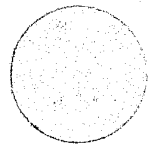
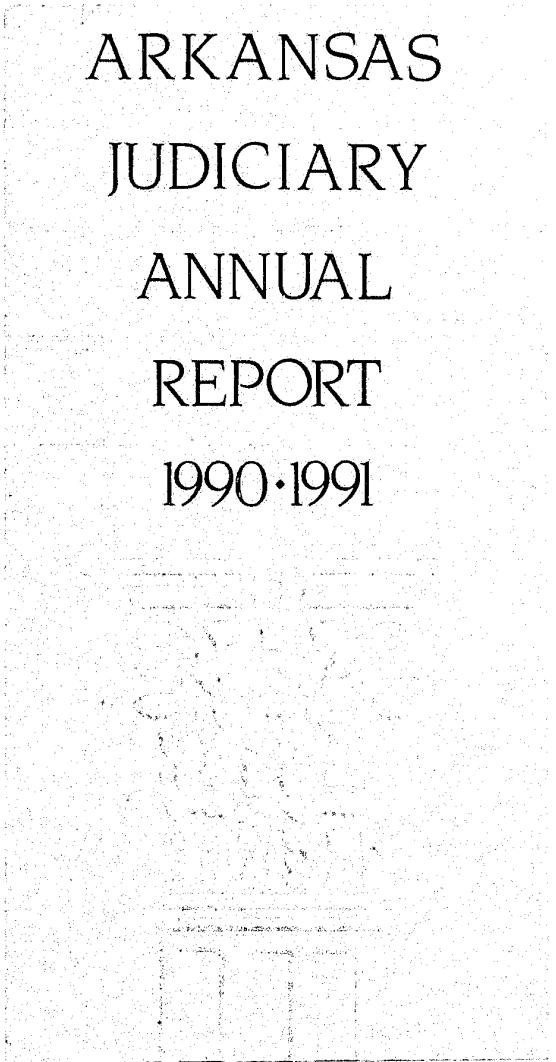


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ARKANSAS
JUDICIARY
ANNUAL
REPORT
1990-1991



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National Institute of Justice

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MAR 5 1992

ACQUISITIONS

THE OFFICE OF CHIEF JUSTICE
SUPREME COURT OF ARKANSAS
JUSTICE BUILDING
LITTLE ROCK, ARKANSAS 72201



Chief Justice Jack Holt, Jr.

The Honorable Bill Clinton, Governor,
Members of the Arkansas General Assembly,
Members of the judiciary, and Fellow Arkansans

I am pleased to present to you this report of the work of the Arkansas judiciary during 1990-91. This has been an exciting and eventful year in our judicial system. State and local judges, with the assistance of dedicated staff members, have disposed of a record number of cases despite increased caseloads, insufficient staffing in certain areas of the state, and limited financial resources.

Arkansans continue to bring their disputes to be resolved in our state courts in record numbers. During the year, more than 792,000 cases were filed. With limited resources, our judges used a combination of innovative programs and old fashioned hard work in an attempt to keep up with the increased pace.

The election of 1991 also brought about a radical change in our judiciary - almost one-third of the judges who took office on January 1, 1991 were new to the bench. The Voting Rights lawsuit filed against our court system promises to bring even more changes. Many times rapid change can result in division and divisiveness and greatly weaken an institution and those who participate within it. The alternative requires us to embrace the change and use it as a catalyst to work together to identify common goals and objectives in a spirit of openness and mutual respect.

Working together we can preserve our independent judicial system and insure that it is available and capable of providing fair and just decisions to our citizens with relative dispatch. In this year of the 200th anniversary of the adoption of our Bill of Rights, our citizens deserve no less.



A handwritten signature in black ink that reads "Jack Holt, Jr." The signature is written in a cursive, flowing style.

Jack Holt, Jr.
Chief Justice

The Arkansas Court System

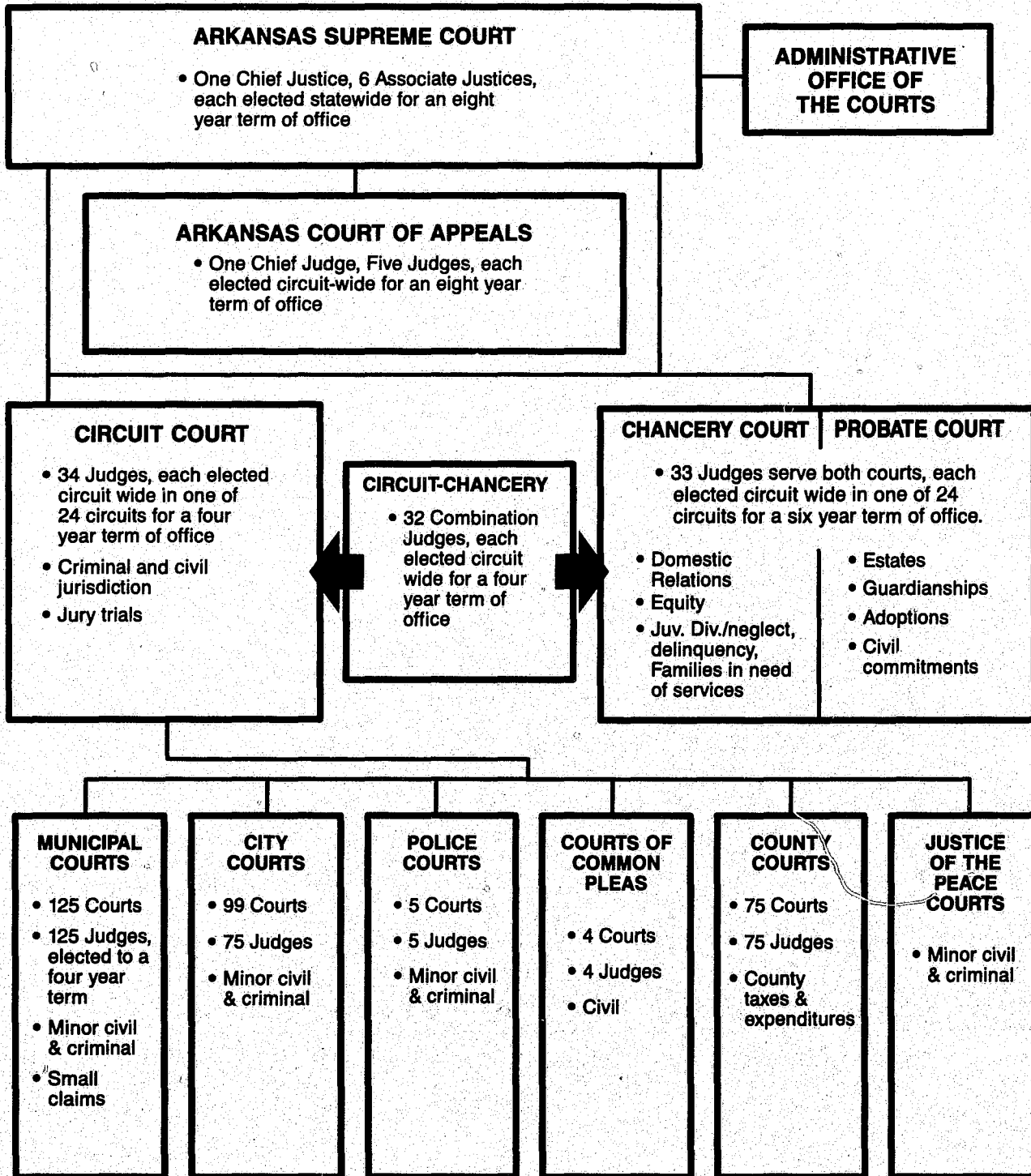
Arkansas has a non-unified court structure, the result of the Arkansas Constitution of 1874. This structure consists of three tiers, each of which is separate and distinct in its jurisdiction, processes, and funding.

The top tier, or appellate courts, is made up of the Supreme Court and the Court of Appeals. The Court of Appeals, created in 1978, was established in order to relieve the state's very heavy appellate caseload. Parties in Arkansas are entitled to only one appeal which is taken either to the Supreme Court or Court of Appeals. The distribution of the cases between the two courts is established by Supreme Court Rule. Judges on both courts are elected in partisan elections for eight year terms.

The second tier, or general jurisdiction courts, consists of circuit, chancery and probate courts. Arkansas remains one of three states in the Union which maintains separate courts of law and equity. Judges of courts of law are called circuit judges and those of courts of equity are called chancellors. In some areas of the state, circuit/chancery judges have been established and can serve both courts. Circuit courts have jurisdiction over criminal and civil matters and appeals from limited jurisdiction courts. The right to trial by jury exists in circuit court but not in chancery court. Chancery court jurisdiction includes divorce, child custody, injunctions, and land disputes. The juvenile division of chancery court, staffed by circuit/chancery or chancery judges, has jurisdiction over delinquency, abuse and neglect, and families in need of services cases. Chancellors, sitting as judges of the probate court, hear cases involving guardianships, civil commitments, adoptions, and estates. All general jurisdiction judges run in partisan elections; circuit judges for four year terms and chancery judges for six year terms.

Limited jurisdiction courts in Arkansas are of six types, each possessing somewhat overlapping jurisdiction. The courts of common pleas and justice of the peace courts are only historical in nature and function, with very few cases being reported. Likewise, the county courts maintain jurisdiction over only a few minor matters involving county taxes and county roads. The municipal courts are the main courts of limited jurisdiction. These courts exercise county-wide jurisdiction over misdemeanor cases, preliminary felony cases, and civil cases in matters of less than \$3,000. A small claims division of municipal court provides a forum in which citizens represent themselves to resolve minor civil matters. The city courts and police courts operate in smaller communities where municipal courts do not exist and exercise somewhat more limited jurisdiction.

Arkansas Court Structure



The Arkansas Supreme Court

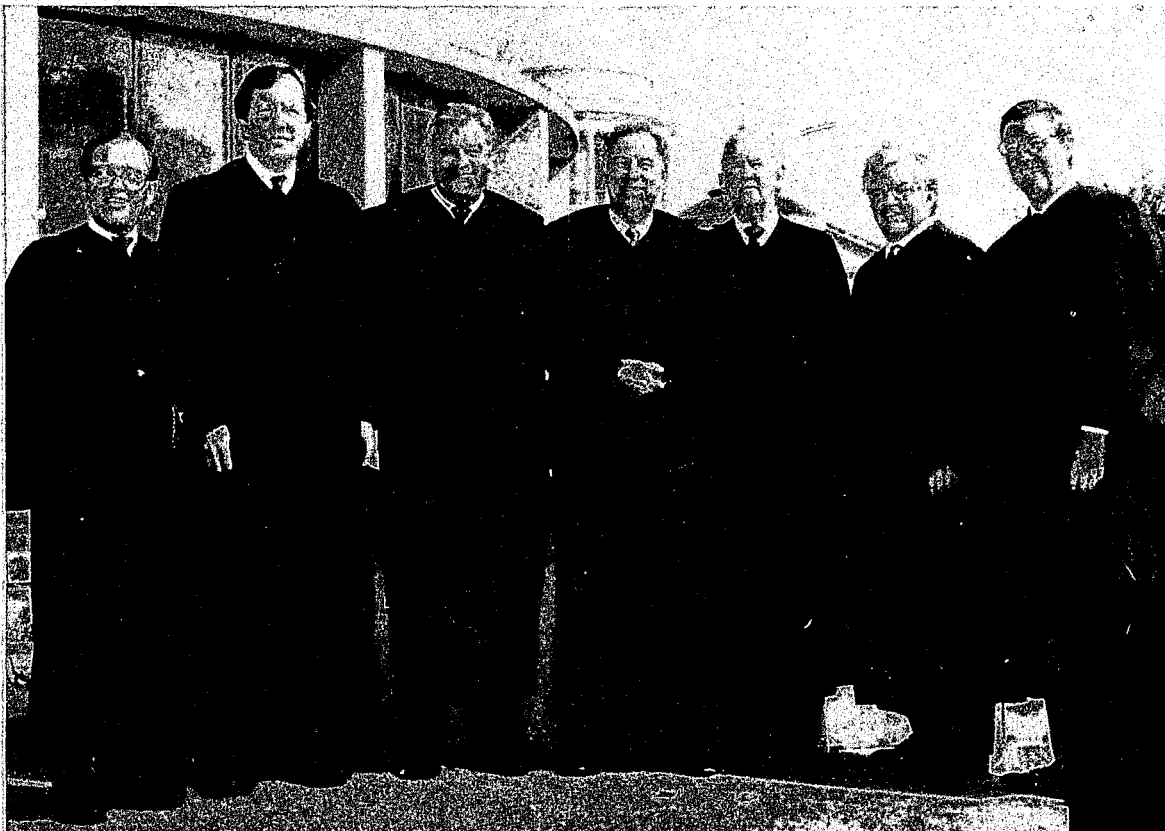
The makeup of the Supreme Court experienced change in 1990-91 with the expiration of the appointed terms of Justices Dale Price and Otis Turner and the election of Justices Don Corbin and Robert Brown. The new justices received the oath of office on January 1, 1991.

The new justices joined the other members of the Court in dealing with a large increase in workload. Workload of appellate courts is generally measured by the number of cases filed (including appeals, petitions, and motions) and disposed of during the year and by counting the number of full opinions which were written by each justice. By both measures, the Supreme Court experienced an increase in workload during the fiscal year.

Appeals filed in the Supreme Court totaled 534 in 1990-91, an increase of 10.8% from the previous year and 33.5% over the last four years. Appeals, petitions, and motions filed totaled 898, a 7% increase over the previous year. The number of terminations during the year totaled 884, an increase of 9.3%. The Supreme Court has a superior record for maintaining the currency of its cases. There were 236 appeals pending at the end of the fiscal year, an increase of 12.4% from the previous year. It required an average of 603 days in criminal cases and 705 days in civil cases for an action to be filed in the trial court and a final decision to be reached in the Supreme Court. Only a very small percentage of this time, however, is spent at the appellate level. From the time a case is submitted to the Supreme Court, a decision is handed down, on average, in 14 days for criminal cases and 18 days for civil cases.

The Court was also very active in dealing with a myriad of administrative issues throughout the court system. In addition to the ongoing work performed by the Court's standing committees, several new committees were created to deal with specific issues. An Automation Committee was appointed to outline and pursue a long-term statewide court automation plan for the state's court system. Two new committees were partially funded and/or staffed by the Court in cooperation with the Arkansas Bar Association - the Opportunities for Women and Minorities Committee and the Code of Judicial Conduct Committee. Both of the committees are to make written reports to the Court. The Court also adopted substantial changes and additional guidelines for enforcement of child support, pursuant to recommendations from its Committee on Child Support.

Arkansas Supreme Court



(Left to right)
 Justice Don Corbin,
 Justice David Newbern,
 Justice Robert Dudley,
 Chief Justice Jack Holt, Jr.,
 Justice Steele Hays,
 Justice Tom Glaze,
 Justice Robert Brown.

Supreme Court

Fiscal Year

87/88	143	257	400
88/89	178	265	443
89/90	196	286	482
90/91	240	294	534

Criminal Civil

Appeals filed in the Supreme Court totaled 534 in 1990-91, an increase of 10.8% from the previous year and 33.5% over the last four years.

The Arkansas Court of Appeals

One change in the makeup of the Arkansas Court of Appeals occurred during 1990-91 with the election of former Chief Justice Don Corbin to the Arkansas Supreme Court and the appointment of Judge Elizabeth Danielson to fill the vacancy. Judge George Cracraft was appointed as Chief Judge of the Court.

Since its creation in 1978, the Arkansas Court of Appeals has provided major relief for the tremendous increase in appeals which challenged the Arkansas appellate court system during the 1970's. The number of appeals has grown at such a tremendous rate, however, that the Court of Appeals is no longer able to accommodate further increase. Legislation was considered during the 1991 legislative session to increase the Court of Appeals to twelve from its current six members. The proposal was based upon a report of a committee of the Arkansas Bar Association. The failure of the Legislature to adopt the measure has caused an increase in the backlog of cases which will likely continue to grow.

The workload in the Court of Appeals is measured by the number of appeals, petitions, and motions considered by the Court during the fiscal year. Appeals filed during 1990-91 totaled 1,200, an increase of 9.5% from the previous fiscal year and 33.5% during the last four years. Appeal terminations for the year totaled 1,199, an increase of 18% from the previous fiscal year.

Workload is also measured by the number of major opinions written by each judge. In 1990-91, each member of the Court of Appeals averaged 108.8 majority opinions, 3 concurring opinions, and 5 dissenting opinions. This is a substantial increase when compared to the average of 94.8 opinions written during FY 1987-88.

The backlog of cases will begin to have a negative effect on the amount of time required to process a case through the Court of Appeals. The effect will be even greater in civil cases since criminal cases, by statute, are given priority. During 1990-91, it required an average of 659 days to process a criminal case from its filing in the lower court through the decision on appeal. The comparable time for civil cases was 681 days. A very small percentage of this time, however, is spent at the Court of Appeals level. From the time a case is submitted to the Court of Appeals, a decision is handed down, on average, in 20 days for criminal cases and 26 days for civil cases.

Arkansas Court of Appeals



(Left to right)
 Judge John Jennings,
 Judge Judith Rogers,
 Judge Jim Cooper,
 Judge Elizabeth Danielson,
 Judge Melvin Mayfield,
 Chief Judge George Cracraft.

Court of Appeals

Fiscal Year

87/88	285	422	192	899
88/89	312	528	239	1,079
89/90	350	528	218	1,096
90/91	361	542	297	1,200

Criminal Civil ESD

Appeals filed in the Court of Appeals totaled 1,200, an increase of 9.5% from the previous year and 33.5% over the last four years.

Courts of General Jurisdiction

During 1990-91, the total caseload in the trial courts continued a trend of many years of steady increase. The combined filings of criminal, civil, chancery, juvenile and probate cases rose to an all-time high of 143,123 - an increase of 2.3% over 1989-90 and over 12.9% in the last four years. The largest increases were in criminal and juvenile cases with a modest rise in civil cases and slight declines in chancery and probate cases. The increase in civil cases marks the first since the implementation of Amendment 64 in 1987, which increased the civil jurisdiction of municipal courts and thus transferred a large number of cases from the trial courts.

Arkansas trial courts also terminated a record 137,492 cases in 1990-91. Despite the increase in terminations, the number of cases pending grew to 113,339, an increase of 5.2%. The increase in pending cases grew in every category of cases. The level of increase was kept small, however, due to the diligent work of the state's trial judges. The 1989 annual report of the National Center for State Courts reported that Arkansas judges ranked second out of the fifty states and the District of Columbia in trial court clearance rates for civil cases. While the report speaks well for Arkansas judges, it also indicates that the courts are operating at their maximum capacity and further increases in filings could produce severe problems.

The addition of one new chancery judgeship in the Twelfth Judicial Circuit brought the total number of trial judges in the state to 99. There are 34 circuit judges, 33 chancery judges, 12 circuit/chancery judges and 20 circuit/chancery juvenile division judges.

Trial Courts

Fiscal Year

87/88	31,905	28,356	43,093	11,798	11,583	126,735
88/89	34,734	24,998	48,139	12,111	13,358	133,340
89/90	36,010	22,542	55,967	12,412	12,927	139,858
90/91	38,799	23,013	55,737	12,064	13,510	143,123

Criminal	Civil	Chancery	Probate	Juvenile
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Cases filed in the State's Trial Courts totaled an all-time high of 143,123, an increase of 2.3% from the previous year and 12.9% over the last four years.

Limited Jurisdiction Courts

Few Arkansans will ever enter the doors of a circuit or chancery court and fewer still will find themselves in the Supreme Court or Court of Appeals. It is fairly likely, however, that most Arkansans will, at some point, come into contact with a limited jurisdiction court. For this reason, these courts may be the most important part of our judicial system. Unfortunately, they are totally funded by local and county governments and the amount of support given to any particular court varies tremendously from one area of the state to the next.

While the Arkansas constitution and statutes provide for six different courts of limited jurisdiction, the most important are the municipal court and city court. Municipal courts are served in most cases by part-time judges who are required to be attorneys and exercise county-wide jurisdiction. In 1990-91, there were 125 municipal courts served by 110 judges and 125 clerks. There are currently 99 city courts which serve communities which do not have a municipal court. These courts exercise city-wide jurisdiction.

The caseload of municipal and city courts has grown tremendously in the last several years, particularly since the jurisdiction of municipal courts was raised from \$300 to \$3,000 in 1987. In 1990-91, municipal court filings rose 6.5% to 619,366 cases. 27,461 cases were filed in city courts, an increase of 15.4% over the previous year. These courts also generate a tremendous amount of revenue for local and county government and for several special state programs. In 1990-91, some \$28,963,630 was collected by these courts in fees, costs, and fines.

Limited Jurisdiction Courts

Fiscal Year

87/88	444,916	23,210	468,126
88/89	562,477	21,230	583,707
89/90	581,428	23,788	605,216
90/91	619,366	27,461	646,827

Municipal City

**Municipal Court filings totaled 619,366, an increase of 6.5% from the previous year.
City Court filings totaled 27,461, an increase of 15.4% over the previous year.**

Court Administration

The administration of the Arkansas court system is accomplished by a combination of state, county and local officials, lay and professional committees, and judicial and court employee associations. A partial unification of the administration of the court system occurred in 1965 when the General Assembly adopted legislation providing that "The Arkansas Supreme Court shall have general superintending control over the administration of justice in all courts in the State of Arkansas. The Chief Justice shall be directly responsible for the efficient operation of the judicial branch and of its constituent courts and for the expeditious dispatch of litigation therein and the proper conduct of the business of the courts. In aid of this responsibility, the Chief Justice may appoint a Director of the Administrative Office of the Courts, such appointment to be approved by the Arkansas Judicial Council and the remaining members of the Supreme Court."

Arkansas Judicial Council, Inc.

The Arkansas Judicial Council consists of all judges of the circuit and chancery courts, Court of Appeals, Justices of the Supreme Court, and retired justices and judges. The Council acts as the general body representing the state's judiciary. It was organized "to foster and preserve the integrity, dignity, and independence of the judiciary; to promote uniformity and dispatch in judicial administration; to develop, implement and maintain a program of judicial education preassisting members newly elected or appointed to the bench; to provide continuing judicial education for members accommodating the diverse needs of chancellors, circuit judges and appellate justices; and to select members to the Judicial Retirement Board." The Council has the specific statutory responsibility of making recommendations to the General Assembly on judicial redistricting and the addition of new judgeships in the state. Formal business of the Council is conducted in spring and fall meetings each year.

Administrative Office of the Courts

The Administrative Office of the Courts is the administrative office for the non-judicial business of the state courts. The office is separated into three major divisions - Education, Research and Special Projects, and Systems.

The Education Division provides educational opportunities for trial and appellate court judges, municipal judges, court clerks, court reporters, case coordinators, and law clerks. Orientation programs for new judges is also a part of the ongoing education program and the division oversees the budget for all out-of-state educational programs. The division includes a public education component to help educate students and private citizens about the court system. The director of publications also works within the division. The office routinely publishes educational pamphlets, statistical reports, special research reports, and a quarterly newsletter. The division includes the state's court interpreter/translator who is responsible for deaf and foreign language interpretation for all courts in the state.

The Research and Special Projects Division is composed of attorneys who provide ongoing assistance to all judges and local officials. Specific research requests are accepted as well as major policy proposals and research on behalf of the Judicial Council, the Supreme Court, the Governor's Office, and the General Assembly.

The Systems Division is responsible for the collection and dissemination of court data from all courts in the state. Data auditors regularly travel to all courthouses in the state in order to collect and confirm the reliability of data. The division is also responsible for the implementation of all court automation projects within the state.

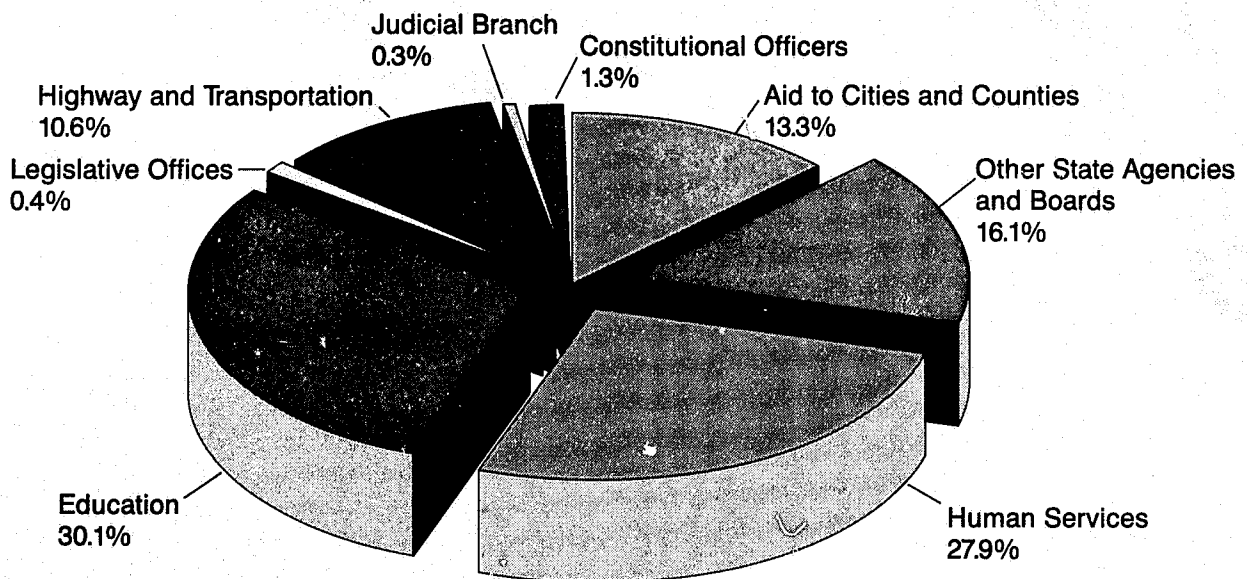
Funding of the Judiciary

Arkansas courts are financed through state, county and city appropriations. The degree of funding from each source depends upon the level of jurisdiction of the court being funded. State government is the sole funding source for the Supreme Court, Court of Appeals, appellate court support staff, and the Administrative Office of the Courts. In addition, the state funds the salaries and costs of travel and educational assistance for circuit and chancery judges, and the salaries for court reporters. The state also pays for one-half of the salaries of juvenile intake and probation officers who serve the judges of the juvenile division of chancery court. State government has budgeted \$16,727,880 for its portion of the cost of the court system for fiscal year 1990-91. The operating funds apportioned to the courts at this level represent only .3% of the total state government operating appropriation which totaled over \$5 billion in 1990-91. A survey by the U.S. Department of Justice places Arkansas 48th of the 50 states and the District of Columbia in the percentage of total state and local expenditures dedicated to justice and court activities.

County government is the funding source for the salaries of all circuit, chancery and probate court support and clerical staff and for all supplies, equipment, utilities and facilities within each judicial circuit. Each county within the circuit provides funding according to its pro rata share of the districtwide court expenses and is solely responsible for the costs of facilities and utilities within the county. County government pays all expenses of the county court, court of common pleas, and justice of the peace courts. The county government also shares with city government the cost of the municipal court. The county share is usually 50%, but there are numerous exceptions to this pattern in a variety of locally negotiated arrangements.

City government is responsible for the remainder of municipal court expenses not provided by county government and provides the sole support for city and police courts.

Arkansas Biennial Budget, 1990-91 (Total State Appropriations)



Arkansas Judicial Council Board of Directors and Officers



(Left to right)
J.D. Gingerich,
Justice Steele Hays,
Judge Jim Gunter,
Judge John Lineberger,
Judge Carl McSpadden,
Judge Gerald Pearson,
Judge Jack Lessenberry,
Judge Robert McCorkindale,
Judge John Pittman,
Judge Rice Van Ausdall.

1990-91 In Review

1990-91 was an eventful year for the Arkansas judiciary. The combination of judicial elections, the biannual meeting of the General Assembly, and major litigation in federal court against the judiciary brought many changes.

Judicial Elections

A record number of ninety-one trial and appellate positions were open for election in 1990. All of the state's thirty-two circuit judges and thirty-four circuit/chancery positions were contested, as well as twenty-two chancery positions and three seats on the Arkansas Supreme Court. A total of 139 candidates competed for these positions. This number was six times the number of judicial candidates who sought office in 1988. One major reason for the increase was the addition of twenty new juvenile division judgeships which were contested for the first time in 1990. One result of the new judgeships and the large number of other contested elections was that on January 1, 1991, over 30% of Arkansas' trial and appellate judges were new to the bench.

1991 Legislative Session

The Judicial Council sent to the 1991 General Assembly a fairly modest legislative agenda and was generally successful in accomplishing its goals. One new chancery judgeship was sought and created for the 12th Circuit. A substantial increase in funding was requested and secured for judicial education programs and for the purchase of new automation systems for the Supreme Court, the appellate clerk's office, and the juvenile division of chancery court. The Council's request to eliminate all statutory exemptions for jury service was also approved.

The Council was unsuccessful in securing three of its legislative goals. A proposal to make case coordinators state employees was approved by the House and Senate but vetoed by the Governor. A plan to increase the number of members of the Court of Appeals from six to twelve passed the Senate but failed in the House. Finally, the Council's salary proposal was totally rejected. Currently, Arkansas judges rank 44th of the 50 states in the amount of compensation paid. During the previous two legislative sessions, classified state employees had received greater salary increases than state judges. The Council's proposal was to compensate for past losses and to bring Arkansas judges up to the national average. This proposal was rejected and the final salary bill provided an annual increase of 5%.

Another major issue which could have had an effect on the judiciary was the proposal of the Arkansas Bar Association to refer to the voters a new judicial article to the Arkansas Constitution. The proposal would have, among other things, streamlined the structure of the Arkansas judicial system by consolidating trial courts of law and equity and creating one limited jurisdiction court in each county. Judicial elections would also have been replaced by merit selection. The proposal was defeated on the final day of the legislative session.

Voting Rights Litigation

In 1989, several plaintiffs brought suit against the state alleging that in its creation of judicial districts and allocation of judgeships, the state had violated the federal Voting Rights Act and had diluted the ability of African American voters to choose judges of their choice. The trial date was delayed twice in 1991 and the parties began deliberations to settle the litigation. The plaintiffs' arguments were strengthened when the U.S. Supreme Court ruled, in comparable litigation in Texas and Louisiana, that judges were "representatives" and subject to all of the provisions of the Voting Rights Act.

Judicial Education

New steps were taken in 1990-91 to formalize and strengthen judicial education in Arkansas. In 1990, the state was one of five in the nation chosen to participate in the Leadership Institute in Judicial Education, sponsored by the State Justice Institute. Both the Judicial Council and the Municipal Judges Council adopted new structures and long-range plans for educational programs. Additional funding was received from the state for the increase of both in-state and out-of-state educational opportunities. Federal and private grant funds were also received to establish a formal New Judges' Orientation Program, to sponsor a Juvenile Judges' Program, and to develop an in-state faculty of judges to teach at educational programs.

Automation

Several major programs were undertaken during the year to continue the long-range goals concerning automation of the court system. Funds were received to fully automate the Supreme Court Clerk's Office in 1991 and to complete the Supreme Court Network (justices, secretaries, law clerks, library, and AOC) during 1992. Hardware for the Juvenile Court Information System was also procured. The cooperative project between the Supreme Court and Law Office Information System, Inc. to produce CASEBASE, the CD-ROM-based legal research system, was featured by the National Center for State Courts. The project to study the use of videotape to make the trial court record was completed in Jefferson County and recommendations for further implementation were submitted to the Supreme Court. The Judicial Council adopted a new weighted caseload system for the evaluation of judicial resource needs across the state. Finally, the Supreme Court created and appointed an Automation Committee consisting of appellate, trial, and limited jurisdiction court judges and members of the General Assembly. The Committee is to examine the current state of automaton in the courts and make recommendations concerning short and long-term automation goals.

Court Actions of Note

The Supreme Court decision during 1990-91 with the largest impact on the judicial system was Arnold v. Kemp, in which the Court struck down the method of appointing and compensating counsel for indigent defense services. The decision prompted a major study by the bench and bar to evaluate alternatives to recommend to the General Assembly. In other administrative action, the Court joined with a committee of the Arkansas Bar Association to undertake a study of race and sex bias within the court system. The Court also adopted extensive changes in child support regulations and the support chart and requested comment on the possible adoption of the newly proposed ABA Code of Judicial Conduct.

Future Goals and Objectives

Trial Court Staffing Assistance

In an age of computers and space travel, there are still over thirty trial court judges in Arkansas who have no staffing assistance whatsoever - they answer their own telephones and type their own letters and orders. At the same time, there are some trial judges who are fortunate enough to have multiple office assistants, bailiffs and law clerks. There is a tremendous need for the state to provide, at its expense, at least one staff assistant for each general jurisdiction court judge in the state.

New Judgeships

The Judicial Resources Assessment Committee has recommended the approval of one additional circuit/chancery juvenile division judge in the Sixth Judicial Circuit and one additional circuit/chancery judge in the First Judicial Circuit. The Court of Appeals has requested the addition of six new positions on that Court.

Automation

The ability of those in the court system to locate problems and assess needs is only possible when there is timely and accurate data about the system available. While many courts - local, trial, and appellate - have excellent automated systems on line, most do not. There is no statewide uniform system in place. The Supreme Court's Automation Committee is establishing a comprehensive judicial automation plan for the state and funding should be provided to implement the plan.

Uniform Fees and Costs

One effect of the failure of the state to fully fund the operation of the court system is the large number of fees and costs assessed to cases by local and trial courts to help cities and counties fund the system. The state also has a history of approving court costs to fund programs which have little or no connection with the court system. This results in a great disparity in the amount of fees and costs assessed in different parts of the state and also requires a small group of Arkansas citizens - traffic offenders - to pay for the operation of the court system. The state should abolish all present court costs and fees and develop a uniform schedule to operate statewide. A proposal should designate a percentage of the funds to remain with local government and the amount to be sent to the state should be designated as general revenue. A system to improve the collection of fees and costs should also be adopted.

Judicial Compensation

If Arkansas is to attract and retain qualified candidates for the judiciary, an adequate compensation package must be provided. The state currently ranks 44th in the amount of compensation which is provided for state judges. A recent study of judicial retirement systems in the United States also showed that Arkansas ranked near the bottom in the level of retirement benefits and yet near the top in the percentage of contributions required to be paid into the system. Additions in salary and retirements benefits must be addressed in the near future.

PUBLISHED BY
THE ADMINISTRATIVE OFFICE OF THE COURTS
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For the complete 1990-91 Statistical Report of the Judiciary of Arkansas or other information on the Arkansas court system, contact the Administrative Office of the Courts.