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ADDITIONAL LAW CLERKS AND ESTABLISH A JUDICIAL CONFERENCE

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HEARING

BEFORE THE

COMMITTEE ON THE DISTRICT OF COLUMBIA UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 4287

TO PROVIDE ADDITIONAL LAW CLERKS FOR THE DISTRICT OF COLUMBIA COURT OF APPEALS JUDGES

H.R. 10035

TO ESTABLISH THE JUDICIAL CONFERENCE OF THE DISTRICT OF COLUMBIA

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DECEMBER 3, 1975

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ADDITIONAL LAW CLERKS AND ESTABLISH A JUDICIAL CONFERENCE

WEDNESDAY, DECEMBER 3, 1975

U.S. SENATE,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The committee met, pursuant to notice, at 9:40 a.m., in room 6226, Dirksen Senate Office Building, Senator Thomas F. Eagleton (chairman) presiding.

Members present: Senators Eagleton, Mathias, and Bartlett.

Also present: Robert Harris, staff director and general counsel, and Colbert I. King, minority staff director.

The CHAIRMAN. Good morning, ladies and gentlemen. We, in essence, have three matters before us this morning: Two bills which have come over from the House, H.R. 4287 and H.R. 10035; and the nomination of Judge Halleck to continue his service on the Superior Court of the District of Columbia.

What I suggest we do, for as much time as we have available, is to take up the two House bills. There will then be a vote which will last anywhere from 10 to 15 minutes on the floor of the Senate. We announced yesterday that in connection with that vote, the committee will assemble in the Capitol to take appropriate action on the District of Columbia bond matter. After that, we will adjourn this hearing and then have a hearing on the nomination of Judge Halleck.

So I apologize for the interruption scenario this morning, but under the circumstances, that is the best we can do.

Now, we will get on with the two House bills. One, H.R. 4287 would authorize the District of Columbia Court of Appeals to hire a second law clerk for each of its nine judges.

The other, H.R. 10035 will establish a judicial conference of the District of Columbia to include both bench and bar and to be held on an annual basis.

Our witnesses are distinguished members of the District of Columbia Court of Appeals. I will leave it to Chief Judge Reilly to proceed in any manner he deems appropriate. Judge Reilly, you may come forward and bring your colleagues with you.

I now place in the record copies of H.R. 4287 and H.R. 10035.

[The bills referred to follow:]

94TH CONGRESS
1ST SESSION

H. R. 4287

IN THE SENATE OF THE UNITED STATES

NOVEMBER 11, 1975

Read twice and referred to the Committee on the District of Columbia

AN ACT

To provide for additional law clerks for the judges of the District of Columbia Court of Appeals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 7 of title 11, District of Columbia Code, is amended as follows:

Section 11–708 is amended to read:

"§ 11–708. Clerks and secretaries for judges

"Each judge may appoint and remove a personal secretary. The chief judge may appoint and remove three personal law clerks, and each associate judge may appoint and remove two personal law clerks. In addition, the chief judge

1 may appoint and remove not more than three law clerks
2 for the court. The law clerks appointed for the court shall
3 serve as directed by the chief judge.".

Passed the House of Representatives November 10, 1975.

Attest: W. PAT JENNINGS,
Clerk.

94TH CONGRESS
1ST SESSION

H. R. 10035

IN THE SENATE OF THE UNITED STATES

NOVEMBER 11, 1975

Read twice and referred to the Committee on the District of Columbia

AN ACT

To establish the Judicial Conference of the District of Columbia.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) subchapter III of chapter 7 of title 11 of the
4 District of Columbia Code is amended by adding at the end
5 thereof the following new section:

6 **"§ 11–744. Judicial conference**

7 "The chief judge of the District of Columbia Court of
8 Appeals shall summon annually the active associate judges
9 of the District of Columbia Court of Appeals and the active
10 judges of the Superior Court of the District of Columbia
11 to a conference at a time and place that he designates,

1 for the purpose of advising as to means of improving the
2 administration of justice within the District of Columbia.
3 He shall preside at such conference which shall be known
4 as the Judicial Conference of the District of Columbia.
5 Every judge summoned shall attend, and, unless excused by
6 the chief judge of the District of Columbia Courts of Appeals,
7 shall remain throughout the conference. The District of
8 Columbia Court of Appeals shall provide by its rules for
9 representation of and active participation by members of
10 the District of Columbia Bar and other persons active in
11 the legal profession at such conference.".
12 (b) The chapter analysis for such chapter 7 is amended
13 by inserting immediately after the item relating to section
14 11–743 the following new item:

"11–744. Judicial conference.

Passed the House of Representatives November 10, 1975.

Attest: W. PAT JENNINGS,

Clerk.

STATEMENT OF CHIEF JUDGE GERARD D. REILLY; ACCOMPANIED BY JUDGE STANLEY S. HARRIS AND JUDGE JOHN W. KERN III; DISTRICT OF COLUMBIA COURT OF APPEALS

Chief Judge REILLY. Thank you, Senator Eagleton, and members of the committee.

Both of the bills you have mentioned, Mr. Chairman, passed the House after hearings before the House District Committee.

At the House hearings, Judge Harris, who is with me at my left will——

The CHAIRMAN. Stanley S. Harris?

Chief Judge REILLY. Yes.

The CHAIRMAN. You also have Judge John Kern III, of the District of Columbia Court of Appeals?

Chief Judge REILLY. Yes.

The CHAIRMAN. Did Judge Kern attend Harvard Law School?

Judge KERN. Yes. But do not hold that against me.

The CHAIRMAN. You are a preeminent witness.

Go ahead, Judge.

Chief Judge REILLY. If it is agreeable with you, Mr. Chairman, I should like to suggest then that Judge Kern give a brief summary of H.R. 10035; and that Judge Harris will give a summary of H.R. 4287.

Both of them have prepared statements, but I gather since you have to leave at 10 o'clock—is that right, sir?

The CHAIRMAN. Approximately

Chief Judge REILLY. They probably will summarize them.

The CHAIRMAN. All right. Their prepared statements will appear in the record at the conclusion of their testimony.

Chief Judge Reilly, I will now place in the record the materials which you have submitted.

[The materials submitted by Chief Judge Reilly follow:]

DISTRICT OF COLUMBIA COURT OF APPEALS
WASHINGTON, D. C.

CHAMBERS OF
CHIEF JUDGE GERARD D. REILLY

December 2, 1975

MEMORANDUM

TO: Robert O. Harris, Esquire
Staff Director & General Counsel
Committee on the District of Columbia
United States Senate
Washington, D. C. 20501

FROM: Chief Judge Reilly

RE: Senate Hearings on H. R. 4287 & H. R. 10035

The enclosed materials which were before the House District Committee are submitted for consideration by the Senate District Committee:

(1) Memorandum from Arne Schoeller, Deputy Director of the National Center for State Courts, prepared for the House District Committee on the subject of judicial conferences;

(2) Annual Report of the D. C. Courts for 1973 (the report of the D. C. Court of Appeals begins on page 20);

(3) Annual Report of the D. C. Courts for 1974 (the report of the D. C. Court of Appeals begins on page 5 and refers to the need for an extra law clerk for each judge on page 6. Most significant, however, are the tables on page 6 and 7 with respect to the mounting caseload);

(4) Excerpt from the application made to the Law Enforcement Assistance Administration for an additional law clerk for each judge which was granted in October of 1974.

(5) Special Report provided in July of 1975 to the Law Enforcement Assistance Administration on the use of additional law clerks and an analysis of expedition of summary calendars.

Robert O. Harris
Page 2.

(6) Statement of the Chief Judge of the D. C. Court of Appeals in support of H. R. 4287 and H. R. 4286(H. R. 10035);

(7) Summary History of the D. C. Court of Appeals.

I hope the Committee will find this information helpful. Judges Harris and Kern will be available for questions on H. R. 4287 and H. R. 10035, respectfully.

Enclosures

National Center for State Courts

September 15, 1975

MEMORANDUM

To: Arne Schoeller

From: Terry Donnelly

Subject: Judicial Conferences

The term "judicial conference" has two meanings. In most states and in the circuits of the federal system it refers to a meeting of all of the judges. Policy formulation does not predominate at these meetings. Policy matters are discussed but rarely resolved. Many times if a resolution does result, it only has the power of group consensus. Most state conferences are working sessions where judges exchange views about solutions to mutual problems. The conferences, as a vehicle for the exchange of ideas, serve an educational rather than a managerial function.

The judicial conferences of the United States and New York refer to formal conferences. Each has a specific relationship to and authority over the management of the courts to which it pertains. Each conference has the authority to make managerial decisions that directly affect the operations of the courts as a system.

The statutory description of the duties of many judicial conferences are generally stated and refer to the improvement of the administration of justice. The problem, however, is that there is no available comparative information indicating which judicial conferences have actually performed these duties with any degree of success. 1/

A strong judicial conference contemplates specific meetings, compulsory attendance, broad based membership, specific duties and an administrative component. It should be stressed, strong leadership is essential for any judicial conference to function adequately. In the absence of strong judicial leadership a well drafted and detailed statute could provide an otherwise ineffectual conference with a vehicle to complete meaningful input. All variables being equal, i.e. similar leadership, similar court structure, similar complementing organizations, etc., a model statute providing for a judicial conference would include detailed and specific provisions.

Of the 50 states, approximately 31 have a judicial organization (conference or council) with an all inclusive membership. All of the 19 states which do not have all inclusive membership seem to have some analogous group in its place. Very often such conferences, while not including all judges of the state, will employ some scheme for representation of all judges and therefore have a limited but broad based membership. (See, e.g., New York Consolidated Laws, Judiciary §§ 224-229.) Of the 31 states, however, 10 states have organizations which have no specific authorization and hence are voluntary in nature 2/ and seven others have organizations authorized by court rule rather than by statute. 3/ Authorization by court rule is undesirable only from the standpoint that a politically oriented or dominated Supreme Court could substantially alter or change a judicial organization inconspicously and with little effort.

Of the remaining 14 states, all of which have organizations authorized by statute, six states have organizations which convene at the call of, and have their membership determined by, the Chief Justice or Supreme Court of the state or in some way lack the autonomy of the remaining eight states. 4/

Indiana, Kentucky, Missouri, North Dakota, Ohio, Oregon, Tennessee and Virginia have statutorily provided for all inclusive membership in their judicial conferences. Of these eight states only four have statutorily specified duties that indicate a strong judicial conference, at least when viewed with complementing organizations, e.g., a judicial council. A summary of the workings of the judicial conferences of each of these four states is set out below.

KENTUCKY

Kentucky's Judicial Conference consists of "the judges and commissioners of the Court of Appeals, and all circuit judges of the commonwealth", Ky.Rev.Stat. (§ 22.060). The state also has a Judicial Council, Ky.Rev.Stat. (§ 22.050) of much more limited membership which acts as something of an executive committee for the conference.

The Conference usually meets twice a year. Its primary activity is voting on resolutions presented by the Judicial Council. A benchbook is to be published under the name of the Conference but is not really attributable to the efforts of the Conference.

Educational programs for judges are subcontracted by the state to the National College of the State Judiciary. While the Judicial Council has a full-time executive director and other staff, the Conference has none.

The duties of the Judicial Conference are specified by statute, Ky. Rev. Stat. (§ 22.090);

> "It shall be the duty of the judicial conference to conduct a continuous study of the judicial system and administration in this commonwealth, and take appropriate action on reports and recommendations submitted to it by the judicial council."

NORTH DAKOTA

Although North Dakota's judicial organization is termed a "Judicial Council", it includes, among other people, "all judges of the supreme and district courts of the state" (N.D. Stat. § 27-15-01).

The duty of the Council is specified by statute:

> "The judicial council shall make a continuous study of the operation of the judicial system of the state to the end that procedure may be simplified, business expedited, and justice better administered."

To carry out its duties the Council is empowered to hold hearings, subpoena witnesses, organize a bureau of statistics and make recommendations to the Governor, the legislature and Supreme Court. Although the Council is becoming increasingly more active, it does not yet do the job it potentially can. At present the Council meets semi-annually.

OHIO

Ohio has a Judicial Conference composed of the judges in the state (See Rev. Code of OhioAnn. § 105.91) for the purpose of:

"Studying the coordination of the work of the several courts of Ohio, the encouragement of uniformity in the application of the law, rules, and practice throughout the state and within each division of the courts as an integral part of the judicial system of the state; to promote an exchange of experience and suggestions respecting the operation of the judicial system, and in general to consider the business and problems pertaining to the administration of justice and to make recommendations for its improvement."

The statutes also provide for publication of reports, employment of staff, and biennial rendition of reports to the General Assembly. The Conference has an Executive Committee which guides its activities. The Judicial Council of Ohio is a separate entity.

The Judicial Conference usually meets annually and contributes most of its meeting time to educationally oriented programs. It has employed a full-time Administrative Director (Alan Whaling (614) 469-4150).

OREGON

Oregon has a Judicial Conference composed of all judges of the Supreme Court, Court of Appeals, Tax Court, circuit courts, and district courts. The Chief Justice is the president of the conference and the state court administrator is the executive secretary of the conference.

The duties of the conference are specified by Oregon Statutes, §§ 1.810-1-840. The conference makes continuous studies and surveys of the organization, jurisdiction, procedures, practices and methods of administration of various courts within the state. It holds one three-day judicial education session each June and has functioning committees. The conference reports annually to the Governor any recommendations for legislation.

A review of all available information indicates that no single state statute is suitable for use as a model. However, the formal conferences of the United States, and New York referred to earlier in this paper are both examples of detailed and effective conferences. The relevant enabling acts are attached. The Judicial Council of California enjoys a reputation for effectiveness. Like the Judicial Conference of New York and the United States, it is composed of judges from all levels of the system. The California Council has limited authority. However, it advises the legislature on the needs of the judiciary based on staff work done by the court administrative office.

Another Judicial Conference which merits discussion is that of New Jersey. The Judicial Conference of New Jersey is established by Rule 1:35, a copy of which is attached. It is composed of representative judges, with substantial representation from a variety of other areas. The committees, appointed by the Supreme Court, include non-judicial members and are supported by administrative office staff. The reports of the various committees are always published in the New Jersey Law Journal for general information and comments, and are discussed at the annual meeting of the Judicial Conference.

The unsuitability of any single statute or rule for use as a model indicates the best procedure would be the utilization of the most desirable components of a variety of enabling acts. Keeping in mind key elements of a non-objectionable conference it appears a statute calling for broad based representative but limited membership, specific enumerated duties, and administrative support and accountability, should provide a strong and efficient conference.

Comment on H.R. 4286

As to H.R. 4286, § 11-744 appears similar to many state provisions for judicial conferences. The provision requiring the Chief Judge of the D. C. Court of Appeals to summon annually the participants is unobjectionable. It may be wise to provide by "Conference Rule" a designated time period in which the conference will be called the following year to assure all participants ample time to prepare for the conference.

The proposed membership to include the Chief Judge and all associates of the Court of Appeals in active service, the judges of the Superior Court, representatives of the D.C. Bar and others active in the

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legal profession, provides not only a broad based but all-inclusive membership. But the membership provisions are scattered throughout the act. It would be desirable to have a complete and distinct section regarding membership. See for example the New York provisions in § 224 "Composition" and New Jersey Rule 1:35-1 (b) "Membership."

The provisions for membership by persons other than judges is desirable and the composition of these additional members to be determined by the entire Court of Appeals which will promulgate rules regarding this provision appears suitable. The New Jersey provisions regarding membership may provide some ideas for representation by members other than judges.

The provision regarding mandatory attendance is excellent as is the provision requiring all members to remain throughout the conference.

The general stated purpose of the D.C. Judicial Conference, "advising as to means of improving the administration of justice within the District of Columbia", is sufficient and unobjectionable.

However, the bill does not contain a number of provisions often included in state enabling acts. For instance, it does not provide an administrative arm for the conference nor does it provide for committees, establish accountability or define specific duties of the conference.

The New York Judicial Conference has a good section on specified duties in §§ 228-229, as well as specific duties of committees, § 231. The administrative component of the conference need not be complicated or detailed but it should provide the conference with secretariat services, and a means for presenting its work to those who should receive it.

Attachments

FOOTNOTES

1. For further information concerning the authorization, and general make up of Judicial Conferences see:

   A. Judicial Councils, Conferences and Organizations, Report No. 11, American Judicature Society (1968).

   B. National Survey of Court Organization, U.S. Dept. of Justice (1973).

2. These states are: Arizona, Arkansas, California, Colorado, Louisiana, Maryland, Mississippi, Nevada, New Mexico and Wyoming.

3. These states are: Delaware, Idaho, Illinois, Michigan, Pennsylvania, Rhode Island and Texas.

4. These states are: Connecticut, Iowa, Minnesota, Oklahoma, South Carolina and Washington.

ATTACHMENTS

Title 28, Ch. 15 - U. S. Code

Rule 1:35 - New Jersey

Constitutional Provisions of California

Constitutional and Statutory Provisions of New York

49 Stat. 1921; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §§ 1, 2, 5, 6, 56 Stat. 1094, 1095).

Section simplifies provisions of sections 17, 18, paragraphs (b) and (c) of section 22, and sections 23 and 301 of title 28, U. S. C., 1940 ed., relating to powers and duties of designated judges.

Other provisions of said sections 17 and 22 of title 28, U. S. C., 1940 ed., are incorporated in sections 291, 292, and 295 of this title.

Other provisions of said section 301 of title 28, U. S. C., 1940 ed., are incorporated in sections 211—213, 215, and 293 of this title.

Section is made applicable to retired justices of the Supreme Court by inclusion of reference to "justice," on the theory that a justice should have the same powers and duties and be subject to the same limitations as designated and assigned circuit and district judges.

The second sentence of the revised section was substituted for the provision of section 18 of title 28, U. S. C., 1940 ed., which subjected circuit judges to the same assignments of duty as the circuit judges of the circuit to which they are designated and assigned. The revised section extends this requirement and makes it applicable to all designated and assigned judges.

The provision in the last paragraph of said section 22 that the action of the assigned judge in writing filed with the clerk of court where the trial or hearing was held shall be valid as if such action had been taken by him within the district and within the period of his designation, was omitted as surplusage. See section 295 of this title.

Chapter 15.—CONFERENCES AND COUNCILS OF JUDGES

Sec.
331. Judicial Conference of the United States.
332. Judicial councils.
333. Judicial conferences of circuits.
334. Institutes and joint councils on sentencing.

AMENDMENTS

1958—Pub. L. 85-752, § 2, Aug. 25, 1958, 72 Stat. 845, item 334.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2109 of this title.

§ 331. Judicial Conference of the United States.

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years.

If the chief judge of any circuit or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. If the chief judge of the Court of Claims, or the chief judge of the Court of Customs and Patent Appeals is unable to attend, the Chief Justice may summon an associate judge of such court. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation. (June 25, 1948, ch. 646, 62 Stat. 902; July 9, 1956, ch. 517, § 1 (d), 70 Stat. 497; Aug. 28, 1957, Pub. L. 85-202, 71 Stat. 476; July 11, 1958, Pub. L. 85-513, 72 Stat. 356; Sept. 19, 1961, Pub. L. 87-253, §§ 1, 2, 75 Stat. 521.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 218 (Sept. 14, 1922, ch. 306, § 2, 42 Stat. 838; July 5, 1937, ch. 427, 50 Stat. 473).

Provisions as to associate justice acting when Chief Justice is disabled are omitted as unnecessary in view of section 3 of this title giving senior associate justice power to act upon the disability of the Chief Justice.

The provision of section 218 of title 28, U. S. C., 1940 ed., as to traveling expenses is incorporated in section 456 of this title.

Provision as to time and place for holding conference was omitted as unnecessary since the Chief Justice is vested with discretionary power to designate the time and place under the language retained.

The references to "chief judge" are in harmony with other sections of this title. (See Reviser's Note under section 136 of this title.)

Provision for stated annual reports by the chief judge of the district was omitted as obsolete and unnecessary in view of sections 332 and 333 of this title.

The last paragraph is new and is inserted to authorize the communication to Congress of information which now reaches that body only because incorporated in the annual report of the Attorney General.

Numerous changes were made in phraseology and arrangement.

AMENDMENTS

1961—Pub. L. 87-253 provided for the summoning to the judicial conference of the chief judge of the Court of Customs and Patent Appeals, and if he is unable to attend, for the summoning of an associate judge of such court.

1958—Pub. L. 85-513 inserted paragraph requiring a continuous study of the operation and effect of the general rules of practice and procedure.

1957—Pub. L. 85-202 provided generally in first three pars. for the representation of district judges on the Judicial Conference.

1956—Act July 9, 1956, inserted par. relating to participation of Court of Claims judges.

CROSS REFERENCES

Annuities to widows and surviving dependent children of judges, review by Judicial Conference of the United States of questions of dependency and disability, see section 376 (h) of this title.

Pretermission of regular term or session of court of appeals with consent of Judicial Conference of the United States, see section 48 of this title.

§ 332. Judicial councils.

(a) The chief judge of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit judges for the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.

(b) The council shall be known as the Judicial Council of the circuit.

(c) The chief judge shall submit to the council the quarterly reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d) Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council.

(e) The judicial council of each circuit may appoint a circuit executive from among persons who shall be certified by the Board of Certification. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated to him by the circuit council. The duties delegated to the circuit executive of each circuit may include but need not be limited to:

(1) Exercising administrative control of all nonjudicial activities of the court of appeals of the circuit in which he is appointed.

(2) Administering the personnel system of the court of appeals of the circuit.

(3) Administering the budget of the court of appeals of the circuit.

(4) Maintaining a modern accounting system.

(5) Establishing and maintaining property control records and undertaking a space management program.

(6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference.

(7) Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief judge, the circuit council, and the Administrative Office of the United States Courts.

(8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshall's office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit.

(9) Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings.

(10) Preparing an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the circuit.

All duties delegated to the circuit executive shall be subject to the general supervision of the chief judge of the circuit.

(f) The standards for certification as qualified to be a circuit executive shall be set by a Board of Certification. These standards shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The Board of Certification shall consist of five members, three of whom shall be elected by the Judicial Conference of the United States, and at least one of these three shall be selected from among persons experienced in executive recruitment and selection. The additional two members shall be the Director of the Administrative Office of the United States Courts and the Director of the Federal Judicial Center. The members of the Board elected by the Judicial Conference shall each serve for three years except that upon appointment of the first members, one member shall serve for one year, one for two years, and one for three years. The Board shall consider all applicants who apply for certification, shall certify qualified applicants, shall maintain a roster of all persons certified, and shall publish the standards for certification. A person's name shall be removed from the roster after three years unless he is recertified. Three members of the Board shall constitute a quorum for purposes of fixing standards and for certifying applicants, but no action of the Board shall be taken unless three of the members are in agreement. The Director of the Administrative Office of the United States Courts shall provide staff assistance in support of the operation of the Board. Expenses of the Board of Certification shall be borne by the travel and miscellaneous expense funds appropriated to the Federal judiciary. Any member of the Board who is an officer or employee of the United States shall serve without compensation. Other members shall receive the daily equivalent of the rate provided for GS-18 of the General Schedule contained in section 5332 of title 5, United States Code, when actually engaged in service for the Board.

Each circuit executive shall be paid at a salary to be established by the Judicial Conference of the United States not to exceed the annual rate of level

V of the Executive Schedule pay rates (5 U.S.C. 5316).

The circuit executive shall serve at the pleasure of the judicial council of the circuit.

The circuit executive may appoint, with the approval of the council, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

The circuit executive and his staff shall be deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code. (June 25, 1948, ch. 646, 62 Stat. 902; Nov. 13, 1963, Pub. L. 88-176, § 3, 77 Stat. 31; Jan. 5, 1971, Pub. L. 91-647, 84 Stat. 1907).

LEGISLATIVE HISTORY.

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 448 (Mar. 3, 1911, ch. 231, § 306, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

The final sentence of section 448 of title 28, U. S. C., 1940 ed., excepting from the operation of said section the provisions of existing law as to assignment of district judges outside their districts, was omitted as surplusage, since there is nothing in this section in conflict with section 292 of this title providing for such assignments.

The requirement for attendance of circuit judges, unless excused by the chief judge, was included in conformity with a similar provision of section 331 of this title.

Changes in phraseology were made.

AMENDMENTS

1971—Pub. L. 91-647 designated existing four paragraphs as subsecs. (a), (b), (c) and (d), and added subsecs. (e) and (f).

1963—Pub. L. 88-176 inserted "regular" preceding "active service" in subsec. (a).

§ 333. Judicial conferences of circuits.

The chief judge of each circuit shall summon annually the circuit and district judges of the circuit, in active service, to a conference at a time and place that he designates, for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. He shall preside at such conference, which shall be known as the Judicial Conference of the circuit. The judges of the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands shall also be summoned annually to the conferences of their respective circuits.

Every judge summoned shall attend, and unless excused by the chief judge, shall remain throughout the conference.

The court of appeals for each circuit shall provide by its rules for representation and active participation at such conference by members of the bar of such circuit. (June 25, 1948, ch. 646, 62 Stat. 903, eff. Sept. 1, 1948; Dec. 29, 1950, ch. 1185, 64 Stat. 1128; Oct. 31, 1951, ch. 655, § 38, 65 Stat. 723; July 7, 1958, Pub. L. 85-508, § 12 (e), 72 Stat. 343.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 449, 450 (Mar. 3, 1911, ch. 231, §§ 307, 308, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

Section consolidates parts of sections 449 and 450 of title 28, U. S. C., 1940 ed.

Said section 450 contained definitions of "courts" and "continental United States," and directions that sections 444—450 of title 28, U. S. C., 1940 ed., relating to the administration of United States courts, should apply to the courts of appeals, the United States Court of Appeals for the District of Columbia and to the several enumerated district courts of the United States, including those in the Territories and Possessions as well as the Court of Claims, Court of Customs and Patent Appeals, and Customs Court. It also provided that the Chief Justice and associate justices of the Court of Appeals for the District of Columbia should have the powers of the senior judge and circuit judges, respectively, of a circuit court of appeals.

The revised section omits, as surplusage, the definition of "continental United States." Other provisions of section 450 of title 28, U. S. C., 1940 ed., referred to were omitted as unnecessary in view of section 604 of this title which provides for the powers and duties of the Director of the Administrative Office of the United States Courts. Remaining provisions of said section 450 are incorporated in said section 604 and section 610 of this title.

The provision as to travel and subsistence which was contained in said section 449 of title 28, U. S. C., 1940 ed., is incorporated in section 456 of this title.

AMENDMENTS

1958—Pub. L. 85-508 eliminated provisions which required the judge of the District Court for the Territory of Alaska to be summoned annually to the conference of his circuit. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1951—Act Oct. 31, 1951, inserted reference to the judge of the District Court of Guam in first par.

1950—Act Dec. 29, 1950, provided for the presence of the judges of the District Courts of Alaska, Canal Zone, and the Virgin Islands at annual conferences within their respective circuits.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-508 effective Jan. 3, 1959, upon admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

§ 334. Institutes and joint councils on sentencing.

(a) In the interest of uniformity in sentencing procedures, there is hereby authorized to be established under the auspices of the Judicial Conference of the United States, institutes and joint councils on sentencing. The Attorney General and/or the chief judge of each circuit may at any time request, through the Director of the Administrative Office of the United States Courts, the Judicial Conference to convene such institutes and joint councils for the purpose of studying, discussing, and formulating the objectives, policies, standards, and criteria for sentencing those convicted of crimes and offenses in the courts of the United States. The agenda of the institutes and joint councils may include but shall not be limited to: (1) The development of standards for the content and utilization of presentence reports; (2) the establishment of factors to be used in selecting cases for special study and observation in prescribed diagnostic clinics; (3) the determination of the importance of psychiatric, emotional, sociological and physiological factors involved in crime and their bearing upon sentences; (4) the discussion of special sentencing problems in unusual cases such as treason, violation of public trust, subversion, or involving abnormal sex behavior, addiction to drugs or alcohol, and mental or physical handicaps; (5) the formulation of sentencing principles and

criteria which will assist in promoting the equitable administration of the criminal laws of the United States.

(b) After the Judicial Conference has approved the time, place, participants, agenda, and other arrangements for such institutes and joint councils, the chief judge of each circuit is authorized to invite the attendance of district judges under conditions which he thinks proper and which will not unduly delay the work of the courts.

(c) The Attorney General is authorized to select and direct the attendance at such institutes and meetings of United States attorneys and other officials of the Department of Justice and may invite the participation of other interested Federal officers. He may also invite specialists in sentencing methods, criminologists, psychiatrists, penologists, and others to participate in the proceedings.

(d) The expenses of attendance of judges shall be paid from applicable appropriations for the judiciary of the United States. The expenses connected with the preparation of the plans and agenda for the conference and for the travel and other expenses incident to the attendance of officials and other participants invited by the Attorney General shall be paid from applicable appropriations of the Department of Justice. (Added Pub. L. 85–752, § 1, Aug. 25, 1958, 72 Stat. 845.)

SENTENCING PROCEDURES

Section 7 of Pub. L. 85–752 provided that: "This Act [adding this section and sections 4208 and 4209 of Title 18 and section 4208 note of Title 18] does not apply to any offense for which there is provided a mandatory penalty."

Chapter 17.—RESIGNATION AND RETIREMENT OF JUDGES

Sec.
371. Resignation or retirement for age.
372. Retirement for disability; substitute judge on failure to retire.
373. Judges in Territories and Possessions.
374. Residence of retired judges; official station.
375. Annuities to widows of justices.
376. Annuities to widows and surviving dependent children of judges.

AMENDMENTS

1959—Pub. L. 86–312, § 2, Sept. 21, 1959, 73 Stat. 587, inserted "; official station" in item 374.

1956—Act Aug. 3, 1956, ch. 944, § 1(a), 70 Stat. 1021, substituted "Annuities to widows of justices" for "Annuities to widows on the Chief Justice and Associate Justices of the Supreme Court of the United States" in item 375, and added item 376.

1954—Act Aug. 28, 1954, ch. 1053, § 2, 68 Stat. 918, added item 375.

Act Feb. 10, 1954, ch. 6, § 4(b), 68 Stat. 13, transferred "; substitute judge on failure to retire" from item 371 to item 372.

CROSS REFERENCES

Tax Court Judges, retirement, see section 7447 of Title 26, Internal Revenue Code.

§ 371. Resignation or retirement for age.

(a) Any justice or judge of the United States appointed to hold office during good behavior who resigns after attaining the age of seventy years and after serving at least ten years continuously or otherwise shall, during the remainder of his lifetime, continue to receive the salary which he was receiving when he resigned.

(b) Any justice or judge of the United States appointed to hold office during good behavior may retain his office but retire from regular active service after attaining the age of seventy years and after serving at least ten years continuously or otherwise, or after attaining the age of sixty-five years and after serving at least fifteen years continuously or otherwise. He shall, during the remainder of his lifetime, continue to receive the salary of the office. The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires. (June 25, 1948, ch. 646, 62 Stat. 903; Oct. 31, 1951, ch. 655, § 39, 65 Stat. 724; Feb. 10, 1954, ch. 6, § 4 (a), 68 Stat. 12.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 375 and 375a (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; Mar. 1, 1937, ch. 21, §§ 1, 2, 50 Stat. 24; Feb. 11, 1938, ch. 25, § 1, 52 Stat. 28; May 11, 1944, ch. 192, § 1, 58 Stat. 218).

This section consolidates provisions of sections 375 and 375a of title 28, U. S. C., 1940 ed., relating to resignation and retirement. Remaining provisions of said section 375 now appear in sections 136, 294 and 758 of this title, and remaining provisions of said section 375a now appear in section 294 of this title.

Words "may resign, or may retain his office but retire from regular active service" were used to clarify the difference between resignation and retirement. Resignation results in loss of the judge's office, while retirement does not. (*Booth* v. *U. S.*, 1933, 54 S. Ct. 379, 291 U. S. 339, 78 L. Ed. 836; *U. S.* v. *Moore*, 1939, 101 F. 2d 58, certiorari denied 59 S. Ct. 788, 306 U. S. 664, 83 L. Ed. 1060.)

Terms "judge of the United States" and "justice of the United States" are defined in section 451 of this title.

The revised section continues the provision respecting the salary of a resigned judge but changes such provision for retired judges and makes them eligible to receive any increases provided by Congress for the office from which they retired. This change is in harmony with the clear line of distinction drawn by Congress between retirement and resignation.

AMENDMENTS

1954—Act Feb. 10, 1954, struck out "; substitute judge on failure to retire" in catchline.

Subsec. (a). Act Feb. 10, 1954, reenacted subsec. (a) without change.

Subsec. (b). Act Feb. 10, 1954, in first sentence, inserted the provision for retirement after attaining the age of 65 years and after serving 15 years continuously or otherwise.

Subsec. (c). Act Feb. 10, 1954, in the general amendment of this section, omitted subsec. (c) which related to appointment of substitute judges for disabled judges eligible to resign or retire where the latter fail to resign or retire, and to precedence of such disabled judges who remain on the active list after the appointment of substitutes.

1951—Act Oct. 31, 1951, subdivided the section into subsections, and limited second par. of subsec. (c) (as so designated) to judges who remain on the active list but whose disabilities cause the appointment of additional judges as authorized by first par. of such subsec.

JUDICIAL SERVICE IN HAWAII INCLUDED WITHIN COMPUTATION OF AGGREGATE YEARS OF JUDICIAL SERVICE

Section 14(d) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 10, provided in part: "That service as a judge of the District Court for the Territory of Hawaii or as a judge of the United States District Court for the District of Hawaii or as a justice of the Supreme Court of the Territory of Hawaii or as a judge of the circuit courts of the Territory of Hawaii shall be included in computing under section 371, 372, or 373 of title 28, United States Code, the aggregate years of judicial service of any person who is in office as a district judge for the District of Hawaii on the date of enactment of this Act [Mar. 18, 1959]."

1:34–4 RULES OF GENERAL APPLICATION

1:34–4. Probation Officers

Probation officers shall be appointed in accordance with standards fixed by the Supreme Court. All probation officers shall be responsible to and under the supervision of the Chief Probation Officer of the county who shall be responsible to and under the supervision of the judge of the county court or, in counties having more than one judge of the county court, the county court judge designated by the Assignment Judge to be responsible for the administration of the probation department in the county in accordance with applicable statutes, rules of the Supreme Court, and directives of the Chief Justice, the Administrative Director of the Courts, and the Assignment Judge of the county.

Note: Cf. N.J.S. 2A:168-5, N.J.S.A., as amended.

1:34–5. Court Reporters

Court reporters shall be appointed by the Supreme Court or the Administrative Director of the Courts as provided by law and shall be subject to assignment by the Administrative Director of the Courts. They shall be responsible to and under the supervision of the reporter supervisor of the county, the judge of the court to which assigned, the Assignment Judge of the county, and the Administrative Director of the Courts. The Administrative Director of the Courts shall promulgate regulations which shall govern all court reporters and the preparation and filing of transcripts of all court and related proceedings, including depositions in pending actions.

Note: Source—R.R. 1:30–6.

RULE 1:35. JUDICIAL CONFERENCES

1:35–1. The Judicial Conference of New Jersey

(a) Function. There shall be a judicial conference, to be known as "The Judicial Conference of New Jersey," to assist the Supreme Court in the consideration of improvements in the practice and procedure in the courts and in the administration and organization of the judicial branch of government.

(b) Membership. The membership of the conference shall be as follows:

(1) The Chief Justice and Associate Justices of the Supreme Court, the presiding judges of the Appellate Division of the Superior Court, the Assignment Judges, and the presiding judge of the United States District Court for the District of New Jersey.

(2) Not more than 50 judges of the Superior Court, the county courts, the juvenile and domestic relations courts, the county district courts, and the municipal courts, to be selected by the Supreme Court.

(3) The President of the Senate, the Speaker of the General Assembly, and the majority and minority leaders and assistant leaders, and the chairmen of the Judiciary Committees of the Senate and General Assembly.

(4) The Attorney General, the Public Defender, the Administrative Director of the Courts, the standing masters of the Supreme Court, the clerks of the Supreme and Superior Courts, the chairman of the Board of Bar Examiners, and the deans of all accredited law schools in New Jersey.

(5) Three county prosecutors, 3 surrogates, 3 county clerks, 3 probation officers, and 3 representatives of agencies providing legal services for the poor, to be selected by the Supreme Court.

(6) The officers of the State Bar Association, and the president of each county bar association plus one additional representative of each county bar association, to be selected by the president thereof, for each 200,000 persons in the county according to the last census.

(7) Not more than 15 representatives of the general public to be selected by the Supreme Court.

(c) Term. All members, except those serving ex-officio, shall serve for a term of one year commencing January 1. A vacancy occurring during a term shall be filled for the unexpired portion thereof.

(d) Committees. The Supreme Court shall appoint such committees as it shall deem necessary or desirable, but the members of such committees need not be members of the conference. Each committee shall meet at such times and places as its chairman shall designate.

(e) Meetings. The conference shall meet in general session at least once each year at such times and places as the Supreme Court shall designate. In the ordinary course the Supreme Court will consider for adoption only those proposed amendments to the rules which have been reported on by the appropriate committee and considered at a meeting of the conference.

(f) Secretariat. The Administrative Office of the Courts shall serve as secretariat for the conference and for all committees.

Note: Source—R.R. 1:23-1(a), (b), (c), (d), (f), (g).

1:35-2. Conference of Judges

At least once each year there shall be a conference of all justices and judges in the State, except the judges of the municipal courts, held at such times and places as the Chief Justice shall designate, and at which the Administrative Office of the Courts shall serve as secretariat. At least once each year there shall be

a conference in each county of all municipal court judges in the county to be held at such times and places as the Assignment Judge of the county shall designate. The purpose of these conferences is to raise the standards of judicial performance and to make more uniform the operation and administration of the courts of the State.

Note: Source—R.R. 1:23-2(a)(b), 8:13-5(a)(b). Amended June 29, 1973 to be effective September 10, 1973.

RULE 1:36. OPINIONS; FILING; PUBLICATION

1:36-1. Filing of Opinions

The original of each written opinion handed down in each court, including letter opinions and memorandum decisions, shall be filed with the clerk of the court in which rendered and copies thereof shall be sent to counsel and, on all appeals, to the court or agency below. All opinions, except those of the Supreme Court, shall have typed or stamped thereon the following notice: "Not for Publication Without the Approval of the Committee on Opinions."

Note: Source—R.R. 1:32(a) (b).

1:36-2. Publication

The Chief Justice shall appoint a Committee on Opinions which shall review all formal written opinions, except those of the Supreme Court, to determine which shall be approved for publication in any series of reports, official or unofficial. The Supreme Court shall fix appropriate standards to guide the Committee on Opinions in determining which opinions shall be approved for publication. Three plainly legible copies of each written opinion, excluding transcripts of oral determinations, opinion letters and memorandum decisions, shall be filed with the Administrative Office of the Courts for use of the Committee on Opinions.

Note: Source—R.R. 1:32(c) (d).

RULE 1:37. COURT TITLES; SEALS; ABBREVIATIONS

1:37-1. Title of Courts

The titles of the courts of this State shall be as follows:

(a) "Supreme Court of New Jersey"

(b) "Superior Court of New Jersey, _____" (here state Law, Chancery or Appellate Division, as appropriate)

(c) "_____ (here state the name of the county) County Court"

CONSTITUTION OF CALIFORNIA

Article VI - Judicial

ARTICLE VI. JUDICIAL [NEW]

Sec.
1. Judicial power; courts.
1a-1c. Repealed.
2. Supreme Court; justices; time for convening; concurrence required for judgment; acting chief justice.
3. Courts of appeal; districts; divisions; power; concurrence required for judgment; acting presiding justice.
4. Superior courts; number of judges; officers and employees; clerk.
4a-4e. Repealed.
4½, 4¾. Repealed.
5. Municipal and justice courts; districts; number of courts; organization; jurisdiction.
6. Judicial council.
7. Commission on judicial appointments.
8. Commission on judicial qualifications.
9. State bar; public corporation; membership.
10. Jurisdiction; habeas corpus and proceedings for extraordinary relief; original jurisdiction of superior courts; comments on evidence and credibility of witnesses.
10a, 10b. Repealed.
11. Appellate jurisdiction of Supreme Court, courts of appeal and superior courts; findings of fact.
12. Supreme Court; transfer of causes.
13. Reversal for error resulting in miscarriage of justice.
14. Publication of opinions; decisions of Supreme Court and courts of appeal.
15. Judges of courts of record; qualifications.
16. Election of judges; vacancies.
17. Judges; eligibility to other offices; fines and fees.
18. Judges; disqualification; suspension; retirement; rules.
19. Judges; compensation.
20. Judges; retirement, causes.
21. Temporary judges.
22. Trial courts of record; officers to perform subordinate judicial duties.
23, 24. Repealed.
26. Repealed.

Article 6 was added and former Article 6 was repealed Nov. 8, 1966.

§ 1. Judicial power; courts

Sec. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, municipal courts, and justice courts. All except justice courts are courts of record. (Added Nov. 8, 1966.)

§ 2. Supreme Court; justices; time for convening; concurrence required for judgment; acting chief justice

Sec. 2. The Supreme Court consists of the Chief Justice of California and 6 associate justices. The Chief Justice may convene the court at any time. Concurrence of 4 judges present at the argument is necessary for a judgment.

An acting Chief Justice shall perform all functions of the Chief Justice when he is absent or unable to act. The Chief Justice or, if he fails to do so, the court shall select an associate justice as acting Chief Justice. (Added Nov. 8, 1966.)

§ 3. Courts of appeal; districts; divisions; power; concurrence required for judgment; acting presiding justice

Sec. 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justices. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges present at the argument is necessary for a judgment.

An acting presiding justice shall perform all functions of the presiding justice when he is absent or unable to act. The presiding justice or, if he fails to do so, the Chief Justice shall select an associate justice of that division as acting presiding justice. (Added Nov. 8, 1966.)

§ 4. Superior courts; number of judges; officers and employees; clerk

Sec. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

The county clerk is ex officio clerk of the superior court in his county. (Added Nov. 8, 1966.)

§ 5. Municipal and justice courts; districts; number of courts; organization; jurisdiction

Sec. 5. Each county shall be divided into municipal court and justice court districts as provided by statute, but a city may not be divided into more than one district. Each municipal and justice court shall have one or more judges.

There shall be a municipal court in each district of more than 40,000 residents and a justice court in each district of 40,000 residents or less. The number of residents shall be ascertained as provided by statute.

The Legislature shall provide for the organization and prescribe the jurisdiction of municipal and justice courts. It shall prescribe for each municipal court and provide for each justice court the number, qualifications, and compensation of judges, officers, and employees. (Added Nov. 8, 1966.)

§ 6. Judicial council

Sec. 6. The Judicial Council consists of the Chief Justice as chairman and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior

courts, 3 judges of municipal courts, and 2 judges of justice courts, each appointed by the chairman for a 2-year term; 4 members of the State Bar appointed by its governing body for 2-year terms; and one member of each house of the Legislature appointed as provided by the house.

Council membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or its chairman, other than adopting rules of court administration, practice and procedure.

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, not inconsistent with statute, and perform other functions prescribed by statute.

The chairman shall seek to expedite judicial business and to equalize the work of judges; he may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the chairman as he directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned. (Added Nov. 8, 1966.)

§ 7. Commission on judicial appointments

Sec. 7. The Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district or, if there are 2 or more presiding justices, the one who has presided longest or, when a nomination or appointment to the Supreme Court is to be considered, the presiding justice who has presided longest on any court of appeal. (Added Nov. 8, 1966.)

§ 8. Commission on judicial qualifications

Sec. 8. The Commission on Judicial Qualifications consists of 2 judges of courts of appeal, 2 judges of superior courts, and one judge of a municipal court, each appointed by the Supreme Court; 2 members of the State Bar who have practiced law in this State for 10 years, appointed by its governing body; and 2 citizens who are not judges, retired judges, or members of the State Bar, appointed by the Governor and approved by the Senate, a majority of the membership concurring. All terms are 4 years.

Commission membership terminates if a member ceases to hold the position that qualified him for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. (Added Nov. 8, 1966.)

§ 9. State bar; public corporation; membership

Sec. 9. The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record. (Added Nov. 8, 1966.)

§ 10. Jurisdiction; habeas corpus and proceedings for extraordinary relief; original jurisdiction of superior courts; comments on evidence and credibility of witnesses

Sec. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have

original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.

Superior courts have original jurisdiction in all causes except those given by statute to other trial courts.

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause. (Added Nov. 8, 1966.)

§ 11. Appellate jurisdiction of Supreme Court, courts of appeal and superior courts; findings of fact

Sec. 11. The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction and in other causes prescribed by statute.

Superior courts have appellate jurisdiction in causes prescribed by statute that arise in municipal and justice courts in their counties.

The Legislature may permit appellate courts to take evidence and make findings of fact when jury trial is waived or not a matter of right. (Added Nov. 8, 1966.)

§ 12. Supreme Court; transfer of causes

Sec. 12. The Supreme Court may, before decision becomes final, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction. (Added Nov. 8, 1966.)

§ 13. Reversal for error resulting in miscarriage of justice

Sec. 13. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice. (Added Nov. 8, 1966.)

§ 14. Publication of opinions; decisions of Supreme Court and courts of appeal

Sec. 14. The Legislature shall provide for the prompt publication of such opinions of the Supreme Court and courts of appeal as the Supreme Court deems appropriate, and those opinions shall be available for publication by any person.

Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated. (Added Nov. 8, 1966.)

§ 15. Judges of courts of record; qualifications

Sec. 15. A person is ineligible to be a judge of a court of record unless for 5 years immediately preceding selection to a municipal court or 10 years immediately preceding selection to other courts, he has been a member of the State Bar or served as a judge of a court of record in this State. A judge eligible for municipal court service may be assigned by the chairman of the Judicial Council to serve on any court. (Added Nov. 8, 1966.)

§ 16. Election of judges; vacancies

Sec. 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their election, except that a judge elected to an unexpired term serves the remainder of the term. In creating a new court of appeal district

CONSTITUTIONAL AND STATUTORY PROVISIONS OF NEW YORK

APPENDIX A

CONSTITUTIONAL AND STATUTORY PROVISIONS CONCERNING THE ADMINISTRATION OF THE UNIFIED COURT SYSTEM

Constitutional Provisions

ARTICLE VI—JUDICIARY

(Adopted by the People November 7, 1961, Effective September 1, 1962)

§ 1. [State courts established; service of court processes, warrants and mandates of state, district and local courts]

a. There shall be a unified court system for the state. The state-wide courts shall consist of the court of appeals, the supreme court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court and the family court, as hereinafter provided. The legislature shall establish in and for the city of New York, as part of the unified court system for the state, a single, city-wide court of civil jurisdiction and a single, city-wide court of criminal jurisdiction, as hereinafter provided, and may upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one city-wide court of both civil and criminal jurisdiction. The unified court system for the state shall also include the district, town, city and village courts outside the city of New York, as hereinafter provided.

§ 28. [Administrative Supervision of the courts]

The authority and responsibility for the administrative supervision of the unified court system for the state shall be vested in the administrative board of the judicial conference. The administrative board shall consist of the chief judge of the court of appeals, as chairman, and the presiding justices of the appellate divisions of the four judicial departments. The administrative board, in consultation with the judicial conference, shall establish standards and administrative policies for general application throughout the state. The composition and functions of the judicial conference shall be as now or hereafter provided by law. In accordance with the standards and administrative policies established by the administrative board, the appellate divisions shall supervise the administration and operation of the courts in their respective departments.

§ 29. [Allocation of cost of maintenance and operation of courts; determination of annual financial needs of the courts]

a. The legislature shall provide for the allocation of the cost of operating and maintaining the court of appeals, the appellate division of the supreme court in each judicial department, the supreme court, the court of claims, the county court, the surrogate's court, the family court, the courts for the city of New York established pursuant to section fifteen of this article and the district court, among the state, the counties, the city of New York and other political subdivisions.

b. The legislature shall provide for the submission of the itemized estimates of the annual financial needs of the courts referred to in subdivision a of this section to the administrative board of the judicial conference or to the said conference to be forwarded to the appropriating bodies with recommendations and comment.

c. Insofar as the expense of the courts is borne by the state or paid by the state in the first instance, the final determination of the itemized estimates of the annual financial needs of the courts shall be made by

the legislature and the governor in accordance with articles four and seven of this constitution.

d. Insofar as the expense of the courts is not paid by the state in the first instance and is borne by counties, the city of New York or other political subdivisions, the final determination of the itemized estimates of the annual financial needs of the courts shall be made by the appropriate governing bodies of such counties, the city of New York or other political subdivisions.

Statutory Provisions

JUDICIARY LAW

ARTICLE 7A—JUDICIAL ADMINISTRATION

(Added by Chapter 684, Laws of 1962, as Amended)

§ 210. Administrative board (referred to in § 224)

1. The administrative board of the judicial conference shall consist of the chief judge of the court of appeals and the presiding justices of the appellate divisions of the four judicial departments. The chief judge of the court of appeals shall also be the chief judge of the state of New York and shall be the chief judicial officer of the unified court system established by article six of the constitution. He shall be the chairman of the administrative board and chairman of the judicial conference.

2. The members of the administrative board shall serve without compensation but shall be reimbursed for their traveling and other expenses within and without the state actually and necessarily incurred by them in the performance of their duties under this article.

§ 211. State administrator

1. The administrative board shall appoint upon the nomination of the chairman, and at pleasure may remove, a state administrator and fix his compensation within the appropriation made available therefor. Such state administrator, subject to the supervision and control of the administrative board shall exercise such duties as may be assigned to him by the administrative board. The state administrator shall act as secretary to the administrative board and secretary to the judicial conference.

2. The state administrator, with the approval of the administrative board, shall appoint and may at pleasure remove such deputies, assistants, counsel and employees as may be deemed necessary and fix their salaries within the appropriation made available therefor.

§ 212. Functions of the administrative board

The administrative board shall have the authority and responsibility for the administrative supervision of the unified court system. In discharge of that authority and responsibility the administrative board, in consultation with the judicial conference, may adopt, amend, rescind and make effective standards and policies for general application throughout the state, including but not limited to standards and policies relating to the following administrative powers and duties:

1. Personnel practices, title structure, job definition, classification, qualifications, appointments, promotions, transfers, leaves of absence, resignations and reinstatements, performance rating, sick leaves, vacations, time allowances and removal of non-judicial personnel of the unified court system. The standards and policies of the administrative board relating to the foregoing powers and duties shall be consistent with the civil service law. Before adopting new standards and policies which affect the non-judicial personnel, the administrative board shall give notice of the proposed new standards and policies and shall give notice of and hold a hearing at which affected employees or their representatives shall have the opportunity to submit criticisms, objections, and suggestions relating to such proposed standards and policies.

2. Officers and employees of the courts affected by article six of the constitution as amended who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as if they had continued their service in such courts. There shall be included in the budget for the courts established or continued by article six of the constitution, the contribution required to be made under the appropriate provisions of law to secure such pension or retirement rights, privileges, obligations and status for officers and employees transferred pursuant to subdivision one of this section.

§ 224. Judicial conference of the state of New York, composition

The judicial conference of the state of New York shall consist of the administrative board, for each judicial department one justice of the supreme court not designated to the appellate division, and one surrogate, one county judge, one judge of the court of claims, one judge of the family court and one judge of each of the courts for the city of New York established pursuant to section fifteen of article six of the constitution.

§ 225. Method of selection, terms of office

1. The chief judge of the state of New York shall be a member of the conference during the term of his office as chief judge of the court of appeals. The presiding justice of each appellate division shall be a member of the conference during his term of office as presiding justice.

2. The members from each of the other classes described in section two hundred twenty-four of this chapter shall be chosen by the judges or justices in such class respectively or a majority of them.

3. The term of members chosen for service in the conference in the manner provided in subdivision two of this section shall be for two years and they shall be eligible for reappointment.

§ 226. Vacancies

1. If there is a vacancy in the office of chief judge of the state of New York or if the chief judge is unable to perform the duties of his office, during the period of such vacancy or inability the court of appeals shall designate an associate judge of that court to act in his stead and to serve as chairman of the conference and chairman of the administrative board.

2. If there is a vacancy in the office of presiding justice of an appellate division, or if any presiding justice is unable to perform the duties of his office, during the period of such vacancy or inability the justices of the appellate division shall designate an associate justice to act in his stead and to serve as a member of the judicial conference and the administrative board and as chairman of the departmental committee.

3. If a vacancy occurs during the term of office of any judge or justice chosen for service in the conference pursuant to subdivision two of section two hundred twenty-five of this chapter, or if such a judge or justice is unable to perform the duties of his office, the vacancy shall be filled in the same manner as the original choice for the unexpired term or for the period of such inability, as the case may be.

4. Membership in the conference by any judge or justice shall be deemed to be one of his judicial functions and shall not constitute holding a public office.

§ 227. Meetings; expenses

The conference shall meet annually at the call of its chairman and at such other times as he may deem advisable. The chairman of the conference shall give notice of the time and place of every meeting of the conference to the chairman and the ranking minority members of each of the committees on judiciary and on codes of the senate and of the assembly, and they may attend such meeting and make recommendations.

The conference may invite to any regular or special meeting representatives of the bench, bar and legislature and others concerned with the administration of justice for the purpose of considering the business of the courts and proposing means for their betterment.

Each member of the conference and any such legislative committee members who attend its meetings shall not receive any additional compensation, but each shall be allowed his actual and necessary expenses incurred in the performance of his duties under this article.

§ 228. Powers and duties of the conference

1. The conference shall advise and assist the administrative board in the performance of its duties.

2. The conference shall recommend to the appropriate judicial bodies and other agencies of state and local government changes in statutes, rules and practice, relating to judicial procedure and administration which in its opinion will improve the operation of the unified court system. To this end the conference shall consider the suggestions and advice submitted by judges, lawyers, educators and others qualified to assist in the improvement to the administration of justice.

3. Annually on or before the fifteenth day of January, the conference shall submit to the governor and the legislature a report of its activities together with any recommendations for legislation.

4. The conference may establish rules for its organization and procedure and may provide for the appointment of committees composed either of its members alone or with others to assist in the conduct of its work.

§ 229. Additional powers and duties of the judicial conference

In addition to the powers and duties elsewhere enumerated in this article the judicial conference shall have power to:

1. Receive and consider proposed changes in the civil practice law and rules, conduct studies and recommend such changes as are deemed necessary to modify or eliminate antiquated and inequitable statutes and rules, bring the civil practice law and rules into harmony with modern conditions, promote simplicity in procedure, the just determination of litigation, and the elimination of unjustifiable expense and delay.

2. Report its recommendations in relation to the statutory provisions of the civil practice law and rules annually to the legislature on or before February first, and, if it deems advisable, to accompany its recommendations with proposed bills to carry out any of its recommendations.

3. Adopt, amend, or rescind rules of civil practice in the civil practice law and rules except that such a rule shall not be inconsistent with the constitution or the statutes of the state and it shall neither abridge nor enlarge the substantive rights of any party. Rules of civil practice in the civil practice law and rules so adopted, amended or rescinded by the judicial conference shall be reported by it annually to the legislature on or before February first and unless such proposal as reported be disapproved by the legislature by concurrent resolution adopted by it, or amended by law, any such change in the practice rules shall become effective on September first of that year. Any such change in the practice rules shall be published in the state bulletin before its effective date pursuant to section one hundred sixty of the executive law. The judicial conference may adopt such further means as it deems proper to insure effective publication.

§ 230. Departmental committees for court administration; meetings; expenses

1. The departmental committee for court administration in each department shall consist of the presiding justice as chairman, the members of the judicial conference from each such department, the administrative judges in each such department designated pursuant to section two hundred seventeen of this chapter, and

(a) One justice of the supreme court not designated to the appellate division or the court of appeals.

(b) One surrogate.

(c) In the first, third and fourth departments one judge of the family court.

(d) In the second department one judge of the family court outside the city of New York and one judge of the family court within the city of New York.

(e) In the second, third and fourth judicial departments, one judge of the county court.

(f) In the third department, one judge of the court of claims.

(g) In the first and second departments, one judge from each of the courts for the city of New York established pursuant to section fifteen of article six of the constitution.

(h) In the second, third and fourth departments one judge of a district court established pursuant to section sixteen of article six of the constitution, one justice of the peace, one judge of a village or city court in a village or city having, according to the last federal census or enumeration, twenty-five thousand inhabitants or less, and one judge of a village or city court in a village or city (other than the city of New York) having, according to the last federal census or enumeration, twenty-five thousand inhabitants or more.

(i) In the second, third and fourth departments one member of the bar from each judicial district.

(j) In the first department, three members of the bar.

(k) Such additional members in each department from any of the foregoing classes as the appellate division shall designate.

2. The member or members from each of the classes described in paragraphs (a) through (g) of subdivision one of this section including those additional members in such classes designated by the appellate division pursuant to paragraph (k) shall be chosen by the judges or justices on such class respectively or a majority of them.

3. The member or members from each of the classes described, provided for in paragraphs (h), (i) and (j) shall be chosen from the nomination of the presiding justice by the justices of the appellate division in each department or a majority of them.

4. Each departmental committee shall meet at least once a year at the call of its chairman and at such other times as he shall deem advisable. The departmental committee may invite to any regular or special meeting representatives of the bench, bar and the executive and legislative branches of state and local government and others concerned with the administration of justice.

5. Membership in a departmental committee by a judge or justice shall be deemed to be one of his judicial functions and shall not constitute holding a public office.

6. Each judge or justice who is a member of the departmental committee shall serve without additional compensation, provided, however, that each member of a departmental committee shall be allowed his actual and necessary expenses incurred in the performance of his duties under this article.

§ 231. Powers and duties of departmental committees

Each departmental committee shall examine the facilities and operations of the courts in its department, and shall formulate procedures and make recommendations to the conference and appropriate authorities for the improvement of the administration of justice therein. Each departmental committee shall submit annually to the conference a report on the effectiveness of the procedures and practices of the courts within its department and its recommendations with respect to general improvements in the conduct of the business of the courts therein.

§ 234-a. Administrative board to establish institutes on sentencing

1. The administrative board of the conference shall establish, at such times and places as it shall determine, institutes on sentencing for the purpose of promoting the equitable administration of the criminal laws of this state, with particular reference to disparity of sentences imposed thereunder.

2. The agenda of such institutes may include but shall not be limited to: (1) the development of standards for the content and utilization of presentence reports; (2) the establishment of factors to be used in selecting cases for special study and observation in prescribed diagnostic clinics; (3) the determination of the importance of psychiatric, emotional, sociological and physiological factors involved in crime and their bearing upon sentences; (4) the discussion of special sentencing problems in unusual cases such as violation of public trust, crimes by minors, or involving abnormal sex behavior, addiction to drugs or alcohol, and mental or physical handicaps; (5) the formulation of sentencing principles and criteria which will assist in promoting the equitable administration of the criminal laws of this state.

3. Attendance at such institutes shall be by such judges and justices as the administrative board shall determine, and all reasonable expenses incurred in connection therewith shall be paid in the same manner as prescribed by law for the payment of expenses of each such judge or justice.

§ 235. Review of determinations of the administrative board of the judicial conference, appellate divisions; proper parties

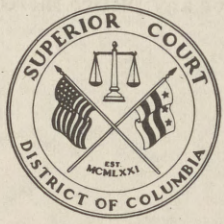
1. In any action or proceeding brought to review a determination made by the administrative board of the judicial conference pursuant to the powers set forth in this article, the only proper party to be named therein shall be the state administrator, in his representative capacity. No action or proceeding so instituted shall name the administrative board of the judicial conference or any member thereof as a party.

2. In any action or proceeding brought to review a determination made by an appellate division pursuant to the powers set forth in this article, the only proper party to be named shall be the director of administration of the proper judicial department, in his representative capacity. No action or proceeding so instituted shall name the appellate division or any justice thereof as a party.

(2)

DISTRICT OF COLUMBIA COURTS

ANNUAL REPORT
—1973—



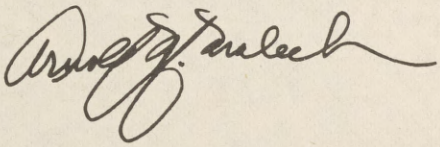
District of Columbia Courts
Washington, D. C. 20001

Arnold M. Malech
Executive Officer

May, 1974

The Joint Committee on Judicial Administration in the District of Columbia and I are pleased to publish this report under the provisions of 11 D. C. Code 1701(c)(2) and 1745(a). It summarizes the operation of the District of Columbia Courts during calendar year 1973 when the final transitional stage of court reorganization was accomplished.

All our judges and employees have endeavored to continue improvements in the administration of justice in the District of Columbia. I am grateful for the opportunity to contribute toward the outstanding record of achievement of the District of Columbia Courts.



1973
JOINT COMMITTEE ON JUDICIAL ADMINISTRATION IN THE DISTRICT OF COLUMBIA

Chief Judge Gerard D. Reilly
District of Columbia
Court of Appeals

Judge Frank Q. Nebeker[1]
District of Columbia
Court of Appeals

Judge Catherine B. Kelly[2]
District of Columbia
Court of Appeals

Chief Judge Harold H. Greene
Superior Court of the
District of Columbia

Judge Fred L. McIntyre
Superior Court of the
District of Columbia

Judge William S. Thompson
Superior Court of the
District of Columbia

Arnold M. Malech, Executive Officer
District of Columbia Courts
Washington, D.C. 20001

May 1974

[1]Elected to the Joint Committee for a one-year term commencing February 1, 1973.
[2]Elected to the Joint Committee for a one-year term commencing February 1, 1972.

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DISTRICT OF COLUMBIA COURTS

REPORT OF EXECUTIVE OFFICER ARNOLD M. MALECH

Joint Committee on Judicial Administration in the District of Columbia

The Joint Committee on Judicial Administration was established by Congress in the District of Columbia Court Reorganization Act of 1970 as the general governing body of the courts with responsibility for administering the District of Columbia's court system. Specifically, it is empowered to determine and set general policies and directives for both the District of Columbia Court of Appeals and the Superior Court.

- Code of Judicial Conduct

Acting within this area of responsibility, by resolution approved on February 16, 1973, the Joint Committee adopted with minor modifications the American Bar Association Code of Judicial Conduct for all active and retired judges in the court system. The text of the resolution is set forth in full in Appendix A.

- Building and Space Management

The District of Columbia Courts are situated in an historic six-block, seven-building area of Washington called Judiciary Square, an area designated for courts by Pierre Charles L'Enfant in his original plan. This scattered court complex generates a number of problems for a unified court system charged with providing swift and effective administration of justice on behalf of a large metropolitan populace. Not only does this dispersal of buildings cause numerous pedestrian problems between and among the various buildings, but it also causes undue security problems with respect to inadequate facilities to separate convicted felons from judges, jurors, litigants and witnesses. One frequently sees a handcuffed defendant being escorted on the public streets from one building to another. Additionally, the scattered complex perpetuates administrative and managerial problems because of the physical separation. Trials are delayed; people get lost; clerks' offices are widely separated. Appellate judges, who should be in close proximity to each other for exchanging views, are widely separated.

Recognizing these problems, a subcommittee of the Joint Committee on Judicial Administration and the Executive Officer, as well as other court officials, participated in the selection of and the planning with a firm of architectural engineers and with a construction manager for the initial design of an urgently needed new courthouse which would consolidate the majority of court operations under one roof. Hopefully, this start will result in funding, construction and occupancy of the courthouse within the next few years.

- Criminal Justice Act

A major problem relating to the District of Columbia criminal justice system unfolded as the 1974 fiscal year began. The problem involved the payment to attorneys representing indigent criminal defendants under the Criminal Justice Act. Since 1966, CJA funding has provided the funding for high quality legal representation from the local bar on behalf of about two-thirds of all criminal and juvenile indigent defendants. The District of Columbia Courts had been receiving CJA funding through the Federal judiciary appropriations in the past. Funding from this source was not provided in the 1974 fiscal year budget.

It was only through a special continuing resolution of Congress that the courts' spending levels were continued for a short period. During this period, the courts, together with the leaders of the District of Columbia Bar, sought supplemental Congressional appropriations in an effort to avoid the complete breakdown of legal representation for indigents in our court system. Our joint efforts proved unsuccessful.

In anticipation of a funding cut-off, the Chief Judges of the District of Columbia Court of Appeals and the Superior Court, with the cooperation and assistance of the District of Columbia Bar, designed and implemented an unpaid counsel plan. While the ramifications of this cooperative plan have not been fully realized, it has been successful only as a back-up measure. The courts are continuing their efforts to secure either adequate CJA funding or alternative sources of monies for the payment of attorneys representing indigents in the District's criminal justice system.

Executive Officer

The District of Columbia Courts have completed their third year of operations since court reorganization. The final transitional stages, including transfers of functions and personnel from the United States District Court and changes in jurisdiction, were completed during 1973. The smooth and effective transition from several former courts of limited jurisdiction to courts of unlimited original jurisdiction continued during the year under the guidance of the Joint Committee:

Chief Judge Gerard D. Reilly of the District of Columbia Court of Appeals, Chairman of the Joint Committee

Chief Judge Harold H. Greene of the Superior Court

Associate Judges Catherine B. Kelly and Frank Q. Nebeker of the District of Columbia Court of Appeals

Associate Judges Fred L. McIntyre and William S. Thompson of the Superior Court.

Within this framework, the Executive Officer assisted both courts in the development and implementation of new innovative procedures promoting efficient management of our increased workloads and contributing toward more effective administration of justice in the District of Columbia. During 1973, several major projects and studies were successfully completed as part of our continuing efforts toward improvements within the court system. The following are some of the highlights of these projects:

- Rules of Practice for Court Reporters

In March, with the approval of the Chief Judges of the District of Columbia Court of Appeals and the Superior Court, a comprehensive set of rules of practice for court reporters was adopted. The rules were the product of a great deal of time and effort on the part of Executive Office staff and members of the committees appointed to assist in drafting. The rules govern every phase of court reporting and set forth guidelines for the appointment, supervision and assignment of reporters. The rules also establish a schedule of fees for transcripts and time schedules for transcript production. Nationwide interest has focused upon these rules which are being viewed in many jurisdictions as a model.

- Bond and Collateral Book

Working closely with the Superior Court Subcommittee on Bond and Collateral, consisting of judges, court personnel and interested agencies, Executive Office staff performed the required research, drafting and secretariat for development and revision of the Bond and Collateral Book which should be distributed to all Superior Court judges in 1974. The book is a codification of all offenses for which bond or collateral may be authorized, and should serve as a reference document for judges, prosecutors, police, nonjudicial court personnel and others in the criminal

justice system. Ernest L. Bailey, Jr., Deputy Executive Officer, served as the project director. His task was the coordination and liaison required among the half-dozen police departments which will use the book.

- Small Claims Study

Concomitant with the current trend in consumer-oriented matters and with the cooperation and assistance of the Small Claims personnel, Executive Office staff undertook a management study of the Small Claims and Conciliation Branch of the Civil Division of the Superior Court. These combined efforts were directed mainly toward the modernization of branch record-keeping functions through the latest in computer technology and improved utilization of existing personnel in order to provide maximum service to the consumer who brings his grievance to the Small Claims Court. (This branch has exclusive jurisdiction for the recovery of money if the amount in controversy does not exceed $750).

The study revealed that the process involved in bringing the majority of all small claims disputes to an initial adjudicative hearing within two weeks after filing was sound. The procedures employed, however, in this process were essentially outdated, having been established over 35 years ago. In an effort to eliminate these procedural deficiencies, a number of recommendations were made:

— Establish a modern records disposition and destruction schedule which, when fully implemented, would result in an additional viable work space for branch personnel.

— Reorganize branch functions for improved personnel utilization.

— Limit or restrict the majority of the docketing functions to courtroom entries on the case file jacket.

— Redesign of the branch case jacket to insure clarity and uniformity of courtroom jacket entries.

— Use of preprinted and no-carbon-required forms as a relatively simple means of increasing the efficient utilization of clerical personnel in high-volume, repetitious duties.

Recommendations have also been made for the extensive use of the court's data processing equipment. As a new case is filed, the essential information pertaining to the case (case number, filing date, litigants' names, type and amount of dispute, type of service of process, court date) would be keypunched into the court's computer daily. In addition, as each case comes from the courtroom and as documents are filed in the case, relevant information would be keypunched to ascertain the number of cases filed, the number of cases closed, the number and reasons for cases pending. This continuous flow of updated information would enable the computer to print out on a daily basis the daily trial calendar and docket index. This index would contain all the case information necessary for branch personnel, the bar and the public to read and to locate immediately or to determine the status of any case jacket maintained within the branch.

- Juror Utilization Study

In conjunction with the Juror Officer and his staff, the Executive Office undertook an in-depth study of juror utilization in the Superior Court in order to reduce juror waiting time and to effect more efficient juror usage.

In May of 1973, the Juror Office began collecting utilization statistics on a daily basis so that monthly indices could be computed to reflect our juror usage. The eight-month statistical survey (see Appendix B) is based upon federal court guidelines and has revealed some areas which merit attention. Although not a true measure, compared with juror usage figures for federal courts throughout the nation, the Superior Court has a 25.8 Juror Usage Index with a respectable 49% Served on Jury Trials, 35% Challenged and Not Used, and 16% Not Used record. The Index is a general measure of utilization, giving the number of jurors available

per jury trial day and comparing days of work (jury trial days) to days paid (jury days available); it does not compensate for variations such as trial length or size of jury.

The court's Jury Service Handbook was being revised in accordance with an American Bar Association model, and expanded to provide Superior Court jurors with more useful and informative items, including administrative procedures involved in enrollment and jury service.

Additional study will continue during 1974 with concentrated efforts being directed at computerization of existing manual operations in the areas of panel selection, attendance and statistical computations.

- Work Measurement Standards

During 1973, as the result of Congressional direction, a study was initiated to provide a comparative analysis of the functions, workload and personnel requirements of this court system with other courts of similar jurisdiction. The results of this study may be used as a basis for the development of standards to evaluate personnel requirements for nonjudicial functions within this jurisdiction.

The lack of definitive work measurement standards in other state, county and city courts has dictated the necessity for comparing staffing patterns which could be used to develop such standards. Work continues on this project and, hopefully, work measurement standards for the court system will be developed during 1974.

- Court System Library Facilities Study

Another project completed in 1973 was the "Plan for Adequate Library Facilities for the District of Columbia Court System," funded by a Law Enforcement Assistance Administration grant in August 1972. Through the combined efforts of a judges' library committee, court personnel and a team of professional library consultants, a survey of existing library resources and facilities was conducted and recommendations were proposed for the development of a comprehensive court system library through consolidation of existing facilities and the systematic acquisition of books.

During the year, special subscription arrangements were made with the publisher to provide to each judge of the Superior Court on a weekly basis both *United States Law Week* and the *Criminal Law Reporter*.

- Personnel Management

Through the combined efforts of the Executive Officer, the Director of Social Services and the Director of Personnel, approval was sought and received from the U.S. Civil Service Commission on the question of hazardous duty retirement for two groups of court personnel. The Commission ruling allows 50-year-old probation officers and court cellblock guards, who have 20 years of accountable hazardous service, to retire without reduction in the regular retirement annuity.

Employee education is another important area of management essential for the development of highly qualified, competent and motivated personnel. Working with the administration of a local college, the Executive Officer helped to develop a court management program principally aimed at the undergraduate and at a working level. Funded by the Law Enforcement Assistance Administration, the program has developed into a new undergraduate-degree program at the college. In addition to the regular student body, approximately 45 employees of the District of Columbia Courts are currently participating in the program. Court employees may pursue the courses in court management at the certificate and undergraduate-degree levels without cost through Law Enforcement Education Program (LEEP) funds.

A further development during 1973 involved the courts' new training facility. In an effort to encourage employee development through training, the Executive Office designed and equipped a training room with modern audio-visual devices. The training room has been used by most court divisions and has been found to be a most worthwhile investment.

- Annual Review of Operations

In a large metropolitan court system containing both original and appellate jurisdictions, communication between and among the numerous managers of divisions, branches and sections is vitally important. In an effort to establish new avenues of communication while revitalizing others, a new yearly publication was devised. With the cooperation of each Superior Court division chief, the Executive Office assisted the Chief Judge of the Superior Court in developing and publishing the *Annual Review of Operations* for calendar year 1972. The inclusion of both narrative comments and statistical tables detailing each element of the Superior Court in that publication has proven to be an invaluable management tool and reference work for court employees and others in the criminal justice system.

- Community Relations

Practical application of classroom theories is a valuable asset in any learning environment. When this practical learning experience can be channeled into an area of community need, the results are doubly rewarding. Such is the case of the Law Students in Court Program, initiated by the District of Columbia Consortium of Universities in March 1969. In this program, a number of third-year law students from five area law schools are certified by the District of Columbia Court of Appeals to represent indigent litigants before the Superior Court in some civil (small claims, landlord and tenant) and criminal (misdemeanor, juvenile) matters. Through this student exposure to the courts and our judges' participation in the Program's open houses, tremendous strides have been made in education, communication and information between the courts, the students and the community.

In response to a Presidential request and the Inaugural Committee, the courts' Pension Building courtyard was the site of one of the President's Inaugural Balls, the eighth in the building's almost 90-year history.

The Pension Building courtyard was also the site of a display of the only exhibition in the United States of the Overlord Embroidery. Consisting of 33 panels, each 8 feet long and 3½ feet high, the Embroidery depicted the story of the Allied invasion of Europe in 1944 and the events leading to it. Commissioned by a private British citizen, the tapestry was produced at London's Royal School of Needlework by 23 people who used the technique of embroidery-applique of authentic cloth cut from actual military uniforms of the war period.

Appendix A

STANDARDS OF JUDICIAL CONDUCT

BE IT RESOLVED: All active judges on the Court of Appeals and the Superior Court shall conform to the Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association on August 16, 1972: *Provided,* however, That (1) the prohibition against arbitration and mediation in Canon 5 E shall not be applicable to proceedings authorized by law in the Small Claims and Conciliation Branch of the Superior Court, and (2) for purposes of this resolution, Canon 3 D shall be amended by striking the words "in writing" from the second sentence of such subdivision and deleting the final sentence thereof: *Provided further,* That in lieu of the reporting requirements in Canon 6 C and Canon 5 C(4)(c) such judges shall file such financial statements with the Commission on Judicial Disabilities and Tenure as are required by D.C. Code 1967, §11-1530 (Supp. V, 1972), and the regulations of such Commission.

This resolution shall be applicable to retired judges of both courts serving on a continuing or periodic basis to the extent that the section of the Code with respect to compliance makes the provisions of such Code applicable to part-time judges or retired judges.

The Joint Committee will act as an advisory body to any judge requesting an interpretative ruling with respect to particular factual situations that may arise.

This resolution shall become effective on February 16, 1973.

BY ORDER OF THE JOINT COMMITTEE ON JUDICIAL ADMINISTRATION:

Gerard D. Reilly, Chairman

Appendix B

PETIT JUROR UTILIZATION — 1973

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Month	Number Drawn from Master Wheel	Number of Jurors Enrolled	Average Number Serving	Monthly Juror Usage Index	Number of Panels Requested	(A) "Juries in Trial"			(B) Total Number Available to Serve	(C) Served on Jury Trials		(D) Challenged & Not Used		(C+D) Percent to the Courtroom	(E) Not Used		Times Judges Waited for Panel
						Civil	Criminal	Total		Number	Percent	Number	Percent		Number	Percent	
May	750	410	385	25.3	173	100	250	350	8,864	4,445	50.1%	3,192	36.0%	86.1%	1,227	13.9%	7
June	650	349	340	30.5	114	66	179	245	7,486	3,256	43.5%	2,552	34.0%	77.5%	1,678	22.5%	0
July	600	309	290	28.1	127	39	188	227	6,385	2,921	45.7%	2,019	31.6%	77.3%	1,445	22.7%	8
August	600	305	286	41.8	99	11	153	164	6,865	2,392	34.9%	2,421	35.2%	70.1%	2,052	29.9%	3
September	700	360	341	23.8	127	31	241	272	6,476	3,623	55.9%	2,265	35.0%	90.9%	588	9.1%	14
October	700	387	339*	19.5	175	56	308	364	7,131	4,295	60.2%	2,495	35.0%	95.2%	341	4.8%	16
November	750	403	337*	21.9	155	78	245	323	7,079	3,678	51.9%	2,713	38.3%	90.2%	688	9.8%	14
December	550	330	293	25.5	103	41	177	218	5,580	2,812	50.4%	1,809	32.4%	82.8%	959	17.2%	11
TOTAL 8 Months:	5,300	2,853	–	–	1,239	422	1,741	2,163	55,866	27,422	–	19,466	–	–	8,978	–	73
Average per Month:	662	356.6	326.3	25.8	134.1	53	217	270	6,983	3,428	49.0%	2,433	34.9%	83.9%	1,122	16.1%	9.1

1973 Juror Usage Index	25.8

JUROR USAGE INDEX – Divide the total in Column A into the total in Column B to compute the Index. The juror usage index presents a general measure of utilization by giving the number of jurors available per jury trial day. It compares days of work (jury trial days) to days paid (jury days available). It does not compensate for variations such as trial length or size of jury.

A. "Juries in Trial" – shows the number of separate jury trials in progress, whether or not the trial is completed that day; also, if two trials occur in the same courtroom within the day, they are counted as two.

B. Total Number Available to Serve – shows the total number of jurors reporting as available to serve, whether or not put on a panel or a jury; excludes any excused jurors who were not paid an attendance fee.

C. Served on Jury Trials – shows the number serving any part of the day as a sworn juror for any specific case trial, even if the case was settled before evidence was introduced.

D. Challenged & Not Used – shows the number challenged and not used for any trial service that day; persons challenged in one trial but used in another are counted in Column C.

E. Not Used – shows the number of jurors neither challenged nor sworn for any specific trial; these are the jurors who never left the lounge.

* Fifty jurors were permanently excused from service mid-month because the needs of the court did not require their availability.

This report is a modification of the federal courts' JS-11 form which is the basic national juror utilization reporting document.

FINANCIAL OPERATIONS DIVISION

During 1973, the amount of funds coming into the courts, for which the Fiscal Office is responsible and accountable, continued to increase. Appropriated funds for fiscal year 1974 for the entire court system increased $1,004,345 to $20,904,445.

Within recent years, the courts have undertaken new projects which have used funding by the Law Enforcement Assistance Administration. In calendar year 1973, the courts were granted $280,949, an increase of $160,901, or 134% over calendar year 1972.

Pursuant to District of Columbia Code §11-1723(a)(2), the Financial Operations Division receives and disburses all fees, costs, payments and deposits of money coming into custody of the courts. During 1973, the courts received $18,816,416, including $9,899,297 which is revenue for the District of Columbia collected by the courts, and disbursed $18,169,778. The $9,899,297 collected for the District represents an increase of $853,941 or 9.4% over last year's revenue.

The Financial Operations Division is divided into three major departments: Internal Audit, Budget and Appropriation Accounting and Financial Revenue Accounting. A summary of some improvements and workload accomplishments follows:

- The Internal Audit Branch completed its second year of operations in the Superior Court during 1973. With an increased staff of three auditors, thirteen audit projects were begun during the year as compared to ten projects during 1972. These audits covered $31,143,000 of the total revenue and expense activity of approximately $40 million in the Superior Court. Eight formal audit reports were submitted to the Executive Officer.

  The internal audit scope was expanded to include the various Law Enforcement Assistance Administration grants to the court and the witness fee and jury payment practices and procedures area. Significant monetary savings and increased efficiency should result from the implementation of the various recommendations presented for consideration during the year.

- The Budget and Accounting Branch investigated the practice whereby in previous years jury payrolls were manually prepared at the end of each jury attendance period. By the time this was completed and checks delivered to the jurors, it usually averaged three to four weeks.

  In May 1972, an automated jury payroll procedure was implemented with the assistance of the court's Data Processing Division. Many manual steps were eliminated and replaced with computerized techniques. This new procedure now provides jurors with a check within one week after the close of an attendance period.

  Beginning July 1, 1973, an internal cost system was established for the Superior Court and the D.C. Court System. This system provides detailed cost information at the Branch level, and will enable the Financial Operations Division to provide operating costs for every major court component. It is further anticipated that an average cost may be developed in the future for handling a felony, misdemeanor, civil, small claims, or other case.

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• Funds received by the courts continued to increase. In order to assure and maintain proper accountability, the accounting systems to control the receipt and disbursement of these funds were continuously reviewed and updated by the Financial Revenue Accounting Branch.

In the past the Branch received many requests from the Department of Human Resources and the Corporation Counsel's Office to supply information on arrearages in support cases. Procedures were instituted to provide this specific information from our computer. With the aid of this new index, we are now able to furnish accurate arrearage reports weekly to the Department of Human Resources and to the Corporation Counsel on Public Assistance cases. Also, the time for processing support payments has been substantially reduced.

TOTAL RECEIPTS AND DISBURSEMENTS FOR THE DISTRICT OF COLUMBIA COURTS

	RECEIPTS		DISBURSEMENTS	
	1972	1973	1972	1973
COURT OF APPEALS	$ 97,714.00	$ 183,943.25	$ 97,714.00	$ 183,943.25
SUPERIOR COURT				
Criminal Division				
Collections		9,737,922.36		
Fines & Forfeitures	9,290,310.89		8,432,275.05	8,972,255.87
Refunds			737,915.51	739,803.68
Total	9,290,310.89	9,737,922.36	9,170,190.56	9,712,059.55
Civil Division				
Fees –				
Civil Actions	93,233.62	97,797.10	93,233.62	97,797.10
Small Claims	40,992.49	43,372.00	40,992.49	43,372.00
Landlord & Tenant	250,780.01	233,297.01	250,280.01	233,297.01
Marriage Bureau	25,025.74	24,538.85	25,025.74	24,538.85
Escrow –				
Civil Actions	1,144,150.55	1,496,818.05	1,198,808.09	1,011,671.43
Small Claims	2,418.81	2,038.61	52,313.88	2,008.92
Landlord & Tenant	31,466.86	192,419.55	1,647.50	92,489.10
U.S. Marshal	86,826.50	83,567.00	86,826.50	83,567.00
Certified Mail	17,452.51	19,738.38	17,452.51	19,738.38
Total	1,692,347.09	2,193,586.55	1,767,080.34	1,608,479.79
Family Division				
Fees	31,627.99	29,394.15	31,627.99	29,394.15
Escrow –				
Support Account	4,926,552.76	5,970,637.60	4,926,552.76	5,970,637.60
Attorney Account	111,925.00	152,030.00	107,800.00	118,460.00
Miscellaneous	83,663.31	24,300.02	66,105.84	22,201.45
U.S. Marshal		1,938.00		1,938.00
Total	5,153,769.06	6,178,299.77	5,132,086.59	6,142,631.20
Auditor-Master				
Fees Aug/Dec, 1972 Jan/Dec, 1973	66,977.53	166,653.53	66,977.53	166,653.53
Register of Wills				
Fees Aug/Dec, 1973		130,397.56		130,397.56
Escrow Aug/Dec, 1973		207,965.44		207,965.44
Total	– –	338,363.00	– –	338,363.00
Other Income				
Court Reporter Transcripts	1,871.40	3,155.55	1,871.40	3,155.55
Interest Income	8,587.56	11,262.37	8,587.56	11,262.37
Unclaimed Deposits (over six years old)	1,281.42	3,229.85	1,281.42	3,229.85
Total	11,740.38	17,647.77	11,740.38	17,647.77
Superior Court Total Received and Disbursed	16,215,144.95	18,632,472.98	16,148,075.40	17,985,834.84
TOTAL – DISTRICT OF COLUMBIA COURTS:	$16,312,858.95	$18,816,416.23	$16,245,789.40	$18,169,778.09

CASH INCOME OF THE DISTRICT OF COLUMBIA COURTS

	1972	1973	Increase/(Decrease) 1973 over 1972
COURT OF APPEALS			
Fees:	$ 92,703.50	$ 183,943.25	$ 91,239.75
SUPERIOR COURT			
Criminal Division –			
Fines and Forfeitures:			
District of Columbia	193,065.58	134,043.00	(59,022.58)
United States	88,967.04	88,676.07	(290.97)
Traffic	8,150,242.43	8,749,536.80	599,294.37
Total	8,432,275.05	8,972,255.87	539,980.82
Civil Division –			
Fees:			
Civil Action	93,233.62	97,797.10	4,563.48
Small Claims	40,992.49	43,372.00	2,379.51
Landlord & Tenant	250,780.01	233,297.01	(17,483.00)
Marriage Bureau	25,025.74	24,538.85	(486.89)
Total	410,031.86	399,004.96	(11,026.90)
Family Division –			
Fees:	31,627.99	29,394.15	(2,233.84)
Auditor-Master –			
Fees:			
August/December, 1972			
January/December, 1973	66,977.53	166,653.53	99,676.00
Register of Wills –			
Fees:			
August/December, 1973	– –	130,397.56	130,397.56
Other Income –			
Court Reporter Transcripts	1,871.40	3,155.55	1,284.15
Interest Income	8,587.56	11,262.37	2,674.15
Unclaimed Deposits (over six years old)	1,281.42	3,229.85	1,948.43
Total	11,740.38	17,647.77	5,907.39
TOTAL CASH INCOME:	$9,045,356.31	$9,899,297.09	$853,940.78

DISTRICT OF COLUMBIA COURTS STATEMENT OF APPROPRIATED FUNDS

	FY 1972[a]	FY 1973[a]	FY 1974[b]
D.C. Court of Appeals	$ 1,037,600	$ 1,223,100	$ 1,389,750
Superior Court	16,575,300[c]	15,585,900	17,963,340
D.C. Court System	–	2,851,900	1,551,355
Total:	$17,612,900	$19,660,900	$20,904,445

[a] Actual fiscal year obligations.
[b] Fiscal year appropriations.
[c] D.C. Court System's cost of operation in FY 1972 is included in the Superior Court's figure.

DISTRICT OF COLUMBIA COURTS STATEMENT LEAA GRANTS AWARDED

	1972	1973	1974
Superior Court	$24,000	$ 98,248	$280,949
D.C. Court System	0	21,800	0
Total:	$24,000	$120,048	$280,949

COURT REPORTER DIVISION

Continued evaluation of the operational procedures during 1973 resulted in more effective utilization of court reporters and a substantial increase in the production of transcripts. The Court Reporter Division services high-volume court operations with multi-track magnetic tape recorders with court reporters supporting all other judicial proceedings. Some of the major activities of the Division during 1973 included:

- On March 12, 1973, the Executive Officer promulgated the District of Columbia Courts Court Reporter Rules. These Rules govern many phases of court reporting as it relates to both the District of Columbia Court of Appeals and the Superior Court. The Rules established guidelines for the appointment, supervision and assignment of court reporters and established rules for the preservation of original notes of proceedings for not less than ten years in the public record. They also cover the sale of transcripts and establish a schedule of fees for transcripts and copies. The Rules also govern the confidentiality of transcripts; establish time frames for production and delivery of transcripts of cases on appeal and provide for the certification of the original notes or records of the court reporters.
- Timely delivery of daily copy while a trial is in progress is accomplished through the planned rotation of court reporters to insure that the proceedings are transcribed and delivered as required.
- A policy was established requiring reporters to obtain approval of the Director before changing methods of court reporting to insure that reporters do not use equipment which may prove inadequate for the reporting of judicial proceedings.
- Reporters are encouraged to prepare for examinations administered by the National Shorthand Reporters Association which measure skill and proficiency in the field of court reporting.
- Investigation was conducted into the various systems of transcription by computer of machine-recorded shorthand as an aid in the preparation of transcripts which, in turn, could reduce the time required for the delivery of transcripts to the Appellate Court.
- Standardized procedures were implemented for the binding of transcripts prepared for litigants or the District of Columbia Court of Appeals.
- Working supervisors were authorized, and one was actually appointed, to be responsible for scheduling of court reporters and other first-line supervisory duties.
- The court reporter trainee program for recent graduates of court reporter schools was continued. The program is used as a base to provide for continued input of court reporter personnel into the system.

REPORTERS' TRANSCRIPTION PRODUCTION

	1972	1973	% Change 1972-1973
Total Pages Produced	82,354	150,778	83.0%
Number of Pages Produced for Appeals	43,327	67,567	55.9%[a]
Percentage of Appeals Pages/Total Pages Produced	52.6%	44.8%	–14.8%
Number of Appeal Orders Processed	660	592	–10.3%[a]
Number of Reporter Positions Filled as of December 31	40	41	2.5%

[a]As a direct result of court reorganization when full felony jurisdiction was assumed by the Superior Court, the number of pages of transcript produced for appeals increased substantially even though fewer requests for transcripts were processed during 1973.

TRANSCRIPTION PRODUCTION FROM COURT MEMORY SYSTEM

	1972	1973	% Change 1972-1973
Pages Produced by Transcriber-Typists			
Appeal Cases	297	700	135.6%
Non-Appeal Cases	2,614	3,607	37.9%
Total:	2,911	4,307	47.9%
Pages Produced by Reporter Volunteers			
Appeal Cases	1,105	1,804	63.2%
Non-Appeal Cases	2,358	1,200	–49.1%
Total:	3,463	3,004	–13.2%
Total Pages Produced from Court Memory System	6,374	7,311	14.7%
Number of Transcriber-Typist Positions Authorized as of December 31	3	4	33.3%
Number of Courtrooms Equipped with Court Memory System	9	9	–

DISTRICT OF COLUMBIA COURT OF APPEALS

Chief Judge:
Gerard D. Reilly

Associate Judges:
Catherine B. Kelly
Austin L. Fickling
John W. Kern III
George R. Gallagher
Frank Q. Nebeker
Hubert B. Pair
J. Walter Yeagley
Stanley S. Harris

Retired Judges:
Nathan Cayton*
Andrew M. Hood*
Frank H. Myers
Thomas D. Quinn

Clerk of the Court:
Alexander L. Stevas

*Retired Chief Judge.

REPORT OF CHIEF JUDGE GERARD D. REILLY DISTRICT OF COLUMBIA COURT OF APPEALS

As a result of the completion on August 1, 1973, of the third and final transitional step in the District of Columbia Court Reform and Criminal Procedure Act of 1970, the calendar year 1973 brought a record number of cases to the District of Columbia Court of Appeals. The total number of appeals (including petitions for review of administrative agency orders) docketed by the end of the year was 980, as compared to 796 for 1972 — an increase of about 23.1 percent.

The following table reflects the steady increase in the case load of this Court over the past three years as well as a corresponding increase in the number of dispositions, indicating that the nine Court of Appeals judges have made effective efforts to handle the rising case load.

CASE LOAD

	1971	1972	1973	% Change 1972-1973
Criminal	269	392	569	45.1%
Civil	274	310	329	6.1%
Agency	70	94	82	–12.7%
Total Filings:	613	796	980	23.1%

DISPOSITIONS

	1971	1972	1973	% Change 1972-1973
Opinion	190	219	221	.9%
Judgment	86	165	284	72.1%
Order	226	224	284	26.7%
Total Dispositions:	502	608	789	29.7%

In the past two years the case filings in the Court have jumped from 613 in 1971 to 980 in 1973, a 59.86 percent increase. If this trend continues, the case load may exceed 1,500 cases by the end of 1975.

One notable change in the number of cases filed has been the rate of increase in criminal appeals. In 1971, the number of civil and criminal appeals was approximately equal. In 1973, there were 240 or almost 75 percent more criminal appeals filed in the Court than civil appeals as a result of the increased felony jurisdiction in the Superior Court; 569 as compared to 329 from civil judgments and 82 from agency actions. In fact, petitions for review of administrative agency filings decreased slightly: 82 in 1973 as compared to 94 the prior year. Nevertheless, these cases are disproportionately time consuming because of the voluminous records characteristic of certain agency proceedings.

Despite this dramatic increase in its volume of business, the Court is happy to report that as the result of conscientious efforts of the individual judges, the staff, and the willingness of two of our retired judges, former Chief Judge Hood and Judge Quinn, to accept frequent assignments on the regular argument calendar, neither the lists of unargued nor undecided cases have markedly increased. The chart below indicates that the average time intervals from the filing of the notice of appeal until a decision is rendered have not substantially changed. In only one stage of the proceeding has the time interval increased significantly, *viz.* the average period between the briefing process and the argument of the case. In order to check this potential backlog, the Court of Appeals judges now sit in two sessions, hearing three cases in the morning and three in the afternoon, 18 days each month. Thus far, this calendar increase has not affected the average time in which the judges decide the appeals, although its effect will be noticeable in 1974.

Average Time Periods — Stages of Appeal

	1971	1972	1973
Time from notice of appeal to the filing of the record	67 days	65 days	61 days
Time from filing of record until briefing is completed	97 days	96 days	97 days
Time from complete briefing to argument	24 days	25 days	47 days
Time from argument to decision	55 days	79 days	81 days
Overall time from notice of appeal to decision	243 days	265 days	287 days

The foregoing table covers only cases going to final judgment and does not include cases terminated by order pursuant to motion.

The figures to which reference has been made reflect only a part — although the most important part — of the business of the Court, i.e., appeals and petitions for review from final trial court judgments to final agency orders. A significant increase has occurred in the

volume of motions, both procedural (governed by the Rules of Court) and substantive (governed by the law) presented to the Court. Procedural motions, which accompany almost every case and include requests for extensions of time, enlargement of record, etc., are processed routinely by the Clerk and the Chief Judge. Substantive motions, however, require in-depth review of the pleadings, the record, and the law by a three-judge motions division.

Each Court of Appeals judge is assigned to the motions division every third month in addition to his normal assignment on the regular calendar. The following table indicates the increase in motions filings over the past three years:

MOTIONS

	1971	1972	1973	% Change 1972-1973
Procedural Motions Filed	1,516	2,286	3,823	67.2%
Substantive Motions Filed	545	764	1,020	33.5%
Total Motions:	2,061	3,050	4,843	58.7%

Appeals from final judgments of the Superior Court to the District of Columbia Court of Appeals are a matter of right except in criminal cases where the fine imposed does not exceed $50 and judgments in the Small Claims Branch (limited by statute to actions for damages not exceeding $750), where parties may make "applications for leave to appeal" from adverse decisions in such cases. In 1971, the Court received 70 applications for allowance of appeal; in 1972, 67 such applications were filed; and in 1973, this figure rose to 100.

The Court Reorganization Act also transferred from the U.S. District Court for the District of Columbia to the District of Columbia Court of Appeals authority over admissions, censure, suspension and disbarment of attorneys in this jurisdiction. The Clerk's Office created a separate unit to process applications for admissions to the Bar and to serve two Committees of the Court related to the Bar function (the Committee on Admissions and the Committee on the Unauthorized Practice of Law). Since April 1, 1972, three bar examinations have been conducted and some 2,048 applications for admission by examination have been processed. In addition, 1,210 applications have been entertained for admission on motion of attorneys already members of the bar in other jurisdictions. The following table provides a summary:

BAR ADMISSIONS STATISTICS
April 1, 1972 – December 31, 1973

	Examination Periods		
	July 1972	February 1973	July 1973
Number of Applications for Admission to Bar by Examination:			
Total Number of Applications Filed	785	407	858
Number of Applications Withdrawn	51	45	39
Number of Applications Rejected	3	4	1
Number of Unsuccessful Applicants	173	176	267
Number of Successful Applicants	558	182	551
Number of Applicants Admitted	556	182	551
Number of Applicants Pending Admission	2	0	27

Number of Applications for Admission to the Bar by Motion (reciprocity):	1972	1973
Total Number of Applications Filed	402	808
Number of Applicants Admitted	195	705
Number of Applications Rejected	8	2
Number of Applications Pending	199	300

Although not apparent from the statistics, each applicant who is to be admitted must submit to a moral character examination. This requirement adds the additional burden on the staff of corresponding with past employers and other references, reviewing responses, interviewing applicants and references when necessary, and preparation of summaries for the Committee. This Court receives many more applications from attorneys who have practiced in other states than any other jurisdiction.

Since April 1, 1972, disciplinary proceedings before the Court have resulted in 20 orders of suspensions issued against attorneys. Ten of these, one disbarment and a number of miscellaneous petitions (see below), were processed in 1973.

DISCIPLINARY ACTIONS

	1972	1973
Disbarments	0	1
Suspensions	10	10
Petitions for Reinstatement	0	3
Petition of Committee on Unauthorized Practice directing an attorney to show cause why he is practicing law in the District of Columbia without a license	0	1
Petition of Bar Counsel of Unified Bar to conduct formal hearing	0	1
Petition of Acting Bar Counsel to inspect records of missing attorney	0	1
Contempt Adjudications	0	1
Petitions for Admission	0	2

The Law Students in Court program, providing for the limited practice in the Courts by third-year law students who have been recommended by their schools and approved by the committees of this Court, now numbers 224 participating students. These students, with the aid of supervisory attorneys, assist in the handling of indigent misdemeanor cases and various minor civil actions.

The D.C. Court of Appeals has been awarded block grant funds by the Criminal Justice Coordinating Board (the state conduit of federal funds from the Law Enforcement Assistance Administration) for the establishment of a screening and calendar control unit. This unit will be charged with the responsibility of reviewing, researching and analyzing appeals as they are prepared for consideration by the Court. The Legal Advisor assigned to this unit will be a highly skilled lawyer, experienced in the appellate process, and will review cases as they are briefed in order to call to the attention of the judges those with simple issues or based on well-settled law for early disposition. He will also maintain an opinion and draft-opinion file in order to apprise the judges on a division of recent holdings or pending decisions of another division. Further, he will assist individual judges on multi-issue cases and prepare memoranda on emergency appeals. The Court is hopeful that the screening and calendar control unit, envisioned in 1973, will be operational in 1974 to expedite the prompt and just disposition of cases, thereby diminishing the danger of an unmanageable backlog.

Another project, also funded by the Criminal Justice Coordinating Board, is the indexing a considerable distance (on some occasions, several times a day) to attend sittings of the merit history and judicial construction. Intended primarily for the use of the Court, the index will be available to other agencies in the District of Columbia criminal justice system.

The need for more adequate quarters for the Court of Appeals is even more compelling this year. In attempting to keep abreast of its increased volume of business, the Court is severely handicapped by inadequate housing arrangements. Only half of a single floor in one of the courthouse buildings has been reserved for it. This is the same space allotted a generation ago, when the predecessor tribunal — the Municipal Court of Appeals — functioned as an intermediate appellate body of limited jurisdiction with only three judges. The only courtroom available was designed for this small court, and is totally inadequate for en banc hearings. Additionally, the offices set aside for the Clerk are now so cramped that it has been necessary to fill the corridors with file cabinets and desks for some of his clerical staff.

An even greater obstacle to efficient handling of cases on the appellate docket is the absence of any accommodations for six of the present active judges in the main building. These judges occupy chambers in a rented office building four blocks away and must walk a considerable distance (on some occasions, several times a day) to attend sittings of the merit and motions calendars or to participate in conference sessions. Thus, the administrative problem of insuring uniformity of decision among different panels has become acute. Physical distance deters the practice of making informal visits to seek advice of their colleagues; and the task of supplying all judges with exhibits, briefs, and preliminary drafts imposes a staggering task upon the Clerk's Office. As it will be years before the projected new courthouse will be built, steps should be taken now to centralize the quarters of the Court of Appeals.

DISTRICT OF COLUMBIA COURT OF APPEALS

STATISTICAL PROFILE

			1973	1972	1971
	NUMBER OF JUDGESHIPS		9	9	9
	TOTAL FILINGS		980	796	613
FILINGS	% CHANGE OVER	1972	23		
		1971	60		
		--	--		
WORK LOAD	ACTIONS PER JUDGESHIP	APPEALS FILED: TOTAL	108.8	88.4	68.1
		Habeas Corpus	1.4	.2	.4
		All Other Civil	35.1	34.2	30.0
		Criminal	63.2	43.6	29.9
		Administrative	9.1	10.4	7.8
		PENDING APPEALS	21.2	20.9	12.3
		APPEALS TERMINATED: TOTAL	87.7	67.6	55.8
		Consolidations and Cross Appeals	2.9	1.5	1.3
		Without Hearing or Submission	31.6	25.3	20.9
		After Hearing or Submission	56.1	42.2	34.9
		OPINIONS: Per Curiams	3.4	3.1	2.2
		OPINIONS: Signed	18.2	19.5	17.8
DISPOSITIONS	% REVERSED OR DENIED		7	12	12
	MEAN (MONTHS)	Filing Complete Record to Disposition	7.3	6.5	5.7
OTHER	CASES UNDER SUBMISSION 90 DAYS OR MORE		--	--	--
	NO. OF RETIRED JUDGES		4	3	3
	NO. OF VACANT JUDGESHIP MONTHS		--	1	--

Since February 1, 1971, the effective date of the Court Reorganization Act (P.L. 91-358), the case load has continued to rise and at the end of CY 1973 had not yet leveled off. Criminal case filings are increasing more rapidly than civil and administrative agency cases. More cases are also being terminated.

HIGHLIGHTS

EXPLANATION OF NUMBERS THAT APPEAR ON THE PROFILE FOR THE DISTRICT OF COLUMBIA COURT OF APPEALS

WORK LOAD	NUMBER OF JUDGESHIPS		Authorized judgeships (does not include retired judges)
	FILINGS	TOTAL FILINGS	Total appeals filed in the Court of Appeals, including cross appeals.
		% CHANGE OVER	Raw percentage increase in total filings of current reported year — Over 1972 / Over 1971
	ACTIONS PER JUDGESHIP	APPEALS FILED: TOTAL	All cases placed on the General Docket - Divided by the number of authorized judgeships
		Habeas Corpus	All petitions placed on the General Docket
		All Other Civil	All civil appeals excluding prisoner petitions
		Criminal	All criminal appeals placed on the General Docket
		Administrative	All administrative agency review or enforcement appeals
		PENDING APPEALS	Pending cases per judgeship at the end of the reported period
DISPOSITIONS	APPEALS TERMINATED	TOTAL	Total cases disposed of per judgeship during profile years
		Consolidations and Cross Appeals	Includes Appeals or Cross Appeals terminated through consolidation with a lead case (the lead case will be included below as applicable)
		Without Hearing or Submission	Includes all Appeals terminated without either a hearing or submission of briefs
		After Hearing or Submission	Includes all cases terminated after oral hearings or a submission of briefs
	OPINIONS	Per Curiams	Unsigned written opinions of the court
		Signed	Any opinion written in support of a specific decision, authored and signed by a single Judge
	% REVERSED OR DENIED		The percentage of cases terminated after hearing or submission in which the judgment of the lower court was reversed or a petition was denied
	MEAN (MONTHS)	Filing Complete Record to Disposition	Includes only those cases terminated after hearing or submission. This figure shows the average in months.
OTHER	CASES UNDER SUBMISSION 90 DAYS OR MORE		Includes those cases reported, by the judges themselves, to be under submission for 90 days or more.
	NO. OF RETIRED JUDGES		Total number of retired judges in the court
	NO. OF VACANT JUDGESHIP MONTHS		Number of months during profile year that an authorized judgeship was not filled.

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Chief Judge
Harold H. Greene

Associate Judges

Edward A. Beard
Orm Weston Ketcham
DeWitt S. Hyde
Joseph M. F. Ryan, Jr.
Edmond T. Daly
Charles W. Halleck
Richard R. Atkinson
Harry T. Alexander
Tim Murphy
Milton D. Korman
Fred L. McIntyre
Alfred Burka
John D. Fauntleroy
Joyce Hens Green
James A. Belson
William C. Pryor
Robert M. Weston[1]
W. Byron Sorrell
George Herbert Goodrich
William S. Thompson
George H. Revercomb
James A. Washington, Jr.
John F. Doyle
Paul F. McArdle
William E. Stewart, Jr.
Dyer Justice Taylor
Leonard Braman
Nicholas S. Nunzio
Sylvia Bacon
John Garrett Penn
Norma Holloway Johnson
Eugene N. Hamilton
Theodore R. Newman, Jr.
George W. Draper II
Samuel B. Block
Margaret Austin Haywood
Joseph Michael Hannon
Robert H. Campbell
Luke C. Moore
John R. Hess
Donald S. Smith
H. Carl Moultrie I
David L. Norman[2]
Fred B. Ugast[3]

Retired Judges
George D. Neilson
Thomas C. Scalley
Milton S. Kronheim, Jr.
Mary C. Barlow
John J. Malloy

Clerk of the Court
Joseph M. Burton

[1]Associate Judge Robert M. Weston retired on May 1, 1973.
[2]Commission as Associate Judge dated April 20, 1973.
[3]Commission as Associate Judge dated November 26, 1973.

REPORT OF CHIEF JUDGE HAROLD H. GREENE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Unlike previous annual statements, the present report focuses not so much upon statistics of pending cases and of time periods between the commencement of litigation and trial, but upon court programs designed to insure quality of justice — that is, fairness; the rehabilitation of delinquents; and equality of treatment irrespective of wealth or poverty.

On August 28, 1973, I reported on backlog statistics as of the beginning of that month. Since the instant report covers conditions as of January 1, 1974, only four months later, and since no significant change occurred in the interim in the overall totals of cases pending trial, there appears to be no need to repeat that statistical picture except in general outline. Instead, this report will be devoted essentially to a discussion of some of the many Superior Court programs designed to insure better justice.

Pending Case Loads

At the beginning of the year, excluding minor matters (traffic, small claims, landlord-tenant, neglect, D.C. criminal), a total of 7,083 cases were pending; at the end of the year, the number was 7,750. These were distributed as follows:

PENDING CASE LOADS

	January 1, 1973	December 31, 1973	Increase or Decrease
Criminal			
Felonies	802	1,529	
U.S. Misdemeanors	913	996	
(Total)	1,715	2,525	+810
Civil			
Jury	2,419	2,682	
Non-Jury	506	648	
(Total)	2,925	3,330	+405
Family			
Divorce (Contested)	555	414	
Juvenile Delinquency	1,473	1,142	
Intrafamily	415	339	
(Total)	2,443	1,895	–548
Total:	7,083	7,750	+667

A total of 25,982 cases were disposed in these major categories during the year as follows:

DISPOSITIONS

Criminal	
Misdemeanor	11,743
Felony	2,718
(Total)	14,461
Family	
Divorce (Contested)	1,098
Juvenile Delinquency	5,166
Intrafamily	951
(Total)	7,215
Civil	
Jury	2,719
Non-Jury	1,587
(Total)	4,306
Overall Total:	25,982

Thus, in terms of the numbers of pending cases there was an increase of 9.4 percent, while in terms of the total workflow in these branches the increase amounted to 2.6 percent. These increases are far too small to affect the ability of the Court to dispose of its case load swiftly and effectively. There have been no changes in the average time period between the commencement of litigation and its conclusion. As at the beginning of the year, in December felonies were being disposed of in about eight weeks; misdemeanors in four weeks, civil jury cases in seven months, civil non-jury cases in ten weeks, juvenile cases in four to six weeks, and contested divorce cases in six to eight weeks.

However, in view of the increase in the number of pending criminal cases, particularly felonies, and the decrease in pending Family Division matters, a redistribution in judicial assignments was recently undertaken. Early in 1973, 21 judges on the average were assigned to the Criminal Division (11 of them to felony trials); 11 judges to the Civil Division; and 10 to the Family Division. In late 1973, with the assistance of retired judges, 23 judges were assigned to the Criminal Division (13 of them to felony trials); 13 to the Civil Division; and 9 to the Family Division. A similar distribution of judicial manpower will be maintained until the number of pending cases becomes more equalized among the several divisions of the Court. It is the flexibility built into judicial assignments by the Court Reorganization Act and the vesting of authority in the chief judge to assign judges to various divisions and branches as the need arises which makes possible this kind of remedial shifting of judges, and the consequent prevention of the development of unmanageable backlogs in any particular area of the Court.

Responsibilities of a Justice System

My report of August 28, 1973, pointed out that the Superior Court led other tribunals in the severity of its sentences for extremely serious offenses, such as homicide, rape, robbery, and burglary. At the same time, as the discussion below indicates, the Court is making a

determined effort to deal with minor offenders, particularly in the juvenile, family, and first offender areas, through programs which are designed to avoid incarceration and the stigma of a criminal record and which emphasize instead diversion from the criminal process, counseling, supervision, and the provision of rehabilitative services. It is my view that this combination of severe sentences for hardened and violent criminals, with an emphasis on counseling and assistance for those involved in relatively minor offenses, best serves the needs of this community and its citizens.

The fact that must be faced in any realistic consideration of the methods to be used in dealing with crime and criminals is that, for a variety of reasons, the criminal process and the correctional system have not been uniformly successful in rehabilitating individuals, in curbing crime, or in reducing recidivism. They must, of course, be resorted to when persons commit acts of such gravity or become involved in relatively minor infractions with such frequency that failure to act sternly would effectively threaten the existence of an orderly society. But where such considerations are not present, avoidance of incarceration, or indeed avoidance of the criminal process itself, would seem in many instances to constitute a course more likely to bring about positive results than routine prison sentences. It is with this philosophy in mind that the Court has encouraged and will continue to encourage a wide range of diversion and rehabilitation programs.

Diversion programs proceed on the assumption that it is desirable to avoid involving in the court process many persons who are charged with relatively minor offenses and who may well be amenable to rehabilitation through supervision and counseling without the necessity for engagement of that process. Such programs free court resources for the handling of more serious cases, and they allow the handling of individuals coming into the court system in a flexible manner consistent with their particular needs rather than by stereotyped procedures.

But more important than these factors is the matter of criminal records. Three separate considerations have recently begun to emerge in combination as obstacles to the rehabilitation of many minor or relatively unsophisticated offenders. First, under present law it is extremely difficult to expunge a criminal record once acquired, no matter what the circumstances or the blamelessness of an individual's prior and subsequent life. Second, ever more efficient computers store, and furnish to practically anyone for the asking, every bit of what would otherwise be forgotten information. And third, the attitude of the great mass of the population is that a former offender is and will always be an "ex-con" who cannot be trusted. These circumstances combine almost to guarantee that the most minor law violation or indiscretion will follow an individual for the rest of his life, and they also insure that, absent unusual ability or determination, the offender will as a consequence be excluded from secure and satisfying employment. Instead, he is likely to turn back or to be driven back to an association with undesirable elements and to renewed criminal activity. It is hardly surprising, given these conditions, that recidivism is the rule rather than the exception.

It is futile to argue over the question whether the individuals involved brought their predicament upon themselves or whether outside conditions were responsible. The primary aim must be to restore them to useful citizenship. Diversion from the criminal process of individuals who are not hardened or dangerous appears to be one method available to break this unfortunate and otherwise almost predictable cycle. I firmly believe that for this reason, if for none other, diversion projects ought to be expanded and nourished with funds as well as with competent, dedicated personnel so as to maximize their chances for success.

The Superior Court appears currently to be the leader among urban tribunals both with respect to the diversity of such programs and the numbers of persons enrolled in them. The scope of the diversion effort in the Superior Court can best be understood by a look at the figures. During the past year, 5,212 individuals were, in one way or another, diverted from

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the criminal process into one of the rehabilitation programs, while approximately 15,000 defendants or respondents were formally prosecuted. In other words, one out of every four persons brought into the criminal or juvenile justice system was diverted out without either the filing of charges or their full disposition. A careful selection process and intensive supervision and counseling are key elements to success in diversion. It is interesting to note in this context that available statistics (which, to be sure, may not be fully reliable) indicate that among participants in diversion programs the law violation rate does not generally exceed the five to eight percent range. This percentage is far below the recidivism rate for individuals subjected to the full criminal process. Even if account is taken of the fact that diversion projects, by and large, accept only the better risks, this figure still suggests that the diversion route is well worth exploring and expanding further.

Diversion Programs

Specifically, the Superior Court now operates, in conjunction with the U.S. Attorney or the Corporation Counsel, four diversion-type programs — Project Crossroads; the Narcotics Pretrial Diversion Project; the Intrafamily program of the Social Services Division; and the consent decree program of the Juvenile Branch. Additionally, the U.S. Attorney operates his own first offender program.

- Project Crossroads was first established in 1968 and was initially operated as a demonstration project pursuant to a grant from the U.S. Department of Labor. When the grant expired, the Court offered to assume and it did assume responsibility for the program which is now operated as part of the Court's Social Services Division. Under this program, first offenders who are unemployed or underemployed are given the option of enrolling in the project in lieu of a criminal trial. While participating in Project Crossroads, they receive intensive counseling and assistance in finding employment or employment training. The criminal charges are held in abeyance during a 90-day period while the individuals are active in the project, and, if a participant is successful, the charges against him are dismissed by the prosecution.

During 1973, 500 persons were enrolled in this project. Of this number, 333 or close to 70 percent were fully successful and the charges against them were dismissed at the completion of the period of supervision. Twenty-one individuals (4.5%) were rearrested during their participation, and 41 (8.5%) were terminated from the project and returned to the criminal justice system for prosecution and trial because of failure to cooperate or abscondance. The remainder of the individuals enrolled in the project during 1973 were still under active supervision and counseling at the end of the year.

- The Narcotics Diversion Program was formally opened in November of 1973. The project — in which selected defendants whose drug addiction is a significant factor in their criminal activity are given the option of receiving drug treatment rather than being routinely processed through the criminal justice system — was the result of lengthy negotiations involving the Superior Court, the American Bar Association Select Committee on Crime, the U.S. Department of Justice, the Office of the U.S. Attorney, and the Narcotics Treatment Administration. The project, which is now funded by LEAA, was initially proposed by the American Bar Association as a pilot project for the entire Nation. The Court immediately agreed to participate in this pioneering effort, and it played a significant role in mediating the differences of approach between the ABA Committee, on the one hand, and the Department of Justice, on the other. Ultimately, in order to secure acceptance of the principle of this kind of diversion program, the ABA accepted most of the Department of Justice's reservations. Participation in the project is currently limited to individuals charged with non-violent misdemeanors who have no history of violent crimes. It is my hope that, if the pilot program proves to be successful, there will be a gradual and careful relaxation of the restrictions on participation.

Prior to entry into the project, an individual is required to plead guilty to the crime with which he is charged; this plea may be withdrawn after six months of successful participation in the program. Continued successful participation for an additional four months results in a dismissal of the underlying criminal charges. In addition to receiving treatment for drug dependence, participants are offered an opportunity to obtain family and personal counseling as well as employment assistance. Twenty-three individuals are currently enrolled in this project. It is too early to draw any conclusions on rates of success or failure.

- Although not formally a program for diversion of cases from the criminal justice system, the activities of the Intrafamily Offense Branch of the Family Division do in fact have a diversion effect. This Branch was established by the Court Reorganization Act to handle referrals of criminal charges, primarily assault cases, from the Office of the U.S. Attorney, whenever it appears that the incident is the result of a family or marital crisis. When such cases are referred, they are screened by social workers from the Intrafamily, Neglect and Conciliation Branch of the Social Services Division, and the individuals involved are offered a variety of types of family and marital counseling. In the event the problems cannot be resolved by voluntary action, the Social Services Division is authorized to refer the matter to the Corporation Counsel who may petition the Court for the entry of a civil protection order. The order may sometimes be quite detailed, and it will typically include such conditions as a prohibition on the harassment of, assault on, or threats to a particular person; avoidance of the presence of the antagonists; attendance at specific counseling programs; or requirements with respect to the visitation of children. Whenever such an order is issued, the individuals involved are referred back to the Division of Social Services for a closely supervised program of marriage and family counseling. Failure to abide by the terms of the order may result in a contempt citation.

During 1973, a total of 3,300 intrafamily matters were handled in this manner. Of these, 2,799 arose out of such misdemeanor-type offenses as unarmed assaults between husbands and wives or other members of a family unit; 990 of these were dealt with by direct counseling through the Social Services Division of the Court or by referral to community-based District agencies for longer-term care or assistance; 149 cases were returned to the United States Attorney for further legal action because of the repetitive or violent nature of the incident or the refusal of one or more of the parties to accept help. In 1,660 instances, the Social Services Division recommended to the Corporation Counsel that application be made for a civil protection order, and such orders were issued in 924 cases. The remaining 736 disputes were settled by withdrawal of the complaint, referral for informal counseling, or action by the Corporation Counsel.

The Social Services Division also provided counseling and other services in 246 instances of felony-type charges. In some of these cases, outright diversion from the criminal justice system became ultimately possible as a result of such assistance. Sixty-eight individuals were referred to the Branch from the Civil or Probate Division of the Court or by the Mental Health Commission and 187 cases were directly referred by the Court pursuant to civil protection orders.

Only 110 of the misdemeanor-type matters handled by the Social Services Division during 1973 constituted repeat complaints. Likewise, of the 990 cases dealt with by direct Social Service counseling and closed after 60 days with some degree of family adjustment, 110 returned for further Court action which resulted in civil protection orders, while 880 did not seek further assistance from the Court.

- During the past year, 1,389 juvenile cases were terminated by consent decree rather than by formal adjudication. A consent decree is entered when a child charged with being delinquent or with being in need of supervision agrees to forego a hearing on the charges and instead consents to be placed directly under the supervision of the Social Services Division

for a period of six months. The consent decree may be considered on motion of either the Corporation Counsel or counsel for the child. It is not entered unless the child is represented by counsel and has been informed of the consequences, and it may not be entered over the objection of either party.

Under a consent decree, a child may be required to receive special counseling, to attend school, to obtain employment, or to fulfill other special conditions which, in the opinion of the Court, will aid in the rehabilitation process. If the child has adhered to the provisions of the consent decree during the supervision period, the petition is dismissed. Failure to comply with the provisions of the consent decree, or the filing of a new petition against the juvenile, may result in reinstatement of the original petition.

There are several distinct advantages to the consent decree procedure. First, a child may be under the active supervision of the Social Services Division and may receive necessary counseling or other services without developing a delinquency record. Second, because of the shorter term of supervision in a consent decree case, the child is likely to receive a higher level of attention and treatment than might be the case in a probation situation. Third, since consent decree cases do involve a shorter period of supervision than probation cases, the increase in the percentage of consent decree cases, coupled with an approximately stable total number of cases under probation supervision, has resulted in a decrease in the total supervision case load.

Of the 1,706 juvenile cases under the active supervision of the Juvenile Branch of the Social Services Division at the end of 1973, 743 were consent decree cases. Of the 1,389 cases terminated in 1973 by consent decree, only 67 or 5% had to be reinstated.

Rehabilitation Efforts

The Court has also developed numerous programs for the rehabilitation in a community setting of persons, whether adult or juvenile, who have been found guilty of offenses but who do not require incarceration. During the last three years, the Social Services Division has been built up into the competent, professional organization, capable of serving all the divisions of the Court, that was contemplated when Congress enacted the court reorganization statute. The organizational framework established for that Division — with three major branches each consisting of a number of teams headed by a supervisor — is ideally suited to the execution of the manifold responsibilities entrusted to this professional organization within the Court.

The Division, of course, furnishes presentence reports which significantly assist the judges in the exercise of their sentencing function. Beyond that, the workers in the Social Services Division supervise individuals who are placed on probation, report to the Court when adjustment is poor or violations of conditions have occurred, and attempt by a variety of means to assist in the rehabilitation of the individuals entrusted to their care.

The Director of the Division, with my concurrence, has established a firm policy of avoiding duplication of the services offered by District of Columbia executive agencies, such as the Department of Human Resources. Indeed, the Division maintains extremely close contact with employment, educational, medical, and other departments of the District government in order to provide probationers with the best opportunity for rehabilitation and for a departure from the path of crime and delinquency. During the past year, 9,300 referrals were made by the Court's Social Services Division to District of Columbia agencies involved in employment and job trades; 2,354 referrals were made to agencies for drug tests and treatment; 1,030 referrals were made to alcoholic treatment agencies; and 2,868 referrals to agencies concerned with psychiatric examination and treatment.

Insofar as juveniles are concerned, the Division maintained liaison with and employed the services of such organizations as Big Brothers who have to date recruited 40 volunteers

selected especially to work with 40 young boys under supervision; Hospitality House which has given direct aid to the North East Field Unit in the very practical areas of jobs, low-income housing and recreation; Sisters United, sponsored by the National Council of Negro Women, a Big Brothers type program for girls, which has during the past year worked with 30 girls referred from the Court; and the D.C. School System, in activities running the gamut from routine data gathering to the placement of children in special education programs because of emotional or learning disabilities. During the summer months a camp program, including field trips and camping, was established for juveniles on probation. And the Friends of the Superior Court developed through its volunteers a cultural enrichment program which sponsored activities such as drama, art, music, and creative writing, all designed to stimulate the interest of court-involved juveniles.

Out of 2,323 juveniles placed under supervision (probation and consent decree) in 1973, 257 or 11% were removed from supervision (revocation of probation or reinstatement of consent decree) prior to normal expiration. And out of 2,393 adults placed on probation in 1973, 195 or 8.1% violated the conditions imposed by the Court and their probation had to be revoked. This increase of 1.6% over revocations in 1972 is apparently due to the more difficult nature of the felony casework and the increased surveillance of probationers by an enlarged staff. One hundred eighteen of these 195 violations, or 5% of the total, constituted new offenses.

The cost to the community per probationer per month, for expenses of supervision and the like, is $32. To counterbalance the direct costs of the program, employed probationers earned at the rate of $4,100 per person per year, and in 1972 they paid $800,000 in income taxes.

Legal Services

The Superior Court utilizes a number of programs to minimize the factor of wealth or poverty in the administration of justice and to insure the availability of legal representation to indigent litigants in all areas of the Court. The programs by which the Public Defender, private attorneys through the Criminal Justice Act, and law students through various clinical legal programs, provide representation in criminal cases are quite well known. Less well known are several programs which provide legal services in the Civil and Family Divisions of the Court.

The D.C. Law Students in Court Program is a cooperative program of five law schools in the District of Columbia which, through selected third-year law students, provides assistance to indigent persons in civil and family litigation. In the civil area, law students are appointed primarily to defend low-income individuals in the Landlord-Tenant Branch who are faced with eviction from their homes, or to represent, in the Small Claims Branch, indigent consumers who have been sued by businesses or collection agencies. During 1973, the Law Students in Court Program represented 1,457 such individuals. In many instances, tangible equitable results were achieved. Even more, the presence of the students, and their assistance, provided some measure of reassurance to those whom they represented that the court process was not hopelessly biased in favor of opposing litigants who almost invariably are represented by knowledgeable attorneys.

In the Family Division, law students provide representation to children who are charged with being delinquent, beyond parental supervision, or neglected, and they also represent indigent adults in separation, divorce, and support matters. On occasion, students also represent clients in intrafamily offense matters, in the filing of estate claims, and in matters involving child custody. One hundred sixty such cases were handled by the program during 1973.

The standard of indigency by which clients are evaluated prior to receiving representation through the Law Students in Court Program, is that established by the Office of Economic Opportunity for its Neighborhood Legal Services program.

The Juvenile Justice Clinic of Georgetown University Law School provides law students with an opportunity to concentrate on the area of juvenile law. Participants in the program spend class time discussing laws regarding juveniles, and they utilize their classroom training to provide legal representation to children involved in neglect cases, persons in need of supervision cases, proceedings arising under the Interstate Compact on Juveniles, special education, and disciplinary hearings, and, in some instances, delinquency proceedings. This program began in September of 1973, and, during the period from September through December, its participants represented 103 juveniles.

Another program for providing counsel in non-criminal cases is the Volunteer Attorney Program sponsored by the Friends of the Superior Court. The attorneys involved in this program are experienced lawyers who have chosen to volunteer their services to insure that counsel is available to represent children in neglect and child abuse cases which have not been covered by the Criminal Justice Act. The seven attorneys who served during 1973 were assisted by attorney aides, third-year law students from Georgetown, George Washington, and Catholic Universities. The Volunteer Attorney Program was one of the first programs within the local court system to provide counsel for indigent defendants, and it is still one of the most active. During the past year, the program handled more than 120 cases each month.

Finally, many indigent individuals who are involved in litigation before the various branches of the Superior Court are represented by attorneys acting on behalf of the Legal Aid Society of the District of Columbia and Neighborhood Legal Services Program. Last year, NLSP and Society attorneys represented many persons in the Landlord-Tenant and Small Claims Branches and in the Family Division of the Superior Court, particularly in matters relating to divorce and child support.

The Superior Court has been and continues to be hospitable to all of these programs because of our belief that, to the extent possible, the outcome of litigation should not depend upon the relative affluence of the parties. Summonses issued in small claims, landlord-tenant, and other civil cases inform the defendants of the existence of and the means for reaching several of the organizational units described above as well as of such other organizations providing free service such as the Neighborhood Legal Services Program. It is doubtful that any court in any other large metropolitan area has been so purposeful in seeking to assist indigent litigants.

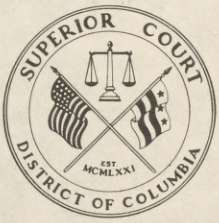
Conclusion

The Superior Court has never considered that its responsibility consisted solely in processing the largest number of cases in the shortest possible period of time. To be sure, when backlogs and trial delays are enormous, they overwhelm the judicial system and the first priority must be to bring the case load under control. This was accomplished here some time ago, notwithstanding a considerable increase in new and difficult litigation (including that involving the most serious felonies, complex civil cases, probate matters, and mental health proceedings) and even though the Court at the same time continued to handle such mass-volume litigation as traffic, small claims, and landlord-tenant. Yet the Court has never lost sight of the fact that its responsibility is to dispense justice, and that this implies quality as well as quantity. It is for that reason that the Court has enthusiastically embraced such concepts as those discussed in this report. They are designed to bring about equal justice irrespective of wealth or poverty; to provide fair and equitable procedures; and to concentrate, not upon a rote and mindless system of standardized retribution, but upon returning to the mainstream of society those who are capable of rehabilitation. In short, the Superior Court has sought to create a system of justice that is not only effective but also fair. That will continue to be our purpose.

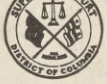
J-6335-74

DISTRICT OF COLUMBIA COURTS

ANNUAL REPORT 1974



District of Columbia Courts
Joint Committee on Judicial Administration
Washington, D. C. 20001



June 1, 1975

Under the provisions of 11 D. C. Code 1701(c)(2) and 1745(a), the Joint Committee on Judicial Administration in the District of Columbia and the Executive Officer publish this report summarizing the operations of the District of Columbia Courts during 1974, the first year in which full original jurisdiction was completely vested in the Superior Court, following a transition period of approximately three years.

All of the judges and employees are grateful for the opportunity of contributing toward continued improvements in the administration of justice and the outstanding record of achievement of the District of Columbia Courts.

Gerard D. Reilly, Chief Judge
District of Columbia
Court of Appeals

Harold H. Greene, Chief Judge
Superior Court of the
District of Columbia

Arnold M. Malech
Executive Officer

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1974
Joint Committee on Judicial Administration in the District of Columbia

Chief Judge Gerard D. Reilly
District of Columbia Court of Appeals
Chairman

Chief Judge Harold H. Greene
Superior Court of the
District of Columbia

Judge Frank Q. Nebeker
District of Columbia
Court of Appeals

Judge Fred L. McIntyre
Superior Court of the
District of Columbia

Judge William S. Thompson
Superior Court of the
District of Columbia

Arnold M. Malech
Executive Officer

DISTRICT OF COLUMBIA COURT OF APPEALS

Chief Judge
Gerard D. Reilly

Associate Judges
Catherine B. Kelly
Austin L. Fickling
John W. Kern III
George R. Gallagher
Frank Q. Nebeker
Hubert B. Pair[1]
J. Walter Yeagley
Stanley S. Harris

Retired Judges
Nathan Cayton[2]
Andrew M. Hood[2]
Thomas D. Quinn
Frank H. Myers[3]
Hubert B. Pair[1]

Clerk of the Court
Alexander L. Stevas

[1] Retired April 14, 1974.
[2] Retired Chief Judge.
[3] Died February 8, 1974.

District of Columbia Court of Appeals

Chief Judge Gerard D. Reilly

Judge Catherine B. Kelly

Judge Austin L. Fickling

Judge John W. Kern III

Judge George R. Gallagher

Judge Frank Q. Nebeker

Judge Hubert B. Pair

Judge J. Walter Yeagley

Judge Stanley S. Harris

*Judges are pictured in order of seniority

REPORT OF CHIEF JUDGE GERARD D. REILLY DISTRICT OF COLUMBIA COURT OF APPEALS

Several Congressional enactments in 1974, the past calendar year, will have a significant impact on the Court of Appeals. In recent annual reports, I have commented on the difficulties of judicial administration caused by the fact that a nine-judge court, which regularly sits in divisions (constantly rotating) of three judges, has not been housed in any central facility—six of the nine judges occupying chambers four blocks away from the courthouse and the courtroom itself being too small for en banc hearings.

Fortunately, this problem seems to be on its way to solution as a result of an appropriation of $40,000,000 for a new courthouse for both our Court and the Superior Court. This appropriation was sponsored by Representative William H. Natcher and was adopted by both the House and Senate, thus enabling the Courts to retain a construction manager and architects to carry out an expedited program of construction under the supervision of a committee consisting of Federal and District of Columbia engineering officials, Judges John W. Kern III and Frank Q. Nebeker of this Court, and Judges William S. Thompson and Fred L. McIntyre of the Superior Court.

The architectural plans approved contemplate that one wing of the top floor of the new building will contain an appellate courtroom, chambers for the active and retired judges, and adequate office space for the Clerk of Court and his staff. Excavation at the site (a block bounded by Sixth Street, Indiana Avenue and C Street, N.W.) has begun.

Congress also enacted a bill recommended by the Courts for a District of Columbia Criminal Justice Act authorizing payments for counsel appointed in indigent criminal defendant cases to be paid from District of Columbia appropriations. The bill is patterned after the Federal Criminal Justice Act which had been made applicable several years ago to criminal cases in the District of Columbia Courts.

During the latter part of the year the Courts appointed, pursuant to another 1974 statute, the District of Columbia Law Revision Commission Act, two representatives to this new body. It is charged with the duty of reviewing and revising the code of laws for the District of Columbia and reporting its recommendations to Congress. The statute also charges the new Commission with the duty to give priority to the consideration of those titles in the code defining crimes in this jurisdiction.

Two drafting defects in the D.C. Court Reform and Criminal Procedure Act of 1970 were remedied last year by an Act of Congress dealing with petitions for review affecting two administrative agencies. One provision made it clear that petitions for review of orders of the local Unemployment Compensation Board were to be filed directly in this Court. Another provision vests this Court with the power of final review of cases decided by the Board of Psychology Examiners. Prior to the passage of this statute, a person aggrieved by a decision of that agency could not only obtain review in this Court, but could also appeal from any order of this Court to the United States Court of Appeals for the District of Columbia Circuit.

Early in the year, retired Judge Frank H. Myers, who had been a member of this Court from 1962-1968 and a trial judge from 1948-1962, died. Memorial services, attended by his family as well as his numerous friends in bench and bar, were conducted by the Court a few weeks later.

Judge Hubert B. Pair joined the ranks of retired judges in April of 1974, having reached the statutory age of 70 that month. The vacancy caused by his retirement has not as yet been filled despite the rising caseload of the Court. Fortunately, the willingness of Judge Pair and that of two other retired judges, former Chief Judge Andrew M. Hood and Judge Thomas D. Quinn, to accept calendar assignments on a fairly regular basis has been a major factor in enabling the Court to avoid a backlog of unargued cases.

In enacting the Appropriations Act for fiscal year 1975, Congress recognized the value of the services performed by the retired judges by authorizing the creation of three new staff positions to assist them—two law clerks and a secretary.

Two other needed increments to the staff, in view of the Court's tremendous caseload, were provided by the Law Enforcement Assistance Administration in the form of temporary grants. One permitted each judge to appoint an additional law clerk to assist him in reviewing the record and doing legal research in criminal appeals. Another authorized the establishment of a small screening unit. The Court in its budget estimate for the next fiscal year has requested Congress to make these positions permanent, as the LEAA grants are to last for only one year.

The statistical report for 1974 reflects the steady increase in the volume of cases which the Court has been facing over the past few years. The total number of cases filed in 1974 represented an increase of 15% over 1973 and a 150% increase over 1970, the year in which the Courts in the District of Columbia began the first phase of major court reorganization. The following table is illustrative:

CASE LOAD

FILINGS	1970	1971	1972	1973	1974	% Change 1973-1974	% Change 1970-1974
Criminal	224	269	392	569	702	23.3%	213.4%
Civil	191	274	310	329	308	-6.4%	61.3%
Agency	37	70	94	82	118	43.9%	218.9%
Total	452	613	796	980	1,128	15.1%	149.6%

As expected, the number of criminal appeals has continued to grow at a far greater rate than appeals from civil judgments. This trend is not expected to continue, for with the elimination of the statutory limit on the amount of recovery in the Superior Court, and the transfer to that Court of probate jurisdiction, the volume of civil appellate business will undoubtedly show a corresponding expansion.

Petitions for review of administrative agency orders have fluctuated in the last few years. In 1973, the number of petitions filed decreased slightly, but in 1974, there was a 44% increase in such filings.

In order to keep pace with the ever increasing caseload, the Court has adopted new procedures. One new successful method for expediting appeals through the appellate process has been an increased use of short unpublished per curiam memoranda popularly called "judgments." This type of disposition allows the Court to express the reasoning behind an order of affirmance or reversal without the necessity of a formal printed opinion particularly in cases which raise no substantial issues of law. The Court increased its use of "judgments" by 34% since 1973 and 200% since 1970. Nevertheless, because of the growing number of filings, opinions and orders of dismissal also continued to rise in 1974.

DISPOSITIONS

	1970	1971	1972	1973	1974	% Change 1973-1974	% Change 1970-1974
Opinion	205	190	219	221	251	13.5%	22.4%
Judgment	122	86	165	284	382	34.5%	213.1%
Order	164	226	224	284	312	9.8%	90.2%
Total Dispositions	491	502	608	789	945	19.7%	92.4%

Another new procedure adopted by the Court in 1974 has been the use of the summary calendar developed in conjunction with a new screening procedure. The procedure begins with the early screening of all cases upon the filing of the appellee's brief and before argument has been scheduled. The purpose of the screening is to separate the caseload into two categories: (1) cases which appear to be relatively simple presenting no novel legal questions and likely to be noncontroversial; and (2) cases presenting difficult questions of law or those involving complex factual situations and lengthy trial and pretrial records. The cases earmarked as simple are placed on the summary calendar for the following month. The attorneys are notified that no argument will be held in their cases unless specifically requested. The waiting time to argument is, therefore, eliminated and the panel of judges is able to review and decide these cases in a shorter period of time than those cases categorized as complex. The first summary calendar was published in November 1974. This device is expected to shorten the following average time periods substantially:

STAGES OF APPEAL	Number of Days			
	1971	1972	1973	1974
1. Time from notice of appeal to the filing of the record	67	65	61	62
2. Time from filing of record until briefing is completed	97	96	97	90
3. Time from complete briefing to argument	24	25	47	62
4. Time from argument to decision	55	79	81	97
5. Overall time from notice of appeal to decision	243	265	286	311

The time intervals in Stages 1 and 2, above, have not significantly changed in the last two years. Moreover, in the case of Stage 2, there has been a seven-day decrease in the average time period from filing of the record until the briefing process is completed. However, the time intervals in Stages 3 and 4 have lengthened. Stage 3 is dependent on the number of calendar days each month. As the number of cases ready for argument increases, a backlog of cases ready to be calendared is created. The Court has attempted to remedy this potential problem with the creation of the summary calendar which places an additional responsibility on each judge by increasing his individual work load.

In sum, the Court in 1974 has tried new procedures and new techniques in order to cut down on a growing backlog. The following table illustrates this trend:

	1970	1971	1972	1973	1974
Total Caseload	452	613	796	980	1,128
Total Dispositions	491	502	608	789	945
Average Number of days from Notice of Appeal . . . to Disposition	NA	243	265	286	311

The Court also is responsible for the bar admission and discipline of attorneys in the District of Columbia. In 1974, the Committee on Admissions of this Court processed 1,155 applications for admission to the bar by examination and 1,005 applications for admission to the bar by motion of attorneys from other jurisdictions. The total number of attorneys admitted in calendar year 1974 was 1,064; 829 by motion and 235 by examination. Four attorneys were disbarred and 12 were suspended.

DISCIPLINARY ACTIONS

	1972	1973	1974
Disbarments	0	1	4
Suspensions	10	10	12
Petitions for Reinstatement	0	3	2
Petition of Bar Counsel of Unified Bar to conduct formal hearing	0	1	16
Miscellaneous Petitions	0	3	6
Petitions for Admission	0	2	1

BAR ADMISSIONS STATISTICS

	1972	1973	1974
Number of Applications for Admission to Bar by Examination			
Total Number of Applications Filed	785	1,265	1,155
Number of Applications Withdrawn	51	84	53
Number of Applications Rejected	3	5	7
Number of Unsuccessful Applicants	173	443	389
Number of Successful Applicants	558	733	696
Number of Applicants Admitted	556	733	235
Number of Applicants Pending Admission	2	27	461
Number of Applications for Admission to the Bar by Motion (reciprocity):			
Total Number of Applications Filed	402	809	1,005
Number of Applicants Admitted	195	705	829
Number of Applications Rejected	8	3	18
Number of Applications Pending	199	300	458*

*Of the 458 applications pending, 175 are being investigated by the National Conference, 182 are pending admissions (have been notified to come in and take the oath), and 101 are in process.

The Court also monitors the Law Students in Court program which provides for limited practice in the local Courts for third-year law students. The program now has 511 participating third-year students.

LEAA Sub-Grants Awarded to the D.C. Court of Appeals

1. Technical Assistance and Screening for the D.C. Court of Appeals.
2. Indexing the D.C. Court Reorganization Act and Legislative History.
3. Legal Assistants for the Judges of the D.C. Court of Appeals.

Technical Assistance and Screening for the D.C. Court of Appeals: The Court was awarded $36,714 to provide a staff of one experienced attorney and a secretary to assist in the preliminary screening of appeals by reviewing cases as the briefs are filed. This process isolates those cases susceptible to summary treatment by the panel of judges assigned to them. This project will be continued through 1975 and has been incorporated in the Court's budget request for FY 1976.

Indexing the D.C. Court Reorganization Act and Legislative History: The Court was awarded $4,000 to index the District of Columbia Court Reorganization Act of 1970 (P. L. 91-358, 84 STAT. 473), its legislative history, and those cases which have interpreted the provisions of the Act for the use of the judges of the D.C. Court of Appeals and other D.C. agencies. The index will provide the judges with a useful research tool in the analysis of the 438-page Act and the thousands of pages of legislative history. A contractor has been employed to perform the indexing and it is expected that the final work product will be available to the Court in early 1975.

Legal Assistants for the Judges of the D.C. Court of Appeals: The Court was awarded $142,998 to expedite the appellate process in the District of Columbia through the employment of nine legal assistants by the D.C. Court of Appeals. These assistants perform legal research duties for the judges directed toward early disposition of criminal appeals. The Court has requested Congress to amend §11-708 of the D.C. Code, which now provides one law clerk for each associate judge and two for the Chief Judge, to incorporate these grant positions as additional law clerks on a permanent basis. Pending legislation would permit the associate judges of the Court to employ two law clerks and the Chief Judge to employ three.

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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Chief Judge
Harold H. Greene

Associate Judges

Edward A. Beard
Orm Weston Ketcham
DeWitt S. Hyde
Joseph M. F. Ryan, Jr.
Edmond T. Daly
Charles W. Halleck
Richard R. Atkinson
Harry Touissant Alexander
Tim Murphy
Milton D. Korman
Fred L. McIntyre
Alfred Burka
John D. Fauntleroy
Joyce Hens Green
James A. Belson
William C. Pryor
W. Byron Sorrell
George Herbert Goodrich
William S. Thompson
George H. Revercomb
James A. Washington, Jr.
John F. Doyle
Paul F. McArdle
William E. Stewart, Jr.
Dyer Justice Taylor
Leonard Braman
Nicholas S. Nunzio
Sylvia Bacon
John Garrett Penn
Norma Holloway Johnson
Eugene N. Hamilton
Theodore R. Newman, Jr.
George W. Draper II
Samuel B. Block
Margaret Austin Haywood
Joseph Michael Hannon
Robert H. Campbell
Luke C. Moore
John R. Hess
Donald S. Smith
H. Carl Moultrie I
David L. Norman
Fred B. Ugast

Retired Judges
George D. Neilson
Thomas C. Scalley
Milton S. Kronheim, Jr.
Mary C. Barlow
John J. Malloy
Robert M. Weston

Clerk of the Court
Joseph M. Burton

Superior Court of the District of Columbia

Chief Judge
Harold H. Greene

Judge Edward A. Beard

Judge Orm Weston Ketcham

Judge DeWitt S. Hyde

Judge Joseph M. F. Ryan, Jr.

Judge Edmond T. Daly

Judge Charles W. Halleck

Judge Richard R. Atkinson

Judge Harry Touissant Alexander

Judge Tim Murphy

*Judges are pictured in order of seniority.

Judge Milton D. Korman

Judge Fred L. McIntyre

Judge Alfred Burka

Judge John D. Fauntleroy

Judge Joyce Hens Green

Judge James A. Belson

Judge William C. Pryor

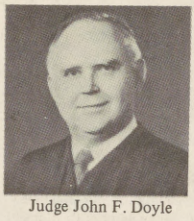
Judge W. Byron Sorrell

Judge George Herbert Goodrich

Judge William S. Thompson

Judge George H. Revercomb

Judge James A. Washington, Jr.


Judge John F. Doyle

Judge Paul F. McArdle

Judge William E. Stewart, Jr.

Judge Dyer Justice Taylor

Judge Leonard Braman

Judge Nicholas S. Nunzio

Judge Sylvia Bacon

Judge John Garrett Penn

Judge Norma Holloway Johnson

Judge Eugene N. Hamilton

Judge Theodore R. Newman, Jr.

Judge George W. Draper II

Judge Samuel B. Block

Judge Margaret Austin Haywood

Judge Joseph Michael Hannon

Judge Robert H. Campbell

Judge Luke C. Moore

Judge John R. Hess

Judge Donald S. Smith

Judge H. Carl Moultrie I

Judge David L. Norman

Judge Fred B. Ugast

REPORT OF CHIEF JUDGE HAROLD H. GREENE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

As every year since 1966, the Superior Court was again able in 1974 to dispose of a large number of cases in a great variety of areas of litigation swiftly and without the accumulation of backlogs and unwarranted delays. At the same time, the Court, unlike courts in almost every other major city, relied for the disposition of its criminal caseload not on a 90 to 95% guilty plea rate, but made trials freely available to those defendants who wanted to contest the charges against them. It is this combination of speedy trials with a relatively high percentage of dispositions by actual trial that, in my judgment, continues to be uniquely characteristic of the D. C. Superior Court among state tribunals with a comparable volume of litigation.

Two major problems which had plagued the Court for several years advanced significantly toward solution during 1974. Early in the year, a work stoppage of attorneys handling the bulk of criminal representation led to a lawyer "draft" and an acute crisis in criminal litigation. Ultimately, Congress enacted a local Criminal Justice Act program separate from the federal program, and funds were appropriated for the operation of this new local law. While the level of funding continues to cause some concern, it is my hope and expectation that the divorce of the District of Columbia legal representation program from the federal program will, in the long run, prove to be beneficial, if only because it will end the system of widely scattered responsibilities which had been partially responsible for bringing on the crises in previous years.

The appropriation by the Congress of $40 million permitted work to begin on a new courthouse. When that structure is completed, all courtrooms (except that for the traffic court), all judges' chambers, and all clerks' offices will be in the new building. That building will also contain the "intake" functions of the U.S. Attorney, the Corporation Counsel, the Public Defender, the Bail Agency, and the offices of a substantial number of court-related agencies. Some functions (Court Personnel and Finance Offices, Social Services Division, etc.) will have to remain in older space presently occupied by the Court, but none of these is so directly connected with actual court operations that its separation from the main complex will cause significant inconvenience to the public or be detrimental to judicial efficiency.

Like other District of Columbia governmental bodies, the Court was affected by the enactment of home rule legislation. While court organization continues to be a responsibility of the Congress and while the criminal laws will remain its responsibility for an additional two years, all other phases of Superior Court litigation are now subject to the legislative jurisdiction of the City Council and the Mayor. It is our expectation that the intimate knowledge of the legislative and executive officials of local needs and their responsiveness to local wishes will prove to be beneficial to the Courts and the citizens who are served by them. On behalf of the judges and the non-judicial personnel of the Superior Court, I pledge to the executive and legislative officials of the District government the full cooperation of that Court to the end that this renewed venture in self-government will prove to be of real and sustained benefit to the citizens of the District.

Criminal Division

The number of new criminal prosecutions continued to increase. The overall increase (excluding traffic and petty offenses) amounted to 1,236 cases (from 16,341 in 1973 to 17,577 in 1974). In addition to the new criminal prosecutions, there were 1,237 reinstated major triable cases. There were 160 more felony indictments returned than in the previous year (3,354 in 1973 and 3,514 in 1974), and 1,009 more misdemeanor informations were filed (10,967 in 1973 and 11,976 in 1974). Although dispositions of criminal cases by the Court also increased substantially by almost

2,100, a slight increase in the overall number of cases pending was registered (2,892 at the end of 1973 and 3,391 at the end of 1974).

The number of felonies pending showed an actual decrease of 128 (1,529 at the end of 1973 compared to 1,401 at the end of 1974), notwithstanding the fact that during the last two weeks before the end of the year, as a result of a special drive initiated by the United States Attorney's Office, the grand jury returned an unusual number (381) of new indictments. But for that extraordinary development, the number of pending felonies would have been even further reduced. As the special report (State of the Superior Court Trial Calendars) on page 21 shows, except when unusual circumstances are present, the average time between felony arraignment and felony disposition is sixty days. (By way of comparison, the Speedy Trial Act, passed by Congress during its last session, requires the federal courts to achieve a sixty-day disposition period only by 1979.)

Although the Court increased its dispositions of misdemeanors by over 600, the number of pending misdemeanors rose by 500. I do not consider this increase in pending misdemeanors to be significant. In view of their relatively less complex nature, misdemeanors can be disposed of relatively quickly by judicial action, if not by diversion. It may be significant to note that of the total misdemeanor filings in 1974, 2,439 were for marijuana possession and 1,232 were for soliciting for prostitution. These latter categories, then, accounted for approximately 31% of the misdemeanor filings and were principally responsible for the increase in the backlog.

Dispositions by the Court of felonies and major misdemeanors (other than in traffic and D.C. cases) amounted to 7,750 in 1974. There were 2,011 or 26% disposed of by trial; 4,933 or 63% by guilty plea; and 806 or 11% by dismissal. As noted, the 26% trial rate is about three or four times as high as that achieved in courts in other major metropolitan areas.

The Court also handled approximately 67,000 traffic and so-called D.C. (generally municipal regulation) cases; issued 16,806 warrants (other than traffic cases); and conducted 4,360 preliminary hearings in felony cases.

Civil Division

The number of civil actions filed continued to increase. While 9,734 jury and non-jury actions were filed in 1972, and 10,981 in 1973, this past year witnessed the filing of 11,361 actions, for an increase from the preceding year of 3.4%. The number of pending cases on the ready calendar likewise increased slightly, from 3,330 to 3,421 or by 2.7%. Civil jury cases on the ready calendar declined by a minute number (from 2,682 to 2,663), while non-jury actions on the ready calendar rose from 648 to 758. The average time between the placing of jury cases in the ready calendar and trial is eight months; for non-jury cases, it is 2-1/2 months.

Effective October 1, 1974, the Court initiated on an experimental basis an individual calendar system for complex and protracted civil cases. Prior to the October date, 2,800 pending civil cases were screened for assignment to the Civil I calendar; but of this total, only 153 or 5.4% were considered sufficiently complex for such designation. However, of the 400 cases filed after the Court assumed unlimited civil jurisdiction, 52 or 13% were designated Civil I and placed on the individual calendar. If this percentage continues to hold true in the future, each of the three judges assigned to the Civil I calendar should have to handle approximately 130 cases per year, or 19 per month. It is believed that this is a manageable figure, but a longer period of experience will be necessary before a definitive judgment can be made. The Bar has, by and large, reacted favorably to this experiment; and if disposition rates permit, it will be continued beyond the one-year experimental period.

The Court's experience with respect to landlord-tenant matters is interesting. A total of 116,782 actions were filed in the L&T Branch: 60,402 were disposed of when the tenant failed to appear; 45,168 were dismissed either by the landlord-plaintiff or by the Court; 116 were tried without jury. Jury demands were made in 485 cases, but only one case actually proceeded to jury trial. (The plaintiff prevailed in the one jury trial held.) Of the jury demand cases, 338 were disposed of by consent judgments, settlements, or dismissals; and 146 were still pending at the end of the year. In spite of the enormous number of cases filed, writs of restitution were issued in only 31,594 cases; evictions were scheduled in only 3,823 cases; and 2,296 evictions were actually carried out (representing about 3% of the cases in which the plaintiff-landlord secured a judgment). Thus, in the overwhelming majority of the cases, the landlord-tenant complaint serves as a collection device rather than as a means of securing a judgment which will actually be carried out.

Family Division

Overall, the operations in the Family Division of the Court have remained relatively stable. The number of divorce cases pending increased slightly from 3,506 to 3,597; but only 480 were pending on the contested calendar. The time between joinder of issue and trial remained steady at from six to eight weeks.

Although 6,377 new juvenile delinquency cases were filed, the number of such cases pending increased only from 1,142 to 1,416 (which is approximately what it was in 1972). If the number of pending cases continues to rise, additional judges will be assigned to the Family Trial Branch to reduce that number to about 1,000 cases. The average time between arrest and trial continued to be six weeks.

At the end of 1974, 218 juvenile neglect cases were pending, compared to 323 at the beginning of the year, and 489 intrafamily cases were pending, compared to 339 on January 1, 1974. There were 1,993 mental health petitions filed, of which 686 were brought to judicial attention. At the present time, 78 judicial mental health petitions are pending.

Tax Division

Progress was also made in the Tax Division. Fifty-three criminal tax cases were pending on January 1, 1974; and all of them had been disposed of by the end of the year. No criminal tax cases were pending on December 31, 1974. The civil tax cases pending increased slightly from 73 at the beginning of the year to 79 at the end of 1974.

New Programs

Among the more significant new programs which have not previously been reported upon are the narcotics diversion program and the new system for processing notices for moving traffic violations.

Narcotics Diversion

During 1974 the Narcotics Pretrial Diversion Project, begun late in 1973 to provide pretrial diversion and intensive supervision for hard-drug abusers, became fully operational. The Project has been funded for a three-year pilot phase by LEAA funds allocated to Washington, D.C.

The pilot project was conceived by the American Bar Association's Special Committee on Crime Prevention and Control in 1972. This Court was sought out for this pilot program because of the generally recognized effectiveness of its non-addict diversion program, Project Crossroads (which was a Department of Labor-funded pilot effort from 1968 until its integration into the Court's Division of Social Services in 1971). Like Project Crossroads before it, the Court hopes to institutionalize the Narcotics Pretrial Diversion Project as a regular court service after three years of operation as a grant-funded pilot program, provided an independent professional evaluation determines that the Project is meeting its twin goals of reducing drug dependence and criminal recidivism in this city.

Since 1970, reporting to the Narcotics Treatment Administration (NTA), for testing and treatment, has been made a specific condition of pretrial release from the Superior Court. While this procedure has afforded the opportunity for drug treatment to large numbers of defendants at the pretrial stage, experience has shown that the level of supervision and control has often been inadequate to bring about changes in the behavior of the type of hard-core narcotics addicts. Moreover, even for those defendants who performed satisfactorily in the city's treatment program prior to their trial date, there was no formal mechanism for the dropping of criminal charges.

The Narcotics Pretrial Diversion Program attempts to overcome these problems by the operation of a program where selected individuals, whose narcotics addiction appears to be directly related to their criminal activity, receive both treatment for their drug problem and intensive counselling and supervision to aid them in dealing with related problems. Regular progress reports on each individual in the project are made both to the judge and to the prosecutor, and it is clearly understood when an individual enters the project that charges against him will be dropped if he succeeds in the treatment program but that, if he fails to comply with the requirements of the program or is rearrested, he will be dealt with by the immediate resumption of the underlying prosecution.

One of the most satisfying aspects of the first year of Project operations has been the fact that it has demonstrated that a complex interface of traditional criminal justice agencies, such as that on which the Project depends for its day-to-day existence, can function smoothly and effectively in support of an innovative pilot program. The Office of the U.S. Attorney, the Criminal Clerk's Office of the Court, NTA's Criminal Justice Division, the D.C. Bail Agency, the Bureau of Treatment Services of NTA, and its on-site urine testing laboratory are all relied upon on a regular basis to provide liaison personnel, supportive services and/or data to the Project so that defendants can be screened, interviewed, enrolled and served.

To date, the Project has enrolled 79 defendants, charged with a total of 136 offenses (counts), primarily Possession of Narcotics (for one's own use) in violation of the Uniform Narcotics Act (UNA) or the Dangerous Drug Act (DDA); Possession of the Implements of Crime (PIC), i.e., narcotics paraphernalia; Petit Larceny; Unlawful Entry (UE); Receiving Stolen Property (RSP); and Soliciting for Prostitution.

Ten defendants (14 cases) have been unfavorably terminated (returned for sentencing) while 13 defendants (14 cases) have been favorably terminated (graduated), thereby resulting in nolle prosequis. This gives the Project an 87.4% retention rate.

It is expected that, inasmuch as the small pilot program has proven to be successful, an expansion can take place during the coming year.

Moving Traffic Violations

On January 7, 1974, a new system of processing traffic violation notices went into effect in the District of Columbia. The new tickets serve both moving and parking violations. When an officer cites an operator for a moving violation, he enters the court date and the appropriate amount of collateral for the violation involved. The alleged violator may either forfeit the amount of collateral within 15 days or appear on his court date. If the individual fails to appear on this trial date, a computerized summons is issued; and if he fails to honor the summons, a traffic warrant is issued.

In the case of parking violations, the violator has 15 days to pay his collateral or the amount doubles. If the violator does not pay, he is then notified by a "Notice of Intent to Issue Warrant" of the outstanding violation. The next step that is taken, if the collateral remains unpaid, is the issuance of a summons to require either the payment of the collateral or the setting of a trial date. If the individual does not respond to the summons, a warrant is issued.

With the inception of the new moving violation citation system, the Court's Central Violations Bureau received 135,033 traffic citations from the Metropolitan Police Department in addition to 1,309,365 parking citations. Of these, 54,600 were processed for court action.

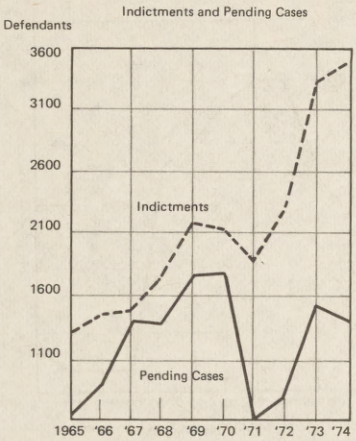
The advantages of this new system are found largely in the savings to the Police Department in terms of drastically reduced overtime payments for Court appearances of officers who, under the old system, could not effectively arrange their duty schedule around their court days. Moreover, because of the elimination of booking procedures at the Police Districts and the automatic computerized system of issuance of summonses and warrants, there has been an additional savings in manhours to both the Police Department and the Court.

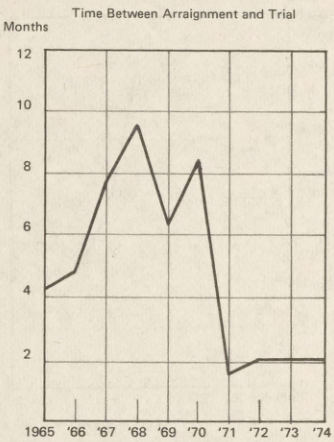
There were 135,033 moving traffic citations issued in 1974 under the new system, as compared to 226,986 issued in 1973 under the old system. The decline in the issuance of moving citations this year appears to be due to several factors: reduced driving because of the high cost of gasoline and more extensive use of car pools; disbanding of the Metropolitan Police motorcycle squad, and the reduction in overall size of the police force; the de-emphasis of traffic enforcement by the Police Department; and the issuance of warning citations rather than regular citations.

STATE OF THE SUPERIOR COURT TRIAL CALENDARS

FELONY CASES

1965 to 1974

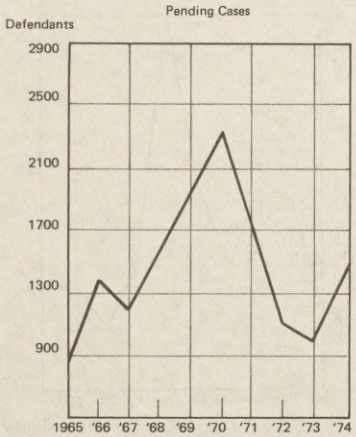


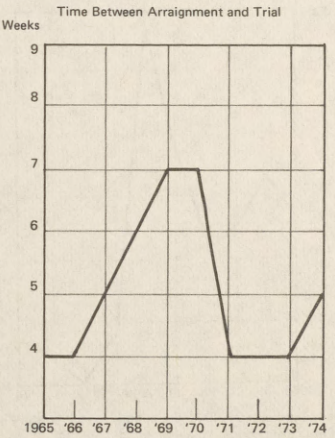


1. The number of pending felony cases was 1,401 as of December 31, 1974, and the average time between arraignment and trial was 8 weeks.

MISDEMEANOR CASES

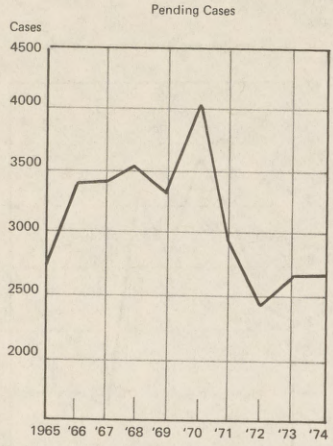
1965 to 1974

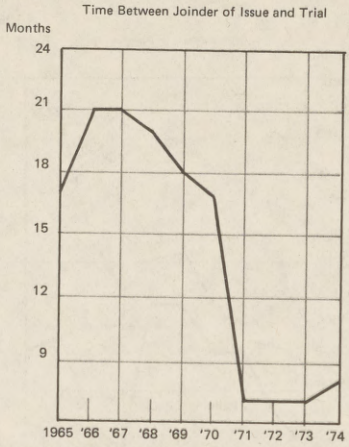




2. The number of misdemeanors pending as of December 31, 1974, was 1,497 and the average time between arraignment and trial was 5 weeks.

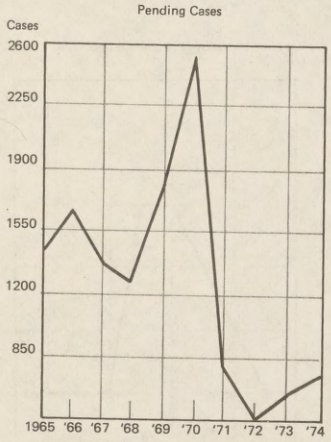
CIVIL JURY CASES
1965 to 1974

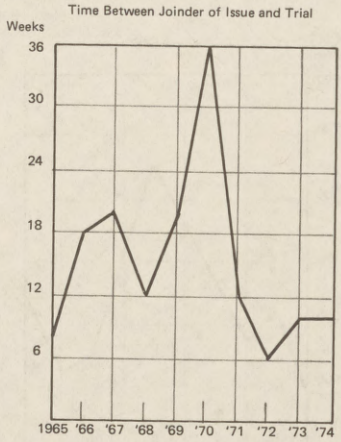




3. The number of civil jury cases pending trial was 2,663 as of December 31, 1974, and the average time lapse between joinder of issue and trial was 8 months.

CIVIL NON-JURY CASES
1965 to 1974

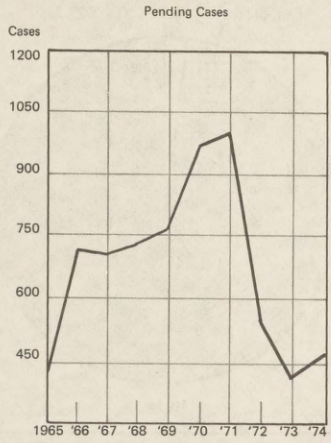


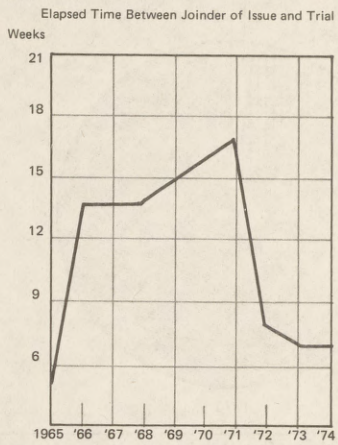


4. As of December 31, 1974, the number of civil non-jury cases pending trial was 758. The average elapsed time between joinder of issue and trial was 10 weeks.

CONTESTED DIVORCE CASES

1965 to 1974

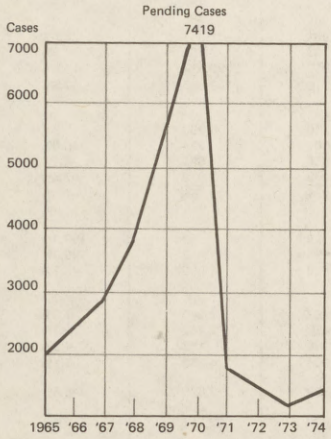


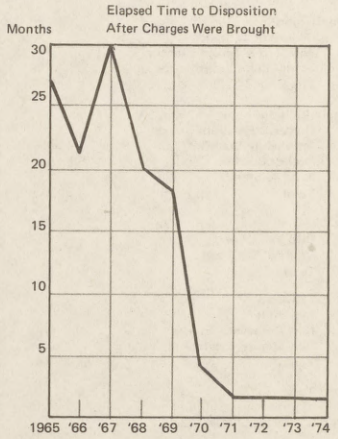


5. As of December 31, 1974, 480 contested divorce actions were pending on the calendar. The elapsed time between joinder of issue and trial was 6-8 weeks.

JUVENILE DELINQUENCY CASES

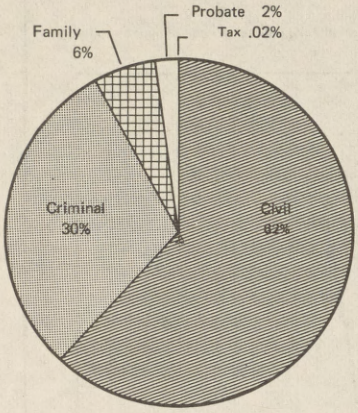
1965 to 1974



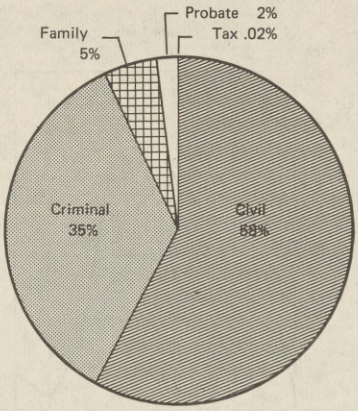


6. As of December 31, 1974, 1,416 juvenile delinquency cases were pending. Juvenile delinquency cases were disposed of within 6 weeks after charges were brought.

COMPARATIVE SUMMARY OF THE BUSINESS OF THE COURT



1973



1974

	1973	1974	% Change 1973-1974
Criminal Division			
District of Columbia Branch	3,238	3,383	4.4%
United States Branch	23,166	25,282	9.1%
Traffic Branch	51,464	65,549	27.3%
Total	77,868 [a]	94,214 [b]	20.9%
Civil Division			
Civil Actions Branch	10,981	11,361	3.4%
Landlord & Tenant Branch	115,703	116,782	.9%
Small Claims Branch	35,832	30,512	-14.8%
Total	162,516	158,655	-2.3%
Family Division			
Domestic Relations Branch	6,230	6,250	.3%
Intrafamily Branch	907	734	-19.0%
Neglect Branch	659	693	5.1%
Juvenile Branch	7,188	7,079	-1.5%
Total	14,984	14,756	-1.5%
Tax Division			
Civil Tax Cases	26	53	103.8%
Criminal Tax Cases	91	7	-92.3%
Total	117	60	-48.7%
Probate Division			
New Wills	2,283	2,240	-1.8%
New Decedents' Estates	2,456	2,452	-.1%
New Minors' Estates	165	158	-4.2%
Total	4,904	4,850	-1.1%
Grand Total	260,389	272,535	4.6%
Monthly Average of New Cases	21,699	22,711	4.6%

[a] Includes the 1973 Criminal Division's 16,341 new filings from Table 1; 52,682 from Table 5; 8,192 from Table 7; and 653 from Table 8.

[b] Includes the 1974 Criminal Division's 17,577 new filings from Table 1; 66,845 from Table 5; 9,083 from Table 7; and 709 from Table 8.

JOINT COMMITTEE ON JUDICIAL ADMINISTRATION

IN THE DISTRICT OF COLUMBIA

REPORT OF EXECUTIVE OFFICER
ARNOLD M. MALECH

Joint Committee on Judicial Administration
in the District of Columbia

The Joint Committee on Judicial Administration was established by Congress in the District of Columbia Court Reform and Criminal Procedure Act of 1970 as the general governing body of the courts with responsibility for administering the District of Columbia's court system. It is assisted in the exercise of these responsibilities by the Executive Officer. Some of the major activities upon which the Joint Committee and the Executive Officer acted during 1974 include:

Building and Space Management

The District of Columbia Courts are situated in an historic area of Washington called Judiciary Square, an area designated for court use by Major Pierre Charles L'Enfant in his original plan for the nation's capital. The courts presently occupy seven buildings in Judiciary Square. This scattered court complex generates a number of problems, including confusion, loss of time in awaiting necessary parties and frustration on the part of the public. In order to solve these problems and to plan for an urgently needed new building, a Subcommittee of the Joint Committee on Judicial Administration, along with the Executive Officer and other court officials, continued planning and coordinating the design and construction of a new courthouse for the District of Columbia Courts.

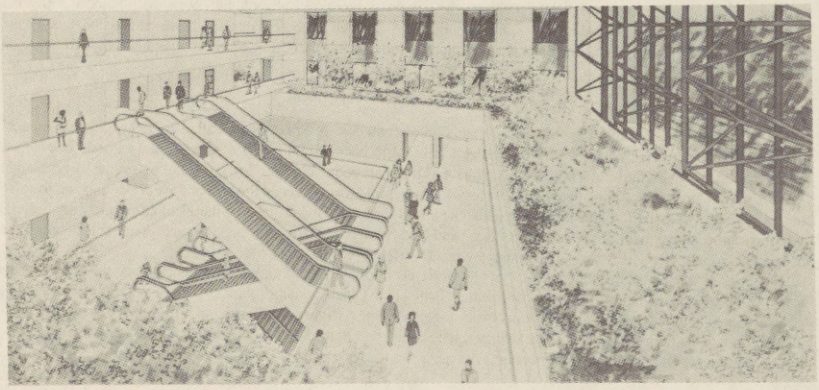
During 1974, the Subcommittee worked closely with a firm of architect-engineers responsible for the design of the new courthouse and with a construction management firm which has responsibility for cost effectiveness and adherence to deadlines. The main design objective was for a single building to house the District of Columbia Court of Appeals and all courtrooms of the Superior Court, except traffic court. In addition to the courtrooms, space will be provided for judges chambers, clerks' offices and related agencies.

Main entry — view from Indiana Avenue level.

Early in the year a feasibility and design report, prepared by the architect-engineer, was approved by the Congress which thereafter appropriated $40 million in construction funds for fiscal year 1975. The fast-track method of design and construction is being used. In the fast-track method, the physical work on the site takes place simultaneously with final design work. This method telescopes the time needed for construction, thereby enabling the courts to provide more space in the courthouse than could be obtained by using the traditional method.

The new courthouse, which is scheduled for completion in the latter part of 1977, will be located in Northwest Washington, in the block bounded by C street on the south, Indiana Avenue on the north, Sixth Street on the west, and John Marshall Place on the east.

Work on the site actually began in 1974. During the late summer and early fall, test borings were taken. Demolition of the May Building, an existing structure on the site, commenced on November 11, 1974. Earthwork started in December.



Skylighted main public circulation area.

Criminal Justice Act

The District of Columbia Criminal Justice Act, Public Law 93-412 (September 3, 1974), authorized the Joint Committee on Judicial Administration to establish a plan which provided for the representation of defendants who are financially unable to obtain adequate defense in the courts of the District of Columbia. The Act also provided a mechanism for the appointment and compensation of counsel.

Prior to the enactment of the 1974 legislation, payments for attorneys representing indigent defendants under court appointment were made pursuant to the plan established by the Criminal Justice Act (18 U.S.C. 3006A). The reimbursement program under this plan was administered by the Administrative Office of the United States Courts. The District of Columbia Court Reform and Criminal Procedure Act of 1970, Public Law 91-358, 84 Stat. 473 (July 29, 1970), transferred local criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court and local appellate jurisdiction from the United States Court of Appeals for the District of Columbia Circuit to the District of Columbia Court of Appeals. Following the transfer of jurisdiction, the United States Judicial Conference was unwilling to have its Director of Administration include in its budget Criminal Justice Act assistance for courts outside the federal system. This issue was resolved with the enactment of the District of Columbia Criminal Justice Act that placed responsibility for the program in the Joint Committee. This Committee, with assistance from the Public Defender Service, has established a plan for reimbursement of counsel in indigent criminal defendant cases patterned on the one developed by the Administrative Office for the federal courts.

Equal Employment Opportunity Plan

An Equal Employment Opportunity Plan for the District of Columbia Courts was adopted by the Joint Committee on Judicial Administration on November 1, 1974. The plan for Equal Employment Opportunity applies to all nonjudicial personnel appointed under the authority of the Executive Officer. The plan includes the development of an affirmative action program involving the monitoring of selection, promotion, disciplinary action and other activities designed to provide equal employment opportunity for all persons.

Code of Judicial Conduct

Previously the Joint Committee on Judicial Administration adopted with minor modifications the American Bar Association's Code of Judicial Conduct for all active and retired judges in the court system.

On November 14, 1974, the Joint Committee, under the authority vested in it by 11 D.C. Code 1701, approved the following amendment to Canon 3A(4) relating to the performance of judicial duties with impartiality and diligence:

Canon 3

A(4) A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard.

He should not permit private interviews, arguments or communications designed to influence, as distinguished from objectively assist, his judicial action, where interests to be affected thereby are not represented before him, except in cases where provision is made by law for ex parte application.

District of Columbia Law Revision Commission

In fulfillment of a statutory requirement under the District of Columbia Law Revision Commission Act, Public Law 93-379 (August 21, 1974), the Joint Committee on November 20, 1974, appointed the following members of the bar to four-year terms on the Commission:

Frank J. Whalen, Jr., Esquire
James J. Murphy, Esquire.

The Act charges the fifteen-member Commission with the task of examining the common law and statutes relating to the District of Columbia ordinances, regulations, resolutions and acts of the District of Columbia Council and all relevant judicial decisions for the purpose of discovering defects and anachronisms in the law relating to the District and recommending needed reforms.

In addition, the Commission receives and considers changes in the law recommended by the American Law Institute, the Conference of Commissioners on Uniform State Laws, any bar association or other learned bodies as well as suggestions from judges, justices, public officials, lawyers and the public generally as to defects and anachronisms in the law relating to the District of Columbia. The Commission is also charged with recommending from time to time to the Congress and, where appropriate, to the Mayor of the District of Columbia and to the City Council, changes in the law it deems necessary to modify or eliminate antiquated and inequitable rules of law and with bringing the laws relating to the District of Columbia, both civil and criminal, into harmony with modern conditions.

Financial Operations

During 1974, the Courts received into their registries $18,271,032 and disbursed $18,845,913. Included in the amount received was $9,612,715, which represented fines and fees collected by the Courts and deposited to the D.C. Treasury as revenue.

Appropriated funds for fiscal year 1975 for the entire court system increased from $20,552,600 to $23,590,100. A major portion ($1,995,000) of this increase was due to the passage of the District of Columbia Criminal Justice Act, Public Law 93-412 (September 3, 1974), authorizing the District of Columbia and the Courts to pay for representation of defendants who are unable to obtain an adequate defense in criminal cases.

On November 18, 1974, the fiscal office began processing the first payment check for services performed under the Criminal Justice Act. A check is issued to the attorney within two weeks after the initial pre-audit of the voucher is made and the judge's signature obtained.

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Table 1

TOTAL RECEIPTS AND DISBURSEMENTS
FOR THE DISTRICT OF COLUMBIA COURTS

	RECEIPTS		DISBURSEMENTS	
	1973	1974	1973	1974
COURT OF APPEALS	$ 183,943.25	$ 191,862.41	$ 183,943.25	$ 191,862.41
SUPERIOR COURT				
Criminal Division				
Collections	$ 9,737,922.36	$ 8,318,678.93		
Fines & Forfeitures			$ 8,972,255.87	$ 8,256,431.85
Refunds			739,803.68	589,214.02
Total	$ 9,737,922.36	$ 8,318,678.93	$ 9,712,059.55	$ 8,845,645.87
Civil Division				
Fees —				
Civil Actions	97,797.10	108,090.75	97,797.10	108,090.75
Small Claims	43,372.00	37,621.01	43,372.00	37,621.01
Landlord & Tenant	233,297.01	253,237.90	233,297.01	253,237.90
Marriage Bureau	24,538.85	24,975.55	24,538.85	24,975.55
Escrow —				
Civil Actions	1,496,818.05	1,690,844.13	1,011,671.43	1,754,367.98
Small Claims	2,038.61	2,637.83	2,008.92	3,535.36
Landlord & Tenant	192,419.55	160,548.34	92,489.10	140,186.28
U.S. Marshal	83,567.00	73,674.05	83,567.00	73,647.05
Certified Mail	19,738.38	17,187.63	19,738.38	17,187.63
Total	$ 2,193,586.55	$ 2,368,817.19	$ 1,608,479.79	$ 2,412,849.51
Family Division				
Fees	$ 29,394.15	$ 34,105.93	$ 29,394.15	$ 34,105.93
Escrow —				
Support Account	5,970,637.60	6,399,221.95	5,970,637.60	6,399,221.95
Attorney Account	152,030.00	146,775.00	118,460.00	153,700.00
Miscellaneous	24,300.02	21,703.42	22,201.45	18,659.64
U.S. Marshal	1,938.00	1,940.00	1,938.00	1,940.00
Total	$ 6,178,299.77	$ 6,603,746.30	$ 6,142,631.20	$ 6,607,627.52
Auditor-Master				
Fees	$ 166,653.53	$ 122,988.45	$ 166,653.53	$ 122,988.45
Register of Wills				
Fees	130,397.56	399,497.37	130,397.56	399,497.37
Escrow	207,965.44	81,537.55	207,965.44	81,537.55
Total	$ 388,363.00	$ 481,034.92	$ 338,363.00	$ 481,034.92
Other Income				
Court Reporter Transcripts	3,155.55	4,278.15	3,155.55	4,278.15
Interest Income	11,262.37	13,645.65	11,262.37	13,645.65
Unclaimed Deposits (Over six years old)	3,229.85	165,980.40	3,299.85	165,980.40
Total	$ 17,647.77	$ 183,904.20	$ 17,647.77	$ 183,904.20
Superior Court — Total Received and Disbursed	$18,632,472.98	$18,079,169.99	$17,985,834.84	$18,654,050.47
TOTAL — DISTRICT OF COLUMBIA COURTS	$18,816,416.23	$18,271,032.40	$18,169,778.09	$18,845,912.88

Table 2

CASH INCOME
OF THE DISTRICT OF COLUMBIA COURTS

	1973	1974
COURT OF APPEALS		
Fees:	$ 183,943.25	$ 191,862.41
SUPERIOR COURT		
Criminal Division –		
Fines and Forfeitures:		
District of Columbia	134,043.00	117,187.30
United States	88,676.07	67,633.15
Traffic	8,749,536.80	8,071,611.40
Total	$8,972,255.87	$8,256,431.85
Civil Division –		
Fees:		
Civil Action	97,797.10	108,090.75
Small Claims	43,372.00	37,621.01
Landlord and Tenant	233,297.01	253,237.90
Marriage Bureau	24,538.85	24,975.55
Total	$ 399,004.96	$ 423,925.21
Family Division –		
Fees:	$ 29,394.15	$ 34,105.93
Auditor-Master –		
Fees:	$ 166,653.53	$ 122,988.45
Register of Wills –		
Fees:		
August/December, 1973		
January/December, 1974	$ 130,397.56	$ 399,497.37
Other Income –		
Court Reporter Transcripts	3,155.55	4,278.15
Interest Income	11,262.37	13,645.65
Unclaimed Deposits (over two years old) 1974	3,229.85	165,980.40
Total	$ 17,647.77	$ 183,904.20
TOTAL CASH INCOME	$9,899,297.09	$9,612,715.42

Table 3

DISTRICT OF COLUMBIA COURTS
STATEMENT OF APPROPRIATED FUNDS

	FY 1974[a]	FY 1975[b]
D. C. Court of Appeals	$ 1,320,700	$ 1,447,900
Superior Court	17,963,300	18,373,300
D. C. Court System	1,523,000	3,768,900
Total	$20,807,000	$23,590,100

[a]Actual fiscal year obligations.
[b]Fiscal year appropriations.

Table 4

DISTRICT OF COLUMBIA COURTS
LEAA GRANTS AWARDED

	1973	1974
D. C. Court of Appeals	–	$183,714
Superior Court	$280,949	435,746
D. C. Court System	–	–
Total	$280,949	$619,460

Court Reporter Operations

One of the major activities of the Court Reporter Division during 1974 was the successful completion of the initial phase of the Reporter Trainee Program which was designed to serve as a base for continued recruitment of personnel into the system. The program has been in operation for approximately two years, during which time 21 graduates of court reporting schools were employed as court reporter trainees. Nineteen trainees remaining in the program have reached the projected performance levels and are expected to improve their skills and attain the journeyman level of recording 225 words per minute in machine shorthand.

The District of Columbia Criminal Justice Coordinating Board awarded the Superior Court a Law Enforcement Assistance Administration block grant from the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968. The $75,000 award will be used to finance a one-year pilot program of computer-aided transcription of machine shorthand into English text. It is anticipated that this program will assist reporters in the rapid preparation of transcripts and will provide better service to the Courts and members of the Bar.

Early in 1974, the Division was responsible for providing nearly 12,000 pages of daily copy transcripts during a prolonged trial of notoriety, involving multiple defendants. Daily transcripts were produced and delivered within three to five hours following adjournment.

During 1974, there were 335 transcripts or 8,237 pages prepared by reporters and 28 transcripts or 277 pages prepared from the Court Memory System for the exclusive use of judges. In 1973, there were only 189 transcripts or 2,993 pages prepared by reporters and 13 transcripts or 63 pages prepared from the Court Memory System for the exclusive use of judges.

Table 1

REPORTERS' TRANSCRIPTION PRODUCTION

	1973	1974	% Change 1973-1974
Total Pages Produced	150,778	180,772	19.8%
Number of Pages Produced for Appeals	67,567	117,802	73.3%
Percentage of Appeals Pages/ Total Pages Produced	44.8%	65.1%	45.3%
Number of Appeal Orders Processed	592	1,196	102.0%
Number of Reporter Positions Filled as of December 31	41	41	–

Table 2

COURT MEMORY SYSTEM
TRANSCRIPTION PRODUCTION

	1973	1974	% Change 1973-1974
Pages Produced by Transcriber-Typist			
Appeal Cases	700	880	25.7%
Non-Appeal Cases	3,607	2,202	-38.9%
Total	4,307	3,082	-28.4%
Pages Produced by Reporter Volunteers			
Appeal Cases	1,804	334	-81.4%
Non-Appeal Cases	2,200	844	-29.6%
Total	3,004	1,178	-60.7%
Total Pages Produced from Court Memory System	7,311	4,260	-41.7%
Number of Transcriber-Typist Positions Authorized as of December 31	4	4	–
Number of Courtrooms Equipped with Court Memory System	9	9	–

PART IV

PROGRAM NARRATIVE

1. Objective and Need

This application requests funds to permit the employment of nine legal assistants by the District of Columbia Court of Appeals. The objective of the plan is to enhance the research and analysis capability of the court, and hence its case disposition capacity by providing an additional research assistant to each of the court's nine active judges. It is expected that such assistance will expedite the disposition of cases, while maintaining high standards in the administration of appellate justice, pending the necessary legislative and budgetary actions which will provide two clerks per judge on a permanent basis.

The applicant believes that this application addresses itself to the highest priority needs of the criminal justice system as determined by the Administrator of the Law Enforcement Assistance Administration and outlined as a National Priority Program, to-wit: Improvement of the Efficiency of the Criminal Adjudication process--by addressing itself to appellate delay reduction. It should also be noted that although the method proposed in this application is not specifically described in the Report of the National Advisory Commission on Criminal Justice Standards and Goals: Courts, it does fall squarely within recommended Standard 6.2 Professional Staff and Standard 6.4 Dispositional Time in Reviewing Court. (See Attachment B.)

Background of the Need

On February 1, 1971, pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, Public Law 91-358, the District of Columbia Court of Appeals became the highest court of the District of Columbia. D.C. Code 1973, §11-102. Prior to the enactment of that Act and the attendant court reorganization, the jurisdiction of the D.C Court of Appeals was that of a secondary appellate court (under the overview of the United States Court of Appeals ~~for the District of Columbia Circuit, hereinafter referred~~ to as the Circuit Court). Its jurisdiction was limited to

misdemeanor cases in the criminal area and to civil cases involving a jurisdictional amount not exceeding $10,000. 1/ With the enactment of the Court Reform Act, jurisdiction over all D.C. Code felonies, civil cases regardless of amount, and all local matters in general (including probate) was transferred over a 30-month period from the purely federal court system to the Superior Court of the District of Columbia and the District of Columbia Court of Appeals. Prior to court reorganization, each of the six judges on the D.C. Court of Appeals had a personal law clerk. D.C. Code 1967, §11-704. The Court Reform Act increased the number of judges on the D.C. Court of Appeals from six to nine, but it continued to authorize but one law clerk per judge (except for the Chief Judge, who is authorized to have two). D.C. Code 1973, §11-708.

As a result of court reorganization, the caseload of the applicant court has increased dramatically. In FY 1970, just prior to the reorganization, there were 371 case filings in the D.C. Court of Appeals; the average workload per judge was between 40 and 60 cases a year. 2/ By the end of FY 1973, the annual filings had increased to 958 and the workload per judge to 106 cases. This represents a 159 per cent increase in three years.

TABLE I

Caseload

(FY 1970-FY 1973)

	1970	1971	1972	1973	% of change in 3 years 1970 - 1973
Cases filed:					
Criminal	193	264	347	524	+ 172%
Civil	178	284	315	434	+ 144%
Total:	371	548	662	958	+ 159%

1. Prior to court reorganization, the then Juvenile Court handled juveniles charged with felonies as well as misdemeanors. Initial review of Juvenile Court cases was had in the D.C. Court of Appeals.

2. The three new judges authorized by the Court Reform Act began sitting in November of 1970. Hence, the average workload per judge then ranged between 40 for 9 judges and 60 for 6 judges.

Although the Court Reform Act was enacted in July of 1970, the transfer of jurisdiction pursuant to its provisions has been accomplished in three phases over a 2 1/2 year period, the last phase of which became effective on August 1, 1973. The full impact of the Court Reform Act's jurisdictional transfer thus is yet to be felt.[3]

Before the transfer of all "local" jurisdiction to the District of Columbia Court System, the Circuit Court averaged approximately 1,100 case filings a year. In projecting the applicant court's caseload, one important factor which undoubtedly will account for a major difference between the two appellate court is the number of trial judges from whose decisions appeals are taken to each court. There are 44 trial judges on the Superior Court, the new local trial court of general jurisdiction, compared to only 15 judges on the United States District Court for the District of Columbia, the counterpart of the Superior Court in the purely federal system.

TABLE II

Comparison of Case Filings in the Two Appellate Courts

	D.C. Court of Appeals	Circuit Court
FY 1970	371	1,127
FY 1971	548	1,011
FY 1972	662	1,164
FY 1973	958	1,041

As expected, the gap between the caseload of the two courts closed almost completely in FY 1973. In FY 1974, the caseload of the D.C. Court of Appeals has exceeded that of the Circuit Court (FY 1974 through December: D.C. Court of Appeals, 458; Circuit Court, 351). The FY 1974 caseload for the D.C. Court of Appeals is projected to be between 1,200 and 1,250 case filings. A reasonable projected caseload for FY 1975 is approximately 1,400 case filings.

One other statistical comparison which is relevant in comparing the caseloads of the D.C. Court of Appeals and the Circuit Court is the number of defendants who were

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3. Illustratively, murder cases were among the last offenses to be transferred from the District Court to the Superior Court of the District of Columbia. Now being appealed to the applicant court is the Hanafi Muslim murder case, with its record in excess of 11,000 pages.

indicted by the respective trial courts. During the fiscal years 1963 and 1973, the District Court returned indictments against an average of 1,450 defendants per year (for FY 1973, the figure was 1,096). As has been noted, court reorganization transferred jurisdiction over all D.C. Code felonies from the District Court to the Superior Court. The indictment figures for the Superior Court are: FY 1971, 1,841; FY 1972, 2,348; FY 1973, 3,354. The projected figure for FY 1974 is 4,000 indicted defendants. The progression, of course, is inevitable: the more indictments, the more convictions (and rulings on motions to suppress); the more convictions (and suppression orders), the more appeals.

In order to avoid the accumulation of a backlog, pending cases must be disposed of at least as rapidly as others are filed. The judges of the court have endeavored diligently to keep abreast of the filings (with the help of part-time assistance by two retired judges), but such a goal has become increasingly impossible to achieve. The number of active judges is fixed by statute at nine. D.C. Code 1973, §11-702. Unlike the Circuit Court, the D.C. Court of Appeals has no statutory authority to invite judges from other jurisdictions to sit.[4/] The gap between the number of cases filed and the number of cases disposed of in the D.C. Court of Appeals has begun to

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4. The statistics for the Circuit Court are illuminating. In FY 1973, 18 visiting judges participated in Circuit Court cases. Twelve were from other circuits; six were District Court judges. They accumulated a total of 64 sitting days, sitting on panels which heard oral argument in 227 cases and participating in 99 cases which were decided without argument. They were assigned to write 27 opinions. Additionally, four Senior Circuit Judges sat 25 days, participating in 82 cases which were argued and 32 which were not. They were assigned to write six opinions.

D.C. Code 1973, §11-707 does authorize Superior Court judges to sit temporarily on the D.C. Court of Appeals. For a variety of reasons, principally among them being the trial court's own heavy caseload, any such help would be expected to be negligible.

Widen dramatically:

TABLE III

D.C. Court of Appeals
Dispositions and Filings

(FY 1970-FY 1974)

	1970	1971	1972	1973	1974 (thru Jan.)
Cases disposed of by:					
Opinion (Reported)	240	166	200	232	113
Judgment or order (Unreported)	103	123	143	199	188
Dismissals	100	214	219	262	171
TOTAL:	443	503	562	693	472
Cases filed:	371[5/]	548	662	958	560

Steps have been taken that seek to avert a backlog at various stages of the proceedings in FY 1974. Illustratively, the judges sit more often in order to hear more cases (which, however, means a corresponding increase in the number of opinions to be written) an unreported typed judgment is employed in those cases where an opinion would make no contribution to the law, and screening techniques are applied to cases to be heard on a summary basis (soon to be handled by a one-man screening unit under an LEAA grant).

Such techniques will serve to expedite those cases which are susceptible of summary treatment. They cannot substitute for judicial opinions. Moreover, inevitably judicial time which is spent on expediting cases in which opinions may be unnecessary detracts from judicial time available for opinion preparation. Prior statistics indicate that opinions will be written in approximately one-third of the cases disposed of in FY 1974. The court has projected the number of dispositions for FY 1974 to be between 1,000 and 1,100 cases. If the monthly trend of opinion writing continues, 330 or 37 opinions per judge will be written in FY 1974. This compares favorably with the number of opinions written per judge by the Circuit Court, which was 31 in FY 1970 and 41 in FY 1973. It is

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5. In FY 1970, more cases were disposed of than were filed. This was due to a carryover of cases which were heard in FY 1969 and the fact that a total of three additional judges were appointed to the court in the years 1967 and 1968 (it previously had been a three-judge court).

important to recognize that the judges on the Circuit Court are authorized two law clerks each (the Chief Judge, three), whereas each judge of the D.C. Court of Appeals is authorized only one law clerk (and the Chief Judge, two).[6] The applicant intends promptly to seek to have Congress amend §11-708 of the D.C. Code so as to provide each active judge with two law clerks (and the Chief Judge with three). What we seek hereby from LEAA is the means to prevent the accumulation of an insurmountable backlog in the interim.

2. Results and Benefits Expected

The expected results of this project will be to reduce the average number of days between notice of appeal and decision from 287 days to 170 days.[7]

Stage	Current[8] Average	Projected Average
1. Time from notice of appeal to the filing of the record	61 days	60 days
2. Time from filing of record until brief is complete	91 days	70 days

6. There is legislation pending in Congress (H.R. 8151) to provide authorization for permanent legal assistants in the Circuit Courts in addition to the law clerks.

7. It should be noted that in "Expediting Review of Felony Convictions after Trial", the Report of the Committee on Criminal Appeals of the Advisory Council on Appellate Justice (which worked in conjunction with the Federal Judicial Center and the National Center for State Courts), it is recommended that review be completed within 90 days of the imposition of sentence. At this time, the court is not in a position to adopt all of the recommended methods for shortening the appeals process, for example, requiring the filing of the transcript at the time of notice of appeal. Some recommendations have been adopted, including the monitoring of the case at an early stage and the use of tape recordings in lieu of transcripts in certain cases. This proposal is compatible with the recommendation that a central staff of lawyers should be provided to assist the judges in reviewing records and recommending procedures to be followed in disposing of cases.

8. Current average time intervals taken from 1973 *Annual Report of the District of Columbia Courts.*

(chart continued)

Stage	Current Average	Projected Average
3. Time from complete briefing to argument (time for scheduling)	47 days	20 days 9/
4. Time from argument to decision	81 days	20 days 10/
Overall time from notice of appeal to decision	287 days	170 days

There are certain unavoidable delays attributable to the Rules of the court, providing for procedural due process (see 1 and 2 above). Unless the Rules are changed, the time intervals affecting the transmission of the record from the trial court and the briefing process are fixed.

The projected time schedule set forth above does not reflect the effect of motions on judicial time. These include procedural motions, which are governed by the Rules of the court, and substantive motions, which are governed by the applicable law. Procedural motions are filed in almost every case and include requests for extensions of time, enlargement of the record, etc. They are processed by the Clerk and the Chief Judge. Substantive motions require in-depth review of the pleadings, the record, and the law, and are disposed of by a division of judges.11/ In FY 1973, 3,823 procedural motions were filed, while 1,020 substantive motions were filed. The motions workload was greater by more than 1,700 motions over that of the prior year.

The projected time schedule contemplates (1) strict adherence to a no-extension rule unless extraordinary circumstances require it, and (2) increased disposition of cases based on prehearing examination accompanying substantive motions consideration.

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9. This is an optimal time period based on the need to schedule approximately one month ahead of argument.

10. It must be borne in mind that this would be an average only, pulled down considerably by cases which ~~are dismissed or disposed of promptly by typed judgments.~~

11. A judge's assignment to a motions division is for a period of one month, on a rotating basis. The motions workload during that month is such that finding time for opinion writing is extremely difficult.

Special Report

RE: LEAA Subgrant No. 75-DF-99-0016, "Legal Assistants for the Judges of the District of Columbia Court of Appeals"

On May 30, 1974, a discretionary grant application was submitted to the Law Enforcement Assistance Administration in the amount of $142,998. The grant funds were requested by the Court to permit the hiring of nine legal assistants, one assigned to each of the active judges, for the purpose of enhancing the research and analysis capability of the Court, and hence, its case disposition capacity. It was hoped that such assistance would expedite the disposition of cases while maintaining high standards in the administration of appellate justice pending the necessary legislative and budgetary actions which would provide the additional positions on a permanent basis. On September 3, 1974, Chief Judge Reilly was notified that the application had been approved and that the subgrant had been awarded in the amount requested for a one-year period commencing on August 15, 1974, and terminating on August 14, 1975 (Grant Award #75-DF-99-0016). Subsequently, and as a result of the Court's request, the grant period was extended to February 14, 1976.

The operation of the project was to be in conjunction with an experimental Summary Calendar of cases. The Summary Calendar, initiated for the first time in November of 1974, consisted of those cases which were susceptible to expedited treatment, i.e., those cases which appeared to be relatively simple or insubstantial, involved no novel legal questions, invited no modifications or extensions of existing doctrines and were likely to be noncontroversial among the judges. No argument would be heard in those cases unless specifically requested by Court or counsel. These cases would be given priority treatment by the Court. This would be made possible by the addition of the legal assistants. It was anticipated that each year roughly 450 criminal appeals, or approximately 54% of the projected criminal docket, would be placed on the Summary Calendar for expedited consideration.

The legal assistants were instructed to review the summary cases assigned to the judge for whom they worked, and prepare research memoranda and drafts of proposed per curiam opinions of from one to three pages in length. Each memorandum and draft per curiam would be reviewed by the judge and if acceptable, circulated to the other two members of the panel for review, revision and/or comment. Although it is impossible to know to what extent the memorandum and draft opinion are relied upon by the panel of judges deciding the case in that this process is strictly confidential, the statistics indicate that the Summary Calendar cases are disposed of faster than the Regular Calendar cases:

Comparison Statistics
(November 1974 - July 9, 1975)

	Regular Calendar	Summary Calendar
Total No. of Cases Scheduled	189	115
Total No. Disposed of	83	92
Percent Pending	56%	20%
Type of Disposition:		
Judgment	50	72
- % of total dispositions	60%	78%
Opinion	33	20
- % of total disposition	40%	22%
Action by Court:		
Affirmance	47	75
Reversal	21	12
Remands	6	5
Miscellaneous	9	---
Time Interval:		
Average No. of Days from Submission to Disposition		

As of June 21, 1975, $68,465.55 of the federal share has been expended, all on personnel compensation as follows:

NAME	JUDGE ASSIGNED TO	AMOUNT
Henry Asbill	Kern	$ 8,243.77
John Crouch	Nebeker	9,060.72
Harvey Levin	Harris	11,445.71
Wayne Matelski	Yeagley	11,939.73
James Stanford	Fickling	10,846.94
Paul Tierney	Kelly	6,588.16
Peter Vaghi	Gallagher	10,340.52
	TOTAL	$68,465.55

Although the matching contribution was originally based on 25% of the judges' secretaries' time, it has been changed to cash matching. This change was effected in order to increase the total grant budget to $177,998 and thereby prolong the project as long as possible since Congressional appropriation authorization for the positions was doubtful in fiscal years 1975 and 1976. At the current rate of expenditures and with the addition of two more legal assistants to be hired this summer* the remaining funds will be depleted as anticipated, by the middle of February of 1976. Indeed, it may become necessary to request on an emergency basis, additional grant funds to support the project until the end of the current fiscal year.

* The two legal assistants to be hired are for the vacant judgeship which should be filled by September, and for my office.

DISTRICT OF COLUMBIA COURT OF APPEALS
WASHINGTON, D. C.

CHAMBERS OF
HIEF JUDGE GERARD D. REILLY

April 29, 1975

Honorable Charles C. Diggs, Jr.
Chairman, Committee of the
District of Columbia
U.S. House of Representatives
Room 1310, Longworth Building
Washington, D.C. 20515

Dear Mr. Chairman:

I have your letter of March 12, 1975 in which you were good enough to ask for the views of this court on H.R. 4287, "A Bill to provide for additional law clerks for the judges of the District of Columbia Court of Appeals". This bill proposes to amend D.C. Code 1973, § 11-708, so as to permit each Associate Judge of this court to have two law clerks instead of one, and to permit the Chief Judge to have three law clerks instead of two. Our court strongly recommends favorable action on this bill.

Its objective is to improve the research and analysis capability of the court by providing an additional research assistant for each of the nine judges and thereby expedite the disposition of cases, while maintaining high standards in the administration of appellate justice.

In view of the dramatic increase in the caseload of the court in the past four years, the need for this legislation is compelling. Otherwise the goals of the D.C. Court Reform and Criminal Procedure Act of 1970, Pub. L. 91-358, may be frustrated by inordinate delays in the appellate process.

As a result of the Act, the caseload of this court has risen from 371 case filings in FY 1970 to 1,074 in FY 1974, thus nearly tripling in four years. Statistics for the preceding four months indicate that the caseload

is continuing to climb and is expected to pass that of the United States Court of Appeals for the District of Columbia Circuit, the court from which jurisdiction over local appeals was transferred (hereinafter referred to as the Circuit court). This trend is reflected in the following table:

TABLE 1

Caseload of the D.C. Court of Appeals (FY 1970-74)

	1970	1971	1972	1973	1974	Projected 1975-76
Cases filed:						
Criminal	193	264	347	524	670	700
Civil	178	284	315	434	404	500
Total:	371	548	662	958	1,074	1,200

The caseload of the Circuit court averaged approximately 1,100 case filings over the same period of time. It should be noted that the caseload of the Circuit court has decreased significantly during the first half of FY 1975. However, it is too early to say whether this trend will continue.

As would be expected, this court's motions load has also grown. In FY 1971, 1,122 procedural (extensions of time, etc., which are handled by one judge) and 479 substantive motions (necessitating three-judge disposition) were filed. By FY 1974, the totals had grown to 4,404 procedural and 1,077 substantive motions.

One important factor in predicting the future caseload of the D.C. Court of Appeals is the number of trial judges from whose decisions appeals are taken to this court. There are 44 trial judges on the Superior Court, the local trial court of general jurisdiction, compared to only 15 judges on the U.S. District Court for the District of Columbia, the counterpart of the Superior Court in the purely federal system. This is expected to have a major impact on the number of appeals filed in this court.

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Moreover, the rate of indictments in criminal cases in the Superior Court has been between 3,500 and 4,000 annually for the last two fiscal years. The indictment rate in the District Court averaged less than 1,500 per year from 1963 to 1973 and has been declining rapidly in the last two years since the transfer from that court of major felony jurisdiction. With twice as many major criminal cases moving through the local trial court, more and more appeals from these convictions will be taken to this court.

Additional civil as well as criminal appeals may also result from the new law-making powers granted the City Council by the Home Rule Act (Pub. L. 93-198). Concurrently therewith, a Law Revision Commission has been created to examine the laws in the District of Columbia and recommend to Congress and to the Commissioner and D.C. City Council, where appropriate, law reform to modify or eliminate antiquated and inequitable rules of law, and to bring the District laws, both civil and criminal, more into harmony with modern conditions (Pub. L. 93-379). The impact of these two legislative actions will probably cause the projected caseload to which reference has been made to increase even more.

These factors make it clear that an adequate research staff is critical in order to avert an insurmountable backlog in the local appellate court. A comparison in staff size and research capability of the two courts is important in the analysis of the need for this legislation. The non-judicial or administrative staff for each court is virtually identical, i.e., 28 employees in the Circuit court compared to 25 in the D.C. Court of Appeals. But, the judicial function of each court, consisting of judges, their secretaries and law clerks, is markedly divergent. In numbers, there are 44 employees who assist the Circuit court in its judicial function as compared to 28 in the D.C. Court of Appeals. The following table* discloses the staffing pattern in each court for this function:

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* The retired judges of the Circuit court and this court and their respective staff have not been included in this analysis although such judges contribute to the disposition of a significant number of appeals in both courts.

TABLE 2

Staffing Pattern of Judicial Function

	United States Court of Appeals	District of Columbia Court of Appeals
Judges	9	9
Judges' Secretaries	11	9
Steno Pool	4	---
Judges' Law Clerks	19	10
Senior Law Clerks	1	---
TOTAL:	44	28

In short, the judges on the Circuit court are authorized two law clerks each (the Chief Judge, three), whereas each judge of this court is authorized only one law clerk (and the Chief Judge, two). This bill, if enacted, would authorize bringing the staff complement in this court in line with that of the Circuit court.

This court fearing a backlog resulting from the transfer of all local jurisdiction, the sizable increase in the number of judges on the trial bench and its limited staff, adopted a number of techniques aimed at expediting the appellate process.

These techniques include the development of a screening process which culls out, at an early stage, noncomplicated civil and criminal cases for expedited consideration by the court. The Clerk's office reviews each appeal upon the filing of briefs in order to determine the number of issues, whether these issues raise novel points and whether the fact situation is complicated. Cases which then appear susceptible to quick disposition are placed on a summary calendar distinguishable from the regular calendar in that argument is not heard unless specially requested by the parties or the court. If oral argument is granted, it is limited to 15 minutes per side rather than the 30 minutes per side allowed for regular calendar cases.

With respect to the regular calendar, divisions of the court now sit in double sessions, morning and afternoon, in order to hear more cases.

In decision making, the court has resorted to the use of unreported judgments in a greater number of cases than in the past. This type of disposition explains the decision to the parties involved without the need for publication of an opinion. This technique disposes of cases which do not affect settled law and avoids delays incident to the preparation and printing of opinions.

Such measures have been successful to a limited extent in expediting the appellate process. Thus, the time from the noting of an appeal to assignment to the deciding panel has not significantly increased. However, the time from such assignment to decision has increased significantly although at an irregular pace over the last few years as illustrated by Table 3.

TABLE 3

(Time interval in days)

	1971	1972	1973	1974
Time from notice of appeal to the filing of the record	67	65	61	62
Time from filing of record until briefing is completed	97	96	97	90
Time from complete briefing to argument	24	25	47	62
Time from argument to decision	55	79	82	101
Overall time from notice of appeal to decision	243	265	287	315

Because of the potentially crippling backlog of cases awaiting disposition, the court applied for and was awarded a federal grant of funds from the Law Enforcement Assistance Administration to hire nine legal assistants to supplement the judges' personal staffs. This grant was made last August and became fully operational in November. While

it is impossible in this four month period of time to develop meaningful statistics, the consensus of all the judges of the court has been that the addition of the extra law clerks has enabled the court to reduce substantially the interval between argument and decision.

The increase in the appropriations needed for the nine additional law clerks is $95,200 for FY 1976, the first year of operation, in light of the availability of grant funds for these positions until November of 1975. For future years, the total amount of personnel compensation required each year (based on increased salary levels since the grant) would be $150,000.

For the reasons stated, I respectfully urge that the committee take favorable action on H.R. 4287.

Faithfully yours,

/s/

GERARD D. REILLY
Chief Judge

DISTRICT OF COLUMBIA COURT OF APPEALS
WASHINGTON, D. C.

CHAMBERS OF
CHIEF JUDGE GERARD D. REILLY

SUMMARY HISTORY OF THE DISTRICT OF COLUMBIA COURT OF APPEALS

Until 1942, the only important court of general jurisdiction in the District of Columbia was the United States District Court which heard criminal and civil cases arising under the D.C. Code as well as all federal matters. The United States Court of Appeals for the District of Columbia Circuit was vested with appellate review of judgments of the U.S. District Court.

There were, however, three petty courts (1) the Police Court, which exercised jurisdiction over traffic and breaches of ordinances or regulations adopted by the D.C. Board of Commissioners; (2) a Municipal Court which heard damage actions for small claims; and (3) a Juvenile Court. Under the D.C. Judicial Reorganization Act of April 1, 1942, 56 Stat. 190, the Police Court and the Municipal Court were merged into what was called the Municipal Court of the District of Columbia and was given jurisdiction over misdemeanors arising under the D.C. Code and actions for damages up to $10,000. This 1942 Act also created a Municipal Court of Appeals, the predecessor of the District of Columbia Court of Appeals.

The next local judicial reorganization act of any importance was the Act of December 23, 1963, 77 Stat. 487, effective January 1, 1964. Under this Act, the name of the Municipal Court was changed to Court of General Sessions and was given additional jurisdiction, viz, domestic relations and landlord-tenant cases. Under this Act, the name of the Municipal Court of Appeals was changed to the District of Columbia Court of Appeals which still continued as a three-judge court. By 1967, the volume of appeals had increased sufficiently so that the court was enlarged by an Act of Congress to authorize the appointment of six rather than three judges. It remained an intermediate appellate court as its decisions could be reviewed by the United States Court of Appeals for the D.C. Circuit on applications for leave to appeal. In other words, the U.S. circuit court had discretionary review.

A much more sweeping reform was accomplished by the District of Columbia Court Reform and Criminal Procedure Act of July 29, 1970, 84 Stat. 482. This act, in a three-stage phase-out, removed from the United States District Court all jurisdiction over criminal matters, including felonies arising under the D.C. Code and all civil matters provided for by statute or by the D.C. common law, irrespective of the amount in controversy or the remedy sought. Such matters were transferred to a new trial court called the Superior Court to which, in addition to its new jurisdiction, was given all jurisdiction which had been previously vested in the Court of General Sessions, the Juvenile Court, and the D.C. Tax Court. These old courts were abolished by the act, but the judges thereof were made part of the new Superior Court bench.

The D.C. Court of Appeals was given appellate jurisdiction over the Superior Court as well as review over all District of Columbia agencies, including the D.C. Commissioner and the D.C. Council. Perhaps more importantly, this court was made a court of last resort in the District, its decisions being subject to review only by the United States Supreme Court and not by the United States Court of Appeals for the D.C. Circuit. The membership of the court was increased from six to nine so that for all practical purposes the jurisdiction of the D.C. Court of Appeals corresponds to that of a state supreme court. As a result of this enlarged jurisdiction, the volume of cases has increased to the point where the need of additional law clerks is compelling as is legislation authorizing the court to conduct an annual judicial conference attended by the local bar, as well as the judges of the Superior Court.

The District self-government act of 1974 did not affect the jurisdiction of the courts. Congress, not the City Council, has the exclusive right to legislate on judicial matters. One significant change affecting the courts, however, was that nominations for future vacancies are to be made by a nominating commission which may submit a list of three names to the President for his consideration in appointing new judges. Such nominations are still subject to Senate confirmation.

25 Aug 1975

The CHAIRMAN. Judge Kern, you may proceed now with H.R. 10035.

Judge KERN. The purpose, Mr. Chairman, as you indicated, is to provide for an annual coming together of all of the judges of the Federal court and the judges of the Superior Court of the District of Columbia, with members of the bar to discuss, as the bill provides, means of improving the administration of justice in the District of Columbia.

The reason for this legislation is because the reorganization of the District of Columbia's court system, with which you are familiar, vested jurisdiction over Federal matters in the Federal court system in the District of Columbia. It created the local court system of which I am a member.

At the time of that legislation, there was a judicial conference which was called by the U.S. Court of Appeals for the circuit and which dealt with Federal as well as local matters. This bill would seek to fill the gap caused by the court reorganization.

In short, the judicial conference that existed no longer would have jurisdiction over local matters, because the Federal court system is now more constricted in its jurisdiction. This is simply to provide a way of having all of the judges of both courts attend annually this meeting as well as members of the bar. It would be called by the Chief Judge of the District of Columbia Court of Appeals.

The CHAIRMAN. How many Superior Court judges and Court of Appeals judges are there in the District of Columbia?

Judge KERN. A total of 53; composed of 9 appellate judges and 44 trial judges.

The CHAIRMAN. Would this judicial conference, that is envisioned in this bill, be on an annual basis?

Judge KERN. Yes; on an annual basis.

The CHAIRMAN. As a matter of routine?

Judge KERN. Yes. Most States, as I suggest in my testimony, and as you well know, have conferences and all of the Federal judicial circuits have it.

The CHAIRMAN. They have it on an annual basis?

Judge KERN. Yes.

The CHAIRMAN. What does the bill cost? That is information we should have for the record.

Judge KERN. I would turn to Judge Reilly about our appropriations. Did we estimate the cost?

Chief Judge REILLY. We have at times in our budget estimates put an appropriation for $500, but because there was no authorizing legislation, neither the House nor Senate committees in the past have ever acted favorably on it.

The CHAIRMAN. This judicial conference will cost more than $500, will it not Judge?

Chief Judge REILLY. We had expected that the first one would probably be held at a very nearby place with the expenses being borne by the judges and the members of the bar that attended it.

The CHAIRMAN. Unlike the American Bar Association that occasionally holds meetings in such convenient places as London. You do not plan to hold any judicial conferences too far removed from the District of Columbia, do you?

Chief Judge REILLY. No. We expect to be within driving distance of the District of Columbia.

The CHAIRMAN. Is there anyone present who desires to be heard with respect to H.R. 10035?

[No response.]

The CHAIRMAN. Hearing none, that will conclude our hearings on that bill. The committee will take action thereon in a reasonably prompt manner.

Chief Judge REILLY. Thank you, Mr. Chairman.

[Judge Kern's prepared statement follows:]

BEFORE THE COMMITTEE ON THE
DISTRICT OF COLUMBIA OF THE
UNITED STATES SENATE

December 3, 1975

STATEMENT OF JOHN W. KERN, III, ASSOCIATE JUDGE,
DISTRICT OF COLUMBIA COURT OF APPEALS
ON H.R. 10035 (94th Cong., 1st Sess.)

My name is John W. Kern, III, and I am an Associate Judge of the District of Columbia Court of Appeals. I appear here today at the request of Chief Judge Gerard D. Reilly to testify concerning H.R. 10035, which would authorize an annual Judicial Conference of the District of Columbia bench and bar. This bill was passed by the House of Representatives on November 10, 1975.

Since 1939, Public Law 76-299, 28 U.S.C. § 333, had permitted the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit to call annually a conference of judges and lawyers in the District and this conference frequently dealt with local as well as federal matters. However, the Congress under the terms of D.C. Court Reform and Criminal Procedure Act of 1970, P.L. 91-358, vested entire jurisdiction over purely District cases and matters in the District of Columbia Court of Appeals and the Superior Court of the District of Columbia and restricted the United States Court of Appeals

and the United States District Court in the District to federal jurisdiction only -- thereby totally separating the local and federal court systems here in accordance with the jurisdictional practice followed in the 50 states. As a result of this separation of the court systems within the District only the federal court system is now enabled to hold a judicial conference and the proposed legislation would fill this gap.

If approved, the proposed legislation would establish a completely local judicial conference not concerned with Federal matters. All of the judges of this court and the Superior Court would be voting delegates, as would the members of the bar invited to participate. Such members would include not only active private practitioners in the local courts and representative professors from our law schools, but also the United States Attorney, the Public Defender, and the Corporation Counsel with certain members of their staffs. In the light of the recent home rule legislation, such local conferences would seem desirable and in harmony with the spirit of that charter.

Mr. Chairman, as a practitioner in the federal courts, you may well remember that it was the Fourth Circuit's informal practice

for years to hold an annual judicial conference and its successful experience with that practice, in part, caused Congress to create a judicial conference for each federal circuit by enacting P.L. 76-299, to which I have earlier adverted. During the hearings on that proposed legislation in 1939, Judge Parker, the distinguished Fourth Circuit judge, summarized the usefulness of a judicial conference:

> (1) it brings judges together to exchange ideas and discuss the changing law and gives them a school of jurisprudence; (2) it provides contact with the bar; and, (3) it develops an espirit de corps on the part of the judiciary.

The National Center for State Courts has undertaken a study and prepared material which shows, among others, that practically every state has adopted the concept of holding a meeting of all its judges, or their representatives, to discuss mutual problems. Therefore, the proposed legislation is nothing unique or controversial. The fact that the Center has "no available comparative information indicating which judicial conferences have actually performed these duties with any degree of success" (emphasis added) and has the opinion that "any judicial conference to function adequately" must have "strong leadership" does not of course

militate against enactment of H.R. 10035.

The Center has also helpfully pointed to the American Bar Association's Standards Relating to Court Organization. These Standards, among others, provide:

> All judges in the court system should convene regularly as a body to deliberate upon and discuss the work of the court system and their problems and responsibilities in its administration. (§ 1.30 of ABA Standards on Court Organization.)

Mr. Chairman, you might be interested in some of the subjects that have been tentatively proposed as in need of review by the District of Columbia judicial conference if the legislative proposal is enacted: the operation of the program for funding appointment of counsel to local criminal cases; the setting of criminal justice standards in the local court system in light of the recent ABA Standards for Criminal Justice; the admission and discipline of local attorneys; and, the possible need for legislation for the court system upon the basis of its experience during the last several years.

In sum, H.R. 10035 appears (1) to fill a gap resulting directly from the establishment by Congress recently of two separate and distinct court systems within the District of Columbia and (2) to be consistent with (a) the present practice

in every federal circuit of holding annual judicial conferences, (b) the present practice in the great majority of the states of having an organization with representation from all the judges within the jurisdiction to confer regularly upon common problems and invite participation of others from the legal system and (c) the Standards of Court Organization adopted in 1974 by the American Bar Association, which calls for all judges to meet in conference at least annually to share in deliberations and discussions concerning the procedure and administration of the courts.

I would be glad to answer any questions which the Committee may have.

The CHAIRMAN. We will now move on to H.R. 4287. Judge Harris, we will be pleased to hear from you.

Judge HARRIS. Thank you, Mr. Chairman.

We have provided the committee with extensive statistical data which supports our request for an additional law clerk for each judge on our court.

I have also submitted a written statement which summarizes that particular statistical data and breaks it down to point out one judge's workload and how he has to deal with it.

Our problem, of course, arises from the Court Reorganization Act. In fiscal 1970, which was the last year prior to court reorganization, the District of Columbia Court of Appeals had 371 cases filed in it. In the succeeding years, as was expected by Congress and by us through court reorganization, the figures increased as follows:

For the fiscal year 1971, we had 548 cases; 1972, 662 cases; 1973, 958 cases; 1974, 1,074 cases; and for fiscal 1975, we had 1,146 cases for trial.

So our workload has more than tripled in——

The CHAIRMAN. What was it for 1970?

Judge HARRIS. 371.

The CHAIRMAN. When did the Reorganization Act come into play?

Judge HARRIS. It became effective on February 1, 1971, but as you will recall, there were increments by means of which the workload was transferred over from the District Court to the Superior Court. The court reorganization was not fully implemented until last year.

The CHAIRMAN. I see.

Judge HARRIS. We found on our court, with that increase in workload, we were falling progressively farther and farther behind, despite our best efforts. We then recognized we had to do one of two things: either have additional judges or have additional law clerk assistance.

We have felt, and I think the Congress agrees, additional judges is not a feasible solution to the problem.

We have an unusual situation, which is why we are here, in that section 11–708 of the District of Columbia Code provides that each of our judges shall have one law clerk, with the exception of the Chief Judge who shall have two. As a result, we have been faced with the need to ask for congressional action to get that changed. That is a part of title 11 of the District of Columbia Code which cannot be amended by the City Council.

Recognizing that it would take time to get the statute changed, we went to the Law Enforcement Assistance Administration, which recognized our problem. They had seen the U.S. Court of Appeals fall farther and farther behind until they got two law clerks. The LEAA gave us a discretionary grant of $153,000, I believe, to permit us to have a second law clerk which we have now had for about a full year. That has permitted us to not only not to fall farther behind, but to make roughly a 4-percent inroad on our existing backlog. That is roughly where we are.

The CHAIRMAN. This bill then would give each judge two law clerks with the Chief Judge having three?

Judge HARRIS. That is correct, sir.

The CHAIRMAN. Do you rotate the Chief Judgeship, or is it the senior member of the bench, or what?

Chief Judge REILLY. It is a Presidential appointment among the sitting judges for a period of 4 years, Mr. Chairman.

The CHAIRMAN. The President designates one of the sitting judges for a 4-year term?

Chief Judge REILLY. Yes.

The CHAIRMAN. I am curious about this rather sizable increase in the workload which was in 1970, 371 cases up to 1975, 1,146 which is a tripling of the workload.

What portion of that is attributable to the Court Reorganization Act and why?

Judge HARRIS. Well, I would say virtually 100 percent of it is attributable to court reorganization.

Prior to court reorganization, the District of Columbia Court of General Sessions was a court of limited jurisdiction. It had misdemeanor jurisdiction in the criminal area. It had civil jurisdiction which was limited to $10,000 in a case.

Our court, that is, the D.C. Court of Appeals also entered appeals from what was then the District of Columbia Juvenile Court and from the then Tax Court of the District of Columbia.

Court reorganization shifted all probate jurisdiction; it shifted mental health jurisdiction; it shifted felony jurisdiction in the District of Columbia Code cases; it shifted unlimited civil jurisdication, except in purely Federal cases, from the United States District Court into the Superior Court of the District of Columbia. It also rolled in the Juvenile Court, the Tax Court and the Court of General Sessions.

Chief Judge REILLY. Then another factor was that the year before court reorganization became effective, the Administrative Procedure Act went into effect which provided for a direct review of the District of Columbia administrative agencies. Most of that had been in the Federal District Court office and rather scattered.

The CHAIRMAN. All right.

Chief Judge REILLY. I would say agency review cases account for possibly between 5 percent and 10 percent of the current docket.

Judge HARRIS. I think two other aspects of it warrant mention. First, the United States District Court has 15 judges. The felony cases were going from the court to the U.S. Court of Appeals. The Superior Court is the result of court reorganization. It now has 44 trial judges whose cases are brought to us.

Another factor is that with the limited number of judges on the District Court, they were limited in the number of indictments which they felt could be returned felony cases. So that prior to court reorganization, many many cases which normally would be charged as felonies were broken down as lesser included offenses and treated as misdemeanors.

The District Court was returning approximately 1,500 indictments a year. In the Superior Court the indictment level has risen now to about 3,500 cases a year. Obviously, of course, the more indictments you have the more convictions you have; the more convictions you have the more appeals you have.

So all of those factors have operated together to cause this increase in workload.

The CHAIRMAN. I am an exprosecutor. It does not always follow that a conviction follows an indictment. Sad to say, we lost a good number of cases, but we won a few.

What is the timelag, this is for my general education, for the trial of a case in the District of Columbia of a criminal case and then a civil case?

Judge HARRIS. I was on the Superior Court, but I do not know what the current figures for their processing of cases are at the moment.

The CHAIRMAN. Does any other member of the panel know?

Chief Judge REILLY. Well, at the time of the last annual report—but it has fallen behind since—roughly, I think, they were averaging 6 weeks on misdemeanor cases between the date the information was filed and the date it was tried. They are running between 2 and 3 months on felony cases between indictment and trial.

The CHAIRMAN. On felonies at the time between arraignment and trial, before the Court Reorganization Act, sometimes it was 10 months, in 1970 it was 8 months, with the Court Reorganization Act, it went down below 2 months, and through 1974, it was 2 months. I do not have 1975's.

But this is a very current docket, at least it would be by Missouri standards.

Forty-four trial judges, that seems to me to be a sizable number of trial judges for a city of 750,000 people. Does that strike any of you gentlemen as being a high number of judges in terms of numbers?

Judge HARRIS. Well, as one who was on the court, I can assure you that it is not, sir. The Superior Court takes in over 100,000 criminal cases a year. The Landlord & Tenant load alone, which is only a small part of it, is 120,000 cases. The Small Claims figures are terribly high. The workload is very very substantial.

The CHAIRMAN. At the time between joinder of issue and trial in civil jury cases it is very close to 6 months after the Court Reorganization Act. That too is a very current docket.

Judge HARRIS. My own feeling is that the Superior Court's workload is such that I would expect it to have difficulty keeping up. They are very current now, but whether they can sustain that as the cases continue to grow in complexity will be hard to determine. I suspect they might lengthen those time periods somewhat.

The CHAIRMAN. Insofar as your appellate court is concerned, Judge Reilly, or any member of the panel, what is the time between an appeal being lodged in your court and an oral argument?

Chief Judge REILLY. Six months between the time it is lodged and by the time it appears on the calendar. Most of that delay is caused, not because the brief schedules are too liberal, but by the time the transcript is certified. We do not require, as the circuits do, that the record be printed, or designated for printing. But we do require each litigant—the appellate—designates particular exhibits and the portion of the trial in which he wants the transcript to be made of. Then it goes back to the court reporter. That accounts for some delay.

Up until this summer though, we were able to put down on the next month all cases in which the briefs would come in on both sides for the completed record. Now, I think we have about an extra month or so a backlog of cases that are fully briefed on both sides.

Judge HARRIS. I might give you, Mr. Chairman, some very, very brief figures on this. Here I would talk in terms of the time between the date of argument and the date of decision in our court's cases.

In 1971, the average time between argument and decision was 55 days. Then as our caseload grew we went—in 1972, the average was

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79 days; in 1973, it was 81 days; in 1974, we were up for an average of 97 days. That was in the period when we had only one law clerk.

We then obtained the LEAA grant. Since we obtained the second clerk, courtesy of LEAA, and obviously that is a stopgap of 1 year relief. We then have dropped down to an average of 31 days from 97 for our regular cases and our summary cases, which are those we try particularly hard to expedite where they are not overly complex, we have gotten those down to where they are out in an average of 31 days from argument to disposition.

The CHAIRMAN. I consider even a 97-day timelag between argument and decisions to be very short by my midwestern standards. I do not know what the statistics will show in the East. But in the Midwest, a 97-day interval between argument and decision would be considered very prompt. I commend you all for it.

I did not get the price tag on this.

Judge HARRIS. It would be about $150,000 a year.

The CHAIRMAN. $150,000. What do you pay a law clerk?

Judge HARRIS. It was $15,781. It is a grade 11. I have not refigured it since the 5-percent comparability increase went in.

The CHAIRMAN. That is $5,000 more than I made when I was the district attorney in St. Louis. Things are looking up for lawyers.

Judge HARRIS. If they can find jobs.

[The prepared statement of Judge Harris follows:]

BEFORE THE COMMITTEE ON THE
DISTRICT OF COLUMBIA OF THE
UNITED STATES SENATE

December 3, 1975

STATEMENT OF STANLEY S. HARRIS, ASSOCIATE JUDGE,
DISTRICT OF COLUMBIA COURT OF APPEALS,
ON H.R. 4287 (94th Cong., 1st Sess.)

I appreciate the opportunity to appear before you on behalf of my court in support of H.R. 4287, passed by the House of Representatives on November 10, 1975. We deem this legislation to be of critical importance. The purpose of the legislation is simple; it would amend § 11-708 of the District of Columbia Code to provide for an additional law clerk for each of the nine active judges on the District of Columbia Court of Appeals.

Chief Judge Reilly of our court has furnished your Committee with a considerable amount of statistical and narrative information to demonstrate our need for this additional personnel assistance. I shall not burden you now by repeating that information in detail. Rather, I shall summarize and personalize the problems facing our court which have prompted us to come to you for help.

Each of you is generally familiar with the District of Columbia Court Reorganization Act of 1970. (Title I of P.L. 91-358.) It created a new trial court of general jurisdiction, the Superior Court of the District of Columbia, and set its number of judges at 44. The new

court was a consolidation of the former Court of General Sessions, Juvenile Court, and Tax Court. To it was transferred much of the workload which had been handled by the United States District Court for the District of Columbia (and, on appeal, by the United States Court of Appeals for the District of Columbia Circuit). Transferred, by carefully phased increments, were all District of Columbia Code felony cases, probate jurisdiction, mental health jurisdiction, and non-federal civil case jurisdiction unlimited as to amount.

The Court Reorganization Act made the District of Columbia Court of Appeals a nine-judge court. Prior thereto it was a six-judge intermediate appellate court. (A losing party could file a petition for allowance of an appeal in the United States Court of Appeals.) Its intermediate status was changed by the Court Reorganization Act. Section 11-102 of the District of Columbia Code now provides:

> The highest court of the District of Columbia is the District of Columbia Court of Appeals. Final judgments and decrees of the District of Columbia Court of Appeals are reviewable by the Supreme Court of the United States....

The jurisdictional transition in the District of Columbia court system was completed in late 1973, and the earlier steady flow of appeals to our court from the Superior Court (and from all of the various administrative agencies of the District of Columbia) has become the expected flood. Fiscal year 1970 was the last one prior to court reorganization. That year, 371 cases were

taken to the District of Columbia Court of Appeals. Court reorganization became effective on February 1, 1971. The cases filed in our court for the subsequent fiscal years totalled as follows:

1971 --	548
1972 --	662
1973 --	958
1974 --	1,074
1975 --	1,146

Those figures are impressive enough quantitatively, but they tell only part of the story. With expanded jurisdiction have come more numerous and more complex issues to be resolved on appeal, as well as considerably longer records. (A rather extreme example is the so-called Hanafi Muslim murder case. The convictions in that case now are pending appeals in our court; the record exceeds 11,000 pages in length.) Moreover, more cases mean more motions to be disposed of. In fiscal year 1971, 1,122 procedural motions (for extensions of time, etc., which can be handled by one judge) and 479 substantive motions--necessitating study and resolution by a three-judge motions division--were filed. In fiscal 1975, those figures had risen to 4,730 motions which were dealt with by one judge, and 1,266 which required the attention of a three-judge division.

I would call only a few more court figures to your attention. The indictment statistics are interesting. The District Court has 15 judges, as compared with 44 on

the Superior Court. When the District Court had all felony jurisdiction, offenses which actually were committed by defendants often were broken down to be charged as lesser included offenses, thereby making them misdemeanors and permitting them to be handled by the Court of General Sessions. (This was highly undesirable for various reasons, and was a vital factor leading to the major changes in our two court systems here.) During the fiscal years 1963 through 1973, the District Court returned indictments against an average of 1,450 defendants per year (the figure had dropped to 1,096 for FY 1973, following court reorganization). Meanwhile, the number of indictments returned in the Superior Court has increased dramatically (as had been expected). Its indictment figures (kept on a calendar year basis) have been as follows: 1971--1,841; 1972--2,348; 1973--3,354; and 1974--3,514. The progression is immutable: the more indictments, the more convictions; the more convictions, the more appeals.

Reference should be made to the parallel situation in the United States Court of Appeals. In the mid-1960's, that court was receiving in the neighborhood of 1,000 appeals per year. Each of its nine active judges was authorized to have one law clerk. In 1965-66, several judges on that court were able to engage second clerks on an interim basis. The benefits of a second clerk were demonstrated

convincingly, and each active Circuit Court judge has had two clerks on a regular basis since 1967. That fact should be related to the United States Court of Appeals' caseload. In the fiscal year 1975, for the first time, more appeals were filed in our court than in the Circuit Court. Ours totalled 1,146; theirs totalled 1,111.

Our problem--and the reason why we are before you--arises from the fact that the provision for our law clerks is a matter of statute (and is in Title 11 of the District of Columbia Code, which may not be amended by the City Council). Early last year, our court became depressingly convinced that we could not carry out the task Congress had given us without an additional law clerk for each active judge. We knew, however, that the necessary step of amending the statute would take time--time in which we would fall farther and farther behind in disposing of our cases; time in which such a large backlog could be built up that it would take years to overcome.

With fingers crossed, we approached the Law Enforcement Assistance Administration of the Department of Justice. Its top officials were highly knowledgeable as to the legal scene in the District of Columbia; they had seen the Circuit Court fall victim to a choking backlog. While providing funds for additional personnel is not LEAA's normal function, they recognized our problem and wanted to help us while we sought the legislative

relief I support today. They gave us a one-year discretionary grant which permitted, in effect, an additional law clerk per active judge.

The results have exceeded both expectation and hope. Permit me to slip away from full court statistics and refer to my own personal caseload, for it is illustrative. I was sworn in on the Court of Appeals in early September of 1972. I previously had been on the Superior Court, so my transition problems were minimal. By the end of September of 1973, after one year, I was 13 cases behind. (By that, I mean there were 13 cases in which I had been assigned the decision-writing responsibility, but in which opinions had not been written.) One year later, my personal backlog had reached 26 cases. One month later, on October 31, 1974, it was 29. I can assure you that in addition to working very hard, I slept very poorly.

Those cases would not go away of their own accord. To each party, his case was terribly important. Each party is entitled not merely to impartial justice; each is entitled to careful justice, and the law as an institution is entitled to have our opinions be as sound as we can make them, consistent with the need to dispose of all cases as efficiently and as expeditiously as possible.

My second law clerk joined me shortly before November 1 of last year. Today, my personal backlog is down to 18 cases--a gain of 11 cases over those new ones which continued

to come in relentlessly during the intervening time. I should note that I am not happy with a backlog of 18, but it is infinitely better than the figure of 40 to 50 cases which unquestionably would be overwhelming me had I not had the benefits of a second clerk for the past 11 months.

The work of an appellate judge is performed in a cloistered environment, and a brief description of its more time consuming aspects might be helpful. Again I will personalize it, for it is easier to visualize what one judge faces than to picture an entire court's problems. Next month, I will sit as a member of three-judge divisions five times. Those divisions will have the responsibility for deciding 18 cases, of which six will be assigned to me for opinion writing. Meanwhile, all of our other judges' opinions must be studied and evaluated in those and earlier cases. I also will be a member of our motions division in October; I can anticipate over 100 substantive motions which must be disposed of during the month.

I am our court's liaison judge with the Disciplinary Board of the District of Columbia Bar; all disciplinary cases which come to us receive my initial attention for recommended disposition. Also, I am on our court's Rules Committee, and hence must consider not only problems connected with our own rules, but also those related to all changes which the Board of Judges of the Superior Court proposes

to make in its rules. (Any such changes must be approved by our court.) There are a number of other tasks which do not warrant mention; each of our judges has comparable duties. And somehow, during the month, I shall try to whittle away further at my personal backlog.

There is no quarrel by me or my court with the work which Congress has directed us to perform. The one clerk which was adequate several years ago gave each of us a good right arm, but now we need a good left arm also, on a legislatively sanctioned, permanent basis.

The LEAA grant has been a lifesaver for us, and the benefits of it readily are further demonstrable. Over and above the personal case figures which I have mentioned, the collective benefits of the second clerks have been most impressive. Our total number of cases pending had progressed distressingly upward as our intake grew. On November 1 of 1972, we had 434 appeals pending, of which 94 were argued and undecided (and 340 had not yet been heard). By November 1 of 1973, we were up to 661 pending cases, of which 148 were argued and undecided. By November 1 of 1974, our total of pending cases had reached 839, of which 181 were argued and undecided. The trend, obviously, reflected simply that things were bad and were getting worse.

It was about then that the second clerks hired pursuant to the LEAA grant came on board. As of August 1, 1975, our pending case total was 881, up only 42 from

the prior November. Our number of argued and undecided cases, however, had dropped to 157, down 24 from the prior November. Thanks to having the extra clerks, we had achieved a four per cent reduction in our backlog in nine months, and the previously frightening trend of the court as a whole had been reversed.

I recognize the dry nature of testimony dealing with statistics, but regrettably we have no other way to tell our story. I would trouble you with only one more statistical picture. The progressive increase in our caseload carried with it a matching increase in the average number of days from the argument of a case to the disposition thereof. In calendar 1971, the average was 55 days. In 1972, the average was 79 days; for 1973, 81 days; and for 1974, 97 days.

When we received our LEAA grant for additional law clerks, we instituted a summary calendar procedure. Early screening of all appeals permitted selecting those that present relatively simple issues to be put on a summary calendar for more expedited disposition. From November 1 of 1974 through October 31 of 1975, we scheduled 287 cases on our regular calendar and 188 on the summary calendar. While our average number of days from argument to disposition was 97 for all cases in 1974, from November 1, 1974 through October 31, 1975, the average for cases on the regular calendar was 84 days, and the average for cases

on the summary calendar was only 33 days.

We are deeply grateful to the LEAA, for without its recognition of our problems we truly would be today a court in distress, serving adequately neither our litigants nor the broad concepts of justice. However, it is axiomatic that LEAA has given us but a short-term solution. Our request for its help was predicated upon, and granted in recognition of, the need for legislative action to increase our authorized clerk strength. The time needed to achieve that has almost passed, and we soon shall lose LEAA's helping hand.

We recognize the difficulties of the times. Obviously it is prudent to avoid unnecessary personnel additions. However, our situation is indeed unique. In a few short years, the workload of our court has more than tripled, solely at the direction of the Congress as expressed through the Court Reorganization Act. The increase will continue, both in numbers of cases and in their complexity. Our court has done and is doing its work in a way of which I am genuinely proud. We are glad to do it, but we cannot do it without adequate help. Both the City Council and the Mayor have gone on record in favor of our request for additional clerks, and we urgently ask for favorable action on H.R. 4287.

The CHAIRMAN. Thank you very much, gentlemen. We appreciate your presentation.

Is there anyone here who desires to be heard on H.R. 4287, the law clerk bill?

[No response.]

The CHAIRMAN. Hearing none, that will conclude the hearing on that bill.

The committee now will stand in recess and will remain in recess until after the vote. We have a quorum call which I am going to make and then the votes will follow thereafter.

Chief Judge REILLY. On behalf of the Court, may I express our appreciation for the promptness with which the committee took up these bills, Senator.

The CHAIRMAN. Thank you, gentlemen.

[Whereupon, at 10:01 a.m., the committee stood adjourned.]

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