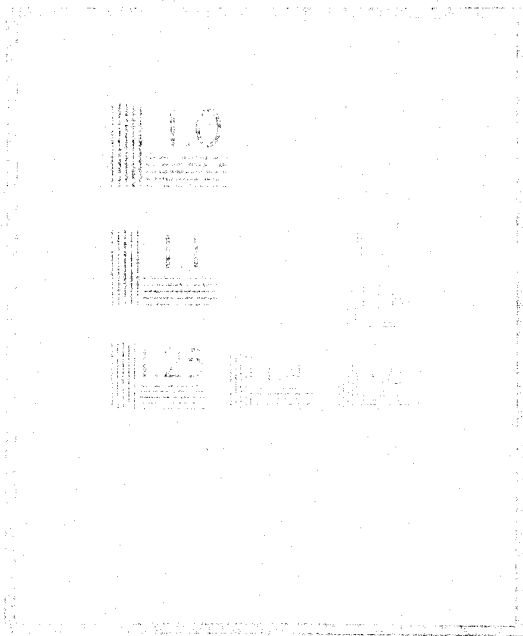


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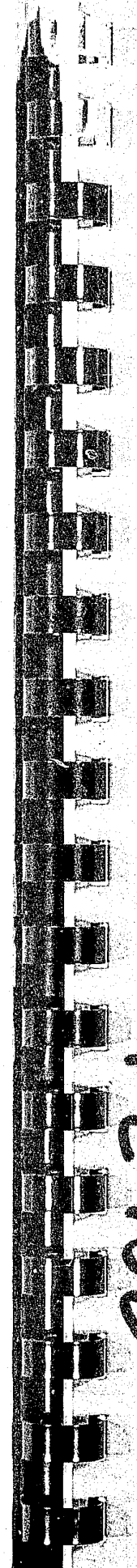


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THE AMERICAN UNIVERSITY

Criminal Courts Technical Assistance Project
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The American University Law School
Washington, D.C.

REPORT OF CONSULTATION ON THE
MUNICIPAL COURT SYSTEM OF
JERSEY CITY, NEW JERSEY

Prepared by:

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Circuit Judge
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This report was prepared in conjunction with the Institute's Criminal Courts Technical Assistance Project, under a contract with the Law Enforcement Assistance Administration of the U.S. Department of Justice.

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I. INTRODUCTION

In response to a request from Mr. Alex Booth, Director of the Office of Criminal Justice Planning of the city of Jersey City, New Jersey, to the Law Enforcement Assistance Administration of the U.S. Department of Justice, this consultant was sent under the auspices of the American University Criminal Courts Technical Assistance Project to advise Jersey City officials on various aspects of the city's Municipal Court system.

During my stay in Jersey City, I spoke briefly with a municipal judge, observed two court sessions in operation, met with the court clerks and other court personnel, police officers, assistant prosecutors, an official of Hudson County Pretrial Intervention Project and conferred with Mayor Paul T. Jordan, M.D.

Mr. Booth was most cooperative in transporting me from place to place and making appointments. He deliberately avoided expressing opinions or attempting to point out problems so that I could be most objective in my findings and recommendations.

I closely observed physical facilities of the Municipal Court, police stations, personnel and clerks' offices and filing rooms, the Hudson County Court House, the City Hall, and departments affiliated with the administration of justice spread throughout the city.

II. COURTROOM PHYSICAL FACILITIES

A. Findings

- To enter the Municipal Courtroom people have to walk through a police station. Officers are on one side of the passageway or corridor leading to the courtroom. These policemen have nothing to do with the courtroom procedure. To one attending a courtroom, either as a party or witness, the first impression, due to the police atmosphere, is that parties

are awaiting sentence or incarceration rather than attending a trial where citizens may set forth their problems and be heard on a case's merits.

- There is an entrance leading to the stairway to the courtrooms but this entrance is permanently locked. I was advised that this was for security reasons. This is a fallacy. There is no security now. Anyone can walk through the corridor without being checked out. I did.
- There are two courtrooms -- one very large and one very small. In the large courtroom the judge's bench is not centered, but is in a corner of the room. To the left of the bench as you face same is a table on which rests a cash register. I was advised that a traffic session of the court is held at night -- that when a defendant is fined he pays his fine immediately to a clerk at this table and the amount is rung up in full view of everyone in the courtroom. This gives the impression of "cash register justice." A courtroom is not a grocery store where purchases are rung up. One does not bargain and sell justice.

Next to the cash register table is a door with bars to a detention cell. If a defendant is in jail, when his or her case is called the door is opened in full view of everyone and the defendant led to the bench. If a defendant has to appear in the second courtroom which is adjoining the large courtroom, he or she is led from the detention cell through the large courtroom into the small courtroom. This is improper for security reasons as well as a violation of the decrum and dignity of the proceedings in the large courtroom.

- There is a judge's chamber in the small courtroom. The door was open and I observed people sitting on the judge's desk and lounging around.

B. Recommendations

- o No one should ever have to walk through a police station in order to enter a courtroom.
- o The present locked entrance should be opened and this should be the only entrance to the courtroom.
- o The courtrooms should be approximately the same size and the court calendar divided equally between the two judges.
- o The judge's bench should be centered so that all can see and hear what is taking place in the trials.
- o The cash register should be removed from the courtroom. Payment of fines should be handled outside of the courtroom and not before people present in the courtroom.
- o The detention cells should not be in the courtroom. Prisoners or defendants incarcerated should not be seen behind bars by people in a courtroom, nor led through a crowded courtroom to another courtroom.
- o No one should occupy a judge's chamber other than the judge. A judge is entitled to privacy for research, for thinking, and for perhaps hearing motions. A judge's chamber should not be a smoking lounge or a grand central station.

III. COURTROOM ATMOSPHERE

A. Findings

The following are indications of the utter confusion and bedlam which was observed:

- o People seated in the courtrooms were talking to each other.
- o People were talking to individuals through the bars of the detention cell.

- o Court personnel were in private conference in the courtroom.
- o Pedestrian traffic was great between one court and the next.
- o No one could hear the case being tried.
- o Cases were very informally tried. I observed an assistant prosecutor with his elbow on the bench and the judge and the witness and the defendant and prosecutor all talking quietly to each other. This type of informality would have been better in chambers (where trials never should really be held).
- o The courtrooms are dingy and dark.

B. Recommendations

- o There should be a uniformed bailiff in each courtroom to maintain silence while a case is in progress. There should be no traffic of people in a courtroom.
- o The entire case should be heard by those in the courtroom. All parties should be required to speak loudly enough for this purpose, if necessary, a public address system should be used. A trial is an important educational process and also assists as a crime deterrent -- particularly hearing the judge's findings and reasoning.
- o The courtroom should be presentable to add to dignity. Panel the walls or paint them more attractively -- have better lighting facilities.
- o The only persons permitted to question parties or witnesses should be attorneys or the judge. (See starred (*) finding on page 6.)

IV. CLERK AND PERSONNEL OFFICE FACILITIES

A. Findings

- o The area is dingy and antiquated. Filing cabinets and records do not appear to be easily accessible. The desks and chairs are jammed together.

Noise is great from typewriters, telephones, conversations, etc. All of this contributes to waste and inefficiency.

- There is an area below the courtroom used for emergency police equipment. I was advised that most of this equipment is never used.
- There are two court divisions and two court clerks.
- At the present time any lawyer can check with the clerks office to find out in advance who the presiding judge will be. If he doesn't like that particular judge, he tries to postpone the case to a date when the judge of his choice will preside. This is called "judge shopping".

B. Recommendations

- Change the physical set-up to make records easily accessible. The means for the best conservation of space would be to microfilm all records.
- The entire clerks area must be redesigned -- walls broken down, new partitions installed, the entire area repainted, etc.
- The emergency equipment not used by the police should be removed, making a great deal of space available for office space, records, etc.
- There is no necessity for two court divisions and two clerks. There should be only one division and one clerk. This would save duplication of effort, needed space and money. Too many people are doing the same type of work.
- Clerks should schedule cases of similar type for the same day so that the same officers involved do not have to be in court every day, but only on the scheduled date. This puts more officers on the streets where they are needed rather than in the courtroom sitting around waiting for a case to be called.

- The clerk of a court or any of its personnel should be forbidden to give out the information to anyone as to whom the particular judge will be on any given day. If a case is continued or postponed, it should still be tried by the judge before whom it was originally assigned.

V. JUDICIAL SYSTEM

A. Findings

- There are five part-time judges appointed by the mayor with the approval of the city council. Part-time judges capitalize on their titles businesswise, i.e., they are accorded better treatment by other judges -- opposing parties are psychologically upset to have a judge as an adversary -- and the title of "judge" is a means of obtaining additional clients.
- There are no standards or qualifications set forth for the appointments.
- Whenever a municipal judge is unable to sit, he may in writing designate another municipal judge or attorney at law to sit for him temporarily with approval of the assignment judge of the county.
- A judge need not be an attorney.
- Presently among the primary responsibilities of the municipal court judge is supervision of books of account, banking records, etc.
- Present judges work only 14 sessions or 12 hours a week each, and each receives \$12,000 a year salary plus maintains a private law practice.
- There is a system of issuing a notice in lieu of a complaint.
- There are two divisions for indictable offenses.
- * • I observed a defendant during the course of a trial being questioned by detectives who had made the arrest.
- Probation officers and those under probation conferred inside the courtroom. Probation procedures should be in strict privacy.

B. Recommendations

- A judge must be a practicing attorney. One cannot interpret the law if one has no knowledge of the law.
- A judge should have a prescribed number of years of legal experience -- not less than five -- before consideration for appointment. In the judiciary there should always be qualified, experienced members of the bar for justice to prevail.
- A judge should not be permitted to select his replacement from members of the bar, even on a temporary basis. Here again, appointments should be made from experienced, qualified members of the bar.
- A judge should devote full-time duty to his position. It should not be his responsibility to check on books of accounts, bank deposits, etc. These duties are clerical in nature and should be handled by clerks under the supervision of the chief clerk. A judge should not have to be a book-keeper or cashier. His responsibility and expertise is interpretation of the law and the administration of justice.
- In regard to the system of issuing a notice in lieu of a complaint, a judge should not be a social worker trying to settle family disputes and neighborhood problems. There are social agencies that can be consulted. If a person were required to file a formal complaint, he would think twice about doing so because of the danger of false arrest and malicious prosecution actions in civil suits. Therefore the present system of issuing a notice in lieu of complaint should be abolished.
- The two divisions for indictable offenses should be incorporated into one. Thus, county prosecutors would not be required to run from one courtroom to the next, or the alternative of the county being required

presently to have two county prosecutors, one for each courtroom at additional expense to the county. In other words, there should be one division and one assistant county prosecutor.

• With reference to indictable offenses, I was advised that 95% of indictable cases are postponed. Officers have had to appear two or three times in court. Postponements of cases should be kept to a minimum. There would be less paperwork and a savings of time and money, and officers would be patrolling the streets rather than spending wasted time in the courtroom.

The court now operates in 14 sessions with five part-time judges devoting 12 hours a week to their positions. This means that each judge works less than three sessions a week, of approximately four hours each. This is inefficient, non-productive and costly. The judges salaries total at least \$60,000.

If there were two full-time judges working simultaneously in each courtroom on the basis of a 40 hour work week, the city would be receiving 80 hours of service a week instead of the present 60. Each judge could receive a salary of between \$22,000 and \$24,000 to start with, plus cost of living increases, and perhaps small automatic raises each new term.

Thus, you would have judges who have made the judiciary their life's work. They would devote more time, have more experience and at a savings costwise to the community.

A third judge could be a standby judge to be called in only when there is an overcrowded calendar or when illness of a judge prevents his presiding, or vacation time occurs. The associate judge could be paid on a per diem basis since his services should not be needed too often.

It is certain that judges can be secured on the above basis. An attorney would have to earn in private practice about \$40,000 a year in gross income (less secretary, telephone, rent, stationary, postage, etc.) to net the salary of a full-time judge as hereinabove suggested.

Attorneys are more than willing to avoid the "rat race" of private competitive practice. Attorneys' ambitions are always toward the goal of someday becoming a judge. It would be difficult for a young practitioner with a growing family to accept a judgeship. Thus you would find experienced long-term practitioners who have been successful and have outside investments, who do not have children to put through college, and who would gladly accept a judgeship -- with the added inducement and prestige of being a "judge".

The first taste of justice that a citizen usually receives is at the municipal court level. His whole attitude toward the law stems from this first encounter. So, for the respect that is due the law and all that it represents, we must place in high office the most qualified people and not mere political appointees.

All present judges should be replaced when their terms expire so as to accomplish the full-time plan. The selection of the two new judges and one associate judge should be by the following method or anything similar to achieve quality appointments.

The Bar Association should select three of its present or past presidents. The mayor should select three outstanding citizens and perhaps a dean of a law school if available. The six would appoint a seventh. These seven would constitute a screening committee making three recommendations for each judgeship. The mayor would then select one of the three for each judgeship.

Present judges would be eligible for consideration.

There should be a retirement age set for judges. I heard an elderly judge presiding who apparently had difficulty in hearing.

Incidentally, it might be pointed out that in Florida by recent constitutional amendment all municipal courts were abolished and their functions incorporated into the lower level of the courts of the county. The county or state thus absorbs the operation and costs of the former municipal courts.

VI. POLICE PRECINCTS

I visited two police precincts. Many of the officers were idle. The theory behind precincts was to bring the police closer to the public. In a city as small as Jersey City, anyone who has a complaint should be willing to go to a central police station to file same. If the party feels it is not important enough to take the trouble to travel a few miles to file such a complaint, then the police should not be called upon to service such a complaint.

With modern science, patrol cars with two-way radios hooked up to the central station can be sent in moments to problem areas or to service a complaint.

The policemen in precinct stations waiting for people to come in would be rendering a greater service to the public by being outside patrolling the street.

VII. OTHER DEPARTMENTS

A. Findings

I visited two offices connected with the court system, to-wit: The Hudson County Intervention Project and the Office of the Director of Criminal Justice Planning. The first is located in a hospital, the second over a police precinct station.

B. Recommendations

All branches of government affiliated with the courts should be housed in the same building. There is loss of efficiency and waste of time and effort when personnel have to travel great distances from their offices to where they have to render services. This is costly in time and money.

VIII. MISCELLANEOUS

A. Findings

I was advised that the problem of the alcoholic is being ignored. No drunks are being picked up. I would venture to guess that Jersey City has between 6,000 and 10,000 alcoholics. Plans should be made for a detoxification center, vocational rehabilitation program, half-way houses, etc. An alcoholic being a sick person, should be treated as such. These people can be made useful citizens of the community again. There are Federal grants available in this field.

I was advised that there is no system of filing and that complaints are handled by clerks. I was advised by assistant prosecutors that they would be willing to handle complaints -- that they are more qualified to determine whether the complaints involve indictable offenses. I believe that the clerks of the municipal court and the prosecutor's office ought to discuss this matter to arrive at mutually satisfactory arrangements.

I was advised by court officials that:

- Complaints are not filed in the proper place.
- Witnesses are not told when to be present for trial.
- Personnel are not properly supervised.
- Bonds are not realistically set -- that a desk officer determines same from a bond schedule.

These matters should be investigated to determine whether the allegations are true, and if so, corrective measures taken.

B. Recommendations

- o Witnesses should always be told of trial dates, for otherwise a legitimate case could be dismissed for lack of evidence or proof of commission of crime.
- o Bonds should always be set by a judge. He can determine whether a defendant should be released on his own recognizance or in the custody of an individual selected by the court, thus saving the necessity of paying excessive fees to bondsmen.

IX. CONCLUSIONS

The observations and findings hereinabove set forth are based on this consultant's 15 years of judicial experience, both as a part-time Municipal Judge for eleven years in Miami, Florida, and a full-time Circuit Judge for the past four years. I have no axes to grind -- no pressures could be brought upon me -- no favors to seek. What I have reported are facts that require immediate study and implementation. If justice is to prevail and not be a mockery, if proper respect is to be accorded to the judiciary, the court system, and the law, then the time to act is now. Politics must be eliminated. The public deserves the best, and it is available.

I appreciate the opportunity that was afforded me of having visited Jersey City, meeting some of the fine citizens and hopefully being able to make suggestions that will be of benefit to the community.

END