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STATE OF NEW JERSEY
COUNTY AND MUNICIPAL GOVERNMENT
STUDY COMMISSION

THE COUNTY CLERK AND COURT CONSOLIDATION

An Addendum

to

The Report

Entitled

JUDICIAL UNIFICATION

September 1988

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REPORTS OF THE COUNTY AND MUNICIPAL
GOVERNMENT STUDY COMMISSION

- *Solid Waste Management In New Jersey, November 1987
- *Optional Municipal Charter Law, October 1987
- *Judicial Unification, July 1987
- *Local Redevelopment In New Jersey: Structuring a New Partnership,
January 1987
- *The Structure of County Government: Current Status and Needs, July 1986

Local Liability Insurance: A Crisis, May 1986
- *Functional Fragmentation and the Traditional Forms of Municipal Government
in New Jersey, January 1986

The Changing Structure of New Jersey Municipal Government, March 1985
(In cooperation with the Bureau of Government Research, Rutgers, The
State University of New Jersey)
- *County Mandates: The State Judicial System and Human Services, October
1984

New Jersey's Local Infrastructure: An Assessment of Needs, September 1984
- *New Jersey Water Supply Handbook, December 1983

Green Acres in the '80s: Meeting New Jersey's Needs for Open Space and
Recreation, June 1983

Optional Municipal Charter Law (Faulkner Act), As Amended, June 1983

Computer Use: A Guide for Local Officials in New Jersey, September 1981
(In cooperation with N.J. State League of Municipalities and N.J.
Department of Community Affairs)
- The Outlook for Historic Preservation in New Jersey, July 1981

The Impact of Mandates on Counties, June 1981

Issues for the '80s; The Impact of Mandates; Municipal Caps, January 1981
- *The Development of Libraries and Networks, June 1980

The Organization and Dynamics of Social Services in New Jersey, June 1979

Forms of Municipal Government in New Jersey, January 1979
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State University of New Jersey)

- *Local Highway and Road Programs: The Capacity of Federal and State Aid Programs to Meet Increasing Needs, September 1978
- Computer Utilization by Local Government, November 1977
- *Flood Control Management: An Overview of Issues and Responses, November 1977
- *Bus Transportation: State-Local Roles and Responsibilities, May 1977
- *Aspects of Law Enforcement in New Jersey, June 1976
- *Water Supply Management in New Jersey: Summary of Findings, April 1975
- Community Health Services: Existing Patterns-Emerging Trends, November 1974
- *Housing and Suburbs: Fiscal and Social Impact on Multifamily Development, October 1974
- *Water Quality Management: New Jersey's Vanishing Options, June 1973
- Solid Waste: A Coordinated Approach, September 1972
- A Public Personnel Information System for New Jersey, March 1972
(In cooperation with the Bureau of Government Research, Rutgers, The State University of New Jersey)
- *Consolidation: Prospects and Problems, February 1972
- *Beyond Local Resources: Federal/State Aid & the Local Fiscal Crisis, April 1971
- *Joint Services: A Practical Guide to Reaching Joint Services Agreements, May 1971 (In cooperation with the N.J. Department of Community Affairs)
- *Joint Services: A Local Response to Area-Wide Problems, September 1970
- County Government: Challenge and Change, April 1969
- Creative Localism: A Prospectus, March 1968

- *Available upon request

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*Project Director and Principal Author of "Judicial Unification"

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INTRODUCTION - THE JUDICIAL UNIFICATION PROPOSAL

The Commission released its thirty-fifth report, Judicial Unification, in July 1987. The report focuses on the organizational and financial needs of the State Trial Court System. The report stresses the fiscal variations and disparities which exist when twenty-one counties are required to fund the State-administered Trial Court System. The report requests action by the Governor and the Legislature to transfer 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. The proposal provides for \$119 million of property tax relief to the State's taxpayers to be phased-in over a five-year period with the counties paying a constantly declining share of the cost. Legislation has been introduced by Senator Carmen A. Orechio (S1620) to accomplish this objective. Similar legislation has also been introduced by Assembly Speaker Chuck Hardwick (A2419). The constitutional officers are not included in the bills; however, recommendations regarding the offices of the sheriff and the surrogate are handled in separate legislation discussed later in this report. Senator Orechio's bill has passed the Senate and is pending action in the Assenbly. Speaker Hardwick's bill has been released from committee and is awaiting floor action in the Assembly. It is expected that the bills will be merged in the near future.

Listed below is the Commission's previous recommendation for transfer of county employees and county costs to the State:

<u>County Program Areas</u>	<u>Gross Expenditure</u>	<u>Total Revenue</u>	<u>County Net Expenditure</u>	<u>Employees</u>
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

Absent from the Commission's previous recommendations were any recommendations regarding the county clerks and their role in the State Judiciary. Instead, the Commission recommended that all 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. The county clerks and the Judiciary have now reached such an agreement. In this report, our Commission endorses the agreement and Senator Orechio and Assemblyman Frelinghuysen have introduced legislation to accomplish this objective. Copies of the bills can be found in the appendices.

THE COUNTY CLERK'S CURRENT ROLE

The county clerks have both executive and judicial responsibilities. The executive responsibilities include: processing of applications and passports, the naturalizing of aliens in the United States 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 a register of deeds, the county clerks perform that function.

The county clerks' 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 and consolidating and transferring cases.

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 have 885 judicial employees. Approximately 200 of these employees are assigned to each of the major branches of the Trial Court System: criminal, civil, family and general support. These employees represent approximately 20 percent of the employees in all of the branches except Civil. In Civil, the county clerks' employees include approximately 50 percent of the staff. The 1986 county cost for funding these judicial activities was \$18.8 million.

Under the present court structure, the county clerks' judicial employees are under a system of matrix management. Most of their employees are hired, fired and disciplined by the county clerks. They are, however, under the day-to-day supervision of the case manager in each of the major branches. Other case processing employees are under the county clerks' day-to-day supervision.

THE COUNTY CLERK'S PROPOSED ROLE

The Judiciary/County Clerk Liaison Committee, consisting of both court and county clerks representatives, has adopted a proposal to integrate the county clerks into a State-funded Judiciary. The members are:

Associate Justice Stewart G. Pollock, Chairman

Assignment Judge Peter Ciolino, Bergen County

Assignment Judge I. V. DiMartino, Camden County

Assignment Judge Samuel D. Lenox, Jr., Mercer County

Administrative Director of the Courts Robert D. Lipscher

Deputy Director Theodore J. Fetter

Clerk of Superior Court John Mason

Trial Court Administrator Stephen E. Fingerman, Vicinage 15

(Gloucester, Cumberland, Salem)

County Clerk M. Dean Haines, Ocean County

County Clerk Walter G. Halpin, Union County

County Clerk Terrance D. Lee, Warren County

County Clerk Albert E. Driver, Jr., Mercer County

Basically, the proposal recommends the splitting of the county clerks' executive and judicial responsibilities into two separate offices. The proposal would take place at such time as provided for in the enabling legislation. The county clerks would have a choice of either staying at the county level as an elected constitutional official with their executive responsibilities, or transferring to the State in a new appointed tenured position as Deputy Clerk of Superior Court. The new deputy clerk would have significant responsibilities in management, case processing, public assistance, fee accounting and records management. They would be a member of the management team in their vicinage and have the same status as the assistant trial court administrators.

Matrix management would cease to exist. The employees who are now under the day-to-day supervision of the criminal and family case managers would be transferred from the budgets of the county clerks to case managers. Employees providing case processing functions in the Special Civil Part of the Civil Court would be transferred to the new Deputy Clerk of Superior Court along with those employees providing the same tasks for the Civil Unit and the General Equity Unit.

COMMISSION RECOMMENDATION

The Commission recognizes that the integration of the county clerks' employees is necessary to unite the State Trial Court System. Therefore, the Commission supports the proposal adopted by the Judiciary/County Clerk Liaison Committee to separate the judicial and non-judicial duties of the county clerks and to transfer the 885 affected judicial employees to the State. The Commission further recommends that the counties should be required to reduce their county purpose tax levy by an amount equal to the \$18.8 million they save from the State assumption of these judicial costs.

With the addition of the county clerks' judicial employees to the county cost recommended for transfer to the State, the total net cost is \$138 million, and the number of employees is 5961.

1986 COUNTY JUDICIAL COSTS RECOMMENDED
FOR TRANSFER TO STATE

<u>County Program Areas</u>	<u>Gross Expenditures</u>	<u>Total Revenue</u>	<u>County Net Expenditures</u>	<u>Employees</u>
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
County Clerk (judicial)	18.8 million		18.8 million	885
TOTAL	\$157.1 million	\$19.1 million	\$138.0 million	5961

PENDING LEGISLATION

In addition to the Orechio and Hardwick bills mentioned earlier, Assemblyman McEnroe and Senator Brown have also introduced legislation to transfer the county judicial employees to the State.

Other bills which have been introduced as a result of the "Judicial Unification" report are:

S1666 By Senator Orechio - This bill transfers the sheriff's non-security judicial employees to the assignment judge, makes the sheriff responsible for all service of process, and explicitly provides that the sheriff is an executive official of county government, responsible for providing public safety services. There are approximately 100 non-security judicial employees of the sheriff who will be transferred to the assignment judge under this legislation. This bill has passed the Senate County and Municipal Government Committee as amended and is awaiting floor action in the Senate. The amendment gives the sheriff discretion to approve or disapprove an application, and changes the effective date of the transfer from 120 days to 60 days if no application is made or the application is disapproved.

A593 By Assemblyman Garabed "Chuck" Haytaian - This bill increases certain fees charged by the surrogates for services rendered. The increases amount to approximately \$2 million in additional revenue for the county governments. Current fees collected are approximately \$3 million, and the 1986 county cost for operating the surrogates' office was approximately \$7.3 million. This bill has been amended to provide

that \$2.00 of each fee collected for certain services be returned to the surrogate for upgrading and modernizing services. This bill was signed into law on August 12, 1988.

S2224 Senator Henry P. McNamara - This bill abolishes the Jury Commission and transfers its powers to the assignment judge. Currently, 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. This bill has passed the Senate and has been referred to the Assembly Judiciary Committee.

APPENDICES

Following are letters of transmittal from Associate Justice Stewart F. Pollock, Chairman of the Judiciary/County Clerk Liaison Committee and County Clerk M. Dean Haines, section chief of the County Officers Association and member of Judiciary/County Clerk Liaison Committee, along with the proposal adopted by the Committee on May 17, 1988 which integrates the county clerk/deputy clerk of Superior Court into a State funded Judiciary. We also include herein copies of S2780 and A3566 which implement the recommendations of the Judiciary/County Clerk Liaison Committee.

To provide the overall framework for the proposal, we also reprint the Executive Summary of the "Judicial Unification" report.

APPENDICES

SUPREME COURT OF NEW JERSEY



JUSTICE STEWART G. POLLOCK

COURT HOUSE
MORRISTOWN, N. J. 07960

June 10, 1988

Hon. Carmen A. Orechio, Chairman
County and Municipal Government Study Commission
115 West State Street
Trenton, New Jersey 08625

Dear Senator Orechio:

I enclose a copy of the final proposal to integrate the position of Deputy Clerk of Superior Court within the trial court system. This proposal has been unanimously approved by the Judiciary/County Clerk Liaison Committee, which endorses the proposal as an effective vehicle to clarify and streamline the organization of the New Jersey trial courts.

Please let me know if you would like to discuss the report.

Sincerely,

A handwritten signature in black ink, appearing to read "Stewart G. Pollock".

Stewart G. Pollock

SGP:as
Enc.

c/c: Robert D. Lipscher; David C. Mattek (letter only)

PRESIDENT
ALBERT E. DRIVER JR.
County Clerk
Mercer County

PRESIDENT ELECT
TERRANCE D. LEE
County Clerk
Warren County

VICE PRESIDENT
ANN P. CONTI
Surrogate
Union County

SECRETARY
JOANNE RAJOPPI
Register
Union County

TREASURER
JOSEPH J. HOFFMAN
Clerk
Gloucester County

COUNTY OFFICERS ASSOCIATION OF NEW JERSEY



May 25, 1988

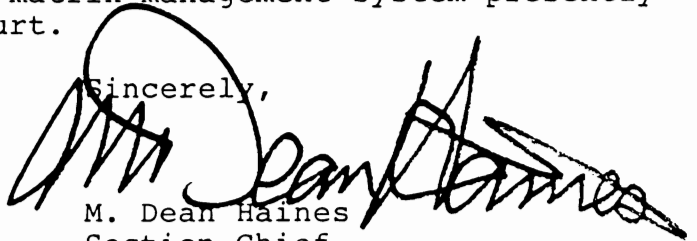
Senator Carmen Orechio, Chairman
County & Municipal Government
Study Commission
115 W. State Street
Trenton, New Jersey 08625

Dear Senator Orechio:

At a meeting of the County Officers Association on May 19, 1988, the County Clerks reviewed and discussed the Final Draft Report of the Judiciary/County Clerk Liaison Committee on the Integration of the County Clerk/Deputy Clerk Superior Court into a State Funded Judiciary.

The County Clerks fully understand the contents of the proposal and will support its implementation as a means of ending the confusion of the matrix management system presently utilized in the Superior Court.

Sincerely,


M. Dean Haines
Section Chief

MDH:gl

DIVISION CHAIRMEN

M. DEAN HAINES
County Clerk, Ocean County

RALPH FROELICH
Sheriff, Union County

FRANK W. SYLVESTER
Register, Passaic County

DONALD H. WAGNER
Surrogate, Gloucester

FINAL DRAFT

PROPOSAL FOR THE INTEGRATION OF THE
COUNTY CLERK/DEPUTY CLERK SUPERIOR COURT
INTO A STATE FUNDED JUDICIARY

EXECUTIVE SUMMARY OF PROPOSAL

- I. Goal: Provide for greater unification of the Judiciary of the State of New Jersey by consolidating functions which are necessary for the efficient and effective operation of the courts.
- II. Method: Separate the judicial and non-judicial duties that are now combined in the present office of the County Clerk/Deputy Clerk of the Superior Court and establish a position within the Judiciary to perform the significant duties of management, public assistance, fee accounting and records management of the case processing unit of the civil division at the trial court level.
- III. Position Title: Establish a new position entitled, "Deputy Clerk of the Superior Court".
- IV. Term of Appointment: Incumbent county clerks who resign from their elected status will receive tenure in the new position of Deputy Clerk of the Superior Court.
- V. Salary: The appointee (if an elected county clerk who gives up their elected status) will retain his/her salary preserved upon transfer to the state payroll. In no case will the salary be below the minimum of a G-32 range (\$40,253).
- VI. Responsibilities: The new Deputy Clerk of the Superior Court will have delegated significant responsibilities in management, case processing, public assistance, fee accounting and records management.

May 19, 1988

PROPOSAL FOR THE INTEGRATION OF THE
COUNTY CLERK/DEPUTY CLERK SUPERIOR COURT
INTO A STATE FUNDED JUDICIARY

GOAL:

Provide for greater unification of the Judiciary of the State of New Jersey by consolidating functions which are necessary for the efficient and effective operation of the courts.

OBJECTIVES:

1. Integrate the case processing functions of the County Clerk/Deputy Clerk of the Superior Court into the Judiciary under the title "Deputy Clerk, Superior Court" and under the control of the Assignment Judge/Trial Court Administrator.
2. Establish the "Deputy Clerk, Superior Court" in an appointed Judiciary position as the principal manager of case processing functions in the civil division.
3. Terminate matrix management responsibilities of the "Deputy Clerk, Superior Court" by transferring County Clerk personnel presently assigned to criminal or family case processing support to the respective case managers.
4. Enhance and expand the case processing expertise of the "Deputy Clerk, Superior Court" by transferring the appropriate functions and staff of the Special Civil Part to the "Deputy Clerk, Superior Court" in the new position.
5. Develop a pro se or public assistance component of the "Deputy Clerk, Superior Court" case processing responsibilities.
6. Transfer courtroom clerks (in vicinages where this has not already been accomplished) to the Superior Court budget under the AJ/TCA.

PURPOSE AND PRINCIPLES:

One of the purposes of state funding is unification of the Judiciary. The remaining structural element remaining to be completely integrated into the Judiciary is the case processing operation. To complete this structural integration, it is necessary to reexamine and redefine the role of the county clerk within the Judiciary.

- 2 -

Prior to the movement towards state funding, the Judiciary and county clerks developed a protocol which detailed certain principles that formed the basis of that earlier relationship. The protocol recognized the interim need for a mechanism for cooperation that would provide case processing support to the case management function. Matrix management, the assignment of personnel from the "home unit" (the county clerk's office) to the case management office was developed as that interim mechanism. The clerks as well as the Judiciary have come to realize that the case management system has matured and matrix management support has become inefficient and duplicative. An innovative approach to integrate these important functions is necessary so that the court unification effort will be able to take a long awaited leap forward and unnecessary barriers to state funding will be removed.

The proposal which follows is based on five principles which are central to the full integration of the Judiciary.

- 1) Controlling the flow of cases through the courts is the central mission of court administration; all support mechanisms involved with processing and moving cases must be under the control of the Assignment Judge through the Trial Court Administrator.
- 2) Professional managers must be the leaders of the court support structure, responsible to the Assignment Judge who establishes policy but whose policy decisions must be implemented by the administrative work of the TCA and by program needs and information.
- 3) The efficient and effective flow of cases through the courts depends on the relationship of all the system's component parts. Support mechanisms which are not fully integrated into the court system prevent optimal working conditions. Matrix management, while designed as an interim method of integration is no longer reliable in many court related situations.
- 4) The County Clerks/Deputy Clerks of the Superior Court possess significant management and recordkeeping skills, but because of their present political involvement in the electoral system, the

- 3 -

Judiciary cannot receive the full benefit thereof.

- 5) A truly unified court system, under state funding requires the clerk's functions to be completely integrated and comprehensively managed by the Judiciary with the incumbent Deputy Clerk, Superior Court as a vital member of vicinage management committees.

PROPOSAL:

This subcommittee recommends that the Judiciary establish a civil case processing/intake unit, under the jurisdiction of the AJ/TCA. This unit would be headed by an appointed, tenured "Deputy Clerk, Superior Court" responsible for duties previously undertaken by an elected county clerk. The Administrative Director, upon recommendation of the Assignment Judge and approval of the Chief Justice, will appoint the incumbent county clerk who would have the right of first refusal. In accepting this position the incumbent would give up his/her elected status. All personnel presently included in the county clerk judicial function budget will be transferred to the Superior Court, state funded budget under the control of the AJ/TCA. The creation of this new Judiciary position will, in effect, leave the counties to fund an executive branch county clerk's position with more than half of its present duties removed. The "Deputy Clerk, Superior Court" position will be responsible only to the Judiciary and will be divorced from the deeds, mortgage, passport, election or other executive branch functions. The position of the elected county clerk will continue to exist to perform these executive branch functions, but the Judiciary portion of the role formerly included in the county clerk's duties will now be performed by the appointed "Deputy Clerk, Superior Court".

While precise job descriptions will depend upon vicinage needs, it is contemplated that the Assignment Judge will assign some or all of the duties outlined below to the new Deputy Clerk of the Superior Court to support the civil case processing operation.

Management Responsibilities - The "Deputy Clerk, Superior Court" will be responsible for day-to-day personnel supervision of staff employed in all civil and special civil case processing functions. Through the procedures developed by the vicinage AJ/TCA the "Deputy Clerk, Superior Court" will supervise, promote, demote, assign and organize

- 4 -

the personnel in the central processing and intake units. The "Deputy Clerk, Superior Court" will prepare budgets, participate as a member of the vicinage management team and be responsible for the day-to-day operation of the unit.

Case Processing Responsibilities - The "Deputy Clerk, Superior Court" will be responsible for all case processing functions for civil (including Equity non-foreclosures) and special civil part matters required by the direct filing of pleadings and papers with the court. Case processing responsibilities include case receipt, case and file initiation, automation implementation, fee accounting, default processing, coordination for service of pleadings by special civil part officers, audits and processing of executions and garnishments.

Public Assistance Responsibilities - The "Deputy Clerk, Superior Court" will be responsible to perform a public assistance role on behalf of the Judiciary. Pro se assistance, procedural information, brochure development, and case processing status information are examples of public assistance roles that will be filled by the "Deputy Clerk, Superior Court".

Records Management - The "Deputy Clerk, Superior Court" will be responsible for the development of local plans to meet record storage needs. Microfilm programs, public accessibility issues, security, coordination with the Superior Court Clerk's Office (Trenton), and long-term archives are the types of responsibilities to be vested in the Deputy Clerk of the Superior Court.

Fee Accounting - The "Deputy Clerk, Superior Court" will be responsible for the collection, disbursement, audit and management of all civil and special civil part fees.

To establish such an office, the following would occur with regard to:

COUNTY CLERK

A. Each county clerk who agrees to join the Judiciary would resign from his or her elected position on the effective date indicated in appropriate legislation and be appointed pursuant to R. 1:33-4(e) to the position of "Deputy Clerk, Superior Court".

County Clerks who desire to retain their elected position may opt to do so. In that event the Judiciary would appoint a nominee of its own choosing to the position of the "Deputy Clerk, Superior Court" to perform the duties of that position as outlined above. For the incumbent, acceptance of this appointment is based on the following:

- 5 -

1. The appointee (if an elected county clerk who gives up their elected status) will receive tenure in the new position under the same conditions enjoyed by other tenured state-funded employees.

2. The appointee will have his/her salary preserved and transferred to the state payroll.

3. The appointee will have the same organizational status as the ATCA/Civil, Criminal, Family and Municipal.

4. The appointee will be a member of the vicinage management teams.

5. The appointee will have budget input responsibilities to the AJ/TCA.

EMPLOYEES OF THE COUNTY CLERK PRESENTLY
ASSIGNED TO JUDICIAL FUNCTIONS

A. On the effective date of state funding (or sooner if it becomes feasible to do so) all employees who are presently on the county clerk/judicial function budget would be transferred to the Superior Court state funded budget.

B. Judicial function employees of the county clerk assigned to family case processing would be transferred to the family case managers for supervision and inclusion on the Superior Court state funded budget.

C. Judicial function employees of the county clerk assigned to criminal case processing would be transferred to the criminal case managers for supervision and inclusion on the Superior Court state funded budget.

EMPLOYEES OF THE SPECIAL CIVIL PART

A. All employees of the special civil part engaged in case processing functions will be transferred to the supervision of the "Deputy Clerk, Superior Court". These employees will be integrated with county clerk civil case processing employees to accomplish the duties listed above.

- 6 -

B. The clerk of the Special Civil Part (a statutory position) shall be transferred to the Supervision of the "Deputy Clerk, Superior Court" and be considered equal to an assistant case manager. These positions should be ultimately phased out through attrition and where appropriate, replaced with R. 1:33-4(e) appointment.

C. Special Civil Part fee accounting would be integrated with/through ACMS and supervised by the Deputy Clerk Superior Court.

COURTROOM CLERKS

A. It is well recognized that courtroom clerks perform case management functions and should be transferred to the Superior Court state funded budget under the AJ/TCA. This should be accomplished with or without state funding.

DEPUTY COUNTY CLERKS WHO SUPERVISE JUDICIAL FUNCTION STAFF

A. In counties where there are Deputy County Clerks who supervise judicial functions, and where the incumbent County Clerk elects to join the Judiciary in the appointed, tenured position the Deputy County Clerk will be offered a supervisor/case processing position consistent with the provisions of R. 1:33-4(e). Should the incumbent county clerk choose not to join the Judiciary, the Deputy County Clerk may or may not be offered a position at the discretion of the Assignment Judge, Administrative Director and Chief Justice.

B. Deputy County Clerks who have statutory tenure in their present position as described in N.J.S.A. 40A:9-79, will be provided tenure in the new position under the same conditions enjoyed by other tenured state-funded employees, assuming the incumbent County Clerk chooses to join the Judiciary. Should the incumbent County Clerk choose not to join the Judiciary, and the Deputy is selected, the Deputy will not be given tenure.

STATE OF NEW JERSEY

INTRODUCED AUGUST 4, 1988

By Senator ORECHIO

1 AN ACT concerning the county clerks and court consolidation,
supplementing Title 2A of the New Jersey Statutes and
3 repealing N.J.S.2A:2-15.

5 BE IT ENACTED by the Senate and General Assembly of the
State of New Jersey:

7 1. The county clerk shall continue as an elected constitutional
officer in the executive branch of county government.

9 2. There is created the position of deputy clerk of the Superior
Court in each county of this State in addition to the position of
11 the county clerk.

3. a. Every county clerk shall be eligible, until December 31,
13 1988, to apply for the position of deputy clerk of the Superior
Court. Any county clerk who applies to become a deputy clerk of
15 the Superior Court as provided herein and who resigns as county
clerk shall become a deputy clerk of the Superior Court on
17 December 31, 1988 in the county in which he is serving at the
time of his resignation.

19 b. The deputy clerk of the Superior Court shall be an employee
of the judiciary and the position of deputy clerk of the Superior
21 Court shall be included in the budget of the State Judiciary. Any
county clerk becoming a deputy clerk of the Superior Court
23 pursuant to this section shall be in the permanent service of the
Superior Court with tenure and shall retain any accumulated sick
25 leave, longevity or vacation time that he has earned as county
clerk.

27 4. a. All employees of each county clerk's office performing
judicial functions shall be transferred to the supervision of the
29 Superior Court and shall cease to be employees of the county
clerk's office on December 31, 1988.

31 b. All judicial responsibilities of the county clerk's office shall
become responsibilities of the Superior Court on December 31,
33 1988.

35 5. The deputy clerk of the Superior Court in each county shall
be responsible to the assignment judge and trial court

1 administrator for the management and budget of all case
processing responsibilities for the Civil Division, General Equity
3 Division and Special Civil Part and whatever other
responsibilities may be assigned to the position of deputy clerk.

5 6. N.J.S.2A:2-15 is repealed.

7 7. This act shall take effect immediately.

9 STATEMENT

11 The county clerk is an elected constitutional officer. At the
present time he serves not only in his capacity as clerk for
13 certain county matters such as elections and records but also as
the local representative of the Superior Court at the county
15 level. This bill divides the county clerk's office into two
separate offices. The elected constitutional county clerk will
17 remain a county official. The newly created deputy clerk of the
Superior Court will be a State judicial employee. Certain
19 responsibilities of the deputy clerk of the Superior Court are
described in this act. Otherwise the intent of the sponsor is to
21 utilize the provisions of the State Judiciary's County Clerk
Liaison Committee proposal adopted May 17, 1988 to determine
23 the specifics of the new position. The bill also provides that
those employees of the county clerk who perform judicial
25 functions shall be transferred to the supervision of the Superior
Court.

27 This bill repeals N.J.S.A.2A:2-15 which provides that the
county clerk act as the deputy clerk of the Superior Court.

29

31 JUDICIARY
Courts

33

35 Creates the position of deputy clerk of the Superior Court;
divides county clerk's office into two separate offices.

ASSEMBLY, No. 3566

STATE OF NEW JERSEY

INTRODUCED JULY 2, 1988

By Assemblymen FRELINGHUYSEN, HAYTAIAN and Girgenti

1 AN ACT concerning the county clerks and court consolidation,
supplementing Title 2A of the New Jersey Statutes and
3 repealing N.J.S. 2A:2-15.

5 BE IT ENACTED *by the Senate and General Assembly of the*
State of New Jersey:

7 1. The county clerk shall continue as an elected constitutional
officer in the executive branch of county government.

9 2. There is created the position of deputy clerk of the Superior
Court in each county of this State in addition to the position of
11 the county clerk.

13 3. a. Every county clerk shall be eligible, until December 31,
1988, to apply for the position of deputy clerk of the Superior
Court. Any county clerk who applies to become a deputy clerk of
15 the Superior Court as provided herein and who resigns as county
clerk shall become a deputy clerk of the Superior Court on
17 December 31, 1988 in the county in which he is serving at the
time of his resignation.

19 b. The deputy clerk of the Superior Court shall be an employee
of the judiciary and the position of deputy clerk of the Superior
21 Court shall be included in the budget of the State Judiciary. Any
county clerk becoming a deputy clerk of the Superior Court
23 pursuant to this section shall be in the permanent service of the
Superior Court with tenure and shall retain any accumulated sick
25 leave, longevity or vacation time that he has earned as county
clerk.

27 4. a. All employees of each county clerk's office performing
judicial functions shall be transferred to the supervision of the
29 Superior Court and shall cease to be employees of the county
clerk's office on December 31, 1988.

31 b. All judicial responsibilities of the county clerk's office shall
become responsibilities of the Superior Court on December 31,
33 1988.

35 5. The deputy clerk of the Superior Court in each county shall
be responsible to the assignment judge and trial court

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1 administrator for the management and budget of all case
processing responsibilities for the Civil Division, General Equity
3 Division and Special Civil Part and whatever other
responsibilities may be assigned to the position of deputy clerk.

5 6. N.J.S. 2A:2-15 is repealed.

7. This act shall take effect immediately.

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9 STATEMENT

11 The county clerk is an elected constitutional officer. At the
present time he serves not only in his capacity as clerk for
13 certain county matters such as elections and records but also as
the local representative of the Superior Court at the county
15 level. This bill divides the county clerk's office into two
separate offices. The elected constitutional county clerk will
17 remain a county official. The newly created deputy clerk of the
Superior Court will be a State judicial employee. Certain
19 responsibilities of the deputy clerk of the Superior Court are
described in this act. Otherwise the intent of the sponsor is to
21 utilize the provisions of the State Judiciary's County Clerk
Liaison Committee proposal adopted May 17, 1988 to determine
23 the specifics of the new position. The bill also provides that
those employees of the county clerk who perform judicial
25 functions shall be transferred to the supervision of the Superior
Court.

27 This bill repeals N.J.S.A. 2A:2-15 which provides that the
county clerk act as the deputy clerk of the Superior Court.

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31 JUDICIARY
Courts

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35 Creates the position of deputy clerk of the Superior Court;
divides county clerk's office into two separate offices.

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, and 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

<u>Program Area</u>	<u>Gross Exp.</u>	<u>Revenue</u>	<u>Net Exp.</u>	<u># of Employees</u>
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.

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.