

## M I N U T E S

## CITIZENS' COMMITTEE ON JUDICIAL COMPENSATION

October 10, 1977Room 532, State HouseMembers Present

Whitley Austin, Chairman  
Carol Chalmers  
Jack Goodman  
Dorothy Goodpasture  
Georgia Neese Gray  
Rick Harman  
Joe Jagger  
Dave Knudson  
John Mendez  
Tom Skinner

Staff Present

Arden Ensley, Office of the Revisor of Statutes  
Phill Jones, Kansas Legislative Research Department  
Paul Purcell, Kansas Legislative Research Department

Morning Session

Chairman Austin called the meeting to order at 10:00 a.m. and directed the Committee's attention to the minutes of the September 7, 1977, meeting. The minutes were approved as corrected. The Chairman then directed the Committee's attention to Proposal No. 84.

Proposal No. 84 - A Study of Judicial  
Compensation in Kansas

The first conferee was Judge Bruce W. Janssen, District Magistrate Judge of the 24th Judicial District and representative of the Kansas Special Court Judges Association. Also present and representing the Kansas Special Court Judges Association were Judges James J. Zeller, Orville E. Steele, Richard Miller, and Steven C. Seyb.

Judge Janssen stated that prior to court unification each District Magistrate Judge worked within the confines of a single county but now the jurisdiction of a District Magistrate Judge extends throughout a judicial district which, in most cases, consists of more than one county. He recommended that salaries for District Magistrate Judges should be paid entirely by the state rather than by the counties because these judges are, by statute, state officers. He said that with counties paying the salaries of the judges there is a disparity among judges' compensation. Judge Janssen's prepared comments are located in Appendix 1.

The four other judges from the Kansas Special Court Judges Association described their work and problems peculiar to their districts. Each urged the Committee to recommend uniformity of compensation and benefits, and to recommend that salaries and benefits be removed from county control. They noted the legislation which passed the last Session allowing grants to counties supposedly for the purpose of raising the salaries of District Magistrate Judges, but stated they knew of no instance where the additional compensation had been received by a District Magistrate Judge. Instead, the money had gone into the county general fund. They said that the Legislature had not been specific enough about the way the grants were to be used.

Mr. Warren Shaw, a Topeka attorney, appeared as a conferee from the Kansas Bar Association. He testified that the K.B.A. notes that improvements have been made in recent years but that just compensation for judges is long overdue. He said that it was unfair to ask the elite of the legal profession to serve as judges during the most productive years of their lives without appropriate compensation. Without the best possible judges the quality of justice, he said, is bound to deteriorate. Mr. Shaw stated that in order to attract the right kind of person to the bench, compensation should be set at an amount close to what a successful attorney might expect to earn, with adjustments for the prestige and honor of the position. He recommended that Kansas judges be paid above the median for the 50 states. A copy of his prepared comments appears in Appendix 2.

Mr. Jerry Palmer, a Topeka attorney and President of the Kansas Trial Lawyers Association, appeared as a conferee for that association. He noted that most judges became judges at the time they were lawyers with 10 to 20 years' experience and that this period is the peak of an attorney's earning period. With judicial salaries at a base of \$30,500 considerable sacrifice is necessary to accept such positions. He also pointed out that this is the period during which such a person is most likely to have purchased a home and to be putting children through college. He stated that in order to maintain a bench of highly qualified persons, adequate compensation must be provided. He said that it was desirable to have an independent commission set judicial salaries rather than have the Legislature do this. A copy of his prepared comments appears in Appendix 3.

Mr. Fred Allen, Executive Secretary of the Kansas Association of Counties, told the Committee that county commissioners are not necessarily knowledgeable about the amount of money it takes to compensate court officers. He stated that court unification had envisioned more funding from the state but that the changes which took place caused problems for the counties since the counties are operating under a tax lid and unification had increased county costs. He pointed out that there is a committee of judges and county commissioners that is considering the funding problem.

Mr. Phill Jones, Director of the Kansas Legislative Research Department, said that it was the intent of the Legislature that the grants cited by the District Magistrate Judges were to be used to offset increased court costs without designating how the funds were to be allocated. He also said that these were one-time grants only. Mr. Jim James, the Judicial Administrator, read the language of the statute and said that the language indicated that the funds were to assist in defraying the cost of court operation but said that in other places in the statute the language indicates that the administrative judge is to recommend salaries to the county commissioners who make the final decision. Hence, there is some confusion as to what actually was intended.

Mr. James reviewed written answers to questions previously submitted by Committee staff. A copy of those questions and answers is in Appendix 4 and Appendix 5. Mr. James explained that the state presently pays the costs of the Supreme Court and Court of Appeals, and the salaries of the judges of the district courts, the Associate District Judges, and the court reporters. The state also pays the official travel expenses for the latter three. He said that the county can supplement salaries for the District Judge and Associate District Judge and that some of the counties are doing so, but that this is discretionary. He explained that the cost to the county for operation of the trial courts is approximately \$19 million with recoupment of five to six million dollars through court costs and fees. Not included in the \$19 million figure are those sums expended by certain counties to supplement the salaries of court reporters. The state spends about eight million dollars on the court system and recoups five to six million dollars through fines and forfeitures.

Mr. James noted that prior to unification the county court judges, the clerks of the court, and others, all had separate budgets but now the administrative judge is responsible for pulling all of these budgets together into a single budget thereby making the courts operate in a more businesslike manner.

With regard to District Magistrate Judges, Mr. James stated that these judges are very important and that they handle probate and juvenile matters and certain civil and criminal matters. He noted that all District Magistrate Judges had taken a program of training and that they had been certified by the Supreme Court. Although most of these judges are not also attorneys they have met certain qualifications and their present salary is small for the multitude of duties assigned to them.

Afternoon Session

The Chairman called the meeting to order at 1:30 p.m.

Proposal No. 84 continued

Judge Michael Barbara, District Judge of the 3rd Judicial District, spoke to the Committee as a representative of the Kansas District Court Judges Association. With him were Judge John Brookens, District Judge of the 2nd Judicial District, and Judge Robert T. Stephan, District Judge of the 18th Judicial District.

Judge Barbara described a typical day in the life of a judge and he distributed copies of his calendar which, he said, did not accurately reflect all of the work he does. For instance, the calendar depicts a 9:00 a.m. to 5:00 p.m. day but he arrives at the courthouse at 8:15 a.m. and frequently proceeds with pre-trial conferences. Court convenes at 9:00 a.m. Lunch often includes conferences with various persons. Reading of briefs is done in the evening or on weekends. He said that no inference that a trial judge is not working could be made from the fact that the judge does not spend the entire day in the courtroom.

With regard to salaries he stated that present levels are not conducive to attracting and keeping good judges--that good attorneys become and remain judges for reasons other than salary. He recommended that the Legislature create an ongoing Commission to periodically study and recommend compensation for all judges. He noted that it was somewhat embarrassing to appear before the Committee to recommend salary increases because of the self-serving nature of such recommendations. He said that all county supplements should be abolished and he offered a recommended salary scale, which is set out in Appendix 6. He added that salaries should be reasonable and adequate.

Referring to the ongoing Commission suggestion, the Chairman asked how such a Commission should be created and Judge Barbara responded that traditionally the Legislature and the Supreme Court have appointed such Commissions but, since the Commission would also set the salaries of the Supreme Court justices, it would be inappropriate for the Supreme Court to appoint such a Commission. He suggested that the Legislature create the Commission, or that a system be adopted similar to that used for the Board of Regents.

Responding to a question about his suggested salaries, Judge Barbara cited results of a Wichita Bar Association survey of attorney salaries for 1975 and 1976 and added that he had taken into consideration experience and earning power of the persons who would be most qualified for the positions.

Judge John Brookens described how much time and travel are involved in fulfilling judicial duties and responsibilities in multi-county judicial districts. He noted that 22 of the 29 judicial districts are multi-county districts. His district is composed of the four counties of Jefferson, Jackson, Pottawatomie, and Wabaunsee. Some judicial districts have more than four counties. Judge Brookens stated that 13 cents per mile is inadequate to compensate him for all of the travel required. He said that 20 cents per mile was more accurately compensative. He explained that judges in multi-county districts must leave home early and return late and that some towns in which the court sits have no lodging accommodations which makes it necessary to return home each night even though a trial may last several days. In addition to his court duties he noted he must supervise four jails, appoint the coroner and recruit clerical help. As administrative judge, he is additionally in charge of budgets for all these positions and facilities.

When asked about District Magistrate Judges, Judge Brookens stated that he personally believes that all judges should be lawyer trained, but that this is not possible under the present system. He mentioned that two years ago he had recommended that these non-lawyer judges be paid \$15,000 and at that time two counties in the district were paying \$13,000, one was paying \$12,000, and the fourth was paying \$9,000. He stated that salary was a function of population at that time and the unintended result was that the lowest paid judge had the heaviest caseload. Finally, he noted that it is difficult getting county commissioners to approve salaries that seem to him to be reasonable. A copy of his prepared comments is set out in Appendix 7.

Judge Robert Stephan commented that one procedure in the 18th Judicial District which, in his opinion, had resulted in better trained judges and equality of caseloads was to have the various types of cases heard by each of the judges rather than having each judge hear only one type of case such as a criminal case. A copy of his written statement concerning the District Court procedures in the 18th Judicial District can be found in Appendix 8.

Raymond L. Spring, Dean of the Washburn University School of Law, was the next conferee. He testified that Kansas has one of the highest per capita income figures compared to other states yet salaries for public servants have been very low. He noted that salaries for some professors exceed salaries for justices of the Supreme Court. He felt that in order for a qualified person to hold such positions the person must be independently wealthy, be of an age where high expenses no longer exist, or else willing to make a great sacrifice. He mentioned some of the many qualities a judge must have: intelligence, an ability to quickly recognize and understand legal consequences, diligence, courtesy, impartiality, and good judgment. Further comments are found in Appendix 9.

Responding to a question whether Judge Barbara's figures seemed reasonable, Dean Spring stated that they are reasonable but said that in setting salaries the Committee should consider both the qualities desired for the various judicial offices and the earnings which must be foregone by those asked to serve in these positions.

The Chairman noted that the charge to the Committee was to recommend judicial salaries and suggested that getting into the matter of District Magistrate Judges, except insofar as it relates to salaries, is not within the scope of the Committee's authority.

It was the consensus of the Committee that there should be an ongoing judicial salary commission and that such a commission should contain no more than one attorney.

The Chairman asked members to review all the material and send salary suggestions to him because he felt that members may be very close to agreement on definite amounts to be recommended. He said he would tabulate the suggestions and that the tabulation would be presented so that it would not be known to anyone which member had suggested what amounts. The Chairman also requested members to send to staff suggestions for the ongoing salary commission.

It was suggested that the Committee report indicate what the members decided not to consider, e.g., salary scales for District Magistrate Judges. It was also suggested that the matter of mileage compensation should be addressed in the report.

With regard to the matter of an ongoing judicial compensation commission the Chairman suggested that it should be bi-partisan and composed of five to seven non-lawyer citizens whose appointment by the Governor would be confirmed by the Senate. He also recommended that the Committee report reflect support for uniform salaries and the elimination of county supplements.

The next meeting date was set as November 9, with a meeting time of 10:00 a.m. That meeting will be held in Room 528 of the State House.

There being no further business, the Chairman adjourned the meeting at 4:00 p.m.

Prepared by Paul Purcell

Approved by Committee on:

November 9, 1977

(date)

PRESENTATION TO THE  
CITIZENS' COMMITTEE

ON

JUDICIAL COMPENSATION

OCT. 10, 1977

by the

KANSAS SPECIAL COURT

JUDGES' ASSOCIATION

On behalf of the members and officers of the Kansas Special Court Judges' Association, I wish to thank the members of this committee for allowing us to be present this morning.

Since our time is limited, it is my intent to get to the heart of the issues immediately and to spend a considerable portion of time discussing matters of a practical nature rather than going into esoteric matters.

Mr. Paul Purcell, on behalf of your chairman, Mr. Whitley Austin, has provided the Association with a number of questions which we will address first.

Reduced to basic terms, the first question might be phrased, "Who are these judges and what do they do."

The Kansas Special Court Judges' Association is made up, mostly, of District Magistrate Judges. District Magistrate Judges generally sit in Kansas counties with a population of 20,000 and less. Prior to the Court Unification Act of 1976, they were strictly county officers. Their jurisdiction did not extend past the boundaries of the county. Most commonly they were referred to as Probate Judges. Yet there was, and is, a great deal more to the job than handling the estates and trusts of decedents. Probate jurisdiction also encompasses the care and treatment of the mentally ill and those incapacitated by alcohol. The Legislature has also seen fit to tax the judge with responsibilities of carrying out the act designed to aid crippled children, or in today's parlance, those children with birth defects. These judges decide and oversee guardianships and conservatorships. The judges also handle perhaps the most enjoyable task of the judiciary - adoptions. Incorporated in the office are the duties formerly handled by the County Judge. A County Judge's responsibilities were largely in the criminal field - the issuance of the arrest warrants and search warrants, arraignments and trials in misdemeanor cases (violations in which the penalty generally shall not exceed more than one year in the county jail and/or a \$2,500 fine), first appearances and preliminary hearings in felony cases, and, of course, traffic violations.

Every District Magistrate Judge continues to hear juvenile cases. As the name implies, these are cases involving offenders less than 18 years of age (16 in traffic cases), runaways, truants and children who suffer from child abuse.

District Magistrate Judges also have jurisdiction in the civil area, in which the amount in controversy may not exceed \$3,000, and in the small claims area, which has been hailed by consumers and businessmen alike as one of the most significant changes in the courts in recent years.

Mr. Purcell has asked for information regarding caseload. This is a question for which there may not be a specific answer. Caseloads by counties, as noted in the responses to the questionnaire, may be provided by the Judicial Administrator.

However, the passage of the Court Unification Act makes it possible for the Administrative Judge of the Judicial District to assign a District Magistrate Judge or an Associate District Judge to any county within the district. It is also possible for the Departmental Justices to assign judges through out the state.

For example, in the 20th Judicial District (Ellsworth, Rice, Barton, Russell, and Stafford counties), the Associate District Judge in Barton county began, on January 10, to be assigned throughout the district. In order to continue to provide the services of a judge on a daily basis in Barton County, the District Magistrate Judges from the remaining counties were assigned into the county - each serving one day per week. Last month Judge Clarence Kahler in Ellsworth was felled by a heart attack. The remaining judges must now provide services in Ellsworth county. There can be little argument that Administrative Judge Fred Woleslagel has used his judges to the best possible extent. However, Judge Woleslagel and the other administrative judges, in an effort to provide the citizens with an effective judiciary have made caseload statistics extremely deceiving.

As the public has turned more and more to the courts to handle problems which never before were litigated, the courts have come under fire for their backlog. I am pleased to say this problem does not exist to any appreciable extent at the lower court level. This is largely because the statutes of Kansas set prescribed periods of time in which cases must come to trial. It is also a result of the conscientious approach the judges take.

Why do District Magistrate Judges need their jobs funded at a state level?

First, and most simply, because they are officers of the state. The Court Unification Act made them state officers. District Magistrate Judges pay their filing fee at the office of the Secretary of State in the same manner as Senators, Representatives, Attorneys General, Governors, etc. Yet, District Magistrate Judges have been trapped in a statutory void by partisan politics and the economic crunch which faces all levels of government.

In the waning days of the 1977 Legislature a bill was passed and signed by the Governor which provided grants of \$4,395 to counties with District Magistrate Judges to be used, if one wishes to believe the sponsors, "To provide money so those judges can have a pay raise." Yet, regardless of the Legislative intent, no judge has received a pay increase even approaching 50% of the amount budgeted by the Legislature. The \$4,395 in most counties will go into the general fund, never to be used for its intended purpose.

The Kansas Special Court Judges' Association, more than most other groups within the state recognizes the problems faced by local government. There is no denying that the

combination of spiraling inflation and the tax lid have cut deeply into the ability of any county to make ends meet. Nevertheless, it is the position of the Association that the lower court judges of this state are being treated as sacrificial lambs. In order to placate the disgruntled taxpayers of the counties, County Commissions have offered up the blood of the judiciary on the altar of fiscal conservatism.

In closing, the Association wishes to make these points clear.

1. District Magistrate Judges are officers of the State Judiciary. The burden for funding salaries obviously should be borne by the state.
2. District Magistrate Judges do more than work for their respective counties. The change in their titles is not merely a matter of semantics.
3. Counties are unable (or unwilling), in most cases, to provide adequate compensation for the work their judges do.
4. District Magistrate Judges are hard-working, conscientious public servants. The day of the judge who drops by the office at 10 a.m. and plays golf in the afternoon is hopeless nostalgia.

The Association does not ask this Committee, the Legislature or the citizens of Kansas to establish a group of overpaid and under worked bureaucrats. The Association does ask for a reasonable living wage in order to maintain the high caliber of persons whom the electorate has seen fit to endow with the responsibilities of a judge.



## THE PUBLIC'S VIEW OF THE JUDICIAL ROLE

By: Charles F. Stafford

*What you are speaks so loudly that I cannot hear what you say.*

--R. W. Emerson

Without question many of the problems discussed in the following article are encountered by all trial judges. However, courts of limited jurisdiction (justice courts, police courts, municipal courts and others that are not courts of record) have a unique position in the judicial system. The sheer volume of their caseload gives them the greatest breadth and depth of contact with the litigating public. Yet, lay-justices continue to preside over a significant number of these important courts. These factors and their allied problems cannot be considered merely as some of the vicissitudes of the so-called "inferior courts." They have a basic impact upon public understanding and respect that involves the entire judiciary.

The average person derives his concept of judges from melodramatic programs found on television, in the movies and on the stage. To him, a judge is a judge whether he is a justice of the peace or the chief justice of the United States. In fact, the local "J.P." is probably the better known of the two.

Comparatively few people have contact with the judiciary on either the trial or appellate court level. Most of the litigating public probably will have their first, and often their only encounter, with a judge in a court of limited jurisdiction. Most likely it will involve a traffic citation, although it may be more serious.

Even though a participant may be one of hundreds who pass through the courtroom of an individual judge each year, he is not a statistic. He is a living, breathing human being who is capable of feeling hope, fear, anger and embarrassment.

There is no routine case insofar as that litigant is concerned. His cause is exceedingly important to him. He is there for his day in court, although often reluctantly. In most cases he will not appeal to a higher court. Thus, the magistrate's decision, fair or unfair, right or wrong, will be final. For all practical purposes, the court of limited jurisdiction is not only the court

---

\*Reprinted from 52 JUDICATURE 74, No. 2, August-September 1968.

of last resort, it is the court of lasting impression. What is said and done at that time and the dignity and impartiality with which each man's cause is treated will leave an indelible impression upon him, his family, friends, witnesses, jurors and even spectators. If this is multiplied by the annual caseload of each magistrate in a court of limited jurisdiction, the impact of one individual's conduct upon the judicial image becomes apparent.

Judges readily accept the fact that legal issues are seldom black or white. Frequently the outcome of a trial depends upon reasoning that is difficult even for the legal scholar to understand. Unfortunately, the judicial decision couched in complex "legalese," which is a thing of professional beauty to a judge, may present a picture of utter confusion to a layman.

The average citizen is not interested in complicated legal explanations. He neither understands nor appreciates the legal gymnastics involved, nor should we expect him to. Nevertheless, he does react to situations that offend his sense of fairness and his sense of right and wrong. Thus, we can meet him on that level at least. It is at this point our self-analysis should begin.

Recent surveys indicate many of the public have become dubious of the judgment, ability, efficiency and, at times, even the integrity of the judiciary. At least it can be said that the public is "impartial" because this lack of regard encompasses the entire judicial branch of the government from the justice courts to the Supreme Court of the United States.

In recent years the judiciary has become a favorite whipping-boy for editorialists, news commentators, gossip columnists and even legal writers. Some of the criticism has arisen because of current editorial policy that finds it popular to blame the courts for many of our present social ills. Undoubtedly, some of the barrage of fault-finding has emanated from certain law enforcement officers who are guilty of ineffective work. In an effort to share public censure they have pointed in alarm at some ineffective judicial procedures and inadequate judicial officers. This human desire to "share the abuse" is entirely understandable. Whatever the motivation, if judges are to be completely honest, they must admit that some of the charges have been valid, even if distasteful.

The answer to this creeping disdain requires an agonizing reappraisal of our conduct as individual judges. The extremely

personal nature of the task and the great need for real insight make the undertaking both difficult and unattractive.

Many judges find it easier to don their dignified black robes and stick their heads in the sand with the forlorn hope that deteriorating public respect may rectify itself if left alone long enough. Many of these same judges avoid the issue by contending that it is beneath their dignity to discuss the judicial image, much less do anything about it.

Other judges, impressed with Madison Avenue's self-created image of expertise, have toyed with the unrealistic hope that a better judicial image can be created by the use of promotional gimmicks or the rewriting of unfavorable TV scripts. However, the judiciary is not a commodity that can be sold to the public more easily by the repackaging of an old product in a new and flashier container.

Still other judicial experts prescribe an overhaul of the Canons of Judicial Ethics or major revisions of the entire legal system. Admittedly, studies are necessary and changes must be adopted to keep us abreast of the times. However, understanding and respect are not things that can be legislated or captured in rules. They are ideas that exist only in the minds of men. If they die there, no tinkering with the framework of the judicial system and no paid public relations expert can either maintain or recreate them.

True understanding and respect for the judiciary can be achieved only as a public response to our integrity, impartiality, fair play, conscientious attention to duty and simple courtesy. Public esteem will not be regained until each judge is willing to accept his personal accountability as an integral part of the responsible group. If we fail or refuse to do our part, no one else can or will rebuild the judicial image for us. As Edmund Burke stated: "Evil grows because good men do nothing about it."

All judges, regardless of their position in the judicial hierarchy, have a trust to serve the public interest through the administration of "justice under the law." A personalized brand of justice based upon the whim or caprice of the individual judge must be avoided. What may appear "just" to one man may seem "unjust" to another with a different background or education. Thus, each judicial officer must apply the general law and avoid any preconception of what he considers the law or substantial justice ought to be.

QUESTIONS 1 & 2

Names and addresses of the respondents:

Deward Austin	Linn County Courthouse	Mound City
Virgil W. Begesse	Doniphan County Courthouse	Troy
Donna L.J. Blake	Hamilton County Courthouse	Syracuse
Nellie L. Blakely	Thomas County Courthouse	Colby
Valdah M. Bovard	Ness County Courthouse	Ness City
Jack D. Bradrick	Jewell County Courthouse	Mankato
Wilda June Brown	Norton County Courthouse	Norton
Paul W. Cline	Rice County Courthouse	Lyons
Pauline Coker	Graham County Courthouse	Hill City
Larry L. Coursen	Osage County Courthouse	Lyndon
Maxine Cumro	Marshall County Courthouse	Marysville
Shirley A. Davis	Morton County Courthouse	Elkhart
Logan Dobbs	Wallace County Courthouse	Sharon Springs
Opal Giddings	Mitchell County Courthouse	Beloit
Gordon Goering	Scott County Courthouse	Scott City
A. Lynn Hall	Russell County Courthouse	Russell
Frederick J. Hammers	Cheyenne County Courthouse	Bird City
Shirley Henderson	Osborne County Courthouse	Osborne
Brooks Hinkle	Miami County Courthouse	Paola
Francis G. Holthaus	Nemaha County Courthouse	Seneca
Bruce W. Janssen	Pawnee County Courthouse	Larned
Maurice L. Johnson	Gray County Courthouse	Cimarron
Gerald Johnston	Rooks County Courthouse	Stockton
Clarence Kahler	Ellsworth County Courthouse	Ellsworth
Steve Kaminski	Washington County Courthouse	Washington
Martha Kellogg	Phillips County Courthouse	Phillipsburg
C. Ann Kennis	Greeley County Courthouse	Tribune
Chester W. Kent	Clay County Courthouse	Clay Center
Ralph R. Klepinger	Comanche County Courthouse	Coldwater
Adele Konkel	Sherman County Courthouse	Goodland
Adrian A. Lapka	Ottawa County Courthouse	Minnneapolis
George G. Levans	Allen County Courthouse	Iola
John E. Ley	Wichita County Courthouse	Leoti
Elmer E. Light	Woodson County Courthouse	Yates Center
Henry F. Loveless	Marion County Courthouse	Marion
Samuel I. Mason	Bourbon County Courthouse	Fort Scott
Richard Miller	Edwards County Courthouse	Kinsley
Fred Mizer	Smith County Courthouse	Smith Center
John Moore	Harper County Courthouse	Anthony
Walter McClauskey	Pratt County Courthouse	Pratt
Jerna K. McQueen	Stevens County Courthouse	Hugoton
Ella V. Neff	Kearny County Courthouse	Lakin
Tom Nold	Dickinson County Courthouse	Abilene
Herbert Noyes	Grant County Courthouse	Ulysses
H. Lynn Randels	Barber County Courthouse	Medicine Lodge
Dennis L. Reiling	Jefferson County Courthouse	Oskaloosa
Jorothy R. Reinert	Rawlins County Courthouse	Atwood
David Rhoades	Trego County Courthouse	WaKeeney
David G. Rinehart	Haskell County Courthouse	Sublette
Darlene P. Royse	Elk County Courthouse	Howard
Clarence L. Sawyer	Morris County Courthouse	Council Grove
Vaudie Schaible	Gove County Courthouse	Gove
Pauline Schwarm	Kiowa County Courthouse	Greensburg
Lawrence M. Selanders	Anderson County Courthouse	Garnett
Steve Seyb	Stanton County Courthouse	Johnson

17. If you do not have a probation officer, who handles probationers?

\_\_\_\_ Judge

\_\_\_\_ Sheriff

\_\_\_\_ Police Chief

\_\_\_\_ Volunteers

18. Do you have a secretary? \_\_\_\_\_

19. How many employees do you supervise? \_\_\_\_\_

20. What is the total budget for your court's operation? \_\_\_\_\_

21. What salary do you think you should be paid? \_\_\_\_\_

22. Provide the salary figures for the following positions in your county:\*

a. County Sheriff \_\_\_\_\_

b. County Clerk \_\_\_\_\_

c. High School Football Coach \_\_\_\_\_

d. High School Janitor \_\_\_\_\_

e. Postmaster \_\_\_\_\_

f. County Engineer \_\_\_\_\_

g. State Parole Officer \_\_\_\_\_

h. Highway Patrolman \_\_\_\_\_

i. City Clerk \_\_\_\_\_

23. On your letterhead write a letter addressed as follows: Hon. Marvin Stortz;  
Chairman, Legislative Committee; Kansas Special Court Judges Association;  
Concordia, Kansas, 66901. DO NOT mail the letter to Judge Stortz. Include

SALARY QUESTIONNAIRE

KANSAS SPECIAL COURT JUDGES ASSOCIATION

1. Name \_\_\_\_\_
2. Address \_\_\_\_\_  
\_\_\_\_\_
3. Age \_\_\_\_\_
4. Years on Bench \_\_\_\_\_
5. Previous occupation \_\_\_\_\_
6. Education \_\_\_\_\_  
\_\_\_\_\_
7. Civic, Religious, Fraternal Associations \_\_\_\_\_  
\_\_\_\_\_
8. Special honors \_\_\_\_\_  
\_\_\_\_\_
9. Population of County \_\_\_\_\_
10. Caseload
  - a. Criminal \_\_\_\_\_
  - b. Civil (Chpt. 61 & Small Claims) \_\_\_\_\_
  - c. Juvenile \_\_\_\_\_
  - d. Probate (Estates, Guardian & Conservator, Trusts) \_\_\_\_\_

APPENDIX A

Gene Snay  
Harriet Shumard  
Francis Sinclair  
Dwaine Spoon  
Orville E. Steele  
Marvin L. Stortz  
Verle L. Swenson  
Francis D. Towle  
Mary Lou Wheeler  
Arthur O. Williams  
James J. Zeller

Kingman County Courthouse  
Greenwood County Courthouse  
Hodgeman County Courthouse  
Wilson County Courthouse  
Coffey County Courthouse  
Cloud County Courthouse  
Wabaunsee County Courthouse  
Chase County Courthouse  
Rush County Courthouse  
Republic County Courthouse  
Pottawatomie County Courthouse

Kingman  
Eureka  
Jetmore  
Fredonia  
Burlington  
Concordia  
Alma  
Cottonwood Falls  
LaCrosse  
Belleville  
Westmoreland

### QUESTION 3

Ages of the respondents range from 73-years-old to 26-years-old. Average age is 49-years-old.

### QUESTION 4

Experience of the respondents ranges from 21 years on the bench to two weeks. Average length of time on the bench is six years.

### QUESTION 5

Prior to assuming office, 15 of the respondents served as law enforcement officers, 14 were employed by state or local government, 10 owned or managed businesses, eight were secretaries, five were farmers, three were bookkeepers, three were teachers, three were career servicemen, two were journalists, one was a railroad employee and one was a court reporter.

### QUESTION 6

Thirty judges are high school graduates. Judges who have received some college education, including junior college graduates, totaled 17. Twelve judges are college graduates. Four have attended business or vocational schools. Two judges have attended post-graduate school.

### QUESTION 7 & 8

Nearly all judges indicated activity in civic, fraternal and religious organizations. (e.g. Shrine, Masons, IOOF, American Legion, VFW, Optimists, Kiwanis, Rotary, Elks, Moose, K of C, Lions, Jaycees, BPW, etc.) Many indicated they had held office in the organizations from local through the national level. Additionally, a large percentage of the judges serve on local groups and committees including community hospital boards, community mental health societies, chambers of commerce, county historical societies, directors of 4-H Clubs, scout leaders, etc.



QUESTION 9

Figures below were supplied by the State.

Allen	15,333	Miami	20,959
Anderson	8,577	Mitchell	8,220
Barber	6,886	Morris	6,981
Bourbon	16,067	Morton	3,575
Chase	3,587	Nemaha	12,266
Cheyenne	4,044	Ness	4,645
Clay	10,155	Norton	7,387
Cloud	14,072	Osage	13,537
Coffey	8,287	Osborne	6,497
Comanche	2,847	Ottawa	6,419
Dickinson	21,974	Pawnee	8,193
Doniphan	10,094	Phillips	8,338
Edwards	4,530	Pottawatomie	13,035
Elk	4,119	Pratt	9,551
Ellsworth	7,234	Rawlins	4,397
Gove	4,042	Republic	8,343
Graham	4,630	Rice	11,786
Grant	7,055	Rooks	7,372
Gray	4,983	Rush	5,296
Greeley	2,210	Russell	9,707
Greenwood	9,184	Scott	6,453
Hamilton	3,037	Sherman	8,424
Harper	8,191	Smith	6,724
Haskell	4,096	Stanton	2,523
Hodgeman	2,757	Stevens	4,865
Jefferson	12,821	Thomas	7,826
Jewell	6,095	Trego	4,558
Kearny	3,307	Wabaunsee	6,879
Kingman	10,072	Wallace	2,242
Kiowa	4,065	Washington	9,404
Linn	8,374	Wichita	3,698
Marion	16,209	Wilson	14,277
Marshall	13,952	Woodson	5,014

QUESTION 10

The writer of the questionnaire was not specific enough apparently, for the responses to be truly indicative of caseload. Therefore, the Office of the Judicial Administrator has kindly consented to provide these figures separately.

QUESTION 11

Responses are provided for questions 11a and 11b. However, a lack of specificity in 11c led to a variety of responses. What the writer of the questionnaire sought to obtain was a figure proposed by the Administrative Judge and approved by the County Commission. The Judicial Administrator may be able to provide such figures.

11a

Salaries for calendar year 1976 ranged from \$16,250.00 to \$9,000.00. Average salary was \$10,452.00. Median salary was \$9,000.00.

11b

Salaries for calendar year 1977 again range from \$16,250.00 to \$9,000.00. Average salary increased to \$12,348.00. Median salary increased to \$10,200.00.

*Observations - Eighteen of 20 (90%) of the female judges receive salaries at or below the median. Five of five judges (100%) under 30 years of age receive salaries at or below the median. Of the judges below the median, 28 of 32 (88%) reside west of U.S. 81. Of the 27 judges who have served less than 3 years in office, 22 (81%) receive a salary at or below the median. Of the judges who live east of U.S. 81, 21 of 32 (66%) receive salaries above than the median. Of the judges with more than 10 years of experience, 9 of 12 (75%) receive salaries above the median. Seventy percent (14 of 20) of the male judges more than 55-years-old receive salaries above the median.*

QUESTIONS 12 through 18

This series of questions was chosen to try to determine some of the difficulties the judges face in the day-to-day operation of their offices.

QUESTION 12

While the overwhelming majority of judges indicated they had access to a courtroom 10 judges said they did not.

QUESTION 13

A significant number of judges (16) said they did not have a private office.

QUESTION 14a

Each judge indicated he had a set of Kansas Statutes.

QUESTION 14b

More than one-half of the judges (39) did not have their own set of Kansas Reports.

QUESTION 14c

About one-half of the judges (32) did not have a legal dictionary. Of the judges who responded affirmatively, many said they had purchased a dictionary themselves.

QUESTIONS 15, 16, and 17

Largely through the support of Law Enforcement Assistance Administration grants most judges have access to probation officers. Although most officers may have originally been hired with the expressed purpose of handling juveniles, their duties have expanded into adult misdemeanants. Still a significant number of judges (16) either handle probationers themselves or refer them to community law enforcement officers. Neither of these methods is deemed acceptable.

QUESTION 18

Slightly less than one-half of the judges (30) said they had a secretary. In those cases where there was no secretary either a member of the clerk's staff or the judge attended to the day-to-day correspondence and paperwork.

QUESTION 19

Eighteen judges indicated they did not act in a supervisory capacity. Eighteen others supervised one employee. Six supervised two. Nine supervised three. Five judges supervised four employees. Seven supervised more than four employees.

QUESTION 20

Six of the respondents failed to answer this question. Of the remaining 59, budgets ranged from \$20,040.00 to \$95,248.00. Average budget was \$46,748.00.

QUESTION 21

Every judge responded to this question. Responses ranged from \$22,000.00 at the high end to \$10,000.00 at the low. Average was approximately \$15,000.00. About two-thirds of the respondents gave a figure at or above the average.

QUESTION 22

Comparative salary figures proved extremely difficult to tabulate. While nearly all of the judges responded to at least one part of the question, very few responded to every part. Therefore, the figures do not represent 100 per cent of the base.

22a

Thirty-five of 60 judges receive more than the sheriff in their county. Two receive an amount equivalent to the sheriff's salary.

22b

Forty-four of 57 judges receive salaries greater than the county clerk. Three receive equal amounts.

22c

Eleven of 46 judges receive salaries greater than the local football coach.

22d

Thirty-four of 47 judges are paid more than the high school janitor. Two received an equal amount.

22e.

No judge received a salary equal to or greater than the local postmaster.

22f

Six of 47 judges received a salary greater than the county engineer (or, in some counties, the road supervisor).

22g

Not enough responses were received to tabulate data.

22h

Seven of 36 judges receive more than the local state trooper. One receives an equivalent amount.

22i

Twenty-two judges receive a salary greater than the clerk's. Twenty-three receive less.

Selected responses to QUESTION 23.\*

*Francis Towle District Magistrate Judge Chase County*

In addition to the information requested, I would like to point out that we have the Kansas Turnpike running through Chase County as well as U.S. Highway 50 and K-177. We also have two State Lakes that are patrolled by the Forestry Fish & Game Commission. There are also two Colleges in the adjoining county of Lyon.

In addition to my duties here in Chase County at the request of the Administrative Judge, I attend Court in Lyon County every Monday of the week and occasionally on other days, when the case load or absence of one of the Judges makes it necessary.

*Larry L. Coursen District Magistrate Judge Osage County*

Unquestionably, Osage County is venturing far beyond its singularly rural origin and is currently experiencing the growth pains in residential and commercial areas. Houses, apartments and trailers are encroaching upon pastures and crop land, while our highways (U.S. 56, U.S. 75, Kansas Turnpike and I-35) strain under heavy truck and trailer traffic that treats Osage County as a junction of intra- and interstate commerce.

With the completion of Melvern Reservoir, Osage County possesses the unique and dubious distinction of being the sole county in the United States having, totally or partially within its boundaries, two federal reservoirs.

It is estimated that there will be one million visitors at Melvern and Pomona Reservoirs this year. The population of Osage County is 13,849.

\* Of the responding judges, 32 chose to reply to this question. The edited remarks of 14 judges are presented here.

*Tom Old District Magistrate Judge Dickinson County*

As presiding judge in Dickinson County, I am called an average of twelve times per week after normal work hours due to circumstances originating on I-70. Ft. Riley personnel from adjacent Geary County likewise generate additional work.

Most temporary orders in divorce proceedings are issued from my court in absence of a District Judge.

*James J. Zeller District Magistrate Judge Pottawatomie County*

I am a District Magistrate Judge in Pottawatomie County. We are located west of Shawnee County and east of Riley County. We get a tremendous amount of work from these two counties.

Also, we have Tuttle Creek Reservoir located in our county. This amounts to more arrests for fishing, boating, and hunting violations.

At Emmett, construction of the billion dollar Jeffrey Energy Center is underway. Approximately 1,500 construction workers are now employed.

Although our population is small, these factors add to our case load.

*Paul W. Cline District Magistrate Judge Rice County*

This Judge has always felt that all Juvenile Judges were underpaid. So many times in these cases a judge is dealing with not only a child's immediate welfare but his future as well. An example of the Juvenile Judge's awesome power is the statutory authority to sever parental rights.

It has oftentimes been said that for most citizens, their first and only contact with a court is of the lowest level. It is important that they understand the procedure and their constitutional and statutory rights.

Court procedure and court decisions are very important. Every decision that the court makes effects someone.

*Gerald Johnston District Magistrate Judge Rooks County*

In some civil cases involving garnishment of wages, I find defendants with a two week salary nearly equal to my monthly take home salary.

District Magistrate Judges and Associate District Judges have thousands of persons before them yearly. Each person's life is effected in some way by the judge handling the case. I feel these judges have some of the most important positions in the judiciary and should be paid a salary whereby a judge can raise his family without moonlighting; which is no honor to his office.

*L. M. Selanders District Magistrate Judge Anderson County*

At present in addition to my own local responsibilities in this county, I also travel to an adjoining County one day each week and hear cases that are docketed for that day. In other words one-fifth of my duties are not in the county in which consideration for the amount of pay I should receive is calculated.

My second point which I wish to stress is in reference to House Bill No. 2642 which provides a grant to my County for 1978 in the amount of \$4,395.00 and I quote: For the purpose of defraying the cost of salaries of the District Magistrate Judge. End of quote.

In my County this amount will go in the County General Fund and certainly not be used exclusively in that manner. My personal feeling is that it was the intent of the legislature that this amount was to be used to correct a salary situation that was overlooked previously.

*Elmer V. Neff District Magistrate Judge Kearny County*

After the budget in the 25th Judicial District for the coming year was slashed extensively by Finney County Commissioners, I feel it is imperative that the State mandate guidelines for budgets to give the Administrative Judges power to control their budget requirements.

Also in this respect, there needs to be a statutory framework established for setting salary schedules for District Magistrate Judges as there is for Associate District Judges and District Judges.

Costs of living are the same whether you live in a county of 2,500 or one of 250,000.

The value of work performed can not always be measured solely on a caseload basis.

*Adele Konkel District Magistrate Judge Sherman County*

In addition to the salaries of positions asked for in the questionnaire, I was given some other information by school officials which I found revealing. The high school principal makes \$20,610.00 per year, the bus manager makes \$10,500.00 per year, plus expenses and a vehicle for his use, and his wife as assistant bus manager makes \$9,000.00 per year plus expenses. I would point out that these people work ten months a year on the average. In our county the magistrate's vacation time is two weeks.

Sherman County has a few distinctive features which tend to add to our caseload. Interstate 70 runs the entire length of our county and we border on the Colorado line. We are only a little over 40 miles from the Nebraska border. A sugar beet factory is located here and therefore we have a number of itinerants in the area at different times of the year. We have a port of entry at the Colorado border. We are the largest town located in a radius of a three hours' drive and therefore we are a shopping center for several surrounding counties.

*Dennis L. Reiling District Magistrate Judge Jefferson County*

In Jefferson County we have two special circumstances that statistics cannot represent:

Jefferson County contains within its boundaries the Perry Reservoir.

Jefferson County hosted 1,380,873 visitors in 1976. Visitation through July 1, 1977 has been 1,078,190.

Remembering that Jefferson County is a county of 14,000 people, it becomes evident that statistics do not address themselves to the pressures and case load that law enforcement and the Courts face in a rural tourist area.

Jefferson County adjoins Shawnee County to the southwest and adjoins Douglas County to the south.

Topeka (Shawnee County), being a large urban area substantially contributes to the case load of Jefferson County.

Lawrence (Douglas County), home of Kansas University, causes similar problems.

*C. Ann Kennis District Magistrate Judge Greeley County*

As you are will aware, the unification of the Kansas Courts was initiated in January of this year. Since that time, in the Twenty-Fifth Judicial District, the five magistrates have been periodically assigned Finney County to assist the Associate District Judge in handling the caseload in that county.

I feel that the experience gained from working in another county with a greater caseload and variety cases is extremely beneficial. At the same time, I think the fact that we are hearing cases in other counties ought to be considered when we're talking about salaries, because those cases heard are not reflected in our own caseload.

*Chester W. Kent District Magistrate Judge Clay County*

There has been a marked increase in vandalism and burglaries in rural areas, especially in the eastern edge of Clay County which borders Fort Riley. Naturally the farmsteads are the most vulnerable to these violators.

Another problem that we are confronted with in Clay County is the abundance of marijuana that grows in the upper regions of the Milford Lake area, which is under the control of the Army Engineers. This is well known from coast to coast; therefore we are overrun with marijuana harvesters from New York to Berkley.

*Herbert Noyes District Magistrate Judge Grant County*

Factors that are somewhat unique to the court system in Grant County include:

- (1) Our County population is mainly concentrated in Ulysses. It is the only incorporated city within the County.
- (2) There are only 4 law firms in the County, including the County Attorney. This requires the Court to provide more personal service to the public than if there were more attorneys available.
- (3) Grant County is located about 30 miles from Oklahoma and about 60 miles from Colorado.
- (4) Grant County's geographic "isolation" means that we have few State agencies and services available to the court. (e.g. SRS workers, foster homes, detention homes, half-way houses etc.) This places more responsibilities for rehabilitative servies upon the court and with limited staff means more responsibilities upon the Judge.
- (5) The cost of living in our area is among the highest in the State. My salary is low-medium in the community. Many "plant" wourkers make \$14,000.00 to \$16,000.00. Police officers make \$12,000.00 to \$15,000.00. City Administrator \$25,000.00.

I personally take my position seriously and feel that is is an essential function. I try to improve in my position. I do not have any securities or savings of consequence to rely on. I am the main provider for my family. It is sometimes difficult to do.

B. s Hinkle District Magistrate Judge Miami County

My jurisdiction includes several circumstances which should be considered in establishing the salary in Miami County:

(1) Certainly a judge serving in a county of approximately 22,000 population is entitled to a greater salary than one of 8,000 or one of 14,000 or 15,000.

(2) The Osawatomie State Hospital, including the YRC unit, is located in Miami County. This entails many change of venue cases from other counties in the southeast district, including the extra provisions of 90 day reviews of all patients remaining in the hospital, and some probable cause hearings of change of venue cases filed in this county.

(3) Miami County is located adjacent to the metropolitan and urban areas of Johnson County and Wyandotte County, Kansas and Jackson County, Missouri. It is adjacent to the Missouri line which seems to have a bearing on criminal activity in this county.



APPENDIX B

SUGGESTED STATUTORY CHANGE

K.S.A. 20-351 1977 Supplement should be amended to read:

(b) A district magistrate judge shall receive an annual salary from the state in the amount of sixteen thousand dollars (\$16,000.00) payable in equal monthly installments. In any county where any district magistrate judge was receiving a salary in excess of sixteen thousand dollars (\$16,000.00) on January 7, 1979, such district magistrate judge shall receive additional compensation payable from the general fund of such county in an amount which, when combined with the sixteen thousand dollars (\$16,000.00) payable by the state shall not be less than the annual salary such judge was receiving on January 7, 1979.

(c) In addition to the salary hereinbefore authorized to be paid from the general fund of the county, any district magistrate judge may receive from the county general fund such additional compensation as may be recommended by the administrative district judge of the judicial district subject to final determination by the board of county commissioners of such county.

Notwithstanding any of the foregoing provisions of subsections (b) and (c) authorizing or directing the payment of additional compensation, all district magistrate judges serving in the same county shall receive equal annual salaries and in no case shall the total annual salary of a district magistrate judge received from both the state and county exceed an amount equal to ninety-five percent (95%) of the annual salary paid by the state to an associate district judge.

BEFORE THE KANSAS CITIZEN'S  
STUDY COMMITTEE ON JUDICIAL COMPENSATION

October 10, 1977

Mr. Chairman and ladies and gentlemen of the Committee:

I am Warren Shaw. I have practiced law in Topeka since 1931. I am admitted to practice law in all Kansas Courts, the United States District Court of Kansas, the United States 10th Circuit, and the United States Supreme Court. I was requested by Howard Harper, President of the Kansas Bar Association, as a member of the Judiciary Committee of the Association, to express the views of the organized bar of Kansas on the subject for consideration of your Committee, in the place of Marvin Thompson of Russell, Chairman of the Judiciary Committee, who could not be present. More than 3400 lawyers are members of the Kansas Bar Association.

On behalf of the Bar Association of which I am a member, but more particularly as a citizen of Kansas concerned about all branches of government at all levels, I appreciate this opportunity to express the views of the Bar Association and my own views on the subject matters for your consideration.

As a member of this profession for more than 46 years I have been privileged to know and associate with the best of the Bench and Bar of this state and other states, and believe I am qualified to express the thoughts and beliefs of this profession on this matter.

I have been deeply concerned about the administration of justice, both criminal and civil, throughout my professional life. I worked and supported the system for the selection of Supreme Court Justices, for the adoption of our codes of civil and criminal procedures, for the legislation that has brought about our unified court system and other improvements to our procedural and substantive law. The citizens of Kansas, the Legislature of Kansas, and the executive branch of the State can be justly proud of the improvements that have been made in recent years. There appears to me to be an additional step in our system, long overdue, that is needed and essential, and that is just compensation for those men and women who occupy the judicial positions in our form of government.

I firmly believe that our state and nation must have, particularly in these times, the best system of justice that is possible to attain. We cannot afford anything less. Of

the three branches of our system of government, the judicial must always command the respect, confidence and faith of our citizens. Without these attributes self government, as we know it, cannot continue to function.

With few exceptions, the justices and judges that will occupy judicial positions in the future will be selected from the lawyers of this state. If the system is to work, those selected to occupy judicial positions should be selected from the very best of the practicing lawyers of the state. They should be men and women in the prime of their professional life, those who have been successful in the practice of law, those who have been well schooled in the law, those who are dedicated to fairness and equal justice under the law, those who possess a "judicial temperament," those whose practice has displayed impeccable qualities, those who by their community activities have displayed a concern for their fellow man, those to whom you would want to entrust your life, liberty or fortune if the need ever arose. Briefly, the citizens of this state are entitled to have their judges selected from the very best that the legal profession has to offer.

It is neither wise nor just to ask the elite of the legal profession in the prime of their careers to serve as our judges without appropriate compensation. Neither is it wise or just to select only those who can serve, because of the honor in the position, by reason of their own financial resources, and to whom compensation is of no importance. When I propose just compensation I am not suggesting that judicial compensation equal or even approximate the income of those lawyers, whom I have suggested should be selected, but compensation that permits one selected to continue to live in his community commensurate with his position, to have a family and raise and educate his children. I do not believe we can do less. We do not want to be in a position to select less than the best.

It is my opinion, based on information I have received, that if a lawyer is selected to the Bench who has the background, qualifications and private practice required to meet the criteria a judge should have, that lawyer will sustain a material decrease in income. The actual decrease will, of course, differ in each case but as noted, it will be substantial.

As this Committee knows, the Supreme Court and the Court of Appeals Justices are selected by the Supreme Court Nominating Commission and most District Court Judges and Associate District Court Judges are now selected by a District Nominating

Commission. I am a member of the Commission for my District. We have selected one panel for a District Court Judge and our Commission is now in the process of selecting a panel to fill another vacancy. There are more than 700 lawyers in my District. One would think there would be many well qualified lawyers in this District who would make themselves available for appointment. It is a high honor that most lawyers would cherish to be selected by their peers to occupy a judicial position. However, such is not the case. Those exceptionally well qualified lawyers who should be considered have frankly said they do not want to be considered because of financial reasons. They are at an age where they have children to be educated, have incurred obligations that must be met, have acquired a modest standard of living, and other financial requirements that must be taken care of. They cannot jeopardize their family and their family's future. I would suggest that Kansas needs the services of these men. We should not expect to get the best qualified lawyers to be judges unless their compensation is somewhat commensurate to the services expected.

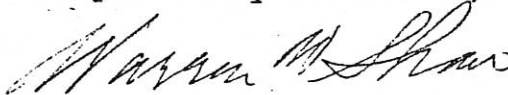
The positions of justices and judges are difficult, confining and require long hours. This should be appreciated when fixing their compensation.

I have not touched on how other states and the federal government compensate their judges, because I know the research department and its personnel will supply you with the facts. I can only say, by any standard the compensation of our Kansas judges is woefully inadequate.

I have intentionally kept my presentation brief, but because it has been brief I do not want you to infer that the Kansas Bar Association is not extremely concerned about judicial compensation.

On behalf of the Bar Association I want to thank you for this opportunity to appear this morning.

Respectfully submitted,



Warren W. Shaw

TESTIMONY OF JERRY R. PALMER  
PRESIDENT OF KANSAS TRIAL LAWYERS ASSOCIATION  
TO CITIZENS STUDY COMMITTEE ON JUDICIAL COMPENSATION  
October 10th, 1977

TO MEMBERS OF THE COMMISSION:

The Kansas Trial Lawyers Association is a 750 member organization composed of practicing attorneys who represent litigants in adversary proceedings in the Courts and other forums of this state. It is of continuing concern to the Association that well qualified persons are selected and retained to adjudicate the controversies of our clients. We would urge this Commission to make recommendations which will result in raising the judicial standards of compensation, in this state, to a point that they are compatible with the skill and experience desirable for these positions. Let me first make some comparisons that are in the data that has already been presented by others.

STATE JUDICIAL SALARYS

	<u>Supreme Court (Rank)</u>	<u>District Court (Rank)</u>
Highest	\$62,935	\$49,166
15th Rank	\$45,000	\$39,000
Kansas	\$34,000 (43)	\$30,500 (37)
Lowest	\$29,000	\$21,500

Source: Judicial Salaries in State Court Systems 7/77  
Volume 3 No. 8  
National Center for State Courts

FEDERAL JUDICIAL SALARYS

		<u>Kansas as a %</u>
U. S. District Court	\$54,000	---- 56%
U. S. Court of Appeals	\$57,500	---- 59%

Perhaps, the argument is not entirely logical that because Kansas citizens rank 15th among all 50 states in per capita income that likewise our Supreme Court and District Judges should be no further than the 15th rung on the ladder. It is though, significant, that in the range of salaries ours tend to be dramatically low and in the ranking as well very low. There are some thoughts that we must keep in mind though as we view these salaries:

1. All Judges get paid the same, irrespective of time in office, age or experience.
2. Even though our highest ranking officers in the state government may not be paid much more, their tenures are shorter and their prestige greater.
3. The entry point, of being a jurist of any kind, is probably between the 10th and 20th year in practice for the District Court which are prime years of productivity for a practicing lawyer.

Of particularly acute concern to the Kansas Trial Lawyers Association is not that we will be able to retain Judges, but it is noteworthy that Judge O'Conner was a Supreme Court Justice of Kansas but accepted appointment to the Federal Trial Bench and David Prager and outstanding Justice of our Supreme Court has applied for, and is among those being considered for, the Court of Appeals 10th Circuit at the present time. More problems are likely to be experienced in the recruitment of new Judges. Within the last few years, I have had two close friends who have gone through the consideration of changing their vocational interest within the law from that of practicing attorney to becoming a District Judge. Both are extremely well qualified for the Bench, had wide support among lawyers irrespective of practice, and whose integrity and judgment was far above average. One chose to be a candidate and was selected, and the other chose not to be a candidate. To both of them though, the financial sacrifice, both immediate and long range, was a very real consideration.

With judicial salaries at \$30,500 base, any lawyer, in a metropolitan area with ten or more years of practice, who is in a firm, and has been reasonably successful in attracting clients, will more than likely have to take a cut in pay to become a Judge, but, the growth of practice, which again comes from experience, makes the decision even more

difficult. Thus, with low judicial salaries the persons who are attracted to the Bench are:

- (a) Those who will forego the ordinary material expectations of their profession, or
- (b) Those whose practices have not been that successful, or
- (c) Those whose financial responsibilities have been reduced to the point that they can afford to take a cut in pay (having educated their children, paid-off their mortgages, have independent wealth, or are seeking a form of retirement).

Kansas has been fortunate that we have continued to have persons who have been willing to make the sacrifice, financially, or who have attained a position of financial security which permits them the luxury of the judiciary. It is though, unfair, to request and expect a permanent financial sacrifice to serve the public's good indefinitely. The hazards of such a course are obvious, in that when the supply in any given district of the people willing to make the sacrifice is exhausted the post of Judge will be degraded.

The cost of an inefficient, disinterested, or Judge of mediocre intelligence is enormous. It is enormous for the litigants, and is enormous through the cost of the Appellate process and the additional burdens placed upon it to society as a whole. I would hope that this Commission would want to attract the brightest and the best to the Bench. The problems of an inept lawyer are ordinarily borne by his clients, the problems of an inept Judge are borne by all.

There is no reliable statistical data available on the average income of lawyers in this state, the best educated guesses though indicate that partners in firms of between eight and twelve in the Sedgwick County area having five years or more practice are approximately \$50,000 a year, and in the firms, just below that, for lawyers of about the same age about 40 to \$43,000 a year. The best estimate of the average of all lawyers, state wide of all ages, is that the income runs between 25 and \$35,000 a year. Surely, it would not be the hope of either this Commission or the Legislature that a middling lawyer would be raised to a middling Judge.

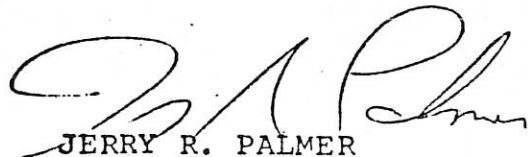
I do not mean to draw the correlation that the higher the income of the lawyer the better the Judge he would



make, that that should be a criterion for either selection of a Judge or the basis for the payment of a Judge, because in that event, we might have some extremely talented specialist and have to pay them over \$100,000 a year. There are a number of such persons. On the other hand, society should pay higher than average for the people to whom it will entrust the decision of its important matters. As a rule of thumb, a good practitioner makes a good Judge, and we ought to have compensation within the range that good practitioners can afford to take the job, for a lifetime, without making too great a financial sacrifice.

In conclusion, we, the attorneys who represent the litigants in the Courts, want to maintain the high quality of the Kansas Judiciary at both the District and Appellate level and feel that the salaries are not commensurate with the responsibilities and that as a matter of both fairness and necessity it is incumbent that we bring the salaries into line and for want of a better basis would suggest a view that if we are the 15th state in per capita income our Judges ought to be making, at least, \$45,000 at the Supreme Court level and \$39,000 a year at the District Court level with some type of assurance that the cost of living will not eat up the differential.

Respectfully submitted,



JERRY R. PALMER  
President of Kansas Trial  
Lawyers Association

Responses to Questions Submitted  
by Judicial Salary Commission

1. What salaries do federal judges receive?

District Court	\$54,500	Customs Court	\$54,500
Court of Appeals	57,500	Tax Court	54,500
Supreme Court		Customs and	
Chief Justice	75,000	Patent Appeals	57,500
Assoc. Justices	72,000	Military Appeals	57,500
Federal Magistrate	46,500		

2. How long does it take to get a case to trial in Kansas?

District Court Statistics

Age of Contested Civil Cases Terminated--FY 1977

<u>Less than 6 Mos.</u>	<u>Less than 12 Mos.</u>	<u>Over 12 Mos.</u>
61%	81%	19%

Age of All Cases Pending June 30, 1977

<u>Less than 12 Mos.</u>	<u>12 to 24 Mos.</u>	<u>Over 24 Mos.</u>
82%	13%	5%

How long does it take to get a case to trial in other states?

Comparable data from other states is not readily available. The National Center for State Courts in cooperation with the Conference of State Court Administrators has undertaken a national courts statistics project which will eventually provide not only state court data on a national scale but also comparability between states.

Of states surrounding Kansas, only Iowa's annual report shows data comparable to Kansas:

Cases Pending December 31, 1976

	<u>Less than 12 Mos.</u>	<u>Over 12 Mos.</u>
Civil	55%	45%
Criminal	77%	23%

Question No. 2 cont'd

Often, the State of Oregon is compared with Kansas. Its annual report shows the following:

Civil Cases Pending December 31, 1976

<u>Less than 6 Mos.</u>	<u>Less than 12 Mos.</u>	<u>Over 12 Mos.</u>
58%	85%	15%

Does our system function better than the systems of other states?

Our system is new (1/10/77), and all indications are that it is working quite well. The removal of jurisdictional barriers between courts at the trial level has permitted full utilization of judicial manpower as well as support staff, facilities, and resources. Undoubtedly, it will in time prove to be more efficient than other systems where courts are both fragmented and overlapping as to jurisdiction.

3. What states have ongoing salary commissions?

See attached list. (page 12)

4. How many judges have left the Kansas bench for employment in more lucrative fields?

In recent years, one Supreme Court justice resigned to become a federal trial judge; one district court judge resigned to become a military judge. A Supreme Court justice was recently considered for a U.S. Court of Appeals position.

Several part-time, lawyer special court judges did not choose to become associate district judges under court unification but instead went into full-time practice of law.

5. Which district nominating commissions are having problems getting well-qualified nominees for vacancies on the bench?

Question No. 5 cont'd

Give names and addresses of members on the commissions.

This question can best be answered by the commissions.  
It is suggested the following commissions be contacted:

Second Judicial District Nominating Commission

Secretary: Marlin White  
Denison State Bank Building  
Holton, KS 66436

Third Judicial District Nominating Commission

Secretary: Judith A. Corby  
3517 Avalon Lane  
Topeka, KS 66604

Eighth Judicial District Nominating Commission

Secretary: Charles E. Bogan  
306 N. Cedar  
Abilene, KS 67410

Eleventh Judicial District Nominating Commission

Secretary: John B. Markham  
1712 Broadway  
Parsons, KS 62357

Twelfth Judicial District Nominating Commission

Secretary: Roderick E. Weltmer  
Mankato, KS 66956

Twenty-third Judicial District Nominating Commission

Secretary: Tom Kelley  
111 West 13th  
Hays, KS 67601

Twenty-seventh Judicial District Nominating Commission

Secretary: R. J. Gilliland  
330 West 1st Street  
Hutchinson, KS 67501

Twenty-ninth Judicial District Nominating Commission

Secretary: John J. Bukaty, Sr.  
727 Ann Avenue  
Kansas City, KS 66101

6. What is the population by district of active practicing attorneys?

The following schedule reflects the population by district of lawyers registered with the Supreme Court. It includes incumbent lawyer-judges and attorneys in private business who wish to maintain the right to practice. The list is approximately one year old, and a new list will be made in the near future to reflect the 1977 admissions to the bar. A map showing the judicial districts is also included.

<u>District</u>	<u>#Attys</u>	<u>District</u>	<u>#Attys</u>
1	61	16	49
2	46	17	57
3	600	18	803
4	77	19	110
5	35	20	94
6	48	21	53
7	125	22	46
8	76	23	49
9	60	24	35
10	505	25	51
11	113	26	48
12	50	27	91
13	58	28	71
14	40	29	292
15	48		

Total No. Attys: 3,791

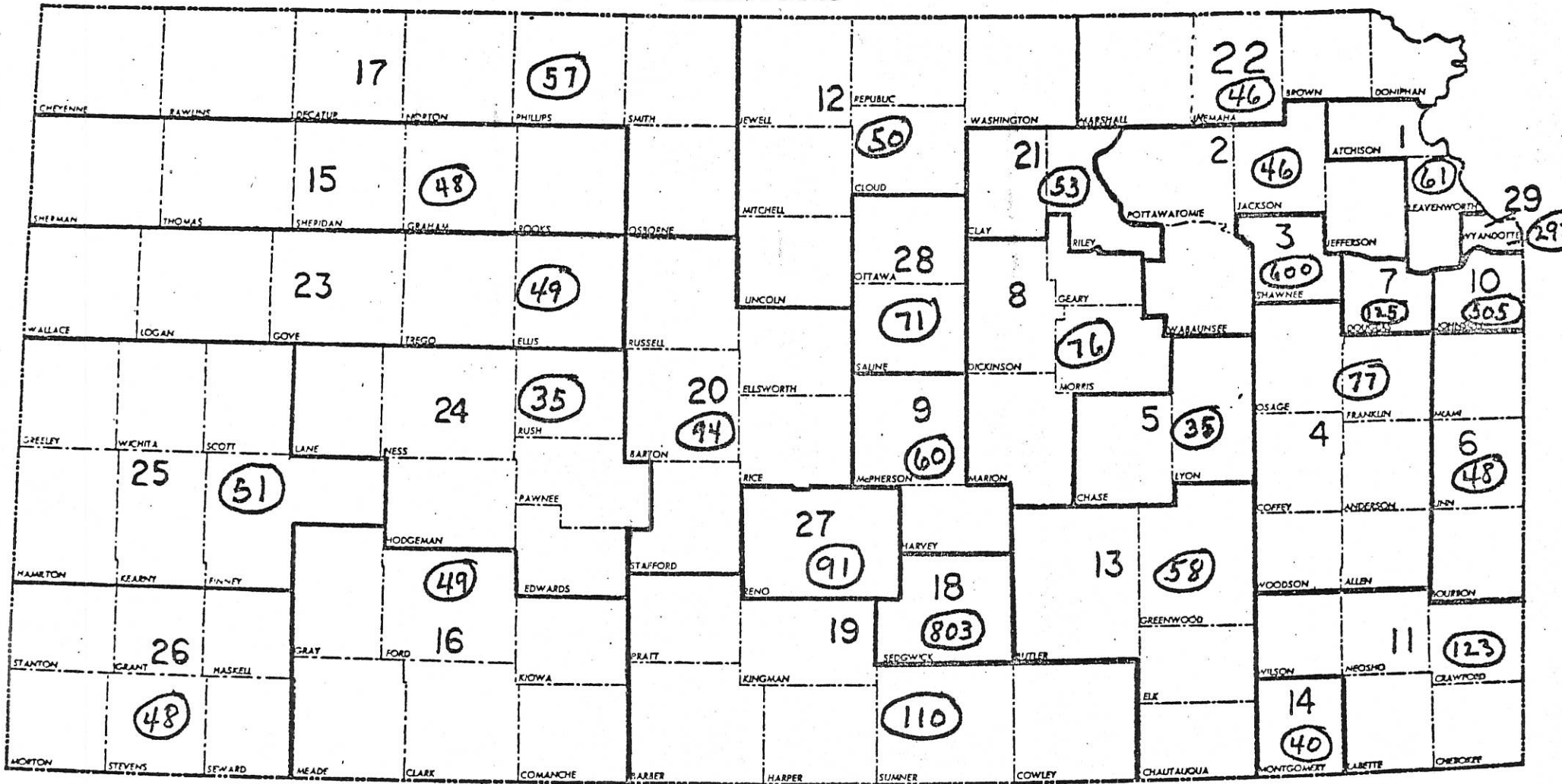
7. How many hours per week do judges actually spend in the courtroom?

This information is not available. Most judges spend their time during regular court hours either on the bench or in chambers. In addition to hearing cases, they must spend time in chambers considering motions, conducting pretrial conferences with attorneys, and doing legal research. Judges in multiple-county districts must "ride circuit" and spend travel time covering as much as 18,000 miles a year. Judges also attend judicial meetings and seminars and work on committees for the improvement of the system.

8. What is the law school graduating class rank of each judge in Kansas?

This could be obtained only by questionnaire to the judges or by contacting their law schools.

# KANSAS



## KANSAS JUDICIAL DISTRICTS

ATTY. POP. PER DIST.  
SHOWN IN ○

9. How many judges in Kansas are K.U. grads? Washburn grads?

Law Schools

	<u>K.U.</u>	<u>Washburn</u>	<u>Other</u>	<u>Vacancy</u>
Assoc. Dist. Judges	24	29	9	0
District Judges	23	35	10	1
Ct. of Appeals Judges	0	4	3	0
S. Ct. Justices	2	4	1	0

Of the state's 79 district magistrate judges, all but two are nonlawyers.

10. How long has each judge in Kansas been in his/her respective position? For each judge, how many came up through the ranks reach the position he/she is now in?

The following schedule reflects names of individual justices, court of appeals judges, and district judges; the date or year they assumed their present position, and their known previous judicial experience or experience in the office of county attorney. The extent of previous judicial experience is not readily available for all judges, and to that extent the schedule is incomplete. Where previous judicial experience is not known, we have indicated private practice.

Associate district judges and district magistrate judges are not included in the schedule.

Question No. 10 cont'd

Supreme Court Justices

<u>Name</u>	<u>Entry Date</u>	<u>Yrs. in Pres. Pos.</u>	<u>Lower Court Service</u>	<u>C/A Office</u>	<u>Private Practice</u>
A. G. Schroeder	1/1957	21	x (10 yrs.)		
Alex M. Fromme	5/1966	11+			x
Perry L. Owsley	9/1971	6+	x (8 yrs.)		x
David Prager	12/1971	6	x (12 yrs.)		
R. H. Miller	11/1975	2	x (Dist. Judge (Fed. Magis. 15 yrs.)		
Richard Holmes	9/1977	1-			x
Kay McFarland	9/1977	1-	x (7 yrs.)		

Total: Seven justices; 5 with prior judicial service.

Court of Appeals Judges

Jerome Harman	1/1977	1	x (Dist. Ct. 30 yrs.) (Sup. Ct.)		
J. R. Foth	1/1977	1	x (Sup. Ct. 6 yrs.) (Atty G. 12 yrs.)		
Bob Abbott	1/1977	1			x
John E. Rees	1/1977	1			x
C. C. Spencer	1/1977	1			x
S. A. Parks	1/1977	1			x
J. H. Swinehart	1/1977	1	x (20 years)		

Total: Seven judges; 3 with prior judicial service.



Question No. 10 cont'd

District Judges

<u>Name</u>	<u>Entry Date</u>	<u>Yrs. in Pres.Pos.</u>	<u>Lower Court Service</u>	<u>C/A Office</u>	<u>Private Practice</u>
Phil Aldrich	1/75	2			x
Adrian Allen	12/71	6			x
Robert Baker	1/75	2		x	
O. Ballinger	1/77	1	x		
M. Barbara	11/67	10			x
P. W. Benson	1/61	17			x
C. E. Birney	1954	24			x
J. P. Brazil	5/72	5+			x
John Brookens	9/65	12			x
P. K. Brown	3/77	1-		x	
B. Mack Bryant	1955	23	x		
Terry L. Bullock	7/76	1.5			x
D. P. Calvert	1/73	5		x	
Wm. R. Carpenter	1/65	13	x		
O. Q. Claflin	1957	21	x		
Wm. D. Clement	6/75	2.5		x	x
F. H. Coffman	1953	25			x
Wm. M. Cook	9/75	2	x		
M. Corrigan	1/77	1	x		
G. W. Donaldson	1961	17			x
K. G. Duckworth	1/77	7			x
S. P. Flood	8/75	2			x
Frank R. Gray	1955	23	x		
R. E. Haggart	1/71	7			x
H. L. Hammond	1/69	8			x
K. Harmon	1961	17			x
M. V. Hoobler	1967	11			x
R. D. Innes	1/71	7		x	
N. W. Klein	1/71	7	x		
H. C. Kline	11/50	27	x		
T. C. Lockett	1/77	1	x		
J. W. Lowry	9/69	8			x
J. W. Mahoney	2/77	1			x
W. P. Meek	5/65	12.5			x
C. D. Meeks	1973	5			x
M. Meyer	1975	3			x
H. G. Miller	1954	24			x
R. E. Miller	1/73	5		x	
L. J. Moroney	1/67	11		x	

cont'd

Question No. 10 cont'd

<u>Name</u>	<u>Entry Date</u>	<u>Yrs. in Pres.Pos.</u>	<u>Lower Court Service</u>	<u>C/A Office</u>	<u>Private Practice</u>
D. H. Musser	1959	19			x
J. J. Noone	1959	19		x	
C. V. Owens	1/77	1	x		
J. W. Paddock	1/73	5			x
W. H. Phillips	7/75	2.5			x
Tom Raum	1951	16.5	x		
J. H. Rexroad	1963	15			x
J. V. Riddel	5/63	14.5	x		
H. R. Riggs	12/60	17			x
H. Rohleder	8/67	10			x
J. M. Rugh	6/71	6.5			x
D. H. Scott	1967	11	x		
C. J. Sell	3/76	2	x		
B. L. Shankel	2/73	5			x
L. C. Smith	8/75	2.5			x
R. F. Stadler	1/69	9			x
R. T. Stephan	2/65	13			x
W. L. Stevenson	1/75	2			x
C. H. Stewart	1963	15			x
S. H. Sturm	1961	17			x
B. J. Vance	1963	14			x
E. N. Vickers	1963	15	x		
R. W. Wahl	7/75	2.5			x
W. W. Wall	1/73	5			x
H. W. Walton	1965	12	x		
C. M. Warren	7/69	8.5		x	
D. E. White	1955	23			x
F. Woleslagel	1959	19			x
P. C. Woodworth	1/69	9			x

Total: 68 district judges; 26 known to have previous judicial or county attorney experience; 1 district judge vacancy exists.

11. Who is in charge of the Kansas District Judges Association?

President: Judge Robert T. Stephan  
Div. 6, 18th Judicial District  
Sedgwick County Courthouse  
Wichita, KS 67203

Executive Committee: Judge Robert F. Stadler, Iola  
Judge James W. Paddock, Lawrence  
Judge Keaton Duckworth, Elkhart  
Judge C. Phillip Aldrich, Larned  
Judge Phillip L. Woodworth, Olathe  
Judge J. Patrick Brazil, Eureka  
Judge Ronald D. Innes, Manhattan

12. Have any county commissioners expressed a desire to your office to be heard in this matter of judicial compensation?

Not specifically.

A joint liaison committee of judges and commissioners has met and it was the general consensus that the state should pay all judicial salaries as well as other costs of operating the district courts. The president of the Kansas County Commissioners Association is John Prochaska, Jr. of Mitchell County; its executive secretary is Fred Allen, 112 West 7th, Topeka, Kansas, 66603.

13. What is the income of attorneys in private practice?

This matter is currently the subject of a survey of the Kansas Bar Association which will be available about December 1, 1977.

The Legal Economics Committee of the Wichita Bar Association recently conducted an economic survey for 1975 and 1976. While its responses from the Wichita lawyers were limited in

Question No. 13 cont'd

numbers (52 questionnaires returned), the following data is reflected in the committee's report:

Average Net Income Per Partner Or Practitioner

	<u>Sole Practitioners</u>	<u>Firms</u>				
		<u>All Firms</u>	<u>2-4</u>	<u>5-7</u>	<u>8-11</u>	<u>12 or Over</u>
1975	\$35,944	\$36,409	\$34,411	\$39,105	\$37,324	\$33,748
1976	37,711	41,863	39,137	50,592	42,071	32,380

STATES WITH SALARY COMMISSIONS

List Furnished by National Center  
for State Courts

September 26, 1977

STATE	NAME OF COMMISSION	AUTHORIZATION	NUMBER OF MEMBERS	APPOINTMENT OF MEMBERS	COMPENSATION	POWERS OF COMMISSION
Alabama	Judicial Compensation Commission	Alabama Const. Art. 6 §148	5	1 by governor 1 by Pres. of Senate 1. by Speaker of House 2 by Alabama Bar	Funds are appropriated for expenses	Recommendations be submitted within the first 5 days of a legislative session. They become law if not acted upon by legislature.
Arizona	Commission on Salaries for Elective State Officers	Arizona Const. Sec. 13; Arizona Revised Statutes §41-1901 to 1904	5	2 by governor 1 by Pres. of Senate 1 by Speaker of House 1 by Chief Justice	Members serve without compensation but are reimbursed for travel and subsistence	Recommendations apply to judges. They become effective if the legislature does not act upon them within 90 days of submission to that body.
Colorado	Colorado State Official's Compensation Commission	Colorado Revised Statutes §2-3-801 to 806	9	2 by Pres. of Senate 2 by Speaker of House 3 by Governor 2 by Chief Justice	Serve without compensation but are reimbursed for expenses	Recommendations apply to judges. They are to be considered by the legislature.
Connecticut	Compensation Commission for Elected State Officers and Judges	Connecticut General Statutes Annotated §2-9a	11	3 by Governor 2 by Pres. of Senate 2 by Speaker of House 2 by each of the minority leaders of the legislature	Serve without compensation but are reimbursed for expenses	Recommendations apply to judges. They must be considered by the legislature.
Florida	State Officers' Compensation Commission	Florida Statutes Annotated §112.192	9	2 by Governor 2 by Pres. of Senate 2 by Speaker of House 2 by Chief Justice 1 by the other 8 members	Serve without compensation but are reimbursed for expenses.	Recommendations apply to judges. They are purely advisory in nature.
Georgia	State Commission on Compensation	Georgia Code Annotated §89-716 to 726	12	4 by Governor 2 by Lieut. Governor 2 by Speaker of House 4 by Supreme Court	Compensation is \$25/day and reimbursement for expenses 1	Recommendations apply to judges. If pay bills are introduced in the legislature, they must contain the compensation recommendation by the commission.

STATE	NAME OF COMMISSION	AUTHORIZATION	NUMBER OF MEMBERS	APPOINTMENT OF MEMBERS	COMPENSATION	POWERS OF COMMISSION
Illinois	Commission on Compensation of State and Local Government Officials	Illinois Annotated Statutes - Chapter 127 §551 to §554	5	By Governor	\$50/day to a maximum of 100 days a year. Reimbursement of expenses	Recommendations apply to judges. The Commission has a purely advisory function.
Iowa		Iowa Code Annotated §2A.5				Recommendations apply to judges. General Assembly must consider recommendation of Commission
Kentucky	Public Officials Compensation Commission	Kentucky Revised Statutes - Chapter 64	5	1 by Governor 1 by Lieut. Governor 1 by Speaker of House 1 by Pres. of Senate 1 by Chief Justice	\$50 per diem and reimbursement of expenses	Commission makes specific recommendations to legislature. Uncertain as to application of recommendations to judiciary.
Louisiana	Commission on Judicial Compensation	Louisiana Statutes Annotated - Revised Statutes §13:42 to 46	15	3 by Governor 1 by Chief Justice 1 by Chairman of Conference of Court of Appeals Judges 1 by District Judges Association 5 by presiding officer of House 4 by presiding officer of Senate	Serve without compensation but expenses are reimbursed	Commission serves in advisory capacity.
Michigan	State Officers Compensation Commission	Michigan Constitution Art. IV Sec. 12 Michigan Statutes Annotated §3.255 (51 to 56)	7	By Governor		Recommendations apply to Supreme Court Justices only. They become effective unless challenged by legislature.

Minnesota	Compensation Review Board	Minnesota Statutes §15A.041	9			Recommendations apply to judges. Review board serves in an advisory capacity.
Missouri	Missouri Compensation Commission	Executive Order of Governor	9	3 by governor 2 by President of Senate 2 by Speaker of House 2 by Chief Justice	No information available	Recommendations are advisory in nature. They apply to officials in the 3 government branches.
Montana		Montana Constitution Art. XIII Sec. 3 - Revised Code of Montana 59-1401 to 1404	8	2 by Governor 2 by Supreme Court 1 by majority and minority leaders of both houses of legislature	\$25/day and reimbursement for expenses	Recommendations apply to judges. They are only advisory in nature.
New York	Commission on Legislative and Judicial Salaries	Executive Law Art. 27-A	9	3 by Governor 2 by Pres. of Senate 2 by Speaker of Assembly 2 by Chief Judge	\$100/day to a maximum of, \$7,500 per Commission member and reimbursement of expenses	Recommendations apply to judges. They must be considered by legislature.
Ohio	State Employee Compensation Board	Ohio Revised Code Annotated §143.10.1	5	Members are: Director of State Personnel; Director of Finance; State Auditor; member of the House chosen by the Speaker; member of the Senate chosen by Pres. Pro Tem	\$50.40/day for legislative members	Recommendations are advisory.
South Dakota	Commission on Salaries for Elective State Officials	South Dakota Compiled Laws Annotated §3-8-1.1 to §3-8-6	5	2 by Governor 1 by Pres. of Senate 1 by Speaker of House 1 by Presiding Judge of Supreme Court	Serve without compensation but are entitled to expenses	Recommendations apply to judges. They are only advisory in nature.
Utah	Executive Compensation Commission	Utah Code Annotated §67-8-13.5 to 13.12	5	1 by Governor 1 by Pres. of Senate 1 by Speaker of House 2 by other Court	\$25/day and reimbursement expenses	Recommendations apply only to state paid judges. They are only advisory in nature.



STATE	NAME OF COMMISSION	AUTHORIZATION	NUMBER OF MEMBERS	APPOINTMENT OF MEMBERS	COMPENSATION	POWERS OF COMMISSION
Vermont	State Employees' Compensation Review Board	Vermont Statutes Annotated 3 S324	9	3 by bargaining representative for state employees  6 by governor	\$15/day for non-state employees; all members reimbursed for reasonable expenses	Recommendations apply to members of the judiciary; makes recommendations to governor prior to convening of general assembly.
Washington		Washington Revised Code Annotated S43.03.028	7	Members are: Pres. of Puget Sound University; Pres. of Washington State University; Chairman of State Personnel Board; Pres. of Ass'n of Washington Business; Pres. of Pacific Northwest Personnel Managers Ass'n; Pres. of Wash. State Bar Ass'n, Pres. of Wash. State Labor Council		Recommendations apply to all judges. They must be considered legislators' in their legislation.
FEDERAL	Federal Commission on Executive, Legislative, and Judicial Salaries	Title 2, U.S.C.A. S351-361	9	2 by President 2 by Speaker of House 2 by Pres. of Senate 2 by Chief Justice	\$100/day and travel and per diem expenses	Recommendations apply to judges. They become effective if not altered by legislation.

# National Center for State Courts

Suite 200, Lincoln Center Building  
1660 Lincoln Street  
Denver, Colorado 80264  
(303) 892-1261

## BOARD OF DIRECTORS

**President**  
Chief Justice Edward E. Pringle  
Supreme Court of Colorado

**Vice President**  
Chief Justice C. William O'Neill  
Supreme Court of Ohio

Edward B. McConnell  
Director

Arne L. Schoeller  
Deputy Director

October 5, 1977

**Associate Judge Sylvia Bacon**  
Superior Court of the District of Columbia

**Judge Roland J. Faricy**  
Municipal Court of Ramsey County

**Justice James A. Finch, Jr.**  
Supreme Court of Missouri

**Judge M. Michael Gordon**  
Municipal Court of Houston, Texas

**Justice Robert H. Hall**  
Supreme Court of Georgia

**Chief Justice Lawrence W. P'Anson**  
Supreme Court of Virginia

**Supervising Judge E. Leo Milonas**  
Criminal Court of the City of New York

**Chief Justice William S. Richardson**  
Supreme Court of Hawaii

**Presiding Justice Joseph R. Weisberger**  
Superior Court of Rhode Island

**Judge Robert A. Wenke**  
Superior Court of Los Angeles

Mr. James R. James  
Judicial Administrator  
Supreme Court of Kansas  
State House, Third Floor  
Topeka, Kansas 66612

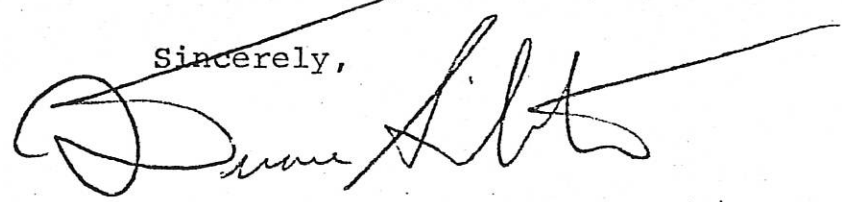
REF: RIS 77.488

Dear Mr. James:

As a follow-up to your request concerning state salary commissions, I am enclosing a recently completed memorandum on judicial compensation commissions. I am also enclosing an update of the table on state salary commissions which was sent to you on September 26, 1977.

I hope this information will be helpful to you. If you should require any further assistance, please do not hesitate to contact us.

Sincerely,



Duane Silverstein  
Staff Associate  
Research and Information  
Service

**COUNCIL OF STATE COURT REPRESENTATIVES**  
Chairman, Justice Nathan S. Heffernan  
Supreme Court of Wisconsin

**ADVISORY COUNCIL**  
Chm., John S. Clark, Esq.  
Petoskey, Michigan

Vice Chm., Lyman M. Tondel, Jr., Esq.  
New York, New York

**WASHINGTON LIAISON OFFICE**  
1150 17th Street, N.W., Suite 701  
Washington, D. C. 20036  
(202) 833-3270

## REGIONAL OFFICES

**MID-ATLANTIC**  
Post Office Box FG  
Williamsburg, Virginia 23185  
(804) 229-7193

**NORTHEASTERN**  
401 Commonwealth Avenue  
Boston, Massachusetts 02215  
(617) 247-2102

**SOUTHEASTERN**  
1600 Tullie Circle, N.E., Suite 119  
Atlanta, Georgia 30329  
(404) 634-3366

**NORTH CENTRAL**  
Suite 2208  
American National Bank Building  
5th & Minnesota Streets  
St. Paul, Minnesota 55101  
(612) 222-6331

**SOUTH CENTRAL**  
University of Oklahoma Law Center  
Norman, Oklahoma 73019  
(405) 364-8975

**WESTERN**  
235 Montgomery Street, Suite 1550  
San Francisco, California 94104  
(415) 557-1515

DS:kg

Enclosure

# National Center for State Courts

MEMORANDUM

October 4, 1977

RE: Judicial Compensation Commissions

BY: Marilyn M. Roberts, Staff Associate *MMR*

REF: RIS 77.481

---

The Research and Information Service was asked to provide information on state judicial compensation commissions.

In recent years, there has been increased use of commissions for determining salaries for members of the executive, legislative, and judicial branches of government. One of the major functions of these commissions is to assess the adequacy of rates of pay for specified members of one or more governmental branches. Since the enactment of Public Law 90-206 on December 16, 1967, which authorized the federal Commission on Executive, Legislative and Judicial Salaries, the number of state salary commissions has increased.

It is interesting to note, however, that while the creation of the federal commission seemed to encourage the creation of state commissions, the federal commission did not perform as intended. The Federal Salary Act provided the mechanism for quadrennial salary review and adjustment beginning with fiscal year 1969. But after March 1969, the Commission did not recommend any salary increases until commissioners were appointed in 1976 and requested by President Ford to submit recommendations for salary increases to take effect in 1977. A copy of the Report of the Commission on Executive, Legislative and Judicial Salaries (December 1976) is enclosed. This report includes not only the Commission's recommendations but also a very good discussion of principles of compensation and background studies on compensation.

The statute which created the federal commission provides for nine members appointed from private life, three by the President, two by the President of the Senate, two by the Speaker of the House, and two by the Chief Justice of the United States. The function of the commission is to conduct a review of the pay rates of specified top federal officials beginning in the fiscal year 1969 and every fourth fiscal year thereafter. Federal commissioners are paid \$100 per day for each day of work for the commission, plus travel expenses and a per diem allowance. The commission submits its recommendations to the President, who in turn makes his

budget recommendations in light of the commission's recommendations. The President's recommendations then become law unless they are rescinded by Congress. The fact that the statute states that the President "shall" include recommendations in his next transmitted budget after receipt of the commission's recommendations indicates that the commission's function is somewhat more than advisory. (See American Judicature Society report, Compensation Commissions, pp. 1-3, enclosed.)

Many of the state compensation commissions bear similarities in composition and function to the federal commission. A chart prepared by the National Center's RIS staff is enclosed which outlines the structure and function of state and federal salary commissions. While we did not conduct a fifty-state telephone survey, our research indicates we have included in our chart all states with judicial salary commissions. There are nineteen state compensation commissions that make pay rate recommendations for judges. Of those nineteen states, Louisiana and Alabama have compensation commissions for the judiciary specifically, while the other seventeen state commissions review the salaries of specified legislative and executive officials, as well as the judiciary. Kentucky, the twentieth state included in the chart, has authorized a Public Officials Compensation Commission; however, it is not yet clear whether salaries of public officials will be reviewed by this commission or whether the recommendations of the commission will be applicable to all public officials, including the judiciary.

The powers and functions of state salary commissions fall into three general categories: (1) In Alabama and Arizona, commission recommendations become law if they are not acted upon by the legislature. The same is true in Michigan, although commission recommendations apply only to supreme court justices. (2) Recommendations of the compensation commission must be considered by the legislature in Colorado, Connecticut, Iowa, New York, and Washington. In Georgia, if pay bills are introduced in the legislature, they must include the compensation commission recommendations. (3) The recommendations of the compensation commission are advisory only, in the following states: Florida, Illinois, Louisiana, Minnesota, Missouri, Montana, Ohio, South Dakota, and Utah. In Vermont, the commission must make recommendations to the governor prior to the legislative session.

It appears that compensation commissions have made significant progress in improving judicial salaries, even though the commission function in ten states is advisory only. A report of the Subcommittee on Judicial Salaries of the

National Conference of State Trial Judges (printed in Judges Journal, Fall 1976, vol. 15, no. 4, p. xiv, copy enclosed) states that of the fourteen states that had compensation commissions as of November 1974, "The majority of these states have made significant, if not dramatic, progress in improving judicial salaries." The subcommittee attributed the effectiveness of these commissions to one or more of the following characteristics:

1. They are composed entirely of non-judges;
2. Their duties embrace the salaries of top officials in all three branches of state government;
3. They retain professional consultants to develop a strong factual base for proposed salary adjustments; and
4. They pay careful attention to timing and technique in submitting their proposals to legislature.

It is evident from the chart enclosed that the first and second characteristics mentioned above apply to most of the twenty states which now have judicial compensation commissions.

The third and fourth characteristics, above, merit further discussion. Various methods are used by state commissions to obtain background data on which to make recommendations for salary adjustments. The Minnesota Compensation Review Board has employed the professional services of Edward N. Hay and Associates in the past, as has the Iowa Commission. Enclosed is a copy of the Minnesota Compensation Review Board Report and Recommendations for 1973, which describes the job evaluation technique known as the Hay Guide Chart Profile Method. This evaluation procedure is used as the basis for salary adjustment recommendations in Minnesota.

Another method for making pay rate recommendations is to collect salary information from other states and make comparisons of salaries for similar positions. Enclosed is a National Center library loan copy of the Connecticut Commission on Compensation of Elected Officials and Judges Biennial Report to the General Assembly, February 1974. This report includes a description of the methodology used by the Connecticut Commission for making its recommendations. The Commission gathered statistics from other states and from reports of the Council of State Governments and the American Judicature Society. Specifically, the Connecticut Commission reviewed

an AJS report entitled Compensation Commissions, which describes various state commissions and the federal commission. A loan copy of this report from the Center's library is also enclosed, as well as a copy of a chart from the Council of State Governments' Book of the States, which gives legislative and administrative officials' salaries for every state.

The Subcommittee on Judicial Salaries mentioned above reviewed the Survey of Judicial Salaries in State Court Systems, published quarterly by the National Center, in the preparation of their report. (A copy of the Center's most recent survey is enclosed.) The subcommittee suggested that comparisons between practicing attorneys' and judges' salaries could be a good basis for recommendations for judges' salaries, but more comprehensive, reliable data on lawyers' salaries are needed. To date the only state that has collected such data is Illinois. (See 64 Illinois Bar Journal 61-148, October 1975.)

It should be noted that states that do not have salary commissions also call in outside consultants for background research to make decisions on salary adjustments. For example, in Wisconsin, the legislature has in the past required the Department of Administration to contract with an outside consultant to review relative rankings and salaries for all executive salary group positions. Arthur Young and Company completed a study on January 1, 1974, on all salaries of Wisconsin appointed and elected officials. The Wisconsin Fiscal Officer attributed the authorized increase in salaries of associate supreme court justices to the Arthur Young study. (See Judicature, vol. 58, no. 4, November 1974, pp. 161-167, copy enclosed.)

In the Judicature article referred to above, Pat Chapin substantiates the importance of compensation commissions in submitting salary proposals to the legislature. She says, "Although the commission process has its drawbacks, it minimizes the legislative resentment of judicial lobbying" (p. 166). Ms. Chapin relates the experience of the Montana commission in discovering that proper timing is crucial in submitting proposals to the legislature. Ms. Chapin reports that an official in New Mexico felt strongly that individuals other than the judiciary should present the judicial compensation case to the legislature, since judges lobbying in the past had only caused problems with the legislators.

Along these same lines, California has been battling the authorization of an independent salary commission for the last two years. In 1976, a bill to establish an independent salary commission was fought bitterly by judges who wanted the legislature to continue to set their salaries. Apparently

the California judges felt they had a great deal of influence with legislators and would have little influence on a salary commission. The bill failed in 1976. Now, in the 1977 legislative session, a measure has passed the Senate which would amend the constitution to create a seven-member commission that will set salaries and benefits for legislators, elected state constitutional officials, and judges. If the measure passes the Assembly, as expected, the constitutional amendment will go on the June 1978 ballot for a yes or no vote. This year the executive board of the California Judges Association (CJA) voted to support the measure to create an independent compensation commission, and the bill moved forward in the Senate. However, the members of CJA did not necessarily agree with the executive board decision. So the official position of CJA is now neutral, since it would be awkward now to lobby against the bill in the Assembly after officially supporting it in the Senate. The CJA will probably have to try to defeat the bill at the polls if it should officially change its mind. (See September 25, 1977, article from San Francisco Examiner and September 1977 article from California Courts Commentary, enclosed.)

A case in point of a compensation commission's failure to alleviate legislative-judicial friction concerning salary is the Colorado State Officials Compensation Commission. The legislature did not implement the 1975 recommendation of the commission, which proposed that district judges be paid \$42,500 per year. Colorado district judges' salaries rank 37th in the nation. (See October 1, 1977, article from Rocky Mountain News enclosed.)

In summary, it appears that there are various factors which impact on salary adjustments for the judiciary, either with or without a compensation commission. Two key ingredients are (1) concrete and complete data to substantiate recommendations, and (2) a workable relationship with the legislature.

The foregoing memorandum was prepared by the Research and Information Service of the National Center for State Courts. We would appreciate acknowledgment of our contribution if this material is to appear in any publication by your organization. We solicit your comments as to the usefulness and impact of this information on the criminal or civil justice system.

STATE SALARY COMMISSIONS

STATE	NAME OF COMMISSION	AUTHORIZATION	NUMBER OF MEMBERS	APPOINTMENT OF MEMBERS	COMPENSATION	POWERS OF COMMISSION
Alabama	Judicial Compensation Commission	Alabama Const., Art. 6, §148	5	1 by governor 1 by Pres. of Senate 1 by Speaker of House 2 by Alabama Bar	Funds are appropriated for expenses.	Recommendations are to be submitted within the first five days of a legislative session. They become law if not acted upon by legislature.
Arizona	Commission on Salaries for Elective State Officers	Arizona Const., Sec. 13; Arizona Revised Statutes §§41-1901 to 1904	5	2 by governor 1 by Pres. of Senate 1 by Speaker of House 1 by Chief Justice	Members serve without compensation but are reimbursed for travel and subsistence.	Recommendations apply to judges. They become effective if the legislature does not act upon them within 90 days of submission to that body.
Colorado	Colorado State Official's Compensation Commission	Colorado Revised Statutes §2-3-801 to 806	9	2 by Pres. of Senate 2 by Speaker of House 3 by Governor 2 by Chief Justice	Serve without compensation but are reimbursed for expenses.	Recommendations apply to judges. They are to be considered by the legislature.
Connecticut	Compensation Commission for Elected State Officials and Judges	Connecticut General Statutes Annotated, §2-9a	11	3 by Governor 2 by Pres. of Senate 2 by Speaker of House 2 by each of the minority leaders of the legislature	Serve without compensation but are reimbursed for expenses.	Recommendations apply to judges. They must be considered by the legislature.
Florida	State Officers' Compensation Commission	Florida Statutes Annotated, §112.192	9	2 by Governor 2 by Pres. of Senate 2 by Speaker of House 2 by Chief Justice 1 by other 8 members	Serve without compensation but are reimbursed for expenses.	Recommendations apply to judges. They are purely advisory in nature.
Georgia	State Commission on Compensation	Georgia Code Annotated, §§89-716 to 726	12	4 by Governor 2 by Lieut. Governor 2 by Speaker of House 4 by Supreme Court	Compensation is \$25/day and reimbursement of expenses.	Recommendations apply to judges. If pay bills are introduced in the legislature, they must contain the compensation recommended by the commission.



STATE	NAME OF COMMISSION	AUTHORIZATION	NUMBER OF MEMBERS	APPOINTMENT OF MEMBERS	COMPENSATION	POWERS OF COMMISSION
Indiana	Commission on Compensation of State and Local Government Officials	Illinois Annotated Statutes, Chapter 127, §551 to §554	5	By Governor	\$50/day to a maximum of 100 days per year. Reimbursement of expenses.	Recommendations apply to judges. The Commission has a purely advisory function.
Iowa		Iowa Code Annotated, §2A.5				Recommendations apply to judges. General Assembly must consider recommendation of the Commission.
Kentucky	Public Officials Compensation Commission	Kentucky Revised Statutes, Chapter 64	5	1 by Governor 1 by Lieut. Governor 1 by Speaker of House 1 by Pres. of Senate 1 by Chief Justice	\$50 per diem and reimbursement of expenses.	Commission makes specific recommendations to legislature. Uncertain as to application of recommendations to judiciary or to salary.
Louisiana	Commission on Judicial Compensation	Louisiana Statutes Annotated, Revised Statutes §13:42 to 46.	15	3 by Governor 1 by Chief Justice 1 by Chairman of Conference of Court of Appeals Judges 1 by District Judges Association 5 by presiding officer of House 4 by presiding officer of Senate	Serve without compensation but expenses are reimbursed.	Commission serves in an advisory capacity.
Michigan	State Officers Compensation Commission	Michigan Constitution, Art. IV, Sec. 12. Michigan Statutes Annotated §3.255 (51 to 56).	7	By Governor		Recommendations apply to Supreme Court Justices only. They become effective unless challenged by the legislature.
Minnesota	Compensation Review Board	Minnesota Statutes §15A.041.	9			Recommendations apply to judges. Review board serves in an advisory capacity.

STATE	NAME OF COMMISSION	AUTHORIZATION	NUMBER OF MEMBERS	APPOINTMENT OF MEMBERS	COMPENSATION	POWERS OF COMMISSION
Missouri	Missouri Compensation Commission	Executive Order of Governor	9	3 by Governor 2 by Pres. of Senate 2 by Speaker of House 2 by Chief Justice	No information available.	Recommendations are advisory in nature. They apply to officials in the three government branches.
Montana	Montana Salary Commission	Montana Const., Art. XIII, Sec. 3; Revised Code of Montana 59-1401 to 1404	8	2 by Governor 2 by Supreme Court 1 by majority and minority leaders of both houses of legislature	\$25/day and reimbursement for expenses.	Recommendations apply to judges. They are only advisory in nature.
New York	Commission on Legislative and Judicial Salaries	Executive Law, Art. 27-A	9	3 by Governor 2 by Pres. of Senate 2 by Speaker of Assembly 2 by Chief Judge	\$100/day to a maximum of \$7,500 per Commission member and reimbursement of expenses.	Recommendations apply to judges. They must be considered by legislature.
Ohio	State Employees Compensation Board	Ohio Revised Code Annotated, §143.10.1	5	Members are: Director of State Personnel; Director of Finance; State Auditor; member of the House chosen by the Speaker; member of the Senate chosen by Pres. Pro Tem.	\$50.40/day for legislative members.	Recommendations are advisory.
South Dakota	Commission on Salaries for Elective State Officials	South Dakota Compiled Laws Annotated §3-8-1.1 to §3-8-6	5	2 by Governor 1 by Pres. of Senate 1 by Speaker of House 1 by Presiding Judge of Supreme Court	Serve without compensation but are entitled to expenses	Recommendations apply to judges. They are only advisory in nature.
Utah	Executive Compensation Commission	Utah Code Annotated, §67-8-13.5 to 13.12	5	1 by Governor 1 by Pres. of Senate 1 by Speaker of House 2 by other Commission members	\$25/day and reimbursement of expenses.	Recommendations apply only to state paid judges. They are only advisory in nature.

STATE	NAME OF COMMISSION	AUTHORIZATION	NUMBER OF MEMBERS	APPOINTMENT OF MEMBERS	COMPENSATION	POWERS OF COMMISSION
Mont	State Employees' Compensation Review Board	Vermont Statutes Annotated 3, §324	9	3 by bargaining representative for state employees 6 by Governor	\$15/day for non-state employees; all members reimbursed for reasonable expenses.	Recommendations apply to members of the judiciary makes recommendations to governor prior to convening of general assembly.
Washington		Washington Revised Code Annotated, §43.03.028.	7	Members are: Pres. of Puget Sound University; Pres. of Washington State University; Chairman of State Personnel Board; Pres. of Ass'n of Washington Businessmen; Pres. of Pacific Northwest Personnel Managers Ass'n; Pres. of State Bar Ass'n; Pres. of Washington State Labor Council		Recommendations apply to all judges. They must be considered by legislator in their legislation.
GENERAL	Federal Commission on Executive, Legislative, and Judicial Salaries	Title 2, U.S.C.A. §§351-361	9	3 by President 2 by Speaker of House 2 by Pres. of Senate 2 by Chief Justice	\$100/day and travel and per diem expenses.	Recommendations apply to judges. They are submitted to President and used in his budget recommendations, which become effective if not altered by legislation.

Compiled by the Research and Information Service of the National Center for State Courts, 1976. (Updated May 1977 and October 1977.)

R.

Although a fifty-state survey was not conducted, our research indicates that this chart is complete.

District Court of Kansas  
Third Judicial District

Shawnee County, Kansas

Chambers of  
Michael A. Barbara, Judge  
Division No. Two

October 10, 1977

Raymond E. Barber, C.S.R.  
Official Reporter

Written testimony of Judge Michael A. Barbara,  
District Judge, Third Judicial District, Topeka,  
Kansas, before Citizens' Commission on Judicial  
Compensation.

The Commission may be interested in a typical day of a trial judge in court. Many lay people are of the opinion that a trial judge only works when he is on the bench in a robe with lawyers, litigants and jurors all present. The bulk of a judge's schedule is made up of non-jury cases; in fact most of the work is done in chambers or conference room with only lawyers present, such as hearing arguments on motions or conducting pretrial conferences, and reading pleadings and briefs submitted by the lawyers to make a decision on a case.

Knowing the impracticability of having the Commission members attend court for several days to observe, a judge's calendar would be a fair indication of the work schedule. I have copied from my calendar my work schedule from July 18, 1977 through September 2, 1977.

From August 1 through August 21, I was on vacation; however I attended a three day conference at St. Paul, Minnesota from July 31 - August 2, visiting prisons and conferring with state

and local corrections personnel as part of a Legislative Special Committee on Corrections. From August 3 through August 9, I attended the judicial conference in Chicago, Illinois, as delegate of the Kansas District Judges Association.

You will note from the calendar that most of my time is consumed not in presiding in jury cases but rather in hearing pre-trial and post-trial matters usually averaging from fifteen (15) minutes to one hour in length of time for each matter.

Many cases have to be taken under advisement before a decision is rendered. This is necessary to study the pleadings, the facts introduced in the trial and the law applicable. Memorandum briefs are usually filed by the lawyers setting out arguments and the law, with contentions and arguments presented.

With a busy schedule as shown, there is no time during the working day to set aside the several hours required to read the voluminous material submitted, study the law and reflect on the decision to be made. The judge usually waits until a day opens because of a continuance of a matter scheduled or a case settles without a trial. Knowing the uncertainty of both, the usual practice is for the judge to take home the file and in the quiet of his study in the evenings and week-ends read the file and write his decision, or return to the courthouse on weekends.

The statement here is not intended nor is it inferred that I am complaining. There is no other work or livelihood for me. I enjoy the work I do. I believe it is appropriate that this

Commission inquire of the judges - are the people of Kansas getting fair return for the pay they give judges. I believe that the judges of Kansas, not only trial judges but all level of judges, give not only a full days work but many evenings as well, but also have a dedication to duty unparalleled in any state.

A fair question would seem to be - if judges are not satisfied with the salary received why don't they leave the judiciary. I believe it is a credit to the judges who remain. They, like myself, consider this position as a lifetime career, and don't intend to leave because of inadequate salary. But this doesn't mean we must be content and satisfied with a salary scale that has not remained abreast with other comparable judicial salaries.

I believe the present system for a salary increase is not conducive to the preservation of the separate and independent branches of government. Under the present situation, the legislature has the sole prerogative and discretion to grant a pay increase. Under present law the legislature sets the salary of all state judges. There is no review.

Broadly, salaries for state officials and employees are set by statute or by action of the recommending authority and the Finance Council, other than those assigned to a classified

civil service range. In addition there are a number of unclassified personnel in state agencies and institutions, such as those under the Board of Regents whose salaries are determined administratively. Thus there is precedent to establish salaries other than by specific statutory provision.

Under the present constitutional amendment, Section 13, Article 3, judges of the appellate courts and district judges shall receive compensation as may be provided by law. The legislature could now authorize by legislation that salaries be set in a manner different than existing manner.

I recommend that the legislature create a commission, similar to this one or even continue this one, whose duty would be to periodically study, consider and recommend adequate compensation for all state judges. The recommended salary would be submitted to the Supreme Court and included in the Court's budget. Unless the legislature specifically rejects the recommendation, it will become a part of the budget of the courts of Kansas and become law.

This procedure would obviate any self-serving inclusion of the judges' salaries by judges and would lend more appropriateness to salary increase questions than existing procedure.

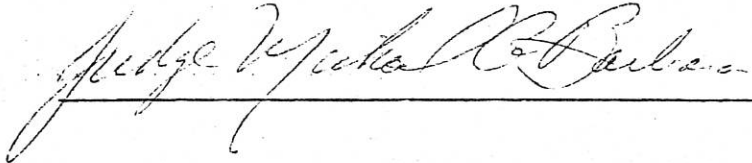
If I am able to take this Commission's time to give recommendations, I would also be presumptuous to recommend the amount of compensation deemed adequate. I would suggest the following:

Chief Justice of The Kansas Supreme Court	\$ 45,500.00
Associate Justices of the Kansas Supreme Court	44,500.00
Chief Judge of the Court of Appeals	43,500.00
Associate Judges of the Court of Appeals	42,500.00
Administrative Judge of the District Court	41,000.00
District Judges	40,000.00
Associate District Judges	37,500.00

All County supplements be abolished.

I believe these salaries should be set for 1978 and thus allow time for a commission to be created and proceed with its duties as recommended within the next year or so.

I also believe that this recommended salary scale is comparable with our per capita income standing and with other comparable judicial salaries and average annual income of lawyers.

  
\_\_\_\_\_



MONDAY, JULY 18	TUESDAY, JULY 19	WEDNESDAY, JULY 20	THURSDAY, JULY 21	FRIDAY, JULY 22
8	8 <i>Pratials</i>	8 <i>Pratials</i>	8	8 <i>P/K</i>
8:15	8:15	8:15	8:15	8:15
8:30	8:30	8:30	8:30	8:30
8:45	8:45 <i>Kathy Turner vs CV-0571</i>	8:45 <i>Burdett vs same 77-0605</i>	8:45 <i>Wray vs 77-D-0670</i>	8:45
9	9 <i>Musa v Kaus</i>	9 <i>DeRo K P vs Horton</i>	9 <i>Mason v Hudson</i>	9
9:15	9:15 <i>127, 458</i>	9:15 <i>appeals 129, 404</i>	9:15 <i>132, 054</i>	9:15
9:30	9:30	9:30	9:30 <i>mitronigul class</i>	9:30
9:45	9:45	9:45	9:45	9:45
10	10 <i>Morris v Gold Cross</i>	10 <i>Smerechek v Hamilton</i>	10	10
10:15	10:15 <i>O/A Sum 128544</i>	10:15 <i>131, 139</i>	10:15	10:15
10:30	10:30 <i>judgment</i>	10:30	10:30 <i>100 out of jurisdiction</i>	10:30 <i>James C. Curran</i>
10:45	10:45	10:45	10:45 <i>100 out of jurisdiction</i>	10:45 <i>Curran</i>
11	11 <i>Steele v Merchants</i>	11 <i>Chapman v Huller</i>	11	11
11:15	11:15 <i>129, 840</i>	11:15 <i>Chapman 129, 706</i>	11:15 <i>Summing 77-D-600</i>	11:15
11:30	11:30	11:30	11:30	11:30
11:45	11:45	11:45	11:45	11:45
12	12 <i>Paul Wendt v ...</i>	12 <i>Paul Wendt v ...</i>	12	12
12:15	12:15	12:15	12:15	12:15
12:30	12:30	12:30	12:30	12:30
12:45	12:45	12:45	12:45	12:45
1	1	1	1 <i>Pratials</i>	1
1:15	1:15 <i>129, 069</i>	1:15 <i>Adams vs same 77-D-069</i>	1:15 <i>Summing vs 77-D-600</i>	1:15
1:30	1:30 <i>Horn v ...</i>	1:30 <i>Shard v ...</i>	1:30 <i>Capital v ...</i>	1:30
1:45	1:45 <i>129, 505</i>	1:45	1:45 <i>129, 0403</i>	1:45
2	2	2 <i>Overhead v ...</i>	2 <i>Ledone v ...</i>	2
2:15	2:15	2:15 <i>129, 619</i>	2:15 <i>128, 859</i>	2:15
2:30	2:30	2:30	2:30	2:30
2:45	2:45	2:45	2:45	2:45
3	3 <i>Beau v ...</i>	3 <i>United Capital v ...</i>	3 <i>Capital v ...</i>	3
3:15	3:15 <i>129, 970</i>	3:15 <i>129, 0458</i>	3:15 <i>Capital v ...</i>	3:15
3:30	3:30	3:30	3:30	3:30
3:45	3:45	3:45	3:45	3:45
4	4 <i>Barnhardt v ...</i>	4 <i>Kearney v ...</i>	4 <i>Stewart v ...</i>	4
4:15	4:15 <i>129, 855</i>	4:15	4:15 <i>129, 695</i>	4:15
4:30	4:30	4:30	4:30	4:30
4:45	4:45	4:45	4:45	4:45
5	5	5 <i>#1 30589</i>	5	5
5:15	5:15	5:15	5:15	5:15
5:30	5:30	5:30	5:30	5:30
5:45	5:45	5:45	5:45	5:45
6	6	6	6	6
6:15	6:15	6:15	6:15	6:15
6:30	6:30	6:30	6:30	6:30
6:45	6:45	6:45	6:45	6:45
7	7	7	7 <i>Paul Wendt - Curran</i>	7
7:15	7:15	7:15	7:15 <i>27-</i>	7:15
7:30	7:30	7:30	7:30	7:30
7:45	7:45	7:45	7:45	7:45

MONDAY, JULY 25

TUESDAY, JULY 26

WEDNESDAY, JULY 27

THURSDAY, JULY 28

FRIDAY, JULY 29

Time	Monday, July 25	Tuesday, July 26	Wednesday, July 27	Thursday, July 28	Friday, July 29	Saturday
8:15		8	8	8	8	8
8:30		8:15	8:15	8:15	8:15	8:15
8:45	Simon v Same	8:30 McIsitt 77-0707	8:45 <del>McIsitt</del> 8:45 <del>Shirley Pelt</del> 77-CU-476	8:30 <del>Practicals</del> 8:30 <del>Blum</del> 77-0575	8:30 <del>Practical</del>	8:30
9:15	Sharp v Sharp 77-5-0405	9:15 <del>Simon v Same</del> 9:15 <del>July 705</del> 77-19-992	9:15 <del>Peoples Natl Bank v</del> 9:15 <del>Karr</del> 129,660	9:15 <del>Shirley v</del> 9:15 <del>704</del> 130,564 - capital	9:15 <del>Blumington 77-0713</del>	9:15
9:30		9:30 <del>Bethel v Bethel</del>	9:30	9:30 <del>National Radio of</del>	9:30 <del>Edmund Comack</del>	9:30
9:45		9:45 <del>Morton Compel</del> 131,818	9:45	9:45 <del>Kendall v Michael</del>	9:45 <del>Edna E. Pitts</del>	9:45
10:15		10 <del>Henry v Memminger</del>	10 <del>Henry v June C</del>	10 <del>Bevel v</del>	10 <del>Douglas v</del>	10
10:30		10:15 <del>Wright</del> 9, 131,201P	10:15 <del>Storrs</del> 129,347	10:15 <del>130,018</del>	10:15 <del>131,767</del>	10:15
10:45		10:30 <del>State v</del>	10:30 <del>State v</del>	10:30 <del>Bevel v</del>	10:30	10:30
11:15		10:45 <del>77-D-0372</del>	10:45	10:45 <del>Bevel v</del>	10:45	10:45
11:30		11	11	11	11	11
11:45		11:15	11:15	11:15	11:15	11:15
12:15	Simon Club - 1st Natl	11:30	11:30	11:30	11:30	11:30
12:30	Bank - J.B.A.	11:45	11:45	11:45	11:45	11:45
12:45		12	12	12	12	12
1:15		12:15	12:15	12:15	12:15	12:15
1:30		12:30	12:30	12:30	12:30	12:30
1:45		12:45	12:45	12:45	12:45	12:45
2:15		1	1	1	1	1
2:30		1:15	1:15	1:15	1:15	1:15
2:45		1:30	1:30	1:30	1:30	1:30
3:15		1:45	1:45	1:45	1:45	1:45
3:30		2	2	2	2	2
3:45		2:15	2:15	2:15	2:15	2:15
4:15		2:30	2:30	2:30	2:30	2:30
4:30		2:45	2:45	2:45	2:45	2:45
4:45		3	3	3	3	3
5:15		3:15	3:15	3:15	3:15	3:15
5:30		3:30	3:30	3:30	3:30	3:30
5:45		3:45	3:45	3:45	3:45	3:45
6:15		4	4	4	4	4
6:30		4:15	4:15	4:15	4:15	4:15
6:45		4:30	4:30	4:30	4:30	4:30
7:15		4:45	4:45	4:45	4:45	4:45
7:30		5	5	5	5	5
7:45		5:15	5:15	5:15	5:15	5:15
		5:30	5:30	5:30	5:30	5:30
		5:45	5:45	5:45	5:45	5:45
		6	6	6	6	6
		6:15	6:15	6:15	6:15	6:15
		6:30	6:30	6:30	6:30	6:30
		6:45	6:45	6:45	6:45	6:45
		7	7	7	7	7
		7:15	7:15	7:15	7:15	7:15
		7:30	7:30	7:30	7:30	7:30
		7:45	7:45	7:45	7:45	7:45

7 8 9 10 11 12 13  
14 15 16 17 18 19 20  
21 22 23 24 25 26 27  
28 29 30 31

from August 22

to August 28

MONDAY, AUGUST 22	TUESDAY, AUGUST 23	WEDNESDAY, AUGUST 24	THURSDAY, AUGUST 25	FRIDAY, AUGUST 26	SA
8	8	8	8	8	8
8:15	8:15	8:15	8:15	8:15	8:15
8:30	8:30	8:30	8:30	8:30	8:30
8:45	8:45	8:45	8:45	8:45	8:45
9	9	9	9	9	9
9:15	9:15	9:15	9:15	9:15	9:15
9:30	9:30	9:30	9:30	9:30	9:30
9:45	9:45	9:45	9:45	9:45	9:45
10	10	10	10	10	10
10:15	10:15	10:15	10:15	10:15	10:15
10:30	10:30	10:30	10:30	10:30	10:30
10:45	10:45	10:45	10:45	10:45	10:45
11	11	11	11	11	11
11:15	11:15	11:15	11:15	11:15	11:15
11:30	11:30	11:30	11:30	11:30	11:30
11:45	11:45	11:45	11:45	11:45	11:45
12	12	12	12	12	12
12:15	12:15	12:15	12:15	12:15	12:15
12:30	12:30	12:30	12:30	12:30	12:30
12:45	12:45	12:45	12:45	12:45	12:45
1	1	1	1	1	1
1:05	1:05	1:05	1:05	1:05	1:05
1:30	1:30	1:30	1:30	1:30	1:30
1:45	1:45	1:45	1:45	1:45	1:45
2	2	2	2	2	2
2:15	2:15	2:15	2:15	2:15	2:15
2:30	2:30	2:30	2:30	2:30	2:30
2:45	2:45	2:45	2:45	2:45	2:45
3	3	3	3	3	3
3:15	3:15	3:15	3:15	3:15	3:15
3:30	3:30	3:30	3:30	3:30	3:30
3:45	3:45	3:45	3:45	3:45	3:45
4	4	4	4	4	4
4:15	4:15	4:15	4:15	4:15	4:15
4:30	4:30	4:30	4:30	4:30	4:30
4:45	4:45	4:45	4:45	4:45	4:45
5	5	5	5	5	5
5:15	5:15	5:15	5:15	5:15	5:15
5:30	5:30	5:30	5:30	5:30	5:30
5:45	5:45	5:45	5:45	5:45	5:45
6	6	6	6	6	6
6:15	6:15	6:15	6:15	6:15	6:15
6:30	6:30	6:30	6:30	6:30	6:30
6:45	6:45	6:45	6:45	6:45	6:45
7	7	7	7	7	7
7:15	7:15	7:15	7:15	7:15	7:15
7:30	7:30	7:30	7:30	7:30	7:30

*[Large handwritten scribble/initials covering the Monday column]*

*129, 117  
Discovery Conf.*

*77-D-0440*

*Boyer v Boyer  
permanent custody  
& support*

*1:20 Mc Carroughey v D330*

*1:30 Creech v Same 77-DOP4*

*1:35 [unclear] 131, 225*

*2:20 [unclear] 132, 704*

*3:15 [unclear] 131, 125*

*4:15 Jones*

*Clark v 77-D-085 P  
77-CU-594*

*8:45 [unclear]*

*9:15 [unclear]*

*10:10, 10*

*11:30 Rein v Rein  
116, 588*

*12:15 [unclear]*

*1:20 [unclear]*

*1:15 [unclear] 77-0501*

*1:30 [unclear]*

*1:45 [unclear] 123, 15*

*2:15 [unclear]*

*2:30 [unclear]*

*3:15 [unclear]*

*3:30 [unclear]*

*3:45 [unclear] #128, 544*

*4:15 [unclear]*

*8:45 [unclear] 77-D-0138*

*9:15 [unclear] 77-D-0383*

*9:30 [unclear]*

*9:45 [unclear]*

*10:15 [unclear]*

*10:30 [unclear] 77-D-0405 DIV*

*10:45 [unclear]*

*11:15 [unclear]*

*11:30 [unclear]*

*11:45 [unclear]*

*12:15 [unclear]*

*12:30 [unclear]*

*12:45 [unclear]*

*1:15 [unclear]*

*1:30 [unclear]*

*1:45 [unclear]*

*2:15 [unclear]*

*2:30 [unclear]*

*2:45 [unclear]*

*3:15 [unclear]*

*3:30 [unclear] 77-D-992*

*3:45 [unclear]*

*4:15 [unclear]*

*4:30 [unclear]*

*4:45 [unclear]*

*5:15 [unclear]*

*5:30 [unclear]*

*5:45 [unclear]*

*6:15 [unclear]*

*8:15 [unclear]*

*8:30 [unclear]*

*8:45 [unclear]*

*9:15 [unclear]*

*9:30 [unclear]*

*9:45 [unclear]*

*10:15 [unclear]*

*10:30 [unclear]*

*10:45 [unclear]*

*11:15 [unclear]*

*11:30 [unclear]*

*11:45 [unclear]*

*12:15 [unclear]*

*12:30 [unclear]*

*12:45 [unclear]*

*1:35 [unclear] 77-D-0842*

*1:30 [unclear]*

*1:45 [unclear]*

*2:15 [unclear]*

*2:30 [unclear]*

*2:45 [unclear]*

*3:15 [unclear]*

*3:30 [unclear]*

*3:45 [unclear]*

*4:15 [unclear]*

*4:30 [unclear]*

*4:45 [unclear]*

*5:15 [unclear]*

*5:30 [unclear]*

7 8 9 10 11 12 13  
 14 15 16 17 18 19 20  
 21 22 23 24 25 26 27  
 28 29

from August 27

to September 4

MONDAY, AUGUST 29	TUESDAY, AUGUST 30	WEDNESDAY, AUGUST 31	THURSDAY, SEPTEMBER 1	FRIDAY, SEPTEMBER 2	SATURDAY, SEPTEMBER 3
8:00 <i>Quil Gray</i>	8:00	8:00	8:00	8:00 <i>Brooks v same</i>	8:00 <i>77-10-</i>
8:15	8:15	8:15	8:15	8:15	8:15
8:30	8:30	8:30	8:30	8:30 <i>Dean v same 77-10-</i>	8:30 <i>77-10-</i>
8:45	8:45	8:45	8:45 <i>Missey 77-00 792</i>	8:45 <i>Dean v same 77-10-</i>	8:45 <i>77-10-</i>
9:00 <i>Bean v Sutton's</i>	9:00	9:00 <i>Held v Held</i>	9:00 <i>Worwick v Bell</i>	9:00 <i>Dean v same 77-0003</i>	9:00 <i>77-0003</i>
9:15 <i>3 Corp</i>	9:15	9:15 <i>p.t. 132, 252</i>	9:15 <i>13, 18, 55</i>	9:15 <i>Dean v same 77-0-138</i>	9:15 <i>77-0-138</i>
9:30	9:30	9:30	9:30	9:30 <i>Franklin v same</i>	9:30 <i>77-0-11</i>
9:45	9:45	9:45	9:45	9:45 <i>Valentine v same</i>	9:45 <i>77-0-11</i>
10:00	10:00	10:00	10:00	10:00	10:00
10:15	10:15	10:15	10:15	10:15	10:15
10:30	10:30	10:30 <i>Betty v Betty</i>	10:30	10:30 <i>Acquisition C. Act</i>	10:30 <i>77-0-11</i>
10:45	10:45	10:45 <i>77-D-0383</i>	10:45	10:45 <i>James v same</i>	10:45 <i>77-0-11</i>
11:00	11:00	11:00	11:00	11:00	11:00
11:15	11:15	11:15	11:15	11:15	11:15
11:30	11:30	11:30	11:30	11:30 <i>Curly 10/722</i>	11:30
11:45	11:45	11:45	11:45	11:45	11:45
12:00	12:00 <i>Lunch on East main</i>	12:00	12:00 <i>Judges report</i>	12:00	12:00
12:15	12:15 <i>Domme Myron</i>	12:15	12:15	12:15	12:15
12:30	12:30 <i>Dean</i>	12:30	12:30	12:30 <i>Thies v 782938</i>	12:30 <i>782938</i>
12:45	12:45	12:45	12:45	12:45	12:45
1:00	1:00	1:00	1:00	1:00	1:00
1:15	1:15	1:15 <i>Erubis v 77-1039</i>	1:15	1:15	1:15
1:30	1:30 <i>Am Bank v Charles</i>	1:30 <i>Segura v 0870</i>	1:30	1:30	1:30
1:45	1:45 <i>77-CV-0308</i>	1:45	1:45	1:45	1:45
2:00	2:00 <i>Wedding v Little</i>	2:00 <i>Mc Daniel v</i>	2:00	2:00 <i>Winn v same</i>	2:00 <i>Winn v same</i>
2:15	2:15 <i>Ward v 77-CV-696</i>	2:15 <i>Berefield 131924</i>	2:15	2:15	2:15
2:30	2:30	2:30 <i>Fontaine</i>	2:30	2:30	2:30
2:45	2:45	2:45	2:45	2:45	2:45
3:00	3:00	3:00	3:00	3:00 <i>Criminal v same</i>	3:00 <i>77-0-11</i>
3:15	3:15	3:15	3:15	3:15 <i>Edward Komack</i>	3:15 <i>77-0-11</i>
3:30	3:30 <i>Henderson v</i>	3:30	3:30	3:30	3:30
3:45	3:45 <i>Lavans v</i>	3:45	3:45	3:45	3:45
4:00	4:00	4:00 <i>77-CV-642</i>	4:00	4:00 <i>Margaret Powell</i>	4:00 <i>77-0-11</i>
4:15	4:15	4:15	4:15	4:15	4:15
4:30	4:30	4:30	4:30	4:30	4:30
4:45	4:45	4:45	4:45	4:45	4:45
5:00	5:00	5:00	5:00	5:00	5:00
5:15	5:15	5:15	5:15	5:15	5:15
5:30	5:30	5:30	5:30	5:30	5:30
5:45	5:45	5:45	5:45	5:45	5:45
6:00	6:00	6:00	6:00	6:00	6:00
6:15	6:15	6:15	6:15	6:15	6:15
6:30	6:30	6:30	6:30	6:30	6:30
6:45	6:45	6:45	6:45	6:45	6:45
7:00	7:00	7:00	7:00	7:00	7:00
7:15	7:15	7:15	7:15	7:15	7:15

SUND

Statement of John W. Brookes  
District Judge  
2nd Judicial District

Members of the Committee:

It is my understanding you are interested in information relating to work and time requirements of a District Judge in multi-county districts.

There are 29 judicial districts in Kansas; of these, 22 are multi-county districts. These multi-county districts range from 2 counties with 2 district judges, to 7 counties with one district judge.

The 2nd judicial district includes 4 counties, Jackson, Jefferson, Pottawatomie (my home base), and Wabaunsee. I am the only district judge in this district. I believe my district is somewhat typical of the multi-county district with one district judge. Attached as Exhibit #1, showing the location of this district.

We, of course, hold court in each of the counties, as case load requires. The heaviest case loads are in Jefferson and Pottawatomie Counties. Attached is Exhibit #2, which is a chart for the past several years showing graphically the case disposition numerically for such years.

It is 82 miles from my home to Oskaloosa, in Jefferson County; this requires approximately 3 hours or more (depending on road condition) travel time round trip. It is 48 miles from my home to Holton in Jackson County. It is 30 miles from my home to Alma in Wabaunsee County.

In 1976 I traveled a total of 26,667 miles on court business. I drove 10,000 miles with my wife riding with me; my reporter drove 16,667 miles with me riding with him. Assuming 55 mph, this requires 484 hours or 23 eight hour days, or 7.5 months. If I had a car with a substantially more travel time is involved.

When trying cases in Jefferson, Jackson or Wabaunsee Counties, I return home each night. The reason for this is two-fold. First, those counties do not have adequate library and equipment for my purposes. Second, there is no hotel nor motel in Oskaloosa and in Alma.

Judge Mayer, who lives in Oberlin, District Judge of the 17th judicial district, a seven county district, informs me that he traveled 18,840 miles on court business in 1976. He tells me it is 250 miles, roundtrip, from his home in Oberlin to the county seat of Osborne, requiring approximately 5 hours time.

Judges are paid 13¢ per mile for travel expense. We are not furnished a State car. I believe this to be unfair. A more realistic mileage would be at least 20¢ per mile. The Department of Transportation, I am sure, has statistics on actual costs per mile to drive a mid-size car. The figures I had compiled from the U. S. Govt a year ago were sent to Chief Justice Fatzer, in an effort to get our mileage payments where they should be, and I do not now have these at hand, but my recollection is the neighborhood of 20¢ per mile. Incidentally, our request last year for an increase in mileage expense payment was rejected.

I am not able to tell you the actual hours of time or percentage of total time spent on the bench actually hearing cases as opposed to office time, in conference, in research, or in writing decisions.

One exhausting example that comes to mind is a much fought jury trial in Oskaloosa which began on Monday, September 19, and completed about 3 p.m., on Saturday, September 24th, of this year. We open court at 9 a.m., take 1 hour 15 minute lunch break, and adjourn for the night anywhere from 5 p.m., to 6 p.m. During this week, I worked in the office three nights for 2 to 2 1/2 hours each night. This means a 12 hour day at least, and a 15 hour day if work is required at night. "Work" here includes 3 hours travel time.

One other example I can give you involved a civil court case of some 15 court trial days. I worked 13 consecutive days (including Saturdays and Sundays) writing a decision in this case. Documentary exhibits in this case totaled in excess of 150, some running to over 100 pages, each. I took 2 weeks of my vacation time this year to get this work done.

I believe it would be a fair estimate that more often than not, I will work 2 nights (average) per week, and more often than not, I will be in the office either on a Saturday or Sunday of a week-end. The courthouse janitor can verify this statement.

People who are not lawyers cannot comprehend the time required to practise law with competence. This is also true of the occupation of a District Judge.

I cannot prove, but believe that a judge working in one county only can comfortably dispose of a substantially greater number of cases than can a judge who must work in several counties.

I would invite statistical analysis of the case load and of contested cases, both trials to the court and trials to juries, of the 2nd district with the average case load of any other district per judge. It is a myth that rural judges have time on their hands.

As support staff, I have a court reporter and the court clerks. I do not have a secretary, nor do I have a legal research assistant, nor a legal intern assistant.

Under court unification, as sole district judge, I am automatically the administrative district judge. This involves budgeting and budget hearings in each county, recruitment and appointment of all clerical personnel in each county, recruitment and appointment of a District Coroner and Deputy Coroners for the various counties, supervision of all jails in the district and trying to meet the new jail standards.

Regarding judicial compensation, other than mileage:

Usually a lawyer becomes a district judge or an appellate judge after he has been found to be a competent attorney, usually around age 40 to 50. In becoming a judge, the lawyer takes up a new life work; ordinarily, it is expected that the judge will devote the remaining portion of his working life to the work of the judiciary.

Lawyers can be found who would accept judicial appointment for a salary less than that now paid. But the question should not be how cheaply can we employ judges.

The question, rather, should be, what is it worth to our society to ensure the selection of those lawyers we would want to be judges. In the nature of things, turnover of the judiciary does occur. Judges retire, and judges die. We should be looking to the future. In selecting one to become a district judge or an appellate judge, the various Judicial Nominating Commissions are admonished to consider certain criteria, among others, which are annexed hereto as Exhibit #3. This is the goal that is sought.

I am not now familiar, in 1977, with the average earning of a competent lawyer, age 40 to 50, that we would want to have be our next district judge or appellate judge. Perhaps the Kansas Bar Association can be of help in this regard.

I have heard it said in the legislative halls of Kansas that since the Governor is paid \$35,000.00, the Chief Justice cannot be paid more. The two salaries have no comparison.

First, the office of Governor is political, of relative short tenure. The judiciary is not political, and tenure is expected to be the duration of one's working life.

Second, the Governor has perquisites, such as housing, transportation, entertainment expense, etc., which the Chief Justice does not have.

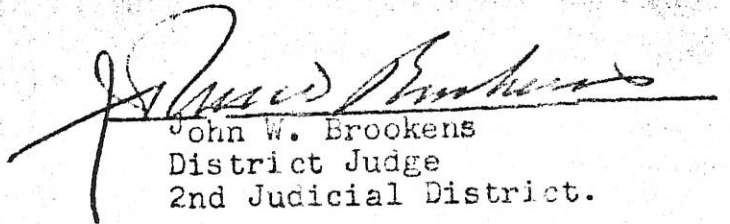


The U. S. Magistrate Judges in Kansas (the lowest level of the Federal Judiciary) are each paid \$46,700.00 per year, prior to October 1 of this year, and it is my understanding that this salary was to be increased to \$49,969.00 on October 1, 1977.

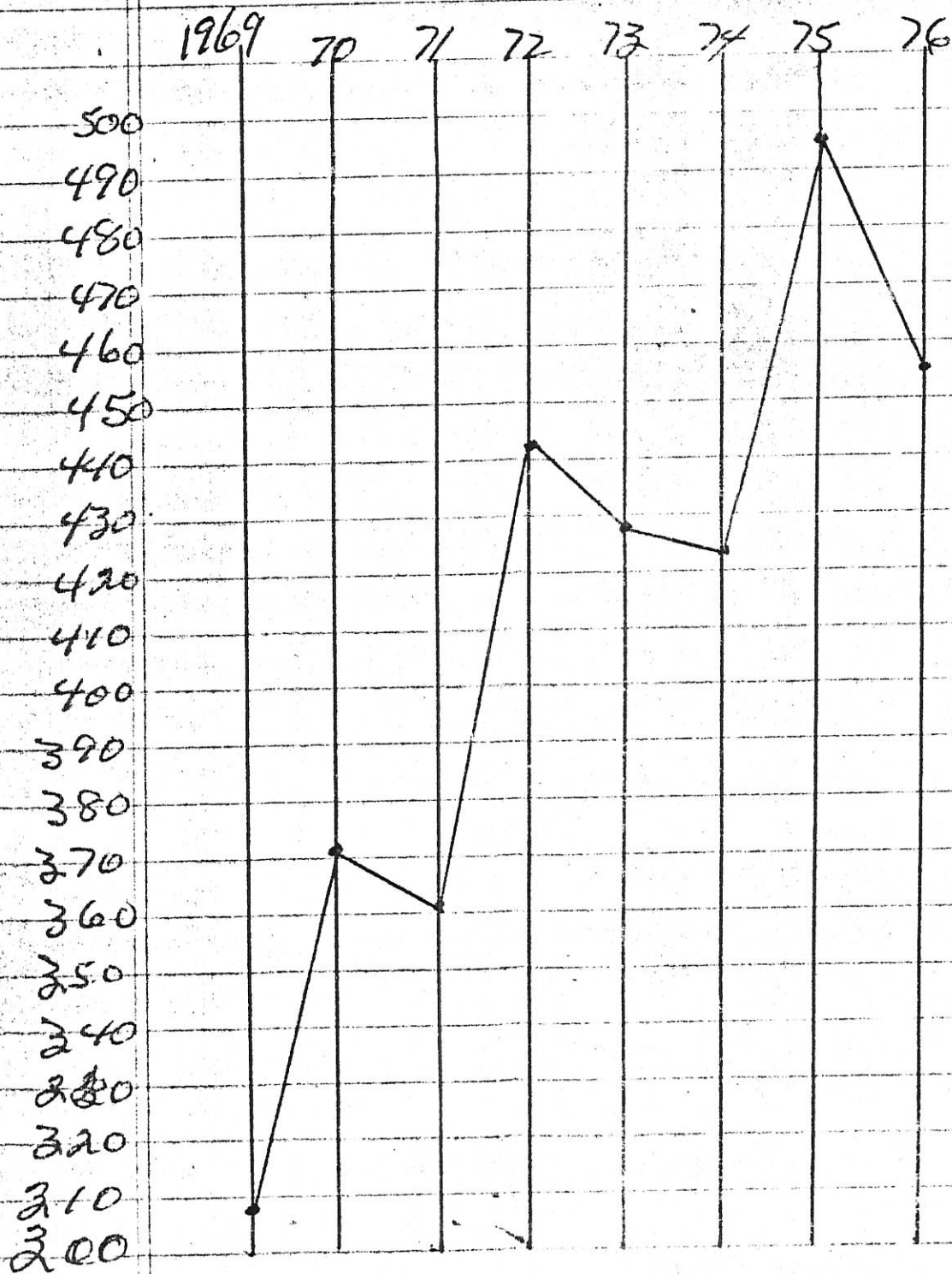
The Chief Justice of the Supreme Court of Kansas is paid \$35,000, and the other Justices of the Supreme Court of Kansas are paid less.

This is incredible.

Respectfully submitted,

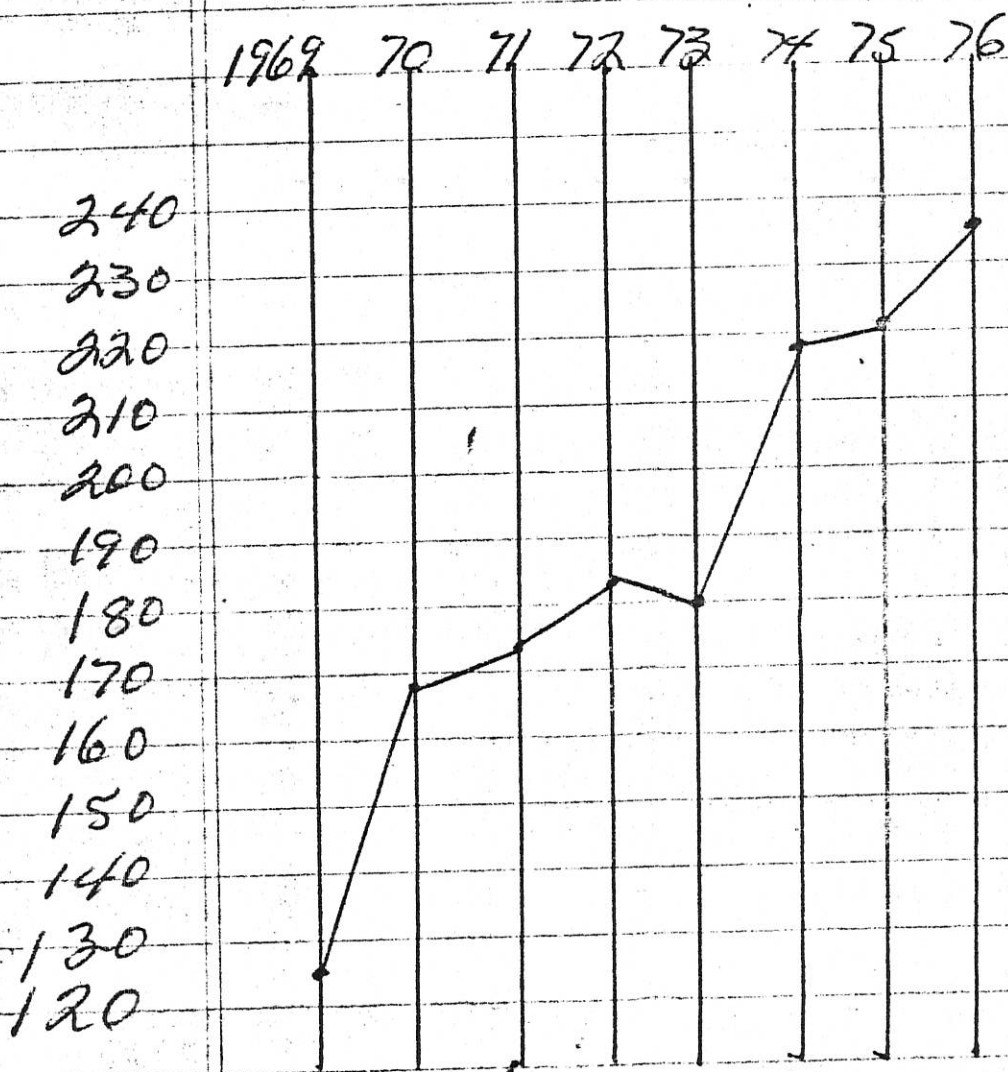
  
John W. Brookens  
District Judge  
2nd Judicial District.





2nd judicial district  
Criminal Cases  
 Terminated by district judge.

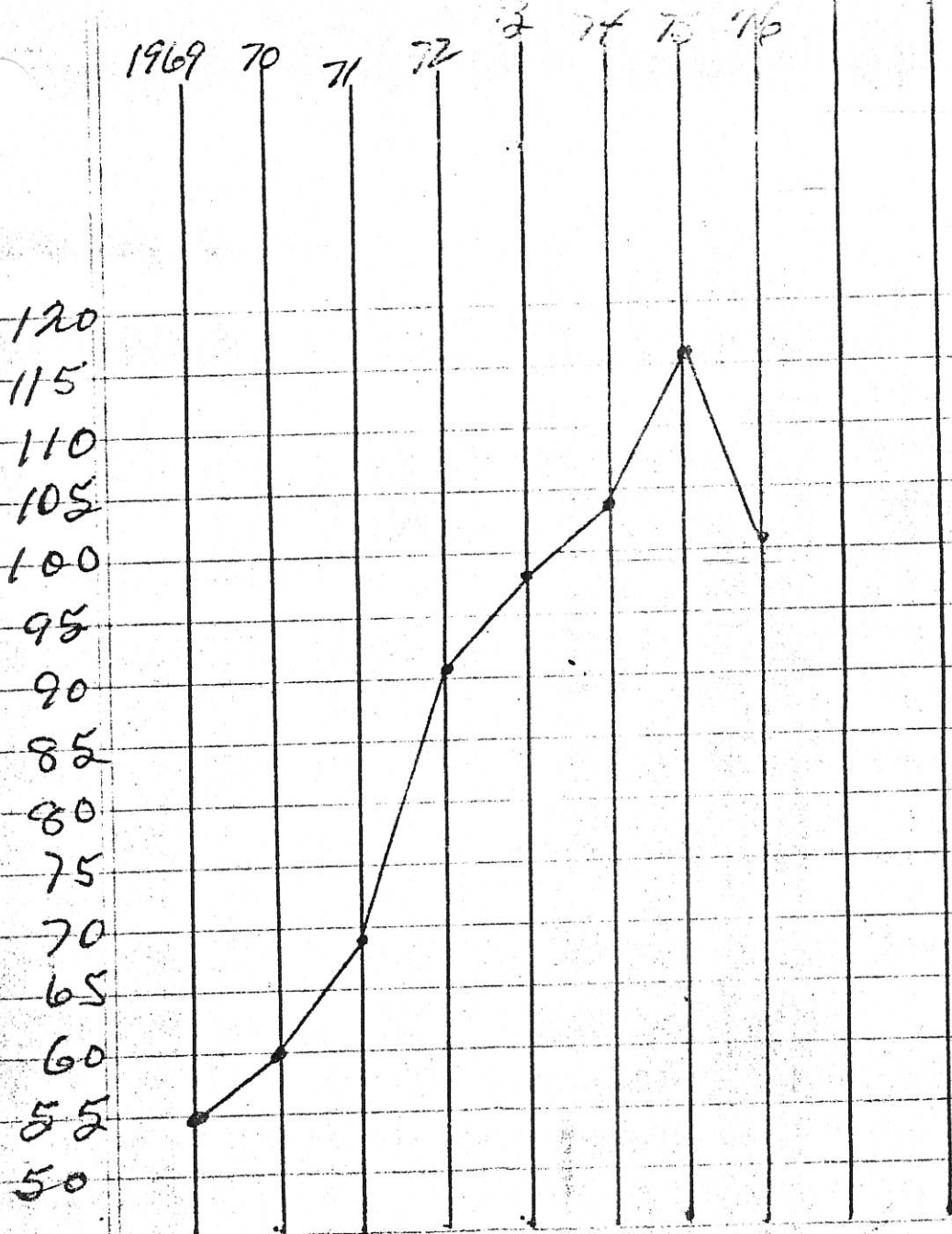
Exhibit 2, Page 1



In addition, there are, as of 1-1-77, 233 cases of support payment pending.

### Domestic Cases 2nd Judicial District Terminated by district judge.

These statistics do not include the numerous and time consuming post trial hearings in domestic cases, such as change of custody of children, change of amount of child support, etc.



2nd Judicial District  
Criminal Cases  
 Terminated by District Judge.

Exhibit 2, Page 2

SUGGESTED

PERSONAL QUALITIES

TO BE CONSIDERED IN SELECTING

JUDICIAL NOMINEES

1. Is the person industrious?
2. Does the person have adequate legal ability?
3. Has the person adequate legal experience?
4. Is the person courteous and considerate?
5. Would the person be deliberate and fair-minded in reaching decisions and conclusions?
6. Would the person be prompt in dispatch of judicial business?
7. Is there any question about the person's honesty or integrity?
8. Are the person's personal habits compatible with judicial dignity and responsibility?
9. Would the person be involved in any activities or relationships which would tend to interfere with that person's usefulness as a judge?
10. Is the person generally intelligent and knowledgeable?
11. Would the person be fair?
12. Is the person free from prejudice and bias?
13. Does the person have any physical impairment, such as defective eyesight, defective hearing or other handicaps which would affect the person's ability to serve as a judge?
14. Does the person possess reasonably good health?
15. Does the person possess the statutory qualifications for the office?

*Exhibit 3, Page 1*

16. Has the person exhibited any tendency which would indicate that he or she might abuse the power and prestige of the judicial office?
17. Would the person respect the confidences inherent in such office?
18. Would the person conscientiously carry out the judicial obligations to the state, its inhabitants, the practitioners of law in court, witnesses, jurors and parties to litigation?
19. Is the person patient, attentive, temperate and impartial?
20. Is the person generally organized in approach to problems?
21. Is the person courageous?
22. Is the person capable of making up his or her mind?
23. Is the person unduly affected by criticism or adverse comments?
24. Would the person be influenced by partisan demands, public clamor or considerations of personal popularity or notoriety?
25. Would the person become an advocate rather than an impartial judge?
26. Would the person unduly interfere in the presentation of cases by attorneys and the witnesses?
27. Would the person be able to write clear and concise opinions?
28. Does the person have an adequate command of the English language?
29. Does the person possess the ability to express himself or herself clearly?
30. Could the person conduct judicial proceedings with fitting dignity and decorum and within the standards of judicial ethics relating to photographs, publicity, broadcasting, television, etc.?
31. Does the person pay bills and meet obligations promptly?

Exhibit 3, 10/10/2

Appendix 8

DISTRICT COURT  
EIGHTEENTH JUDICIAL DISTRICT  
SEDGWICK COUNTY COURTHOUSE  
WICHITA, KANSAS  
67203

ROBERT T. STEPHAN  
JUDGE  
DIVISION NUMBER SIX

October 6, 1977

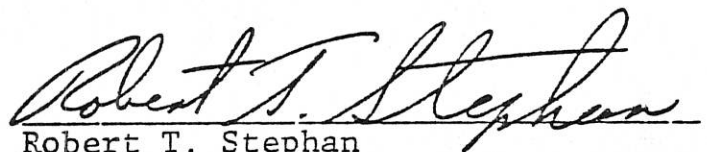
I am submitting a general statement in writing concerning the procedure of the District Court in the 18th Judicial District, commonly known as Sedgwick County, Kansas.

There are 22 judges of the District Court in the 18th Judicial District and 13 of the judges are classified as District Court Judges, while 9 are classified as Associate District Court Judges. The courts are divided into various departments and those departments are as follows: Civil Department, Criminal Department, Domestic Department, Juvenile Department, and Probate Department. An Administrative Judge has overall responsibility over the administrative problems of the courts and the Civil and Criminal Departments have a Presiding Judge who is responsible for the assignment of cases which are scheduled for hearing.

It is a common procedure to utilize judges in the different departments for assignment to a department other than their own in the event a particular judge has completed a case which he is hearing. For example, if a judge commences a jury trial on Monday and completes the same by Tuesday at noon, it is very likely that he might be sent traffic cases or civil non-jury cases or preliminary hearings for Tuesday afternoon. Generally, juries are again scheduled on Wednesday of each week. This procedure utilizes the judges' time to a greater advantage. In general, the trials are scheduled from 9:30 until 12:00 and from 1:30 until 5:00. The judges normally arrive at the courthouse by 8:30 a.m., and I feel that it should be understood that not all judicial work is carried on in the courtroom, but it is necessary to have time for office conferences and legal motions outside the courtroom itself.

As this is my first appearance before the Committee, it is difficult for me to know exactly how to proceed in explaining the duties of the judges in our county, but I will be happy to supply any further information requested.

I include for your consideration a list of the assignment of judges in our county, a record of Division 13 of the District Court (civil), a report from the Probate Division, a report of Division 11 of the District Court (misdemeanor and non-felony hearings), Position F (miscellaneous hearings). I also include a summary of the case load in our district.

  
Robert T. Stephan  
Judge, Division No. 6

Appendix 8



COUNTY: SEDGWICK

SUMMARY OF DISTRICT COURTS, BY COUNTIES  
JUDICIAL DISTRICT NO. 18  
YEAR ENDING JUNE 30, 1976


	PENDING JULY 1, 1975	COMMENCED	TERMINATED	PENDING JULY 1 1976	--PENDING IN MOS.-- UP TO 12 TO 24 OVER 24		
<b>REG. CIVIL DOCKET</b>							
AUTO NEG.....	55	57	52	60	45	15	0
OTHER TORT.....	434	652	513	573	428	131	14
60-1507.....	12	11	22	1	1	0	0
FORECLOSURE.....	67	138	142	63	56	7	0
REAL PROPERTY.....	33	96	93	36	34	2	0
CONTRACTUAL.....	531	1582	1356	757	678	76	3
INJ., Q.W. & MANDAMUS	22	70	70	22	21	1	0
OTHER.....	110	317	262	165	151	13	1
TOTAL REG. CIVIL.....	1264	2923	2510	1677	1414	245	18
<b>DOMESTIC RELATIONS DOCKET</b>							
DIVORCE.....	1539	3924	4031	1432	1395	36	1
SEP. MAINT.....	73	122	133	62	57	5	0
ANNULMENT.....	9	46	48	7	7	0	0
RECIP-IN.....	4	236	197	43	43	0	0
RECIP-OUT.....	47	275	315	7	7	0	0
OTHER.....	66	333	297	102	98	4	0
TOTAL DOM. REL.....	1738	4936	5021	1653	1607	45	1
<b>CRIMINAL DOCKET</b>							
<b>FELONY</b>							
CRIME AGAINST PERSON	84	290	309	65	65	0	0
CRIME AGAINST PROP..	190	882	867	205	205	0	0
OTHER.....	78	309	299	88	88	0	0
<b>MISDEMEANOR</b>							
DWI.....	0	9	6	3	3	0	0
OTHER TRAFFIC.....	1	28	22	7	7	0	0
OTHER.....	9	13	11	5	5	0	0
<b>APPEAL</b>							
DWI.....	2	1	2	1	1	0	0
OTHER TRAFFIC.....	2	10	7	5	5	0	0
OTHER OFFENSES.....	12	27	25	14	14	0	0
TOTAL CRIMINAL.....	372	1569	1548	393	393	0	0
TOTAL, ALL CASES.....	3374	9428	9079	3723	3414	290	19

1466

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, DIVISION THIRTEEN  
WORK LOAD FOR THE MONTH OF JANUARY 1977

*Division 13*

Jury Trials -----	2
Bench Trials -----	8
Order & Aid Trials -----	1
Order & Aid Dockett Calls -----	3
Total Order & Aids on Dockett Calls -----	379
Jurors Called -----	44
Jurors Used by court -----	24
Total Working Days this month -----	16

  
Bob Weir

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, DIVISION THIRTEEN  
WORK LOAD FOR THE MONTH OF FEBRUARY 1977

*Division 13*

Jury Trials-----	4
Bench Trials -----	4
Criminal Pleas -----	2
Civil Jury Trials -----	3
Criminal Jury Trials -----	1
Civil Bench Trials -----	3
Criminal Pleas -----	2
Appealed Juv. Bench Trial -----	1
Pre-Sent. request -----	4
Sent. Criminal case -----	1
Probation granted -----	1
Working days for the Month of February ---	19
Days of Jury -----	12½
Days of Bench Trials -----	6½
Total Number of Jurors Called -----	106
Total Number of Jurors Used by Court -----	48
Total Number of Cases Completed -----	10

Bob Weir

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, DIVISION THIRTEEN  
WORK LOAD FOR THE MONTH OF MARCH 1977

*Division 13*

Jury Trials -----	1
Bench Trials -----	5
Criminal Jury Trials -----	0
Civil Jury Trials -----	1
Civil Bench Trials -----	5
Pre-Sent. Request -----	3
Criminal Sentence -----	4
Criminal Probation -----	3
Criminals Released to State Sect. of Corrections	-1 (15yrs to Life)
Criminals Released Sedg. Co. Jail (work-rel.) ---	1 (1yr. + \$500)
Working Days for the Month of March -----	23
Days Worked by Court, Div. 13 -----	13
Days on Vacation -----	10
Total Number of Jurors Called -----	28
Total Number of Jurors Used by Court -----	12
Total Number of Cases Completed -----	10

*Bob Weir*  
Bob Weir

Division 13

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, DIVISION THIRTEEN  
WORK LOAD FOR THE MONTH OF APRIL 1977

Jury trials -----	3
Bench trials -----	20
Criminal trials -----	2
Domestic Child Custody trials -----	9
Civil Bench trials -----	9
Pre-Sent -----	0
Sent. Criminal( 6 Mos. County Jail) -----	1
Criminal Probation -----	0
Motions to Suppress-----	50
Bench trials on Motions to suppress -----	12
Order & Aid -----	85
Order & Aid apperances -----	14
Working Days for the month of April -----	21
Total Number of Jurors called -----	67
Total Number of Jurors used -----	36
Total Number of cases completed -----	23

Bob Weir



DIVISION THIRTEEN

*Division 13*

WORK LOAD FOR MAY 1977

Jury Trials -----	3
Bench Trials -----	27
Motion to Supress -----	8
Criminal Sent. -----	3
Signing Court Documents -----	100
Jurors Called-----	69
Jurors used -----	36
Vacation - Court Closed -----	5 days
Court Working Days -----	17

Bob Weir

DIVISION THIRTEEN  
WORK LOAD FOR JUNE 1977

*DIVISION 13*

Jury Trials-----	2
Bench Trials-----	8
Order & Aid-----	7
Domestic Defaults -----	14
Child Custody Trials -----	6
Jurors Called -----	44
Jurors Used -----	24
Vacation -----	3 days
Court Working Days -----	22

Bob Weir

DIVISION THIRTEEN

*Division 13*

WORK LOAD FOR JULY 1977

Jury Trials -----	0
Bench Trials Civil -----	18
Small Claims -----	19
Child Custody -----	3
Traffic Criminal -----	14
DEFAULTS <u>Domestic</u> -----	23
Motions for New Trials -----	2
Vacation 2 days -----	2
CourtDays -----	22

Bob Weir





	<u>Uncontested</u>
March	217
April	189
May	179
June	190
July	142
August	219
Sept.	170

1:30 P.M. All contested matters are set for the afternoon. These  
to may include objection to adoption, demands against the  
5:00 P.M. estate, removal of fiduciary contesting admission of  
will.

	<u>Contested</u>
January	11
February	12
March	16
April	17
May	13
June	12
July	13
August	22
Sept.	19

The foregoing does not include the many(perhaps twice as many) un-  
contested matters which are heard forthwith and therefore will not  
be docketed for hearing.

This department has a lot of isolated duties, such as legitimations,  
of which we do not make a case file on. I would estimate we have had  
approximately 380 this year.

I also acknowledge consents for adoptions from other states as well as  
consents for marriage licenses from other states.

This department has performed 298 marriage ceremonies during office  
hours, from January 10, 1977 to October 1, 1977, which has amounted to  
\$4,470.00 for Sedgwick County.

This department has processed 86 applications for Kansas Crippled  
Children.



DISTRICT COURT  
EIGHTEENTH JUDICIAL DISTRICT  
SEDGWICK COUNTY COURTHOUSE  
WICHITA, KANSAS  
67203

CLARK V. OWENS  
JUDGE  
DIVISION NUMBER ELEVEN

The following court proceedings have been assigned and disposed of in our court.

Preliminary Hearings _____	205
1st. Appearances _____	30
Traffic _____	42
Civil _____ --	9
Arraignments _____	4
Motions _____	8
Divorce _____	3
Small Claims _____	2
Fish & Game _____	2
Parole Revocation _____	2
Sentences _____	13

The above is through the 31st. of August 1977

## MONTHLY REPORT FOR FEBRUARY, 1977

### CIVIL

DATE	CASE NO.	JURY TRIALS	BENCH TRIALS	MOTIONS	JUDGMENT
2-1-77			4 (Small Claims)		
2-2-77	76CV5838		1		Dismissed
2-3-77	C 34384		1		Deft. found 75% negligent & Pl 25%
2-4-77			3 (Small Claims)		
2-4-77	76CV324			1	Overruled
2-7-77		(4 Traffic Arraignments)			
2-8-77			4		
2-8-77	C 34853			1	Sustained
2-9-77	34961		1 (Appeal)		
2-10-77	34961		1 (Appeal)		Final Argument set 3-1-77
2-14-77	C 36681		1 (Appeal)		
2-15-77	C 36681		1		Taken under advisement
2-15-77				1	
2-16-77			1		Judgment for P
2-17-77			4 (Small Claims)		
2-18-77			1		Case continued
2-22-77	C 36279		1		
2-23-77			4 (Small Claims)		
2-23-77	C 36279		1		Judgment for P
2-24-77	C 35336		1		Pending
2-25-77			1		Judgement for
2-28-77	C 35321		1		Judgement for

FEBRUARY 1977

TOTAL NUMBER OF BENCH TRIALS	32
TOTAL NUMBER OF MOTIONS	3
TOTAL NUMBER OF ARRAIGNMENTS	4

<i>Total</i>	<u>39</u>
--------------	-----------

MONTHLY REPORT FOR MARCH, 1977

CIVIL

DATE	CASE NO.	JURY TRIALS	BENCH TRIALS	MOTIONS	JUDGMENT
-1-77			4 (Small Claims)		
-2-77			4 (Small Claims)		
-2-77	Braun Case C 37622		1 (Appeal)		For petitioner
-3-77	74CV3767		1		For defendant for costs
-4-77			3 (Small Claims)		
-4-77			2		
-4-77	D 40580			1	Motion denied
-7-77	C 37759		1		For plaintiff
-8-77			3 (Small Claims)		
-8-77	C 37839		1		For plaintiff
-9-77	C 36036		1		For defendant
-10-77	C 33160		1		Taken under advisement
-10-77	76CV5403		1		For plaintiff
-10-77	76CV6122		1		For plaintiff
-11-77	D 42017			1	Passed to trial, Investigation ordered
-11-77				1	Motion granted to change custody
-11-77			1		Case taken under advisement
-11-77				1	Motion denied
-14-77	76CV7214		1		For defendant
-15-77	C 34848		1		
-16-77	C 34848		1		

MARCH 1977

DATE	CASE NO.	JURY TRIALS	BENCH TRIALS	MOTIONS	JUDGMENT
3-17-77	C 34848		1		
3-18-77	77D510			1	Temp. custody given to mother
3-18-77	Butts vs. Batson			1	Mute
3-18-77				1	Overruled
3-18-77			4 (Traffic)		
3-21-77	C 34848		1		
3-22-77	C 34848		1		
3-23-77	C 34848		1		Taken under advisement
3-24-77	Rogers vs. Katren		1		Judgment for Plaintiff
3-25-77			7 (Default Divorces)		
3-25-77	D32507			1	Custody granted father
3-25-77				23 (Domestic)	
3-28-77	Sanity Hearings		2		
3-28-77			1 (Plea)		Pre-sentence order
3-28-77			3 (Traffic Arraignments)		
3-29-77			2 (Small Claims)		
3-29-77	C 37399		1		Judgement for Plaintiff
3-29-77	C 37118		1		Sustained
3-30-77	76CV4507		1		Judgment for Plaintiff
3-30-77	77CR115		1 (PLEA)		2 yr. suspended
3-31-77	D 38783			1	Motion denied for change of custody

MARCH 1977

TOTAL NUMBER OF BENCH TRIALS - 51

TOTAL NUMBER OF PLEAS - 2

TRAFFIC ARRAIGNMENTS - 3

TOTAL NUMBER OF MOTIONS - 32

TOTAL 88



MONTHLY REPORT FOR APRIL, 1977

CIVIL

DATE	CASE NO.	JURY TRIALS	BENCH TRIALS	MOTIONS	JUDGMENT
4-1-77	C 38418			1	Sustained
4-1-77	C 37651		1		Defendant
4-4-77	77TR1766		1 (Sent.)		Probation, fine
4-5-77	No Number		1		Plaintiff
4-5-77	C 37351		1		Defendant
4-6-77			3 (SC)		
4-6-77	No Number		1		Defendant
4-7-77				1 (Pre-Trial)	
4-7-77				1	
4-8-77			3 (SC)		
4-8-77				1	Sustained
4-8-77				1	
4-12-77	76 DV8629		1		Defendant
4-12-77			4 (First Appearances)		
4-13-77	77L681		1		Plaintiff
4-13-77			1 (Workman's Comp)		
4-14-77			3 (SC)		
4-15-77			1 (SC)		
4-15-77				1 (Pre-Trial)	
4-15-77				1	

APRIL 1977 (continued)

DATE	CASE NO.	BENCH TRIALS	MOTIONS	JUDGMENT
4-18-77		1		
		3 (Traffic Arraignments)		
4-20-77		4 (SC)		
4-20-77	76CV7993	1		Plaintiff
4-21-77		3		
4-22-77	C38418		1	Final Argument May 13
4-25-77	C 23747	1		Defendant
4-26-77		4 (SC)		
4-26-77	C38288	1		Final Argument May 11
4-26-77		1		Defendant
4-26-77		1		Plaintiff
4-27-77		1		
4-28-77		1 (Sentencing)		
4-28-77		2		
4-28-77			1	
4-29-77		3		

TOTAL NUMBER OF BENCH TRIALS 40

TOTAL NUMBER OF MOTIONS 9

SENTENCING HEARINGS 2

FIRST APPEARANCES 4

TRAFFIC ARRAIGNMENTS 3

MONTHLY REPORT FOR MAY, 1977

POSITION

CIVIL

DATE	CASE NO.	BENCH TRIALS	MOTIONS	JUDGMENT
5-2-77-5-6-77	Judge Gone-Bar Association			
5-10-77		3 (SC)		
5-10-77		1		
5-10-77	76CV6863	1		Plaintiff
5-11-77		2 (SC)		
5-11-77	C-38288	1		Defendant
5-12-77	C-37785	1		Plaintiff
5-12-77	C-36036		1	J.E.
5-12-77	C-38188	1		Plaintiff
5-13-77		6 (SC)		
5-13-77		1 Pre-Trial		
5-13-77	77C461		1	Recessed til Monday
5-13-77			1	
5-16-77	77C461		1	Sustained
5-16-77	77C710	1 (Workman's Comp)		
5-17-77		1 (SC)		
5-17-77	C-35336	1		Defendant
5-18-77		5 (SC)		
5-18-77	76CV6631	1		Judgment for Plaintiff, to under advise to which def Each 50% neg
5-20-77	76CV7252	1		
5-23-77 thru 5-27-77	VACATION			

*Martin*  
*Contra*

MAY (Continued)

DATE	CASE NO.	BENCH TRIALS	MOTIONS	JUDGMENT
5-31-77		2 (SC)		
5-31-77	77L1615	1		<i>Case Un Advisem</i>

TOTAL NUMBER OF BENCH TRIALS 30  
TOTAL NUMBER OF MOTIONS 4  
TOTAL 34

# POSITION

MONTHLY REPORT FOR JUNE, 1977

## CIVIL

DATE	CASE NO.	BENCH TRIALS	MOTIONS	DOMESTIC	JUDGMENT
6-1-77			1		
6-1-77	C37612	1			Plaintiff
6-2-77		3 (SC)			
6-2-77	77C798	1 (Workman's Comp)			
6-2-77		4 (Habitual Violators)			
6-3-77		6 (SC)			
6-3-77	C34782	1			Settlement Approved
6-3-77	77C800	1 (Workman's Comp)			
6-3-77		Order in Aids			
6-6-77			1		Sustained
6-7-77		5 (SC)			
6-7-77		1			
6-8-77	76CV7606	1			Motion for dis was Sustained
6-8-77	77C651	1			June 10, 1977
6-9-77		5 (SC)			
6-10-77	77C651	1			Plaintiff
6-10-77	C38418		1		Motion for new trial denied
6-10-77	C37838	1			Plaintiff
6-13-77	76CV4139	1			Defendant
6-14-77				3 (Default Divorces)	
6-14-77		4 (SC)			

JUNE (cont)

DATE	CASE NO	BENCH TRIALS	MOTIONS	DOMESTIC	JUDGMENT
6-14-77	77C1233	1			Taken Under Advisement
6-15-77		4 (SC)			
6-15-77				2 (Default Divorces)	
6-15-77		1			
6-15-77			1		Motion Sustained
6-15-77		1 (Probate)			
6-16-77				2 (Default Divorces)	
6-16-77		4 (SC)			
6-16-77		1 (Juvenile Ct. Appeal)			August 26, 1977
6-17-77		1 (SC)			
6-17-77				1 (Default Divorce)	
6-17-77			4		
6-17-77			1		
6-17-77				1 (Default Divorce)	
6-17-77	77L3314	1			Sustained, possibly granted to Plaintiff
6-20-77				2 (Default Divorces)	
6-20-77	77C175	1			Plaintiff
6-20-77		1 (Preliminary Hearing)			Bound Over
6-21-77		2 (SC)			
6-21-77				1 (Default Divorce)	
6-22-77		2 (SC)			
6-22-77				1 (Default Divorce)	
6-23-77		4 (SC)			
6-23-77				1 (Default Divorce)	
6-23-77		1			

JUNE (Cont)

DATE	CASE NO.	BENCH TRIALS	MOTIONS	DOMESTIC	JUDGMENT
6-24-77				4 (Defaults)	
6-24-77		5 (SC)			
6-24-77			1		
6-24-77			1		
6-24-77		Order in Aids			
6-27-77		1			
6-28-77		1 (SC)			
6-28-77				2 (Defaults)	
6-28-77	C 38229	1			Judge ruled lease was valid and enforceable between the parties
6-29-77	C 38087	1			Plaintiff
6-30-77				4 (Defaults)	
6-30-77	77L2229	1			Motion for judgment on opening statement was sustained
TOTAL NUMBER OF BENCH TRIALS		- 72			
TOTAL NUMBER OF MOTIONS		- 11			
TOTAL NUMBER DOMESTIC		- 24			
ORDER IN AIDS					
TOTAL		<u>107</u>			

MONTHLY REPORT FOR JANUARY, 1977

CIVIL

DATE	CASE NO.	JURY TRIALS	BENCH TRIALS	MOTIONS	JUDGMENT
1-10-77	C 34853		1		
1-11-77	C 34853		1		Defendant
1-12-77	C 34346		1		
1-13-77	C 34346		1		Taken under advisement
1-14-77	C 34988		1		Defendant
1-14-77	Bean vs. Hurst		1		
1-17-77	C 37687		1		
1-18-77	C 37687		1		
1-19-77	C 37687		1		Taken under advisement
1-20-77			3 (Small Claims)		
1-21-77				2	
1-24-77	76CV497		1		Judgment Plaintiff
1-24-77	76CV324		1		Defendant
1-25-77	No Number		1		Defendant
1-31-77	76CV5727		1		Plaintiff
1-31-77	No Number		1		Defendant

TOTAL NUMBER OF BENCH TRIALS  
TOTAL NUMBER OF MOTIONS

17  
2

TOTAL

19



IN THE 18TH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS

ASSIGNMENT OF JUDGES

---

ADMINISTRATIVE JUDGE - HONORABLE HOWARD C. KLINE

CIVIL DEPARTMENT

Honorable Tom Raum, Presiding Judge  
Honorable James V. Riddel, Jr.  
Honorable Nicholas W. Klein  
Honorable Willis W. Wall  
Honorable David P. Calvert  
Honorable Owen Ballinger  
Honorable Hal Malone  
Honorable Elliott Fry

CRIMINAL DEPARTMENT

Honorable Tyler C. Lockett, Presiding Judge  
Honorable B. Mack Bryant  
Honorable James J. Noone  
Honorable Robert T. Stephan  
Honorable Michael Corrigan  
Honorable Clark V. Owens  
Honorable Robert Helsel  
Honorable D. Keith Anderson

DOMESTIC DEPARTMENT

Honorable Paul Thomas  
Honorable Ray Hodge

JUVENILE DEPARTMENT

Honorable Robert L. Morrison  
Honorable Ronald Rogg

PROBATE DEPARTMENT

Honorable James G. Beasley

Appendix 7

STATEMENT PREPARED FOR CITIZEN'S COMMITTEE ON  
JUDICIAL COMPENSATION: OCTOBER 10, 1977  
- RAYMOND L. SPRING, DEAN, WASHBURN UNIVERSITY  
OF TOPEKA SCHOOL OF LAW

---

Thank you for inviting me to appear today. I hope that in the short time I plan to take I will be able to offer some thoughts that will be worthwhile in your quest to set appropriate levels of compensation for our judiciary.

It has always been a source of amazement to me that here in Kansas, where we have traditionally one of the higher per-capita incomes in the nation, we constantly lag behind others in what we are willing to pay our public officials. Take the top ten salaries paid by the state of Kansas, and I'd be willing to wager they barely compare to the middle management levels of the ten largest businesses in the state. Yet for those salaries we hope to attract persons with the competence to run the biggest and most diverse business - the state itself.

Now I'm not suggesting that what we pay our public officials - and our judges - in Kansas ought to be dictated by what is paid comparable officials in New York or California, or even in Missouri or Colorado. We don't compete with them for personnel. In my business - legal education - we do, and when I'm trying to hire a new faculty member, he or she is probably being courted by several other schools around the country. So I have to make it my business to know the going salaries for faculty members in our neighboring states and elsewhere, in order to stay competitive.

But as I've said, for state elective positions, and for judicial positions, we don't have that kind of competition, although it does exist at the level of cabinet officers.

Why, then, be concerned if our salary scales for public officials lag behind those of our neighbors? I would suggest that the level of pay we establish for top officials is in fact a rather noisy statement of our expectations in the business of running the state. I am particularly concerned that a low judicial salary scale may evidence lack of sufficient concern with the administration of justice in our state.

I would propose that the proper way to go about setting an appropriate level of compensation for our judiciary is in the way reasonable businessmen and women would go about filling a key vacancy in their operations. Give attention to the requirements of the job, the qualities the person hired must have, and the marketplace in which that person will be found.

What is it, then, that a judge does? Of course the answer to that necessarily depends largely on what kind of a judge, but I believe we can sketch some rough outlines that demonstrate that a judge, at whatever level, does a great deal more than commonly meets the public eye.

First, the judge is responsible for the disposition of cases in his or her court. That includes everything from conducting pre-trial conferences, criminal arraignments, hearing and deciding various motions, supervising discovery proceedings, and on through the trial itself; if at the appellate level it involves the hearing and determination of the legal issues raised. Disposition of the caseload, both at the trial and appellate levels, is a monumental task in itself; but too often, I think, we focus attention only on numbers of cases rather than the nature of those cases.

Consider, if you will, that a judge, whether at the trial or appellate level, must move readily and with high competence from criminal matters to regulation of utility rates to matters involving environmental quality to medical malpractice - just to give a few examples. Over 200 years ago

Samuel Johnson suggested that "lawyers ... are sometimes obliged to pick up a temporary knowledge of an art or science, of which they understand nothing until their brief was delivered, and appear to be masters of it." <sup>1</sup> If that was true then, think of the enormity of that requirement in our ever more complex society today! Lawyers, today of course, can and do limit the kinds of cases they will handle, and thus limit the areas of knowledge they must have. Not so the judge, in most cases. The court must hear and determine whatever kind of case is filed, and it is not enough that the judge appear to be master of the subject matter; the judge must in fact master the subject if justice is to be done.

Recently a distinguished former jurist pointed out that one of the major problems faced by the courts today is that they are being increasingly asked to solve problems for which they are not institutionally equipped, or not so well equipped as other available agencies. <sup>2</sup> In short, our courts have been pushed from their traditional role in dispute resolution to a much broader role as problem-solvers. Think for a moment on the kinds of questions now being laid before our courts: Whether and where to build nuclear power plants; how to operate prisons and hospitals; what is life - when does it begin and when does it end; the kinds of new problems being brought to the courts for solutions seem endless.

Whether the courts are the most appropriate forum for the solution of these varied problems, the fact is that if they are not solved elsewhere, they become disputes that must be resolved by the courts. Thus when we think of who we would attract to the Kansas bench, we should keep in mind that the judge we attract does far more than preside over the ordinary civil or criminal trial.

In keeping my remarks as brief as possible, I will not go beyond this one point in examining the nature of a judge's duties - this point which I believe demonstrates the tremendous importance of attracting the best possible talent to the bench - except to point out that the judges also bear the burden of management of the judicial system. This includes extensive deliberation on matters pertaining to reform and improvements on operations of the system, as well as participation - both as student and teacher - in continuing judicial education. The time and talent required to properly handle these tasks could well be the subject of a separate extensive examination.

What, then, are the qualities needed of an outstanding judge? Certainly intelligence. Not that one must have led his or her law school class in order to qualify - there have been many fine judges, and fine lawyers, who didn't. But the ability to quickly grasp even the most obscure points, and resolve the conflicts thereabout with dispatch, surely conveys the image of a substantially better than ordinary understanding of the law. And surely the requirements of the diverse kinds of cases that I have earlier mentioned demands one who is, if you will, a "quick study"; this is no forum for the slow learner!

Diligence - that is, the willingness to devote whatever time is required to do the job right - is a mandatory quality. No one wants "five o'clock justice", or a decision which is simply terminal, rather than determinative.

Courtesy is a quality which is particularly important for trial judges. Not just good manners - rather a recognition of the human and emotional problems, the tensions in the courtroom, and a willingness to deal with the parties, counsel and witnesses in a manner which recognizes their sense of dignity while maintaining the judge's own. The caricature of the "crusty

old judge" may convey the image of the severity of the law, but does little to enhance respect for it.

One of the most difficult of a judge's necessary qualities to apply is impartiality. All of us are subject to influence by subjective or objective factors that ought have no real bearing on the resolution of the matter in dispute. But a judge must have the ability to put aside those influences and fully and fairly hear the parties out before beginning to formulate opinions about the result.

Finally a judge must be possessed of just plain good judgment. By this I mean a good sense of balance and practicality - or, if you will, ordinary common sense. Time and again the ultimate questions before a judge come down to just that. No case or statute, for instance, tells a judge to which of competing parents custody of a child should be awarded. Yet three lives will be mightily affected by that decision. How does a judge determine what sentence to impose on an offender? The statutory guidelines are broad, and the decisions the judge makes here will surely have a lot to do with the future course of the defendant's life - and perhaps as well the lives of others who may - or may not - become future victims.

So this, in brief, is what we expect our judges to do and the qualities they must have to do the job well. The remaining question is: What is the marketplace in which they will be found?

I would suggest that you consider as the primary source of judges, members of the practicing bar in about the 40 - 45 age group. Now before someone gets concerned over the selection of this particular age group, let me hasten to recognize that excellent persons have been, and no doubt will again be, appointed though substantially older or somewhat younger. But we are not able to consider here individual cases, and I think there are good reasons for considering this particular "target group."

The lawyers in this group will generally have 15 - 20 years experience at the bar - long enough to have become well seasoned and experienced at handling major legal matters. At the same time they will have 20 - 30 years of judicial service to give; time to learn well the job of being a judge, time to provide years of high quality service as an experienced judge, and time to provide leadership among the judiciary. The lawyers in this age group are entering what are generally understood to be the peak productive years; thus they can be expected to enter a new judicial role with a high degree of enthusiasm, and to establish themselves quickly. Another consideration, perhaps of lesser importance but still not to be overlooked, is the fact that for those in this group retirement will fully vest by age 65. While many may not be ready to retire at that age, I think it is unwise to set up incentives to remain for those who are otherwise ready to retire.

In suggesting this target group from among practicing lawyers, I of course do not mean to exclude from consideration those already on the bench who may be qualified for appointment at a higher level. There are and will continue to be appropriate appointments of that nature, just as there are others - even, perhaps, law professors - who may merit consideration. But, again, the principle target group I am suggesting should provide the broadest reservoir of highly qualified candidates.

There are, of course, substantial competing factors limiting the decision of members of this group to move into a judicial position. Just as these persons are moving into their peak productive years, so too are they very likely in the period of their highest personal cost of living. There has perhaps been a fairly recent purchase of what is probably thought of as the "permanent" family home - and probably a substantial mortgage; there may be a vacation home or cabin; the children are very likely in or very near to college - and for many of these families that involves not four but six or

seven or eight years of education per child - law school or medical school, perhaps.

The lawyer in this category is probably earning an income sufficient to handle this lifestyle, but very likely hasn't done so for very long; it's quite likely that there are no substantial savings to draw upon in the event of a sharply reduced income.

The lawyer in this category who accepts a judicial appointment, even at a compensation which is comparable to current income, necessarily recognizes that there will be an ever widening gap between the judicial salary and what he or she might have been earning in practice; a top lawyer who accepts a judicial appointment at age 45 thereby almost assuredly gives up future income in the hundreds of thousands of dollars.

These, then, are the kinds of considerations I believe should form a major part of your thinking in recommending levels of compensation for our Kansas Judiciary. I have deliberately stayed away from figures because I know of no existing source of the most relevant ones. Perhaps it would be appropriate for the Committee to undertake such a study, if it has not already done so.

In the end, however, I am convinced that our present judicial salary scale excludes, as a practical matter, many of the best and most talented members of the bar. Probably every lawyer is aware, every time a vacancy occurs, of those who would be outstanding judges - but who simply can't afford the cut in income. I don't think this is a matter either of greed or unwillingness to sacrifice to serve; as I have already pointed out, it no doubt relates to existing commitments, and how much sacrifice one's family



can be called upon to make.

The extent to which we are willing to continue to see these persons excluded from the judicial marketplace is a measure of the extent to which we are willing to see the quality of justice strained.

Thank you.

FOOTNOTES

1. Rice, George P., "Samuel Johnson, LL.D., on Law, Lawyers, and Judges." 63 ABAJ 1217.
2. Rifkind, Simon K., "Are we Asking Too Much of our Courts?", 15 Judges Journal 43.