. These units provide a twenty-four hour on-call service designed to aid in handling crises. The units focus on the familial problems which lead to the crises. If the crisis continues despite crisis intervention services, the court support unit files a petition to bring the family before a judge. The goal is to keep as many family crises as possible out of the courtroom.

Other non-dissolution "family actions" involve child abuse, domestic violence, child support, termination of parental rights, child custody, and child placement outside the home. The Child Placement Review Act became law in 1978. This legislation provided for one or more Child Placement Review Boards in each county to review child placement outside the home. The Board consists of up to seven volunteers with staff to carry out the Board's administrative functions. The Board is responsible for reviewing initial placements, and forty-five day placement plans which detail the Division of Youth and Family Services plans for the child in placement. The Board also reviews cases on all children in placement on a periodic basis to insure that plans once developed are being carried out. The Board acts on behalf of the presiding judge of the Family Part, keeping him informed of cases and requiring his review and approval of Board recommendations.

It should be noted that throughout the process of moving cases through the Family Part Support Structure there is considerable reliance on clerical support. This support is provided by clerical staff that formerly was in the Juvenile and Domestic Relations Court, and the Matrimonial Part. In addition, the county clerk assigns staff to provide these functions. Clerical functions include: filing, docketing, indexing, collecting fees, preparing case jackets, calendar preparation, noticing, dismissal listing and recording.

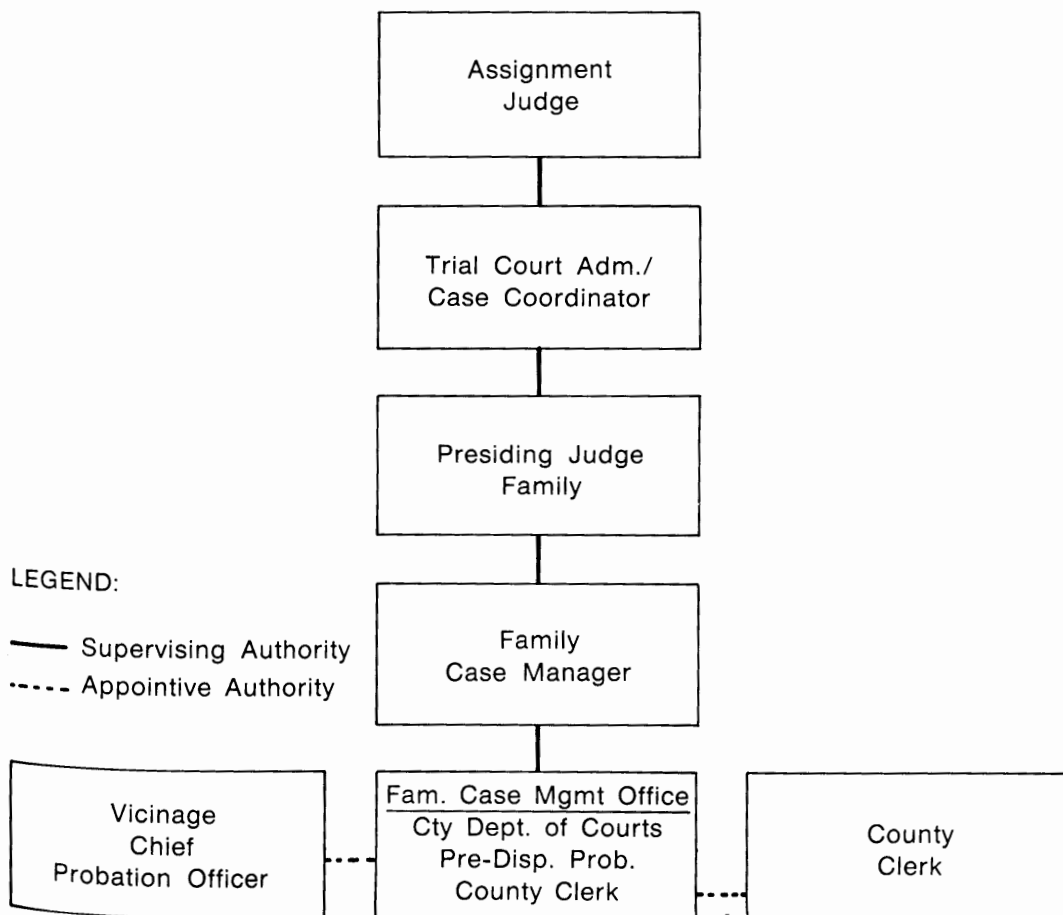
Dissolution cases are "family action" cases involving divorce. In these cases, the Family Part Court Support Unit uses mediators and early settlement panels. Mediators are involved in child custody and are usually social workers or some other professional. They generally charge a fee that is often covered under insurance.

Early settlement panels are staffed by volunteer attorneys. The panel attempts to engage the parties to the divorce in resolving custody, visitation, alimony, child support, equitable distribution and counsel fee issues. The panel hears representation from attorneys for the parties in disputed areas. They confer and develop suggested solutions which they present back to the parties. If there is agreement on issues, cases are presented on the record to a Family Part judge for entry of an appropriate order. If issues remain unresolved, cases are scheduled for trial.

"Family actions" involving adoptions are filed with the surrogate. There are no volunteer committees involved with adoptions.

The new organization of the Family Court Support Unit includes a Family Part management team in each vicinage established by the assignment judge, and includes the trial court administrator, case manager, chief probation officer, county clerk, surrogate, and presiding judge as chairman. The team has the responsibility of developing and overseeing the changes brought about under the new organization of the court. (Please see Figure 8 for the Table of Organization of the Family Part Court Support Structure.) The management team is essential to accomplish the relocation of staff and the reorganization of working relationships adopted pursuant to both the 1983 constitutional amendment and the Management Structure Committee reforms. The staff of the county clerk performing judicial functions for the Family Court Support Unit and the staff of the chief probation officer performing pre-dispositional services for juvenile cases have been reassigned to the family case manager. The case manager is responsible for the day-to-day supervision of the staff,

Figure 8
FAMILY COURT SUPPORT STRUCTURE



while the county clerk and the chief probation officer maintain the authority to hire, fire, and discipline this staff. This arrangement is referred to as matrix management and is an organizational strategy which recognizes the need for shared lines of authority among various large units within an even larger organization. In counties where the management teams are functioning on a regular basis, interviewers found there was a smoother transition. Whereas, in counties where the management teams were not functioning on a regular basis, there tended to be more turf problems. At best, the interviewers found there were numerous complaints with matrix management. It is confusing to the staff as they do not know to whom they owe their allegiance. The supervisory personnel, in many cases, are also confused as to what responsibility each has.

All of the staff in the Family Part Support Division are paid by the counties. The county clerk has 202 staff reassigned and the Probation Department has 320 staff reassigned to this division under the matrix management strategy. The remainder of the staff (480) are staff of the County Department of the Courts.

Vicinage Civil Court Support Structure

As of the writing of this report, the Administrative Office of the Courts is preparing a document outlining the changes that will be evaluated by all concerned parties in 1987 concerning the Vicinage Civil Court Support Structure.

In describing the proposed Vicinage Civil Court Support Structure, it is important to note the major differences in this support structure, as opposed to the Criminal and Family Court Support Structures summarized earlier in this report.

One of the major differences is the type of case and the volume of cases. Most people that become involved with the judicial system do so through the Civil Court or the Special Civil Part of Civil Court. For instance, Civil Court handles approximately 70,000 cases each year, and the Special Civil Part of Civil Court handles approximately 400,000 cases each year, which is one-half of all the court cases heard in any of the courts.

Another major difference is the fact that the Civil Court Support Structure involves two presiding judges (one for Civil/Special Civil and one for General Equity); however, there is only one case manager for these courts.

The third major difference in the Civil Court Support Structure is the fact that there are no probation personnel involved in the matrix management strategy which is different from the Criminal and Family Court Support Structures.

Presently, there is duplication of effort involving the support functions of the county clerk, civil assignment clerk, special civil part clerk, and superior court clerk. Depending upon whether the case is Civil, Special Civil, or General Equity, records can be opened and maintained by each one of these offices.

These clerical functions include docketing, indexing, collecting of fees, creating files, maintaining files, and preparing statistical reports.

In 1984, the Civil Trial Court Support and Calendaring Committee proposed a plan for a support structure that is the basis for the proposal that is currently under development by the Administrative Office of the Courts.

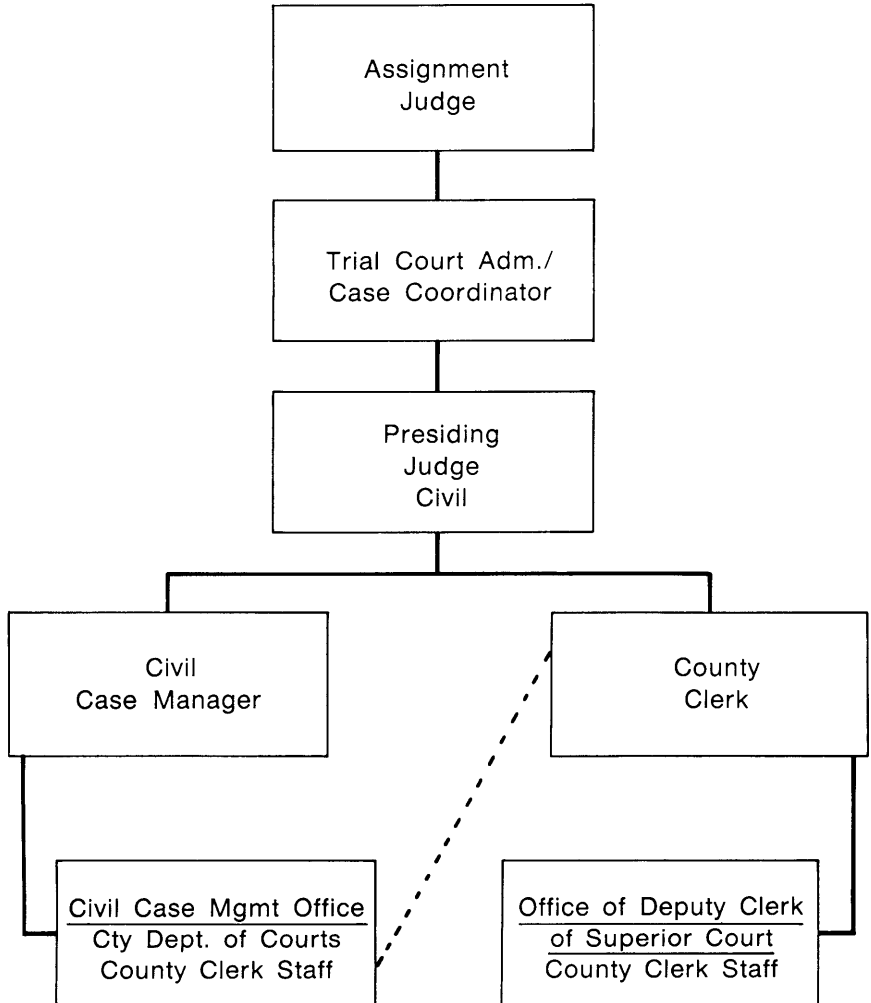
Basically, the new design proposes the formation of a Central Processing Office and a Case Management Office. The Central Processing Office will be called the Office of the Deputy Clerk of Superior Court.

It is proposed that the Office of the Deputy Clerk of Superior Court will be supervised by the county clerk and staffed by personnel from the county clerk's office, and will be responsible for opening cases, assigning docket numbers, processing fees, and maintaining closed case records. Civil and General Equity cases are presently filed in Trenton. There are plans, however, to have direct filing at the county level for civil cases at some time in the future. Special Civil Part cases are already filed at the county level. The docket number assigned by the Office of the Deputy Clerk of Superior Court will be the only identification assigned to a case, and will be used for trial assignment monitoring and noticing.

Once the case has been opened by the Office of the Deputy Clerk of Superior Court, it will be transferred to the Case Management Office under the supervision of the civil case manager. The members of the county clerk's staff who perform case management functions will be assigned to the Case Management Office by the county clerk. These employees, however, will be under the day-to-day supervision of the case manager in a matrix management arrangement defined as an organizational strategy which reorganizes the need for shared lines of authority among various large units within an even larger organization. The county clerk will still be responsible for hiring, firing, and disciplinary procedures. Please see Figure 9 for the Table of Organization of the Civil Court Support Structure.

Of particular significance in the establishment of the Case Management Office, is the pilot project in Bergen County involving differentiated case management. The differentiated case management strategy recognizes that all cases are not alike. With the tremendous volume of cases, it is imperative to have such a system. In the pilot project, cases are divided into three tracks: expedited, standard, and complex. Expedited cases are cases where there is not a lot of discovery necessary and a prompt trial date can be set. On the other end are the more complex cases which require the attention of one judge who is assigned at the beginning of the case, and hears all the motions throughout the process. To decide what track a case should be assigned to, the attorneys fill out a form giving their reasons the case should be categorized as other than standard. If the case manager disagrees, the presiding judge makes the final decision. Without differentiated case management, uncomplicated cases that could be completed promptly must wait their turn on the trial calendar by the date the case was filed. With this pilot project each case will receive the level of attention and oversight it needs. The pilot project also has a track manager whose responsibility it is to see that these cases remain on schedule. Under this system, firm trial dates can be set and met.

Figure 9
CIVIL COURT SUPPORT STRUCTURE
(Tentative)



LEGEND:

- Supervisory Authority
- - - - Appointive Authority

Computerization is an essential component of the proposed Civil Court Support Structure because of the volume of cases. An automated case management system is being installed in Morris County and will be operational in mid-1987. Automation will make easier the management of the large volume of civil cases.

Another pilot project that is essential to the new structure is direct filing for civil cases. This pilot project is currently being conducted in Mercer County. There are plans, however, to expand this project to other counties. This project involves the filing of civil cases at the county level, and the collecting of the \$75.00 filing fee at the local level. Under the proposal, the State, however, will still get \$50.00 of the fee, while the counties will continue to receive \$25.00, as required by statute.

Of particular significance in all of these pilot projects is who pays the bill when these programs are implemented statewide. While these programs are necessary to expedite the enormous volume of cases through the system, there is a considerable amount of cost involved with each of these programs. Currently, the State is paying for three temporary employees to handle direct filing in Mercer County. There is no plan, however, to determine who will pay the bill in the other twenty counties. If the cost of the Trial Court System is not transferred to the State, the county will no doubt pay the majority of the cost.

A civil management team will be responsible for developing the vicinage plans and overseeing the implementation. The team will be headed by the Civil and General Equity presiding judges, and will include the trial court administrator, civil case manager, county clerk, surrogate, and special civil part clerk. In some small counties, the county clerk serves as the special civil part clerk.

All of the employees involved with the Civil Court Support Structure are paid by the counties. The county clerk has 262 employees assigned to this division under the matrix management strategy. The remainder of the staff (834) are defined as staff of the County Department of Courts. In addition, the sheriff has 15 employees assigned for a total of 1111 county employees.

IMPLEMENTATION OF CRIMINAL AND FAMILY COURT SUPPORT STRUCTURES

In 1984, each vicinage was responsible for developing an implementation plan for the restructuring of the court support units in the criminal and family functional units. The plans were developed by advisory management teams chaired by the presiding judges of each functional unit. Each implementation plan contained a step-by-step detailing of the course being proposed in each county to implement the new organizational design and case management/processing techniques. Each step identified the change between the old system and the new, and indicated the anticipated target date for implementing the changes.

In actuality, however, implementation has not been fully realized in some counties for some of the following reasons:

1. Physical constraints—shortage of space in some counties has required the location of court support units outside the main courthouse;
2. Staffing and workload ratios—Staffing and workload ratios vary significantly from county to county;
3. Level of computerization—county variations in the level of computerization bears directly on how the recordkeeping functions are performed;
4. In many counties, local resources are not available to divert persons from either the criminal or family courts; and
5. Management Teams—The matrix management strategy requires the full cooperation of all parties involved. Where communications have been open through the use of these teams, implementation has been smoother.

COUNTY DEPARTMENT OF COURTS

The county employees of the County Department of the Courts are all the court employees not assigned to the Probation Department or any of the three constitutional officers. ***This category of county employees consists of 2005 persons performing mostly clerical functions.*** In this category are support staff such as the civil assignment clerk, criminal assignment clerk, juvenile and domestic relations clerk and county district court clerk. In some counties, the court clerk is included in this category. Also included is the staff to the Law Library and Jury Commission. The staff members of the County Department of Courts provide administrative and clerical support to the court functional units. ***The Commission recommends that the employees of the County Department of Courts should be transferred to the State in order to unify the Trial Court System administratively and financially.***

The county cost for funding jury management is \$5.6 million. There are 140 county employees at a total cost of salaries and wages of \$2.1 million. The remainder of the cost is related to juror compensation at \$2.4 million and other operating expenses.

The Jury Commission is an autonomous agency of the courts and of the counties. Its function has been to oversee the juror qualification and selection process to insure impartiality and fairness in the selection of jurors.

The Jury Utilization and Management Task Force appointed by the court recommended major jury management reforms. The reforms included the elimination of the Jury Commission and the transfer of its powers to the assignment judge. ***The Commission supports the elimination of the Jury Commission as an autonomous agency of the courts and the counties.***

PROBATION

A very important aspect of the new Trial Court Management Structure is the reorganization of the county Probation Departments. Prior to the 1983 court reorganization, the county Probation Departments were directly responsible for both pre-dispositional and post-dispositional services.

Pre-Dispositional Probation Services

Pre-dispositional probation services began with the passage of the first probation statute in New Jersey in 1900. The original statute authorized investigations for adults prior to sentencing. Since that time, investigative responsibilities have expanded to include juveniles prior to disposition, and decisions as to pretrial release, custody of children, and the establishment of restitution. In addition to providing information to the court, probation developed an extensive involvement in what can most readily be called diversionary services. The major diversionary programs include Juvenile Intake, Pretrial Intervention and Conditional Discharge Supervision. Two more recent program areas include Family Crisis Intervention programs and Neighborhood Dispute Resolution programs. ***There are 797 county employees providing pre-dispositional probation services.***

With the 1983 court reorganization, these pre-dispositional services performed by County Probation Departments were to be assigned to a newly created office, that of the case manager within the Criminal or Family Division. A case manager's office was created for the criminal court, the family court, and the civil court. Thus, the responsibility for pre-dispositional investigations and diversionary programs now rests in most counties with the case manager instead of the vicinage probation officer. These staff remain as members of the probation department, under the organizational structure known as matrix management.

The Commission recommends that the county employees providing pre-dispositional probation services should be transferred to the State in order to unify the Trial Court System administratively and financially.

Post-Dispositional Probation Services

Post-dispositional services also began with the original 1900 statute, and have greatly expanded over the years. From the adult criminal client, supervision has been expanded to cover petty offenders, motor vehicle offenders, child support offenders, juvenile delinquents and individuals released by the court from the state psychiatric hospitals. In June, 1986, the number of adults under probation supervision was 48,551. The number of juveniles under probation supervision was 9,062. The number of adults under probation supervision has been increasing steadily because of jail overcrowding and the 1979 Criminal Code Revision. The number of juveniles on probation has been declining because of the new Juvenile Justice Code of 1982. The most recent addition to the categories of persons under the supervision of the Probation Department are persons ordered to perform community service pursuant to

the 1979 Code of Criminal Justice, and the 1982 Driving Under the Influence Code. Volunteers are widely used particularly in working with juveniles. There is also considerable local involvement because of all of the service programs. The staff performing post-dispositional services are under the supervision of the vicinage chief probation officers. ***There are 1125 county employees performing post-dispositional supervision services.***

With the new reorganization, and the splitting of pre- and post-dispositional probation services, post-dispositional probation services are generally independent from day-to-day court management. The Commission considered the following three options regarding the placement and funding of post-dispositional probation services. Option one was chosen because historically these services have been considered a part of the judicial system in New Jersey, there are considerable funding variations and disparities at the local level, and the splitting of pre- and post-dispositional probation services could be a detriment to career development.

1. Post-dispositional services could be transferred to the State and remain a judicial function and be funded by the State.
2. Post-dispositional services could stay at the county level. If this were decided, then the Boards of Chosen Freeholders should have the authority to appoint and supervise the chief probation officers. Performance standards would be set by the Administrative Office of the Courts to assure that the State's interest in adequate service is met.
3. Post-dispositional services could be transferred to the State Department of Corrections as an executive function and be funded by the State.

There are 26 state-run probation systems, 22 are administered by the executive branch, three are run jointly by the executive and judicial branches, and one (Hawaii) is administered exclusively by the judiciary.

In those states where adult probation is handled at both the state and local levels, the state administers the function through the executive branch, while the localities administer it through the judiciary. In almost every case, the jurisdiction responsible for probation finances that responsibility out of its own resources.

The Commission recommends that the county employees performing post-dispositional supervision services should be transferred to the State in order to unify the Trial Court System administratively and financially.

Child Support Enforcement Services

Another very important component of post-dispositional probation services is Title IV-D.

Title IV-D, Child Support Enforcement, is a federal program that is under the supervision of the vicinage chief probation officer. Title IV-D has been assigned to Probation since its inception in 1975. In New Jersey, one out of every 7.5 children receives financial assistance through this program. The program is for both Aid to Families of Dependent Children and non-AFDC

persons. If the judge orders child support, the support is collected by the Probation Department. In some cases, the Probation Department only supervises the collection, but in most cases the money is actually collected by Probation and given to the proper party. In the case of an AFDC client, the money is used to offset the AFDC money payment. Child support collection amounts to approximately \$200 million annually. The federal government pays about 70% of the administrative cost, and the counties pay the rest of the cost. ***There are 955 county employees providing post-dispositional Title IV-D services.***

There are several agencies involved with the Title IV-D program. There is a cooperative agreement between the New Jersey State Child Support and Paternity Unit, which is under the Department of Human Services, and the Administrative Office of the Courts. CSPU is the designated separate organizational unit which receives the federal financial participation and distributes the money to the AOC who in turn distributes the money to the counties. AOC has been designated by the Supreme Court of the State of New Jersey to supervise and assist the 21 county Probation Departments and the Family Court Intake Units in the development, collection, and enforcement of child and spouse support orders and the location of absent parents.

The County Welfare Boards are also involved prior to AFDC support cases being prosecuted. The Board tries to identify the absent parent and have that parent provide support. The Board also is involved in fraud investigations.

In many states, the Title IV-D program is administered by the Welfare Department. In New Jersey, however, the program enjoys a good national reputation as having a high collection rate.

The part of the Title IV-D program that is assigned to the county Probation Departments (collections and supervision) is a post-dispositional service because the court decision has already been made. The program is not as costly to county government as probation supervision because it is 70% federally reimbursable. If you take into consideration the collections that offset AFDC payments, the program as it is administered in New Jersey, is cost effective.

The Commission recommends that the employees providing post-dispositional Title IV-D services should be transferred to the State in order to unify the Trial Court System administratively and financially.

CONSTITUTIONAL OFFICERS

The County Clerk

The New Jersey Constitution provides for the election of the county clerk. The county clerks are elected by the people of their respective counties at general elections, and serve a term of five years.

When the County Courts were absorbed by the State in 1978, the county clerk, by constitutional amendment, became the clerk of the Law Division of

the Superior Court. Article XI, Section VI, paragraph c states the above. The paragraph is, however, prefaced by the phrase "unless otherwise provided by law".

The amendment states that the clerks shall 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 the court.

NJSA 2A:2-15 states that the county clerk shall act as the deputy clerk of the Superior Court for the purposes of filing any paper or document required to be filed.

The county clerk's judicial responsibilities are clerical in nature and include case processing and maintaining records for the Superior Court. More specifically these clerical services include filing, docketing, indexing, collecting fees, preparing file jackets, preparing calendars, preparing notices, consolidating and transferring cases. Many of these duties are also handled by the other clerks mentioned earlier.

The county clerk's judicial responsibilities are interwoven throughout the court support structure at various stages in the processing of cases through the court. The clerk has approximately 200 employees in each of the major branches of the Trial Court System; criminal, civil, family, and general support. These employees represent approximately 20% of the employees in all of the branches except Civil. In Civil, the county clerks' employees include approximately 50% of the staff.³

The 1983 court rules make it clear that the day-to-day activities of the clerks' criminal and family court employees are under the supervision of the criminal case manager and the family case manager as described earlier. The court clerks on the payroll of the county clerk have traditionally been under the day-to-day supervision of the judge in the courtroom in which they work. For these reasons or otherwise, six county clerks no longer have any employees serving in a general court support role. In addition, seven county clerks have transferred all or almost all of their family court employees directly to the assignment judge, and two have transferred all or almost all of their Criminal Court employees to the assignment judge.

The county clerk also has significant responsibilities to the executive branch of county government. These responsibilities include: processing of applications for passports, the naturalizing of aliens in U.S. Naturalization Court, and election responsibilities including filing candidate petitions, maintaining records of registered voters, and certifying election results.

In those counties that do not have an elected register of deeds, the county clerk performs the register of deeds functions including: recording of mortgages, deeds, liens, and maps. Counties with a population of more than 250,000 may provide for an elected register of deeds. The following counties have an elected register of deeds: Camden, Essex, Hudson, Passaic, Union.

³In Hunterdon and Salem Counties the clerk also provides most of the staff support for the Special Civil Part of Civil Court.

NJSA 40A:9-75 states that county clerks in counties over 400,000 may establish separate court and registry divisions and appoint a deputy clerk for each division. Many county clerks have organized their offices into functional units which may include a judicial unit, a register of deeds unit, an elections unit, and a naturalization and passport unit. All personnel except for those in the judicial unit are under the day-to-day supervision of the county clerk.

The county clerk and all of his staff both Judicial and Executive (non-judicial) are on the county payroll. There are 885 judicial employees and 579 executive employees in the county clerk's budget.⁴

Because the county clerk is a constitutional officer, the county governing body does not exert supervisory control over the county clerk in the performance of his executive responsibilities. The county clerk is supervised by the assignment judge in regard to his judicial responsibilities. The county is responsible for providing the necessary funds for the judicial and executive responsibilities.

The Commission believes that the existing relationship of the county clerk to the county government is the appropriate relationship for the county clerks executive responsibilities. ***The Commission recommends, therefore, that the county clerk continue as a constitutional officer in the executive branch of county government, and that the county clerk continue as an elected official.***

The county clerk's role in the State judicial system is a complex and evolving one. While the county clerks' judicial responsibilities are interwoven throughout the court support structure (criminal, family, civil, and court support), the county clerks are in opposition to transferring their judicial employees to the exclusive jurisdiction of the State. The Commission is of the opinion that the transfer of these employees is necessary for ***complete*** financial and organizational unification of the Trial Court System. Because there is resistance on the part of county clerks, and because the Judiciary is in the process of developing a supervisory role for the county clerks within the Trial Court System as described under the section entitled "Civil Court Support Structure," ***the Commission recommends that all the judicial employees of the county clerks remain funded by county government until such time as the Judiciary and the county clerks have worked out a satisfactory agreement as to the proper role for the county clerks within the Trial Court System.***

The Sheriff

The New Jersey Constitution provides for the election of the sheriff. Sheriffs are elected by the people of their respective counties at general elections, and serve a term of three years. The other two elected constitutional

⁴Please see Appendix B for a county breakdown of the county clerk/register of deeds 1986 Executive and Judicial budgets and revenues. Appendix C shows the county breakdown of the county clerk's employees by judicial and executive functions.

officers, the county clerks and the surrogates, are elected to terms of five years. ***The Commission supports a constitutional amendment that would increase the sheriff's term to five years.***

The sheriff's security functions have been traditionally defined to include courtroom and courthouse security. The sheriff also has personnel assigned to the courthouse who perform non-security functions such as preparation of the courtroom, juror assistance, maintenance of orderliness in the court, making announcements, and ensuring that lawyers, litigants and others are ready for court proceedings to begin. These court support functions are often duplicated by other court offices such as the court clerks, court reporters, judges secretaries and law clerks. The Supreme Court Study on Efficiency recommended that the non-security functions of the sheriff could be handled by these other persons because these functions did not require the specialized training required of a security officer.

In 1982, the Legislature enacted NJSA 40A:9-177.6. This statute provided that court attendants of the sheriff's office could become sheriff's officers and the title of court attendant in the sheriff's office would be gradually phased out. A new position of court aide was established. These people would be responsible for the non-security functions that had been performed by the court attendant, and would be on the court's budget and supervised by the assignment judge. If any of the court attendants did not want to become sheriff's officers, upon retirement or resignation these positions would be filled as court aides. Most of the court attendants have either become sheriff's officers or have transferred to the courts. In a few counties, however, the process has been very slow. ***There are currently 191 sheriff's staff performing non-security functions.***

The sheriff's security plan for the courtroom and the courthouse must be approved by the assignment judge as recommended by the Judiciary/Sheriff Liaison Committee in 1984. The committee also developed the criteria to be used in developing and implementing the security plans.

The Commission recommends that the sheriff's judicial non-security personnel be transferred to the assignment judge and transferred to the State.

The sheriff has numerous responsibilities that are defined as executive rather than judicial. These duties include the serving of civil and criminal process, transportation of prisoners, serving legal papers, criminal investigations and criminal identifications.

The sheriff also operates the jail in the following eleven counties: Bergen, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Monmouth, Morris, Passaic, Salem, Somerset. In the other ten counties, the county government has assumed direct custody of the county jail. NJSA 30:8-19, enacted in 1887, states that it is lawful for the Board of Chosen Freeholders to assume custody of the county jail by resolution upon the affirmative vote of two-thirds of all the members.

The sheriff has 3010 employees performing these executive functions.⁵ With the following Commission's recommendation that the judicial security functions be redefined as executive, the total number of executive employees working for the sheriff will be 3547.

The Commission recommends that the sheriff's judicial security functions be redefined as executive and remain funded at the county level.

There is one area in which the sheriff does not serve process, and this is in the Special Civil Part of the Civil Court which handles small claims. In the Special Civil Part, service of process is handled by special civil part officers. These officers are paid a statutory fee for each service of process or collection of judgments. There are approximately 150 officers statewide. These officers were called constables until a Supreme Court policy was issued in December 1983. Prior to the 1983 policy directive, presiding judges selected these persons from the list of constables who were appointed by municipal governing bodies. Since 1983, the assignment judges select the special civil part officers who may or may not be constables.

The Commission recommends that the sheriff be made responsible for all service of process and that the special civil part officers be supervised by the sheriff.

The Surrogate

The New Jersey Constitution provides for the election of the surrogate. Surrogates are elected by the people of their respective counties at general elections, and serve a term of five years.

In 1978, the New Jersey Constitution was amended. Article XI, Section VI, paragraph c, states that unless otherwise provided by law, the surrogate is the clerk of the Chancery Division (Probate Part) of the Superior Court and performs such duties and maintains such files and records on behalf of the clerk of the Superior Court as may be required by law and rules of the court.

NJSA 2A:5-1 provides for an elected surrogate in each county and states that "the surrogate shall hold the surrogate's court of the county and is both the judge and the clerk of this court."

The surrogates are primarily responsible for the handling of uncontested probate matters. These matters require no involvement with the Superior Court. These 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. In most of these cases, they serve as joint guardians in the management of monetary judgments. The

⁵Please see Appendix D for a county breakdown of the sheriff's executive and judicial budget. Appendix E shows the county breakdown of the sheriff's employees by judicial and executive functions.

reason is that a guardian must post a bond to manage these funds unless the surrogate acts as the joint guardian. The surrogate maintains and invests money judgments awarded to minors. These funds must be invested in interest-bearing accounts in accordance with applicable guidelines set forth by the Administrative Office of the Courts. Monies deposited for minors under the age of 18 can be withdrawn only for "good cause".

Other functions performed by the surrogate which do not involve the Superior Court are: processing other uncontested estate matters, appointing executors and administrators of estates, and processing forms for such items as adoptions and presumptions of death.

The surrogate also performs certain functions that do require the direct involvement of the Superior Court. Pursuant to the Constitution, the surrogate acts as deputy clerk of the Superior Court whenever there are contested will proceedings, adoptions, appointments of guardians for incompetents, appointments of temporary administrators, assignments for the benefit of creditors or accountings which are brought before the Law Division, Probate part. While the Constitution says the surrogate acts as clerk of the Chancery Division (Probate Part), in actuality, the surrogate acts as clerk of the Law Division (Probate Part). If cases are filed in the Chancery Division, the superior court clerk in Trenton serves as clerk of the Court. Contested probate matters may be filed in either Probate Court, and in some cases are filed in both courts which further confuses matters.

By statute and case law, the surrogate is considered a judge. The surrogate, however, is elected while all other judges are appointed by the Governor except for municipal court judges serving one municipality. These judges are appointed by the municipal governing body. While surrogates are elected, they are barred from political activity unless it is directly related to seeking reelection according to court rule 1:17-1g which became effective June 15, 1983. The court rule also forbids the surrogate from holding another elective office while serving as a surrogate. Conversely, NJSA 2A:11-2, enacted in 1978, allows for the holding of another elective office by the surrogate.

The surrogates and their employees are paid by the counties. There are currently 270 county employees in the budgets of the surrogates.

The surrogate heads a limited jurisdiction agency of the court. None of the surrogates' employees are under the matrix management strategy that has been utilized by the courts with the employees of the county clerks and the employees of the vicinage chief probation officers performing pre-dispositional probation services. Because the surrogate does not have an equivalent degree of interaction within the Superior Court as do the other components of the Trial Court System, the Commission is of the opinion that it is not necessary to transfer the functions of the surrogate to the State to accomplish organizational unification of the Trial Court System.

Therefore, ***the Commission recommends that the surrogates functions remain at the county level.***

The surrogates' fees have not been raised since 1977, and many surrogates have indicated that these fees could be raised and changes could be made in the fee structure to reduce current inequities. The surrogates' fees are specific by statute (NJSA 22A:2-30); and cover the probate of wills and copies, letters of trusteeship, letters of administration, letters of guardianship, inventories, accountings, and miscellaneous proceedings. The fee inequities involved primarily concern the probate of wills. The fee is the same regardless of the size of the estate. This situation should be corrected by having the fees on a sliding scale based on the size of the estate. Currently, the surrogates' fees amount to \$3 million annually, and the 1986 county cost for funding these services is \$7.3 million.

The Commission recommends that the surrogates' fee schedule should be increased and revised to cover the full county cost for funding these services.

CHAPTER III

TRIAL COURT FINANCIAL STRUCTURE

Court operations in New Jersey have grown steadily in cost and complexity during the last decade, while the 1976 CAP law has limited the counties ability to increase property taxes, the primary source of trial court financing. The enormous pressures on the Trial Court System to provide a reasonable level of service and the counties increasing demands for funding other mandated services has in a few instances forced the Judiciary to mandate appropriations for court operations as permitted by law. This creates understandable resentment among county officials and strains relations between the Trial Court System and county governments.

Multi-county funding means that there is no unified organization and control over trial court budgets and expenditures. In particular, multi-county funding means that there are funding inequities that need to be addressed and rectified in order to have a Trial Court System that is unified and balanced throughout the State.

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 the judicial branch. Within the twenty-one counties, there are many different appointing authorities for judicial personnel. There is no single, centralized control over the allocation or use of court resources. Because the Trial Court System is heavily dependent on the twenty-one county Boards of Chosen Freeholders for funding, it is virtually impossible to allocate and transfer resources to the areas of greatest need.

Chapter III describes the State and county personnel assignments, and the State and county expenditures for funding the Trial Court System. The State and counties receive certain revenues which will also be identified in this chapter.

Chapter III includes the Commission's justification for recommending State funding of the Trial Court System.

STATE AND COUNTY TRIAL COURT SYSTEM PERSONNEL

The State Trial Court System is primarily staffed by county employees while the system is state administered. Most of the cost of funding this system is for salaries and wages.

The Boards of Chosen Freeholders are not involved in the decision-making or management of this system. Ninety-one percent (91%) of the personnel working for the State Trial Court System, however, are county employees whose salaries are set and paid by the twenty-one Boards of Chosen

Freeholders. As noted in Table 1, ***the State Judiciary has six hundred and ten (610) employees working for the State Trial Court System, of which 319 are judges.¹ The counties have six thousand two hundred and thirty-one (6231) employees working for this State mandated program.***

Until 1978, most judges were paid by the counties. With passage of the enabling legislation establishing the Family Court in 1983, however, the remaining judges' salaries were transferred to the State. The counties, nevertheless, continue to have full responsibility for most other expenses of the trial courts, including those related to the administration, clerical and legal staff, courtrooms, chambers, office supplies, and all overhead expenses. Exceptions are in the General Equity Court where the State pays the salaries of the judges' secretaries, the law clerks' and the court reporters plus, the rental space, and has been doing so since the early 1970s.

¹In addition to the 610 employees working in the Trial Court System, the Judiciary has another 564 employed in the Supreme Court, Appellate Division, Tax Court, and Administrative Office of the Courts.

TABLE 1
1986 TRIAL COURT PERSONNEL BY DEPARTMENT

Department	# of Employees Paid by State	# of Employees Paid by County
Judges	319	—
Trial Court Administrators	15	—
Court Reporters	215	—
Other Court Employees	61	—
Case Managers	—	45
Chief Probation Officers	—	20
Probation	—	2880
Courts		
Court Support	—	219
General Equity	—	8
Civil	—	250
Special Civil	—	577
Criminal	—	296
Family	—	436
Jury Management	—	140
Law Library	—	14
County Clerk	—	885
Surrogate	—	270
Sheriff	—	191
TOTALS	610	6231

Source: Administrative Office of the Courts

The State and county employees working within the Trial Court System are identified by Departments in Table 1. ***Aside from the judges, the only supervisory personnel that are State employees are the 15 trial court administrators. The 45 case managers and 20 vicinage chief probation officers are county employees whose salaries are paid by the counties. In addition, all of the probation personnel, and all of the people working for the various courts are county employees who are paid by the counties. Jury management and law library personnel are county employees. The three constitutional officers' judicial staffs are a part of the Court System, and are paid by the counties.***

The county paid employees working for the State Trial Court System are organized by functional areas in Table 2. For this reason, the number of court personnel is higher than in Table 1, and the number of probation personnel is lower. This is because pre-dispositional probation staff are reassigned to the criminal and family court functional units as discussed in Chapter II. There are no county clerk staff shown when employees are arranged by functional areas, because all of the county clerks' 885 employees are assigned to a functional unit. Most of the sheriffs' non-security judicial staff are in the functional area for court support.

The Commission recommended in Chapter II the transfer of the sheriffs' 191 non-security judicial personnel to the assignment judge, and the transfer of the 537 officers performing judicial security functions to the sheriffs' executive budget. Therefore, the total number of sheriff's employees working for the Trial Court System does not include the 537 sheriffs' security officers assigned to the courthouses in Tables 1 and 2. In the Commission's 1984 report, "County Mandates—The State Judicial System and Human Services," the sheriff's judicial security cost was included in the transfer to the State.

The total number of county employees working for the State Trial Court System is 6231.² The total number of county employees recommended for transfer to the State in this report is 5076. Eliminated from the total figure are the surrogates' 270 county employees and the county clerks' 885 county judicial employees as recommended in Chapter II.

STATE EXPENDITURES AND REVENUES

The State spends a total of \$43.4 million in the funding of the State Trial Court System at the vicinage level.³ Most of the expense involves the judges' salaries and fringe benefits.⁴ The next largest item paid for by the State is the salaries of court reporters. The State expenditure for Trial Court System personnel at the vicinage level is \$39.5 million.

²By opinions of the Attorney General, Superior Court employees have been defined as State employees even though these individuals are on county payrolls.

³In addition to the \$43.4 million the State spends to fund the Trial Court system, the State Judicial budget includes an additional \$21.8 million for the appellate courts and overall administration.

⁴For purposes of this report, the State's fringe benefits were calculated as 26% of salaries and wages.

TABLE 2
1986 TRIAL COURTS PERSONNEL BY FUNCTION

Function	Number of Employees
Courts	
Court Support	788
General Equity	28
Civil	487
Special Civil	596
Criminal	977
Family	1002
Surrogate	270
Post-Dispositional Probation	2083
TOTAL	6231

Source: Administrative Office of the Courts

Table 3
STATE AND COUNTY TRIAL COURT SYSTEM PERSONNEL

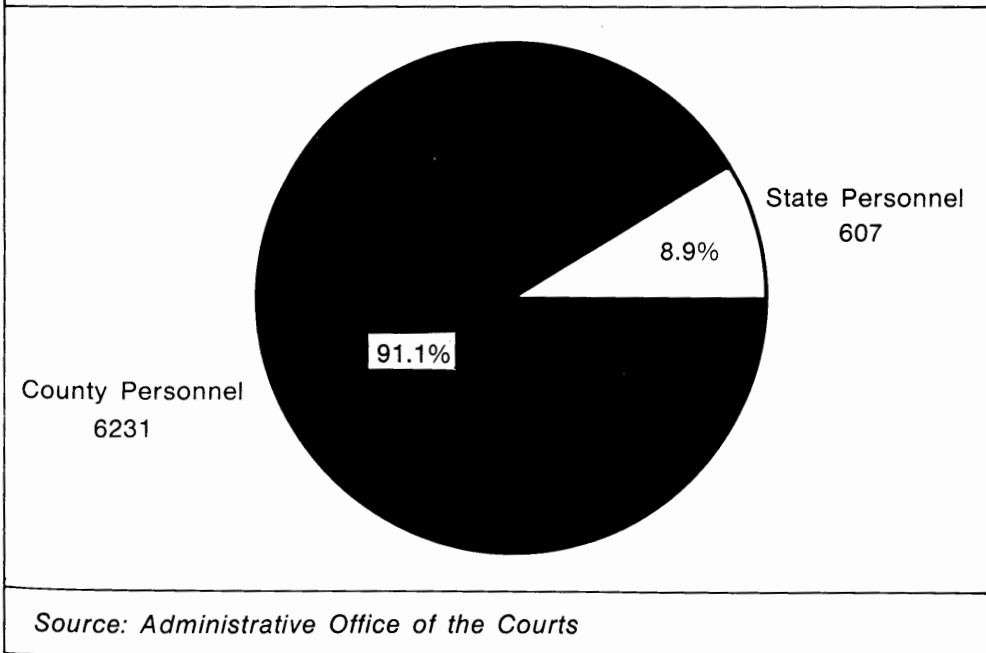


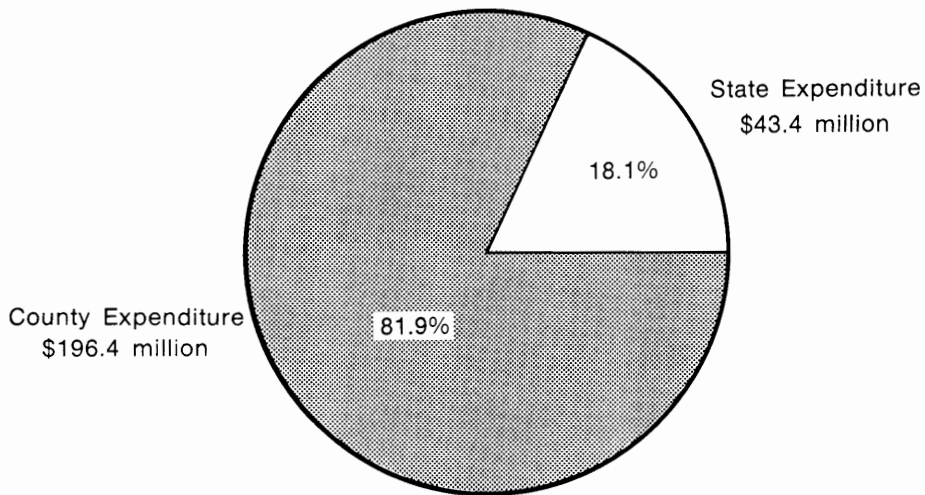
TABLE 4 1986 STATE TRIAL COURT EXPENDITURES AND REVENUES (Includes Fringe Benefits)	
State Expenditures	
Judges	\$27.5 million
Court Reporters	9.3 million
Other Personnel	2.7 million
Non-Salary State Funding	3.9 million
TOTAL	\$43.4 million
State Revenues	
Civil Courts	\$13.6 million
Family Courts	2.8 million
Court Reporting (payment by counties-court reporters' salaries)	.2 million
TOTAL	\$16.6 million
Net State Expenditure	\$26.8 million
Source: Administrative Office of the Courts	

The non-salary State funding (\$3.9 million) is grants-in-aid for mandated programs such as Speedy Trial, Family Crisis-Intervention, and Community Service. It should be noted that these grants do not begin to cover the county cost for providing these services. Please see Table 4 for a breakdown of the State expenditures.

Of particular significance in the State of New Jersey is the fact that the State receives the majority of the revenue rather than the counties who are providing the majority of the funding. The State receives 43% of the revenue, while its expenditures represent only 18% of the total cost of the Trial Court system, as noted in Tables 5 and 6. In most states, the level of government funding the program receives the accompanying revenue. The Commission is of the opinion that the level of government funding the service should receive the accompanying revenue. ***The current maldistribution of revenues between the State which receives a major portion of the revenue, and the counties which pay most of the expenses is another problem which can be corrected by transferring the cost of all trial court functions to the State.***

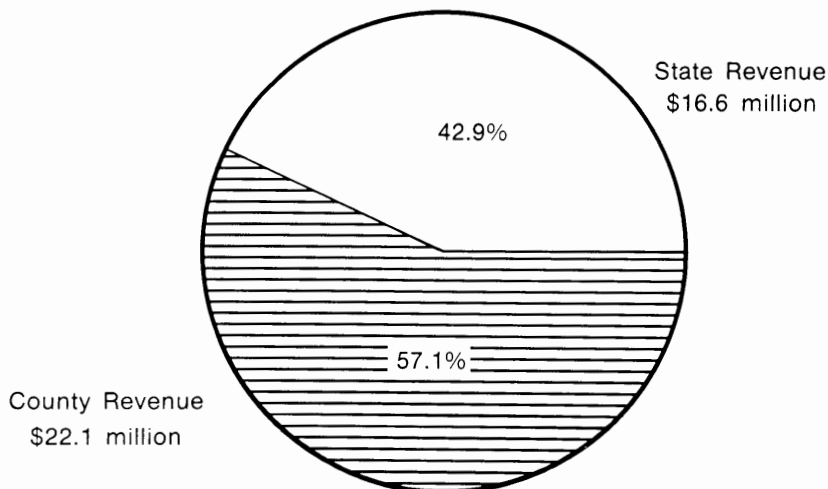
The State receives \$16.6 million in revenue. In Civil Court, the filing fee is \$75.00. For Superior Court Law Division cases, the State receives \$50.00 and the county receives \$25.00. For General Equity cases, the State retains

Table 5
1986 STATE AND COUNTY
GROSS TRIAL COURT PROGRAM COSTS
(Includes Fringe Benefits)



Source: State—AOC; County—County Budgets

Table 6
1986 STATE AND COUNTY TRIAL COURT REVENUES



Source: State—AOC; County—County Budgets

the entire fee. In the Special Civil Part, the county retains all of the filing fees. These fees are in NJSA 2A:18-65 and vary according to the type of case. The State receives all of the matrimonial filing fees of \$75.00. These cases are filed in the newly created Family Court. Please see Table 4 for a breakdown of the State revenue from the Trial Court System.

New Jersey ranks high in the cost of Civil Court Filing fees. The State ranks very low, however, in the cost of the filing fees for the Special Civil Part. These fees could be raised to help offset the cost involved in transferring the trial court functions to the State.

COUNTY EXPENDITURES AND REVENUE

For Fiscal Year 1986, the counties will spend \$196.4 million to fund the State Trial Court System which is administered by the State Judiciary. This figure includes the estimated \$32 million for Capital and Maintenance costs. By Constitutional amendment, all of the courts are now State courts yet they are primarily county funded. ***The counties' gross expenditure amounts to 82 % of the total cost of funding the State Trial Court System as noted in Table 5.***

Table 7 outlines the county cost for funding the Trial Court system by program areas as follows:

County Department of Courts—This program area is the largest with a 1986 county cost of \$60.8 million. The personnel included in this budget are all the staff which are not assigned to any of the constitutional officers or Probation. These staff members provide most of the clerical support for the courts and such specialized functions as centralized budget, personnel, and data processing activities, and the jury management and law library functions. ***There are 2005 county employees performing these functions. The county revenues collected for court case initiation amount to \$4 million annually.***

County Clerk—The county clerk's judicial functions are specifically defined in Chapter II, and include the initiating of cases, handling motions, filings, and other clerical functions occurring throughout the case management process from initiation through sentencing or other disposition of the case. ***There are 885 county clerk personnel performing these functions at a 1986 county cost of \$18.8 million.*** According to the models described in Chapter II for trial court reorganization, many of the 885 employees are under the day-to-day supervision of the case managers. They remain, however, in the budgets of the county clerks under the matrix management strategy described in Chapter II.

Pre-Dispositional Probation—The pre-dispositional probation personnel are those staff that have been reassigned to either the criminal or family court support units. They perform numerous investigative functions discussed in Chapter II. These staff members are under the day-to-day supervision of the case managers. They remain, however, in the budgets of the vicinage chief

probation officers under the matrix management strategy detailed in Chapter II. **There are 797 probation staff assigned to the case managers at a 1986 county cost of \$20.8 million.**

Sheriff—In some counties, the sheriff has personnel performing non-security judicial functions such as making announcements, administering oaths, escorting jurors and other courtroom functions that are described in Chapter II. **There are 191 staff performing these functions at a 1986 county cost of \$3.5 million.**

Surrogate—The surrogate heads a limited jurisdiction agency of the court. The surrogate is also deputy clerk of the Superior Court on contested matters and adoptions. Details of the surrogates functions are described in Chapter II. **The surrogates have 270 county personnel at a 1986 county cost of \$7.3 million.** The surrogate's fees for services rendered amount to \$3 million annually.

Post-Dispositional Probation—Post-dispositional probation personnel perform functions such as the supervision of adults and juveniles sentenced to

TABLE 7

1986 COUNTY TRIAL COURT EXPENDITURES AND REVENUES

(Includes Fringe Benefits)

County Expenditures

County Department of Courts	\$ 60.8 million
County Clerk	18.8 million
Pre-Dispositional Probation	20.8 million
Sheriff (non-security)	3.5 million
Surrogate	7.3 million
Post-Dispositional Probation	53.2 million
Capital and Maintenance	32.0 million
TOTAL	\$196.4 million

County Revenues

Courts	\$ 4.0 million	
Surrogate	3.0 million	
Post-Dispositional Probation	.6 million	
Title IV-D—Probation	14.5 million	(federal financial participation)
TOTAL	\$ 22.1 million	

Net County Expenditure \$174.3 million

Source: County Budgets

probation, and child support enforcement. Chapter II describes these functions in detail. The post-dispositional probation personnel are under the supervision of the vicinage chief probation officers. ***There are 2083 county employees at a 1986 county cost of \$53.2 million.***

When looking at the revenue generated for post-dispositional probation services, it is important to divide the functions between supervision and, Title IV-D, child support enforcement. Approximately 40% of the \$53.2 million annual probation cost is for administration of the Title IV-D program; however, the Title IV-D program receives \$14.5 million in federal financial participation which equates to approximately 70% of the administrative cost for this program. Conversely, the probation supervision component of the program generates \$.6 million annually in fines and restitution, or approximately 2% of the program costs.

Fringe Benefits—The total fringe benefits cost for the counties is calculated to be \$38.4 million. The Commission figured the cost on a county by county basis because fringe benefits differ among counties. The formula used was to total the line items of insurance and statutory expenditures of each county for a total of fringe benefits, derive the percentage of the total salaries and wages spent for judicial functions, and apply that percentage to the total fringe benefits.

Capital and Maintenance—Capital and maintenance is estimated to be approximately \$32 million. This figure is calculated on a county by county basis by estimating the square footage and annual rental value of space occupied by the Trial Courts. Please see Table 8 for a breakdown of the estimated cost. It should be noted that there are other costs involved. In a questionnaire sent to all the counties from the Commission, the question was asked concerning how much the counties have spent in the last five years on courthouse renovations and/or expansions and how much they anticipate spending in the next five years. In both cases, the estimate was approximately \$60 million. Even with the large expenditures, many courthouse facilities are inadequate.

Six states have accepted responsibilities for funding the costs of capital and maintenance. These six states are: Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Kentucky. Four of these states do not have county government or never lodged the courts with county government. Delaware has three counties and this state has a mixture with some court facilities being owned by the counties and rented by the State, and some court facilities being State owned. Kentucky has 120 counties and is the only state that fully funds the rental of county owned court facilities. In addition to paying rental costs, Kentucky paid the counties a use allowance for the original construction cost.

The Commission recommends that capital and maintenance costs be paid by the State to the counties. These rental payments should be initiated immediately after the completion of the transfer of the county program responsibilities to the State as recommended in this report.

Furniture and Equipment

The Commission recommends that the title of all furniture and equipment owned by the counties and used by the State Trial Court System be transferred to the State at the same time the 5076 county employees are transferred. From that day forward, the State would be responsible for all purchases and maintenance of furniture and equipment. This recommendation is particularly significant because of all the expense involved with computerization that is necessary for the smooth manage-

TABLE 8
ESTIMATED SQUARE FOOTAGE AND ANNUAL RENTAL VALUE
OF SPACE OCCUPIED BY TRIAL COURTS

County	Estimated Square Footage Facilities	Estimated Rental Per Square Foot	Yearly Rental Per Facilities
Atlantic	133,258	\$23.01	\$ 3,066,267
Bergen	140,000	13.00	1,820,000
Burlington	144,561	12.38	1,789,665
Camden	232,324	12.90	2,996,980
Cape May	50,000	10.00	500,000
Cumberland	60,000	10.00	600,000
Essex	326,943	12.00	3,923,316
Gloucester	80,000	11.00	880,000
Hudson	123,319	16.00	1,973,104
Hunterdon	13,300	13.50	179,550
Mercer	122,261	12.00	1,467,132
Middlesex	171,300	11.00	1,884,300
Monmouth	215,575	11.50	2,479,113
Morris	98,377	17.50	1,721,598
Ocean	47,554	15.00	713,310
Passaic	174,360	12.00	2,092,320
Salem	45,000	11.00	495,000
Somerset	66,200	12.00	794,400
Sussex	19,960	17.50	349,300
Union	178,180	12.00	2,138,160
Warren	16,763	9.94	166,624
State	2,459,235	\$13.02	\$32,030,139

Note: Data were compiled through telephone surveys of Trial Court Administrators during January, 1985.

Source: Administrative Office of the Courts

ment of the soon to be implemented Civil Court Support Structure described in Chapter II of this report. Otherwise, the counties may have to pay for this program, although the costs for statewide computerization have been so far borne by the State.

COUNTY VARIATIONS AND DISPARITIES

The total county cost for funding the State administered Trial Court System is further imbalanced when one takes into account the county funding variations and disparities. These variations and disparities further exacerbate the inequities involved in a primarily county funded State Trial Court System.

The statewide per capita average for funding the five net judicial functions in FY 1986 is \$20.53. Table 9 utilizes net figures because this cost is what is funded by the property tax. At the top of the list in per capita expenditures are the heavily urban counties with higher crime rates such as Essex which has the highest per capita cost followed by Passaic, Union, and Camden.

These inequities are further exemplified when comparing the county judicial expenditures per capita and the county income per capita as indicated in Table 10. Per capita income is a measure of the counties ability to tax its citizens to pay for government services. Generally speaking, the urban counties that must spend the most on judicial functions have lower per capita incomes and a greatly reduced ability to raise revenue. For instance, Passaic County ranks thirteenth in per capita income of \$13,722; yet ranks second in per capita expenditures for funding the Trial Court System. The neighboring county of Bergen ranks first in per capita income of \$19,892; however, it ranks the lowest in per capita expenditure for funding the Trial Court System. Essex County ranks first in per capita expenditure and ranks tenth in per capita income.

This trend is different in a county like Somerset which has a low crime rate, a high expenditure per capita cost for judicial functions, and a high per capita income. The reason is that in Somerset County the caseloads are lower and the salaries are higher than in the poorer urban counties.

The wide disparity in local governments' relative property tax capacities and property tax efforts is further indicated by a wide range in the net valuation on which property taxes are apportioned. In 1984, Essex County had a net valuation of approximately \$15 billion while the neighboring county of Bergen had a net valuation of approximately \$33 billion.⁵

Jurisdictions with high tax capacity tend to exert low property tax effort, while those with low tax capacity have higher taxes. Urban counties such as Essex and Hudson have high property taxes. In 1984, Essex County's tax rate per \$100 valuation was \$1.097. In Hudson County, the tax rate per \$100 valuation was \$1.089. On the other hand, Bergen County with the highest 1984 per capita income and with a high net valuation on which county property taxes are apportioned had a 1984 tax rate of \$.373.⁶

⁵New Jersey Department of Community Affairs, "Forty-Seventh Annual Report of the Division of Local Government Services 1984" (Trenton, December, 1985), p. 19.

⁶*Ibid.*, p. 23.

TABLE 9
THE FIVE NET JUDICIAL FUNCTIONS PER CAPITA COST

1980			1983			1986		
1. Passaic		\$15.80	Passaic		\$20.16	Essex		\$32.87
2. Essex		14.49	Essex		19.64	Passaic		31.72
3. Union		13.94	Union		17.51	Union		27.50
4. Mercer		13.05	Camden		17.27	Camden		25.34
5. Cape May		12.59	Somerset		16.27	Somerset		25.34
6. Somerset		12.39	Mercer		16.02	Middlesex		24.91
7. Camden		11.96	Cape May		15.27	Cape May		23.80
8. Hudson		11.23	Salem		14.40	Atlantic		23.15
9. Salem		11.04	Middlesex		14.28	Gloucester		23.01
10. Middlesex		10.55	Atlantic		14.19	Hudson		22.07
11. Atlantic	median	8.80	Hudson	median	13.39	Cumberland	median	20.22
12. Morris		8.75	Morris		12.75	Mercer		18.77
13. Gloucester		8.43	Gloucester		12.17	Warren		17.90
14. Warren		8.13	Warren		12.10	Morris		17.60
15. Bergen		7.96	Monmouth		10.16	Ocean		15.13
16. Cumberland		7.21	Bergen		10.06	Monmouth		14.93
17. Hunterdon		6.97	Hunterdon		9.25	Hunterdon		14.79
18. Burlington		5.84	Cumberland		8.91	Salem		14.61
19. Monmouth		5.80	Burlington		8.69	Sussex		13.13
20. Ocean		5.72	Ocean		7.82	Burlington		12.76
21. Sussex		4.54	Sussex		6.18	Bergen		11.50
Statewide Average		\$10.67	Statewide Average		\$13.94	Statewide Average		\$20.53

Notes: In 1986, fringe benefits are included and population figures are based on July, 1984 provisional estimates. Does not include capital and maintenance expenditures.

Source: County Budgets

TABLE 10
COMPARISON OF 1986 COUNTY NET JUDICIAL COSTS AND
1984 PER CAPITA INCOME

County	Rank Per Capita Judicial Cost	Rank Per Capita Income
Atlantic	8	9
Bergen	21	1
Burlington	20	15
Camden	4	17
Cape May	7	12
Cumberland	11	21
Essex	1	10
Gloucester	9	18
Hudson	10	19
Hunterdon	17	4
Mercer	12	8
Middlesex	6	6
Monmouth	16	7
Morris	14	3
Ocean	15	16
Passaic	2	13
Salem	18	20
Somerset	5	2
Sussex	19	14
Union	3	5
Warren	13	11

Source: County Judicial Cost—County Budgets
Per capita income—New Jersey Department of Labor

In addition to the disparities between counties in the need for services and the ability to pay for services, there are significant differences between counties in salaries, fringe benefits, working hours, and workload. The poorer urban counties have lower salaries, less fringe benefits, longer work weeks, and a significant difference in caseloads. For example, in 1984, the average adult probation supervision caseload was 148. The caseloads varied, however, between 56 in the wealthier counties and 339 in the poorer urban counties.⁷

⁷Criminal Disposition Commission, "Report of the Committee on Alternatives to Incarceration" (Trenton, May 20, 1986).

In May, 1986, Bergen County's total number of active pending cases in each of the courts was as follows: Criminal (767), Family (2256), Civil (6655), Special Civil (4459), and General Equity (421). The total number of county employees working for these courts in Bergen County is 172.⁸

Essex County, with the highest 1986 per capita expenditures for funding the State Trial Court System had the following total active pending cases in each of the courts: Criminal (4527), Family (3354), Civil (9242), Special Civil (11,323), and General Equity (299). The total number of county employees working for these courts in Essex County is 211.⁹

Generally speaking, the wealthier counties have more employees with fewer cases. For example, in Criminal Court, Bergen County has 20 county employees with a caseload of 767 which equates to 38 cases per employee. Essex County has 38 county employees with a caseload of 4527 which equates to 120 cases per employee. In comparing Special Civil Part cases, (the highest volume of cases), Bergen County has 59 county employees with a caseload of 4459, while Essex County has 97 county employees with a caseload of 11,323.

Statewide management and financing of the court system would equalize these disparities and provide uniform judicial services for all citizens.

STATE MANAGEMENT AND FUNDING OF THE JUDICIAL SYSTEM

The Commission recommends that all of the county operating costs except those of the county clerks and the surrogates be transferred to the State in the first year of the program, and that the counties pay to the State in successive years a constantly declining share of the costs of financing the Trial Court System. The Commission further recommends that all of the accompanying revenue be transferred to the State in the first year of the program. The total number of county employees recommended for transfer at this time is 5076, and the total **net** cost for funding these county operating costs is \$119.2 million, plus \$32 million for capital and maintenance for a grand total of \$151.2 million. (See Table 11 for a breakdown of the expenditures and revenues.) It is recommended that the phase-in of the county operating costs occur over a five-year period with the State paying to the counties the cost of capital and maintenance beginning in the sixth year. Extending a system of this magnitude over too long a period of years can lead to confusion, manipulation, and unintended consequences.¹⁰

In the first year and each subsequent year the State would pay an additional \$24 million, and in the five subsequent years, county payments to

⁸New Jersey Judiciary, "Court Management" (Trenton, May, 1986), p. 8.

⁹Ibid., p. 18.

¹⁰Please see Appendix F for the transfer by functional areas which was considered but not recommended by the Commission.

TABLE 11
COMMISSION RECOMMENDATION FOR TRANSFER TO STATE
1986 County Trial Court Expenditures, Revenues, and Employees
(Includes Fringe Benefits)

County Program Areas	Gross Expenditure	Total Revenue	County Net Expenditure	Employees
County Department of Courts	\$ 60.8 million	\$ 4.0 million	\$ 56.8 million	2005
Pre-Dispositional Probation	20.8 million		20.8 million	797
Sheriff (non-security)	3.5 million		3.5 million	191
Post-Dispositional Probation	53.2 million	15.1 million	38.1 million	2083
TOTAL	\$138.3 million	\$19.1 million	\$119.2 million	5076
Capital and Maintenance	32.0 million		32.0 million	
GRAND TOTAL	\$170.3 million	\$19.1 million	\$151.2 million	5076

the State would be \$95 million, \$71 million, \$47 million, \$23 million, and \$0 respectively. Any increase in costs would be assumed by the State from day one of the five-year transfer. Between 1980 and 1986, the county cost has increased over 11% annually. See Table 12 for the State and county obligations for the five year phase-in recommended in this report.

To provide true tax relief to the property taxpayers, ***the Commission recommends that the counties should be required to reduce their county purpose tax levy by an amount equal to their net savings from the State assumption of the judicial costs.***

The Commission has recommended in two previous reports that the State fund the Trial Court System: "The Impact of Mandates on Counties," 1981, and "County Mandates—The State Judicial System and Human Services," 1984.

The Commission believes that at least five benefits would be realized by implementation of these recommendations:

- ***Significant property tax relief to taxpayers***
- ***A more unified administration of the trial courts and of the trial court support staff by the New Jersey Judiciary***
- ***Improved quality of judicial services because there would not be different levels of funding which results in staffing and caseload variations and disparities***
- ***Relief for county governments from the combined pressure of State-mandated costs and the CAP law, so the county governments can better address the delivery of local services***
- ***An overall reduction in court system costs over time, with the consolidation of responsibilities within the unified judicial system***

The Commission believes that these benefits can best be achieved by transferring the 5076 county employees and program responsibilities named herein to the State immediately.

TABLE 12
FIVE YEAR PHASE-IN OF
NET COUNTY TRIAL COURT SYSTEM OPERATING COSTS
CAPITAL AND MAINTENANCE TRANSFERRED IN SIXTH YEAR
(Rounded to Nearest Million)

Net County Operating Cost—\$119 mill		Capital and Maintenance—\$32 mill
Year	County Aid to State	State Aid to Counties for Rent
1	\$95 million	-0-
2	71 million	-0-
3	47 million	-0-
4	23 million	-0-
5	0	-0-
6	0	\$32 million

State Obligations					
Year	State Operating Costs	Annual Growth	County Aid to State	State Aid to Counties	Total Cost
Today	-0-	-0-	-0-	-0-	-0-
1	\$119 mill	\$13 mill	\$95 mill	-0-	\$ 37 mill
2	132 mill	15 mill	71 mill	-0-	76 mill
3	147 mill	17 mill	47 mill	-0-	117 mill
4	164 mill	19 mill	23 mill	-0-	160 mill
5	183 mill	21 mill	-0-	-0-	204 mill
6	204 mill	23 mill	-0-	\$32 mill	259 mill

County Obligations					
Year	County Operating Costs	County Aid to State	Capital and Maintenance	State Aid to Counties	Total Cost
Today	\$119 mill	-0-	\$32 mill	-0-	\$151 mill
1	-0-	\$95 mill	32 mill	-0-	127 mill
2	-0-	71 mill	32 mill	-0-	103 mill
3	-0-	47 mill	32 mill	-0-	79 mill
4	-0-	23 mill	32 mill	-0-	55 mill
5	-0-	-0-	32 mill	-0-	32 mill
6	-0-	-0-	32 mill	\$32 mill	-0-

NOTE: Under State obligations, the annual growth rate is calculated to be 11.3% because between the years of 1980 and 1986, the county cost increased annually by this amount.

The capital and maintenance costs will increase, however, the Commission does not know by how much at this time.

IN CONCLUSION

This report has analyzed the Trial Court System as it existed in the past, and the way it has been reorganized since the 1983 court rules were adopted. Prior to the reorganization, the Trial Court System existed as a set of completely independent offices, rather than part of an integrated system. This seriously limited the cohesiveness and effectiveness of the trial courts of the State, particularly in such central functions as case flow management.

With the 1983 court reorganization, an attempt was made to unite the various court programs under the day-to-day supervision of case managers, a newly created position. The court can not continue the process of uniting its various components without the enactment of the legislation recommended herein.

While the Trial Court System has made great strides in the direction of unification, this process is impeded by the fact that the Trial Court System depends heavily on financing from twenty-one Boards of Chosen Freeholders with varying degrees of funding variations and disparities. The significant disparities that exist between counties which require major expenditures for judicial services and which do not have the property tax base to finance the services seriously affects the provision of uniform quality judicial services to the State's citizens. This disparity can only be corrected by enactment of the legislative proposals contained in this report.

APPENDIX

APPENDIX A

PERSONAL MEETINGS—JUDICIAL UNIFICATION STUDY

Individual Meetings

County Clerks	10
Surrogates	10
Sheriffs	10
Chief Probation Officers	8
Case Managers	17
Trial Court Administrators	5
Judges	1
Administrative Office of the Courts	8
New Jersey Association of Counties	4
Other County Personnel	6
South Jersey Center for Public Affairs	4
Total	82

Group Meetings

	Dates
Sheriffs	10-16-86
Surrogates	10-24-86
County Clerks	12-17-86
Registers of Deeds	12-17-86
Chief Probation Officers	1-07-87

Judicial Services Questionnaire—21 counties

APPENDIX B

COUNTY CLERK/REGISTER OF DEEDS
1986 Executive and Judicial Budget and Revenue

	EXPENDITURES				REVENUES	
	County Clerk- Executive	County Clerk- Elections	County Clerk- Judicial	Register of Deeds	County Clerk- Executive	Register of Deeds
Atlantic	\$ 1,013,929	—	\$ 406,476	—	\$ 1,831,265	—
Bergen	1,373,490	\$ 357,897	777,000	—	1,677,000	—
Burlington	570,405	—	240,777	—	1,820,000	—
Camden	725,145	—	1,266,609	\$ 527,136	150,000	\$1,850,000
Cape May	352,769	—	329,602	—	1,107,235	—
Cumberland	261,549	—	320,186	—	345,420	—
Essex	565,216	270,550	2,950,574	874,510	555,339	2,344,198
Gloucester	333,166	—	503,279	—	975,000	—
Hudson	488,040	320,000	920,900	518,550	242,000	1,573,000
Hunterdon	324,850	—	22,290	—	427,000	—
Mercer	626,017	146,033	941,048	—	1,753,000	—
Middlesex	567,752	149,400	1,878,108	—	3,906,700	—
Monmouth	790,023	225,279	980,919	—	3,000,000	—
Morris	732,431	345,990	1,007,757	—	3,500,000	—
Ocean	829,000	74,400	539,000	—	2,900,000	—
Passaic	520,000	170,000	820,159	343,000	328,900	1,700,000
Salem	125,627	—	68,850	—	155,900	—
Somerset	460,305	66,370	304,454	—	1,000,000	—
Sussex	209,598	—	233,695	—	836,000	—
Union	226,464	137,165	445,817	473,230	485,342	709,424
Warren	106,984	46,976	138,018	—	493,755	—
TOTAL	\$11,202,760	\$2,310,060	\$15,004,818	\$2,736,426	\$27,489,856	\$8,176,622

Note: Fringe benefits are not included.

Source: County Budgets

APPENDIX C **1986 COUNTY CLERK PERSONNEL**

	Judicial	Executive
Atlantic	23	36
Bergen	46	60
Burlington	16	25
Camden*	64	9
Cape May	34	18
Cumberland	18	12
Essex*	132	28
Gloucester	30	18
Hudson*	58	31
Hunterdon	17	8
Mercer	52	26
Middlesex	103	46
Monmouth	81	38
Morris	70 (includes 10 P/T)	63 (includes 23 P/T)
Ocean	42	49
Passaic*	42	29
Salem	5	8
Somerset	17	46
Sussex	15	13
Union*	23	9
Warren	8	7
TOTAL	896	579

*Counties having Registers of Deeds

Note: The number of judicial employees differs from the information provided by the Administrative Office of the Courts which was 885.

Source: County Administrators—Commission Questionnaire

APPENDIX D
SHERIFFS
1986 EXECUTIVE AND JUDICIAL BUDGETS

	Executive	Jails	Judiciary
Atlantic	\$ 2,445,363	—	—
Bergen	1,999,312	\$ 6,397,259	\$ 1,121,235
Burlington	793,862	—	225,037
Camden	4,067,463	5,329,240	1,218,625
Cape May	430,948	1,129,876	—
Cumberland	884,228	1,939,426	108,500
Essex	8,054,984	—	4,569,191
Gloucester	1,038,925	2,603,363	319,113
Hudson	1,838,300	—	1,325,950
Hunterdon	421,600	916,286	53,000
Mercer	1,876,771	—	349,500
Middlesex	2,565,987	—	2,276,510
Monmouth	1,302,845	5,410,455	463,327
Morris	3,277,500	2,962,015	—
Ocean	2,865,400	—	591,000
Passaic	724,000	7,500,000	2,075,000
Salem	342,154	1,156,750	74,749
Somerset	1,299,935	1,538,936	—
Sussex	315,440	—	93,311
Union	472,057	—	3,004,560
Warren	101,110	—	161,456
TOTAL	\$37,118,184	\$36,883,606	\$18,030,064

Note: Does not include fringe benefits.

The Judicial budget includes both security and non-security personnel.

Source: County Budgets

APPENDIX E **1986 SHERIFF PERSONNEL**

	Judicial/ Security	Judicial/ Non-Security	Executive
Atlantic*	23	—	222
Bergen	13	23	216
Burlington*	15	16	22
Camden	68	—	326
Cape May	—	—	117
Cumberland	6	—	120
Essex*	146	—	295
Gloucester	27	18	134
Hudson*	72	—	95
Hunterdon	—	—	37
Mercer*	60	4	38
Middlesex*	79	4	97
Monmouth	—	41	281
Morris	20	—	95 (includes 3 P/T)
Ocean*	15	13	211
Passaic	66	—	333
Salem	10	5	49
Somerset	—	—	98 (includes 2 P/T)
Sussex*	4	2	76 (includes 23 P/T)
Union*	105	—	141
Warren*	8	9 (includes 3 P/T)	7
TOTAL	737	135	3010

*Freeholders operate jails

Note: The Judicial security and non-security personnel figures are different from that provided by the Administrative Office of the Courts because many counties have now transferred these employees to the Assignment Judge.

Source: County Administrators—Commission Questionnaire

APPENDIX F

The Commission considered but did not recommend the following method, transfer by functional areas, to accomplish organizational and financial unification of the Trial Court System. The reasons the Commission did not recommend the transfer by functional areas are as follows:

1. The transfer of employees would occur over a longer period of time rather than on day one as is the case with the Commission's recommendation; and
2. The county clerks' functions are integrated throughout the functional areas which are prioritized for State assumption. The Commission's recommendation delays the transfer of the county clerks' judicial employees until such time as the Judiciary and the county clerks have worked out a satisfactory agreement as to the proper role for the county clerks within the Trial Court System.

Transfer by Functional Areas

Another way to accomplish the objective of transferring all of the county cost of funding the Trial Court System to the State would be to transfer by functional areas. The functional areas are ranked in priority order for State assumption in the accompanying table. The first five functional areas are crucial for administrative unification (Superior Court Support, General Equity, Civil/Special Civil, Criminal and Family).

The Superior Court support staff consists of administrative personnel, jury management personnel, and about one-fourth of the county clerk's personnel. All the other functional areas represent the various units of the Trial Courts and all of their support staff. In looking at the Trial Court System by functional areas, the effected personnel are already reassigned from probation and the county clerk on a day-to-day basis by the matrix management system. Therefore, all of the county employees would not necessarily need to be transferred on day one as would have to be the case if transference occurred by program area. If this approach were chosen, in the first year, Superior Court support personnel should be transferred to the State at a cost of \$21.7 million. The second year General Equity and Civil/Special Civil Court should be transferred at a cost of \$27.9 million. The third year, Criminal Court should be assumed by the State at a cost of \$27.9 million, and the fourth year Family Court at \$26.7 million, followed by Post-Dispositional Probation in the fifth year at a cost of \$53.2 million. The total cost for transfer by functional areas is \$157.1 million. If the transfer by functional areas were adopted, probation services should be studied in the interim to ascertain if this program should continue to be defined as judicial, or redefined as an executive function at the State or county government level. As indicated in Chapter II, if probation services were determined to be a county level responsibility, the chief probation officers should be appointed by the county governments and remain subject to program standards adopted by the State.

The transfer of functions would be carried out in an order which would transfer those functions which have the least amount of interaction between judicial staff and the staff of other county government agencies. Therefore, the Civil Courts would be transferred to the State before the Family Courts. The Family Courts interact with numerous other agencies of county government, such as welfare, youth correctional facilities, diversionary services, the prosecutor, and various non-profit agencies. The Family Courts, therefore, would be transferred last.

1986 COUNTY TRIAL COURT COSTS FUNCTIONAL AREAS (Includes Fringe Benefits)		
Functional Areas	County Expenditures	County Employees
Superior Court Support	\$ 21.7 million	788
Civil/Special Civil/General Equity	27.9 million	1111
Criminal	27.7 million	977
Family	26.6 million	1002
Post-Dispositional Probation	53.2 million	2083
TOTAL	\$157.1 million	5961
Note: The functional areas are ranked in priority order for State Assumption. These figures are estimates because most counties do not presently budget according to functional area.		

**FUTURE PUBLICATIONS OF THE
COUNTY AND MUNICIPAL GOVERNMENT STUDY COMMISSION**

- A Status Report on Solid Waste Management
- The Optional Municipal Charter Law
- An Analysis of the Corrections System
- Local Code Enforcement
- Services for the Elderly: Current and Future Needs
- Independent Boards and Municipal Government
- The Municipal Welfare System

ABOUT THE COMMISSION

The New Jersey legislature established the County and Municipal Government Study Commission with the charge to "study the structure and functions of county and municipal government ... and to determine their applicability in meeting the present and future needs of the State and its political subdivisions."

To achieve as broad a representation as possible in carrying out this legislative charge, a Commission of fifteen members was created, nine of whom are named by the governor, three of whom are senators named by the president of the senate, and three of whom are assemblymen, named by the speaker of the general assembly. Of the governor's appointments, three are nominees of the New Jersey Association of Counties, three are nominees of the New Jersey State League of Municipalities, and three are from among the citizens of the State.

The Commission's initial report, *Creative Localism: A Prospectus*, recommended a comprehensive and systematic study of the patterns of planning, financing, and performing functions of government. This assessment seeks to develop more effective approaches for service provision among municipal, county, and state governments through statutory amendments and changes in administrative practices and policies.

In light of these goals, the Commission has examined alternative forms of service provision on a larger-than-municipal scale and evaluated current systems for provision of services. This research has led to a series of structural studies dealing with county government, joint services, consolidation, and municipal government forms. The Commission also engages in functional studies that are focused upon the services that local governments provide or should so provide. These functional studies have included examinations of transportation, housing, social services, health, solid waste management, flood control, libraries, and state mandates. In addition, a series of informational periodicals and handbooks are published for the use of officials, administrators, and others interested in New Jersey government.

While the Commission's research efforts are primarily directed toward continuing structural and functional studies, its staff is often asked to assist in the drafting of legislation and regulatory action based upon Commission recommendations. The Commission also serves as a general resource to the legislature, executive agencies, local government officials, and civic organizations, as well as to related activities at the national level.