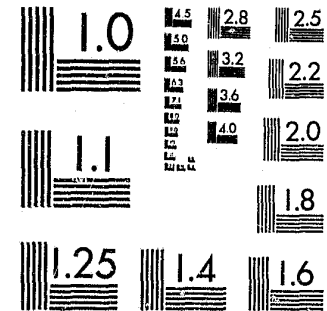


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Mississippi Judicial Council

The Mississippi Court Finance Study

Volume II:

A Proposed Magistrate Division of the Circuit Court for the State of Mississippi

70129

Ernest H. Short
& Associates, Inc.

October, 1979

THE MISSISSIPPI COURT FINANCE STUDY

VOLUME II

A PROPOSED MAGISTRATE DIVISION OF THE CIRCUIT COURT
FOR THE STATE OF MISSISSIPPI

Prepared for:
The Mississippi Judicial Council

by:
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ACQUISITIONS

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I. INTRODUCTION

A. Issues Regarding Court Consolidation

The consolidation of trial courts of general and limited jurisdiction has been a topic subject to intense examination since the turn of the century.¹ Consolidation of trial courts can occur at various court levels on a county, state or regional basis, but the primary objective of consolidation is to provide a system in which the courts are organized and managed so that a uniform administration of justice is provided throughout a jurisdiction. Proponents of trial court consolidation indicate that various improvements will occur from a thoroughly planned well-executed consolidation effort. Some advantages of consolidating courts of limited jurisdiction with trial courts of general jurisdiction or consolidating various components of courts of limited jurisdiction are listed and discussed below:

- elimination of concurrent jurisdiction with procedural and administrative simplification;
- flexibility in judicial and non-judicial personnel resources;
- flexibility in the use of facilities; and
- economic benefits.

Eliminating concurrent jurisdiction has several advantages; first, and most importantly, this improves the likelihood that persons brought before the court will experience a more uniform and standardized type of adjudication because all cases filed in a particular jurisdiction should be adjudicated according to uniform rules and procedures.

¹Pound, Roscoe, The Causes of Popular Dissatisfaction with the Administration of Justice, address delivered at annual convention of ABA, 1906. In this treatise, Pound describes our system of courts as archaic in three areas: (1) in its multiplicity of courts, (2) in preserving concurrent jurisdiction, and (3) in the waste of judicial power.

Second, with a choice of forums for adjudication, an individual is likely to be confused as to the appropriate forum for his court business resulting in misfilings and unnecessary expenses. Third, eliminating concurrent jurisdictions with the consolidation of a superior court of record and an inferior court which is not a court of record should eliminate appeals *de novo*.

Flexibility in judicial personnel resources can occur with consolidation. Judicial manpower can be maximized because judges can be assigned cases according to need and without jurisdictional conflicts. Flexibility in case assignment allows for equal distribution of caseload among judges. The flexibility in judicial resource personnel is enhanced when the use of magistrates or judicial officers accompanies a consolidation effort. Judicial manpower can be maximized by magistrates or commissioners to hear traffic cases, minor misdemeanors, small claims, motions, etc., with judges turning their attention to more serious infractions. For example, in 1973, the Seattle Municipal Court established a Magisterial Hearings Department as an administrative hearing process whereby a defendant could discuss the circumstances of his/her citation in an informal setting.² The program was initiated to provide maximum service to the community by permitting the expeditious scheduling of infractions for adjudication. In 1977, the average number of cases heard per day by the Magistrates was 180 and a total of 51,635 cases was heard during the year. With the success of the Magistrates Department in Seattle, other district courts across the state implemented the use of magistrates and met with similar success. The use of the magistrates, particularly in jurisdictions with high volume traffic caseload, has saved an untold amount of judicial manpower which has been diverted to the adjudication of more serious infractions.

²1978 Seattle Municipal Court Report.

An increase in the efficient utilization, flexibility, and often a reduction in the number of support personnel is provided with consolidation. For example, lower court reform in the state of Kentucky resulted in a significant decrease in support personnel as did reform efforts in South Dakota. The functions of clerical offices of the various court levels and the duties of support personnel can be combined to conserve time and salaries expended for performing repetitive and overlapping tasks. Because much of the work associated with lower courts is clerical and not requiring legal expertise (e.g. processing traffic tickets), consolidating these functions with another court could result in an overall reduction of court support staff. In many jurisdictions, the clerical functions in the lower courts are performed by the judge or magistrate who very often is not provided with sufficient equipment or facilities to perform these tasks adequately. Removing the clerical and administrative functions from judicial personnel enables them to devote their time strictly to judicial matters.

Consolidation tends to promote more *efficient use of facilities*. By allowing the assignment of cases and judicial officers throughout a district or region, the use of available courthouse space can be maximized. The efficient use of existing facilities should reduce significantly the need to build more court facilities. With consolidation, the use of administrative facilities can also be coordinated, making space available for other purposes and allowing expensive equipment to be shared by larger numbers of personnel.

The advantages of trial court consolidation clearly can yield *economic benefit*. For example, the flexibility in the assignment of judges and support staff provides the potential for maximum use of services, which should provide economic savings to various components of the system. Substantial savings

can be realized by having a central locus for case processing and administrative activities, eliminating the need to maintain several, separate, adequately equipped facilities. Centralizing clerical functions can reduce the number of support staff resulting in sizable salary savings and can provide an opportunity to improve records management and automated information systems not always practical in smaller judicial service units. Because concurrent jurisdictions should be abolished with consolidation, expenses incurred as a result of improper filings would be eliminated, as well as the expense of the appeal *de novo* process.

Consolidation of various court levels can produce a flexible organization within a geographic jurisdiction, central administration with uniform rules and procedures, consolidated clerical functions, integrated records and indexes, and public accessibility. Simplifying rules and procedures should promote better coordination and work flow among regular participants in the judicial process and *improve public understanding* of the court system.

The most significant aspect of court consolidation is that, to be a worthwhile endeavor, consolidation must produce a more effective, efficient, and equitable justice system than that which existed previously.

B. Mississippi Justice Courts

Mississippi Justice Courts offer an excellent opportunity for court consolidation and the resultant benefits. Mississippi has followed the American tradition in its experience with Justices of the Peace. This judicial office was recognized by the Constitution in 1890 as part of a lower tier of courts which includes Mayoral Courts and

Police Courts. By recent amendment, Justices of the Peace are now denominated Judges of Justice Courts.³

With the lower tier, Mayoral Courts and Police Courts are established by city, while the county is the basic unit of the Justice Court. The Legislature is empowered by the Constitution to appoint a competent number of Justice Court Judges, but not less than two per county.⁴ At present, each county is divided into five districts for the popular election of such judges.⁵

In addition to the requirements for any Mississippi officeholder, a Justice Court Judge must have resided in the county from which he was elected for two (2) years and be a high school graduate or have a general equivalency diploma, unless he served as a Justice of the Peace prior to January 1, 1976.⁶ No legal training is required of a person elected to the office; however, all Justice Court Judges are required to complete an eighteen-hour orientation course offered by the State Attorney General prior to taking office, except in cases where the Justice Court Judge is a member of the bar.⁷

The Justice Courts have jurisdiction of civil cases in which the principal amount in controversy is \$500 or such higher

³Miss. Const., Art. 6, §171.

⁴Miss. Const., Art. 6, §171.

⁵Miss. Code Ann. §9-11-1. Each district has one judge, except in DeSoto County and Hinds County where, by local option, each has two judges per district. There have been recent attempts to reduce the number to one per district in these counties.

⁶Miss. Const., Art. 6 §171.

⁷Miss. Code Ann. §9-11-3.

amount as may be prescribed by law.⁸ Justice Court Judges may issue garnishments to enforce the judgments of their courts.⁹ The criminal jurisdiction of the Justice Court is concurrent with the Circuit Court in all cases where the punishment prescribed by law does not extend beyond a fine and imprisonment in the county jail. Justice Court Judges also are empowered to conduct probable cause hearings in felony cases,¹⁰ and to issue search warrants,¹¹ arrest warrants,¹² and peace bonds.¹³ Justice Courts may handle juvenile traffic cases, but may not handle other juvenile cases except by consent of a Youth Court Judge.¹⁴

The geographic jurisdiction of the Justice Court is coextensive with the county, but venue in civil cases requires suit to be brought in the district in which the defendant resides.¹⁵ If there are two or more defendants, the suit may be brought in the district in which any of them reside.¹⁶ Venue is also proper in the district in which the debt or liability sued on was incurred or where the property is found.¹⁷ Criminal defendants are taken before the Justice Court Judge in whose district the offense was allegedly committed.¹⁸

Appeals from Justice Courts lie *de novo* to the Circuit Court,¹⁹ except in counties with a County Court, in which appeals from Justice Courts are heard *de novo* in the County Court.²⁰

⁸Miss. Const., Art. 6, §171.

⁹Miss. Code Ann., §11-35-1.

¹⁰Miss. Code Ann., §99-33-13.

¹¹Miss. Code Ann., §99-15-11.

¹²Miss. Code Ann., §99-33-1.

¹³Miss. Code Ann., §99-23-1.

¹⁴Miss. Code Ann., §43-21-33.

¹⁵Miss. Code Ann., §11-9-101.

¹⁶Miss. Code Ann., §11-9-103.

¹⁷Miss. Code Ann., §11-9-101.

¹⁸Miss. Code Ann., §99-33-1.

¹⁹Miss. Code Ann., §11-51-91.

²⁰Miss. Code Ann., §11-51-81.

Judges are compensated on a fee basis according to a fee schedule established by statute. Judges are paid by the county for each criminal case tried, regardless of the disposition of the case.²¹ If the Judge prepares an appeal or takes a bond, he receives an additional fee from the appellant. In civil cases the Judge receives a fixed statutory fee from litigants for each case whether contested or uncontested.²² The Justice Court Judge is required to collect all legally required court costs at the time a civil suit is filed. If he fails to do so, he is guilty of a misdemeanor and may be fined.²³

C. Court Consolidation, Mississippi Justice Courts and Issues

It has been discussed previously that elimination of concurrent jurisdiction, flexibility in personnel resources, flexibility in facilities usage, and economic benefits are advantages of consolidating courts of limited jurisdiction.

Consolidation tends to promote more efficient use of personnel and facilities, thus producing measurable economic benefits, which translate into a more effective and equitable dispensation of justice. The advantages of elimination of concurrent jurisdiction with procedure and administrative simplification, flexibility in judicial and non-judicial personnel resources, facilities' flexibility and economic benefits would result from the consolidation of the Mississippi Justice Courts into a Magistrate Division of the Circuit Court.

The Mississippi Justice Courts have not been immune from the kind of criticism traditionally levied on Justice of the Peace

²¹The fee for criminal cases completed is currently \$10. For purposes of statistical analysis and comparison, this study utilizes figures from calendar year 1977, in which the fee was \$6.

²²The civil case fee was increased to \$15 by recent legislation. Calendar year 1977 figures utilized in this study are based on civil case fee of \$8.

²³Miss. Code Ann., §9-11-10.

systems. Procedural practice in criminal cases, for example, has been constitutionally challenged on the grounds that it violates a defendant's right to due process under the Fourteenth Amendment. The constitutional challenges to the Justice of the Peace system rest on three alleged defects in the system:

- (1) the lack of judicial qualifications for judges;
- (2) the fee system of compensation;
- (3) blending of prosecutorial and judicial roles.

1. Judicial Qualifications

Lack of formal judicial qualifications or legal education has been a general characteristic of the Justice of the Peace from the time of Richard I through the present. Mississippi law requires that a Justice Court Judge be a high school graduate (or its equivalent), a registered voter, and a two-year resident of the district in which he or she seeks election. There are no further qualifications for certification as a candidate for Justice Court Judge; in fact, the Mississippi Constitution specifically prohibits the placing of further qualifications or requirements on a candidate for constitutional office. The Justice Court Judge need have no judicial training or legal education, and, indeed, very few do. In discussing alternative futures available to the Mississippi Justice Court system, an underlying and basic question must be whether or not there is either a practical need or a constitutional requirement for Justice Court judges to have extensive training in the law.

As early as 1215, the Magna Carta (§45), it was written:

"We will not make men justices, constables, sheriffs, or bailiffs, unless they are such as know the law of the realm, and are minded to observe it rightly."

As the Justice of the Peace system developed over the centuries, a layman's knowledge of the law and common sense as to its meaning and enforcement generally were deemed sufficient learning for the Justice of the Peace. This was partially in response to the difficulties of early travel and communication, the widely scattered rural populations, and the small number of trained lawyers. The practice of allowing a layman to be a judge in a criminal proceeding must now be scrutinized in the light of modern standards and conditions.

There has been a tremendous increase in the number of attorneys relative to population in virtually all areas, and there have been substantial improvements in both transportation and communications. Furthermore, the vastly increased complexity of the law and legal procedures have greatly enhanced the probability that a layman will be unable to deal effectively with the complexities inherent in trials, acceptance of pleas, sentencing and other judicial responsibilities. Accepting the principle that judges must be "such as know the law of the realm", it must be determined what degree of knowledge should be required, given both the complexity of modern law and the nature of the jurisdiction and caseload of the Justice Court.

If it is determined that Justice Court judges require legal training to competently and fairly administer the duties and law of their jurisdiction, the options to be considered then become whether to (1) increase requirements for office to include demonstrated knowledge and competence in the law; (2) remove from the jurisdiction of the Justice Courts such matters as would require further training or education; (3) decrease jurisdiction and increase the requirements for holding office as a Justice Court Judge.

2. Salary vs. Fee Compensation

A second inherent trait of the current Justice Court system which has provided for both criticism and constitutional challenge is the fee system of compensation. Where Justice of the Peace systems have been compensated, that compensation has generally been drawn from fines and attributable costs paid to the court. In some jurisdictions (indeed, as it once was in Mississippi), compensation has been allowed only upon a guilty finding. This undoubtedly creates a conflict between the judge's desire to see justice served and his desire to be compensated for his services. In the State of Mississippi, however, this criticism of the fee system has been mitigated by the provision for compensation to the judge regardless of the verdict in a case. Nonetheless, significant questions remain about the impact a fee system inevitably must have upon the impartial administration of justice. The question of fee versus salary is a secondary question underlying discussion of alternative features available to the Mississippi Justice Courts.

Significant to the issue of pecuniary interests of the sentencing judge is the decision of Hitt vs. State.²⁴ In Hitt the defendant was convicted in a Justice of the Peace court and appealed his conviction to the circuit court, contending that the Justice was without jurisdiction to try the case because he had a pecuniary interest in a conviction. The Mississippi Supreme Court, however, specifically denied this contention, noting that Mississippi Justices of the Peace were compensated for their services upon acquittal or conviction, and therefore did not have a specific pecuniary interest in the outcome. In 1969, the

²⁴146 Miss. 533 (1978).

Mississippi Justice of the Peace system was attacked in Federal Court in Melikan vs. Avent,²⁵ in which plaintiffs argued that the unconstitutionality of the fee system was not cured by the right to take an appeal *de novo* in circuit court. Plaintiffs also contended that the defendants in Justice of the Peace courts were deprived of constitutional due process because the justices lacked sufficient training in the law to insure that proper judicial procedures were followed. With regard to plaintiffs' first argument, the Federal District Court followed the Hitt reasoning and denied recovery and, likewise, denied the plaintiffs' second contention stating that it was of "no merit" and finding that there was "no justification for such a determination".

3. Blending of Prosecutorial and Judicial Roles

A third constitutional challenge to the Justice of the Peace system has centered on the blending of prosecutorial and judicial roles, and the contention being that the defendant is denied due process of law whenever a court officer serves as both judge and prosecutor. The absence of a formal prosecutor in justice courts contributes to this issue. But the minor nature of the offenses within justice court jurisdiction and the high incidence of disposition by guilty plea rather than formal trial suggest that this issue is more imagined than real. In a true adjudication setting, as when a formal trial is held on a not-guilty plea, the judge seldom acts as prosecutor.

4. Conclusion

When the Mississippi system has been challenged on constitutional grounds of the types discussed, the sys-

²⁵300 F. Supp. 516 (1969).

tem's validity has been upheld except in the recent cases involving post-judgment fee collections, a relatively minor portion of the court's business (approximately 6% of total caseload). To date, the higher courts have found that the Justice Court system currently in use in Mississippi is constitutionally permissible and does not violate due process rights.

Beyond the constitutional questions surrounding the Mississippi Justice Court system are issues of public perception of the courts and dispensation of justice and the impact of the justice courts on the entire state judicial system.

D. Study Methodology

The ensuing discussion of operational considerations, staffing, and cost associated with consolidation of the Mississippi Justice Courts into a Magistrate Division of the Circuit Court is based on data obtained during the data collection phase of the Court Finance Study which resulted in the document entitled Mississippi Justice Courts: Management and Cost Analysis. Section II of that report describes the study methodology used and is applicable to this report.

II. OPERATIONAL CONSIDERATIONS FOR COURT CONSOLIDATION

A. Introduction

An initial approach to alleviating some of the concerns associated with the Mississippi Justice Courts would be to eliminate the justice court concept and replace it with a Magistrate Division of the Circuit Court. Lower court reforms over the past thirty-five years almost invariably centered around either elimination of fee supported justice of the peace courts and their replacement by courts of limited jurisdiction or special divisions of courts of general jurisdiction staffed by salaried, attorney judges, or transfer of most, if not all, of their judicial powers to other courts.²⁶ Magistrate divisions have in many states produced an environment for maximum service to the community by permitting the expeditious scheduling of infractions for adjudication. Maximum use can be made of judicial manpower by using magistrates to hear contested traffic cases, minor misdemeanors, small claims, motions, etc., with judges turning their attention to more serious infractions. The key to utilization of magistrates is the functional flexibility which manifests itself by an equality in caseload distribution.

Following is a discussion of considerations for implementing a Magistrate Division of the Circuit Court of Mississippi and identification of attendant issues.

B. Organization

If the justice court concept is eliminated, some structure of resources obviously must replace it such that a forum is made

²⁶ Appendix A of this report presents a brief chronology of actions taken by several states regarding justice of the peace courts. Major references for this chronology are: The American Judicature Society's "Selected Chronology" (Report No. 12, dated July, 1967, and Supplements) and Courts of Limited Jurisdiction: A National Survey, Knab, Karen Markle, ed., National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C.

available to the public for dispute resolutions. The workload (i.e. caseload) under consideration is high volume but rarely generates extended contested situations of the type requiring the presence of a judicial officer. Hence, the recommended organizational structure should attempt to make best use of resources with regard to type of workload in the most efficient manner while making the judicial system as accessible as possible.

Two types of structure come to mind. One would establish a separate trial court of limited jurisdiction and the other would incorporate the necessary resources into the existing trial court of general jurisdiction as a separate division. Together with the structure to be recommended for judicial officers one must deal with the issue of organizational structure for clerical support staff; again, a separate clerks' office could be established for either court structure or the existing circuit clerks' offices could be expanded by adding a separate department to accommodate the subject workload.

Because of the type of caseload being considered and its geographic distribution, a separate lower trial court is not deemed a feasible alternative. Based on workload, most counties cannot justify a full-time judicial officer and support staff and to attempt organization of these counties into judicial districts would tend to minimize the local accessibility factor which is considered very important at this level. Under a Magistrate Division of the Circuit Court, part-time magistrates could be used where necessary as long as full-time clerical support is available for contact by the public. In addition, establishing the magistrate division eliminates the need, and attendant cost, for a separate administrative structure. Administratively, the magistrates would report to the circuit judge (or senior circuit judge.)

Clerical support for a magistrate division should be established as a separate department of the circuit clerks' offices. Again, the need for separate administrative structure is eliminated and maximum use can be made of existing facilities and equipment.

C. Magistrate Qualifications

Societal complexity and growth has produced a burden for the court system which no longer allows it the luxury of using lay personnel in judicial decision-making.

When communities were small and disputes were resolved based on a personal understanding of the circumstances, many such decisions could be made without legal training. With increases in population came more litigation and complexity in our society and the law. Hence, legal training is usually now considered to be a requirement for judicial decision-making.

Mississippi is now faced with the same problems of all growing societies. Its court system can no longer expect to respond to societal pressures without the help of legally trained professionals in its courts. The Mississippi court system must develop flexibility to meet the pressures put on an already over-burdened system. Much flexibility can come from a lawyer-trained magistrate functioning under the circuit judge.

In addition to disposing of cases now handled in the Justice Courts, a lawyer-trained magistrate could assist the circuit judge in solidifying the circuit calendar and handling certain motions. Beyond the tangibles already mentioned would be an improvement of the public perception of the Mississippi Judicial system. It should be understood that a lawyer-trained magistrate and member of the Mississippi State Bar would sub-

stantially enhance the guarantee that defendants appearing before the magistrate would have due process of the law.

To require that magistrates be attorneys without making major changes in compensation is impractical. If legal training were made a requirement for magistrates, the compensation would have to be at a sufficient level to approach parity with other career opportunities for a member of the Mississippi Bar. To insure that the high quality of personnel is maintained in relation to a continually changing environment and complexity of law, a system of required continuing judicial education programs should be instituted.

Such changes in the present structure would be major and in essence do away with the present system.

D. Jurisdiction

The geographic jurisdiction of the magistrate should be limited to the county in which he or she is elected; although flexibility should be provided such that counties requiring only part-time magistrates could contract with each other for magistrate services.

Subject matter jurisdiction should initially be the same as that of a Justice Court. That is, civil cases in which the principal amount in controversy is \$500 or such higher amount as may be prescribed by law,²⁷ and issue garnishments to enforce the judgment of their courts.²⁸ The criminal jurisdiction of the magistrates division would be concurrent with the Circuit Court in all cases where the punishment prescribed by law does not extend beyond a fine and imprisonment in the

²⁷Miss. Const., Art. 6, §171.

²⁸Miss. Code Ann., §11-35-1.

county jail. Magistrates would also be empowered to conduct probable cause hearings in felony cases,²⁹ and to issue search warrants,³⁰ arrest warrants,³¹ and peace bonds.³²

Magistrate divisions would be allowed to handle traffic cases, but not handle other juvenile cases except by consent of a Youth Court Judge.³³

It is hoped that ultimately the jurisdiction of the lawyer-trained magistrates would be increased such that they could be of greater assistance to the circuit courts. In this event, it is projected that benefits would accrue to the system by postponing the requirement for additional circuit judges in some districts.

E. Facilities and Equipment

Initially, it would appear that the proposal for a Magistrate Division of the Circuit Court would require an extensive increase in expenditures for necessary facilities and equipment. Such is not the case; in fact, many facilities which are now underused could support the needs of the Magistrate Division and the recommended system will serve to enhance mutual use of existing equipment.

Circuit courtrooms located in the county courthouse can be made generally available for the use of magistrates on either a regularly scheduled or as-needed basis. Circuit courtrooms

²⁹Miss. Code Ann., §99-33-13.

³⁰Miss. Code Ann., §99-15-11.

³¹Miss. Code Ann., §99-33-1.

³²Miss. Code Ann., §99-23-1.

³³Miss. Code Ann., §43-21-33.

(or board of supervisors' chambers or other courthouse facilities) can be utilized on a fairly regular basis by magistrates. Magistrate Division clerical operations would be centered in the office of the Circuit Clerk. Additionally, allowance is made for these operating expenses in the cost projections presented in Section III.

It is important to note that data collected on Justice Court facilities during The Mississippi Court Finance Study focused attention on the importance of a locational relationship to the county seat. Consolidation naturally would gravitate toward the county seat, necessitating a functional, as well as logical reason to locate the magistrate division there.

F. Caseload/Workload

In making a recommendation to establish a Magistrate Division of the Circuit Court, it is important to have a full understanding of the potential caseload that will have to be handled by the Division. In essence, it is this caseload that will determine the number of magistrates and clerical staff needed and the attendant system cost.

The caseload of Justice Courts is measurable because data is available on fees paid to judges for both criminal and civil cases.

Using total fee intake for calendar years 1976 and 1977, caseload figures may be derived by dividing by the \$6.00 criminal and \$8.00 civil fee rates in effect at the time. Figure 1 shows that statewide Justice Courts handled 315,859 criminal and 82,997 civil cases in 1976, and 312,685 criminal and 85,308 civil cases in 1977.³⁴

These data are used in Section III to analyze the number of resources needed by the Magistrate Division.

³⁴Data based on report to the Secretary of State, 1976-77.

FIGURE 1
JUSTICE COURT CASE FEES
AND CASELOAD VOLUME

	<u>Criminal Cases</u>		<u>Civil Cases</u>	
	<u>Fees</u>	<u>Volume</u>	<u>Fees</u>	<u>Volume</u>
1976	1,895,503	315,859	664,560	82,997
1977	1,876,338	312,685	682,990	85,308
Percent Increase/Decrease from 1976 to 1977	-1%	-1%	+3%	+3%

III. PROJECTED STAFFING AND COST FOR A
MAGISTRATE DIVISION OF THE CIRCUIT COURT

A. Introduction

The consolidation of Mississippi Justice Courts into a Magistrate Division of the Circuit Court has obvious staffing and financial impacts. This section of the report analyzes the workload of the justice courts and correlates this workload to staffing needs and projects resultant costs. Although projected staff resources are related to the specific county justice court workloads, it is emphasized that lawyer-trained magistrates would be able to perform many other tasks in support of the circuit court than can be performed now under the present structure.

B. Workload/Personnel Distribution

An analysis has been made of each county's magistrate and clerical needs based upon existing justice court workload. Figure 2 presents for each county a possible matrix for that county's magistrate division. The precise staffing pattern in each county is based predominantly on caseload with other factors such as population and geography being considered also. Generally, one full-time equivalent (FTE) position is provided for each 2,000 cases.

Specifically, the required FTE resources depicted in Figure 2 were derived in the following manner:

1. A minimum staffing level of one FTE clerical and 0.25 FTE magistrate was established. Hence, this "minimum staffing level" satisfied the needs of those counties with 2,500 or less cases. These counties are indicated by an asterisk in Figure 2 (39 counties).

FIGURE 2
POSITION REQUIREMENTS BY COUNTY,
MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Population	Justice Court				Magistrate Division Units		
		Criminal Case Fees	Criminal Case Vol.	Civil Case Fees	Civil Case Vol.	Total FTE	Clerical FTE	Magistrate FTE
---Adams	37,800	26,158	4,359	5,033	268	2.0	1	1.0
*Alcorn	28,300	15,124	2,529	614	76	1.25	1	0.25
*Amite	13,000	14,916	2,485	834	104	1.25	1	0.25
*Attala	18,500	11,748	1,958	1,258	156	1.25	1	0.25
*Benton	7,700	13,415	2,235	120	15	1.25	1	0.25
**Bolivar	47,200	24,186	4,030	24,356	3,043	3.0	2	1.0
*Calhoun	15,200	3,587	597	863	107	1.25	1	0.25
*Carroll	9,100	15,829	2,637	1,472	184	1.25	1	0.25
---Chickasaw	17,300	22,008	3,668	9,242	1,154	2.0	1	1.0
*Choctaw	8,900	5,921	985	260	31	1.25	1	0.25
*Claiborne	11,200	4,890	815	2,797	348	1.25	1	0.25
*Clark	15,500	13,591	2,265	4,572	571	1.25	1	0.25
-Clay	20,000	14,166	2,360	6,752	843	1.50	1	0.50
**Coahoma	38,600	29,280	4,880	9,448	1,180	3.0	2	1.0
---Copiah	24,900	31,799	5,299	3,418	551	2.0	1	1.0
---Covington	14,800	20,148	3,358	4,008	501	1.75	1	0.75
●DeSoto	50,500	56,856	9,505	9,280	1,159	5.0	4	1.0
●Forrest	62,400	57,459	9,576	22,064	1,878	5.0	4	1.0
*Franklin	8,200	11,241	1,873	2,590	323	1.25	1	0.25
*George	14,300	4,806	801	2,530	315	1.25	1	0.25
*Greene	8,600	2,658	443	318	39	1.25	1	0.25

FIGURE 2 (Continued)
POSITION REQUIREMENTS BY COUNTY,
MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Population	Justice Court				Magistrate Division Units		
		Criminal Case Fees	Criminal Case Vol.	Civil Case Fees	Civil Case Vol.	Total FTE	Clerical FTE	Magistrate FTE
**Grenada	20,000	29,124	4,854	9,854	1,233	3.0	2	1.0
---Hancock	19,100	35,588	5,930	371	46	2.0	1	1.0
Harrison	145,300	66,768	11,128	15,168	1,895	6.0	4	2.0
Hinds	231,600	81,692	13,615	122,429	15,300	15.0	10	5.0
***Holmes	22,000	38,268	6,378	24,976	3,121	4.0	3	1.0
*Humphreys	14,200	4,086	681	3,539	442	1.25	1	0.25
*Issaquena	2,300	1,278	213	69	8	1.25	1	0.25
*Itawamba	17,800	9,942	1,657	1,468	183	1.25	1	0.25
Jackson	108,300	47,090	7,984	62,352	7,793	7.0	5	2.0
*Jasper	16,400	7,938	1,323	2,094	261	1.25	1	0.25
*Jefferson	8,800	3,888	813	96	12	1.25	1	0.25
*Jefferson Davis	13,000	6,660	1,109	1,736	217	1.25	1	0.25
***Jones	59,300	48,573	8,095	8,241	1,567	4.0	3	1.0
*Kemper	10,100	14,218	2,369	392	48	1.25	1	0.25
-Lafayette	26,500	15,792	2,632	6,520	815	1.5	1	0.50
---Lamar	18,700	24,450	4,075	1,088	136	2.0	1	1.0
Lauderdale	71,300	86,280	14,379	21,316	2,663	8.0	6	2.0
*Lawrence	11,900	8,420	1,403	610	76	1.25	1	0.25
--Leake	18,000	20,248	3,374	4,946	618	1.75	1	0.75
●Lee	51,700	40,422	6,735	37,069	4,633	5.0	4	1.0
**Leflore	41,300	26,410	4,401	22,274	2,783	3.0	2	1.0
---Lincoln	26,700	29,112	4,851	849	105	2.0	1	1.0

FIGURE 2 (Continued)
 POSITION REQUIREMENTS BY COUNTY,
 MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Population	Justice Court				Magistrate Division Units		
		Criminal Case Fees	Criminal Case Vol.	Civil Case Fees	Civil Case Vol.	Total FTE	Clerical FTE	Magistrate FTE
Lowndes	53,400	70,875	11,812	22,696	2,837	7.0	5	2.0
***Madison	32,900	51,138	8,523	7,302	912	4.0	3	1.0
-Marion	24,100	17,346	2,891	2,013	249	1.5	1	0.5
---Marshall	26,900	28,405	4,733	7,752	968	2.0	1	1.0
---Monroe	34,100	21,241	3,540	13,506	1,688	2.0	1	1.0
--Montgomery	13,000	20,358	3,392	1,500	187	1.75	1	0.75
---Neshoba	21,700	22,940	3,823	2,149	266	2.0	1	1.0
---Newton	19,400	24,928	4,154	3,248	405	2.0	1	1.0
*Noxubee	13,100	4,848	808	1,869	233	1.25	1	0.25
---Oktibbeha	33,000	24,408	4,068	7,715	964	2.0	1	1.0
---Panola	27,500	25,510	4,251	4,563	569	2.0	1	1.0
**Pearl River	28,200	43,868	7,311	1,987	247	3.0	2	1.0
*Perry	10,000	4,818	802	89	10	1.25	1	0.25
***Pike	34,000	45,816	7,636	12,670	1,583	4.0	3	1.0
-Pontotoc	19,000	17,886	2,981	2,088	260	1.5	1	0.5
*Prentiss	21,500	15,937	2,656	916	114	1.25	1	0.25
*Quitman	14,000	8,446	1,407	1,730	216	1.25	1	0.25
*Rankin	59,900	56,730	9,445	12,326	1,540	5.0	4	1.0
---Scott	22,300	20,229	3,371	9,471	1,183	2.0	1	1.0
*Sharkey	7,600	5,413	902	1,040	130	1.25	1	0.25
**Simpson	20,700	40,741	6,790	4,228	528	3.0	2	1.0

FIGURE 2 (Continued)
 POSITION REQUIREMENTS BY COUNTY,
 MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Population	Justice Court				Magistrate Division Units		
		Criminal Case Fees	Criminal Case Vol.	Civil Case Fees	Civil Case Vol.	Total FTE	Clerical FTE	Magistrate FTE
*Smith	14,900	3,642	607	1,158	144	1.25	1	0.25
*Stone	8,300	14,739	2,456	208	25	1.25	1	0.25
--Sunflower	35,300	15,206	2,534	11,478	1,433	1.75	1	0.75
*Tallahatchie	18,000	8,731	1,455	5,407	676	1.25	1	0.25
*Tate	20,200	12,666	2,111	5,389	673	1.25	1	0.25
*Tippah	18,000	11,930	1,988	2,219	277	1.25	1	0.25
*Tishomingo	16,000	17,623	2,936	112	14	1.25	1	0.25
*Tunica	10,800	15,354	2,559	170	21	1.25	1	0.25
*Union	20,500	15,666	2,611	1,516	189	1.25	1	0.25
*Walthall	12,800	9,279	1,546	313	37	1.25	1	0.25
**Warren	49,100	36,299	6,049	18,284	1,159	3.0	2	1.0
*Washington	71,300	30,082	5,013	45,764	5,719	5.0	4	1.0
*Wayne	17,600	12,085	2,012	280	35	1.25	1	0.25
*Webster	10,000	8,004	1,334	68	8	1.25	1	0.25
*Wilkinson	10,100	7,377	1,229	320	40	1.25	1	0.25
*Winston	19,200	8,970	1,495	2,467	307	1.25	1	0.25
*Yalobusha	12,100	14,136	2,356	1,455	181	1.25	1	0.25
-Yazoo	27,500	12,954	2,159	7,666	958	1.50	1	0.50
						194.25	137	57.25

2. Another 0.25 FTE magistrate was added for each additional 500 cases until the staffing pattern of one FTE clerical and one FTE magistrate was reached. Hence, when a county's caseload reached 3,000 cases the magistrate division would be composed of one FTE clerical and 0.5 FTE magistrate; these counties are indicated by a - in Figure 2 (five counties). When a county's caseload reached 3,500 cases, the magistrate division would be composed of one FTE clerical and 0.75 FTE magistrate; these counties are indicated by a -- in Figure 2 (four counties). When a county's caseload reached 4,000 cases, the magistrate division would be composed of one FTE clerical and one FTE magistrate; these counties are indicated by a --- in Figure 2 (thirteen counties).

3. Using rules 1 and 2, 61 of the 82 counties had been accommodated. Because of the extensive clerical nature of the work load, the decision was made to add one FTE clerical staff for each additional 2,000 cases until the particular magistrate division reached a staffing level of four FTE clerical and one FTE magistrate. Under this process a county's magistrate division would be composed of two FTE clerical and one FTE magistrate when the county's caseload reached 6,000; indicated by ** in Figure 2 (seven counties). When a county's caseload reached 8,000, the magistrate division would be composed of three FTE clerical and one FTE judicial; indicated by *** in Figure 2 (four counties). 10,000 cases = four FTE clerical and one FTE magistrate; indicated by a • in Figure 2 (five counties).

4. The staffing level of four FTE clerical and one FTE magistrate was determined to be the breaking point at which further increase in staff would necessitate addi-

tional magistrate resources. Hence, when a county's caseload reached 12,000, the magistrate division was composed of four FTE clerical and two FTE magistrate (Harrison). After this staffing level was reached, Rule 3 becomes applicable until a staffing level of eight FTE clerical and two FTE magistrate is reached. Hence, 14,000 cases = five FTE clerical and two FTE magistrate (Jackson, Lowndes); 16,000 cases = six FTE clerical and two FTE magistrate (Lauderdale).

5. Because of the exceptional nature of the caseload of Hinds County (i.e. civil caseload exceeds criminal), the magistrate division staffing level was placed at ten clerical and five magistrate for that county.

Based on this analysis, the replacement of Mississippi Justice Courts with a Magistrate Division of the Circuit Court would require 57.25 FTE magistrate and 137 FTE clerical positions, for a total 194.25 magistrate division personnel positions as distributed in Figure 2.

C. Potential Cost

The system cost projections for a Magistrate Division of the Circuit Court are based on the personnel and operating costs presented in Figures 3 and 4, respectively. These projections use an average cost of \$27,894 for magistrates' salary and benefits and \$8,698 for clerical. Using the workload/position projections of Figure 2 and the cost factors presented in Figures 3 and 4, Figure 5 presents system cost by county and total. As depicted, the total system cost for a Magistrate Division of the Circuit Court is \$3,177,079 -- magistrates salaries and benefits account for \$1,596,953, clerical for \$1,191,626, and operating cost for \$388,500.

FIGURE 3

POTENTIAL PERSONNEL COSTS FOR
THE MAGISTRATE DIVISION OF THE CIRCUIT COURT

Estimated Magistrate Salary		\$24,000
State Benefits:		
8% Retirement	\$1,920	
6.13% F.I.C.A.	1,471	
\$32/mo. Health Ins.	384	
Life Insurance (\$30,000)	<u>119</u>	
Total Benefits		<u>\$ 3,894</u>
Salary and Benefits		<u>\$27,894</u>
Estimated Clerk Salary		\$ 7,250
State Benefits:		
8% Retirement	\$ 580	
6.13% F.I.C.A.	444	
\$32/mo Health Ins.	384	
Life Ins. (\$10,000)	<u>40</u>	
		<u>\$ 1,448</u>
		<u>\$ 8,698</u>

FIGURE 4

ESTIMATED ANNUAL OPERATING COST

Office Space & Utilities	
Magistrate Office (200 sq. ft. @ \$5.00)	\$1,000
Clerical Office (100 sq. ft. @ \$5.00)	500
Utilities (estimated @ #40/mo.)	<u>600</u>
Total Office Space & Utilities	\$2,100
Phone (estimated @ \$50/mo.*)	600
Equipment & Supplies	
2 Filing Cabinets	400
2 Desks	1,200
10 Chairs	500
Bookshelves	200
1 Typewriter	1,000
1 Calculator	200
Miscellaneous Equipment	<u>300</u>
Total Equipment Cost	\$3,800
Total Equipment Amortized Over 5 Years	760
Paper Supplies	340
Miscellaneous Supplies	<u>200</u>
	<u>540</u>
TOTAL ANNUAL OPERATING COST	\$4,000

*This cost could vary from the basic charge of \$18/mo. to upwards of \$70/mo. depending on the number of lines, etc.

FIGURE 5
PROJECTED STAFFING NEEDS AND COSTS FOR
A. MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Magistrate Court Units			Potential Cost			Total
	Total FTE	Clerical FTE	Magistrate FTE	Clerical	Magistrate FTE	Operating Cost	
Adams	2	1	1	8,698	27,894	4,000	40,592
Alcorn	1.25	1	0.25	8,698	6,974	2,500	18,172
Amite	1.25	1	0.25	8,698	6,974	2,500	18,172
Attala	1.25	1	0.25	8,698	6,974	2,500	18,172
Benton	1.25	1	0.25	8,698	6,974	2,500	18,172
Bolivar	3	2	1	17,396	27,894	6,000	51,290
Calhoun	1.25	1	0.25	8,698	6,974	2,500	18,172
Carroll	1.25	1	0.25	8,698	6,974	2,500	18,172
Chickasaw	2	1	1	8,698	27,894	4,000	40,592
Choctaw	1.25	1	0.25	8,698	6,974	2,500	18,172
Claiborne	1.25	1	0.25	8,698	6,974	2,500	18,172
Clark	1.25	1	0.25	8,698	6,974	2,500	18,172
Clay	1.50	1	0.50	8,698	13,947	3,000	25,645
Coahoma	3	2	1	17,396	27,894	6,000	51,290
Copiah	2.0	1	1	8,698	27,894	4,000	40,592
Covington	1.75	1	0.75	8,698	20,921	3,500	33,119
DeSoto	5	4	1	34,792	27,894	10,000	72,686
Forrest	5	4	1	34,792	27,894	10,000	72,686
Franklin	1.25	1	0.25	8,698	6,974	2,500	18,172
George	1.25	1	0.25	8,698	6,974	2,500	18,172
Greene	1.25	1	0.25	8,698	6,974	2,500	18,172

FIGURE 5 (Continued)
PROJECTED STAFFING NEEDS AND COSTS FOR
A. MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Magistrate Court Units			Potential Cost			Total
	Total FTE	Clerical FTE	Magistrate FTE	Clerical	Magistrate FTE	Operating Cost	
Grenada	3	2	1	17,396	27,894	6,000	51,290
Hancock	2	1	1	8,698	27,894	4,000	40,592
Harrison	6	4	2	34,792	55,788	12,000	102,580
Hinds	15	10	5	86,980	139,470	30,000	256,450
Holmes	4	3	1	26,094	27,894	8,000	61,988
Humphreys	1.25	1	0.25	8,698	6,974	2,500	18,172
Issaquena	1.25	1	0.25	8,698	6,974	2,500	18,172
Itawamba	1.25	1	0.25	8,698	6,974	2,500	18,172
Jackson	7	5	2	43,490	55,788	14,000	113,278
Jasper	1.25	1	0.25	8,698	6,974	2,500	18,172
Jefferson	1.25	1	0.25	8,698	6,974	2,500	18,172
Jefferson Davis	1.25	1	0.25	8,698	6,974	2,500	18,172
Jones	4	3	1	26,094	27,894	8,000	61,988
Kemper	1.25	1	0.25	8,698	6,974	2,500	18,172
LaFayette	1.5	1	0.50	8,698	13,947	3,000	25,645
Lamar	2	1	1	8,698	27,894	4,000	40,592
Lauderdale	8	6	2	52,188	55,788	16,000	123,976
Lawrence	1.25	1	0.25	8,698	6,974	2,500	18,172
Leake	1.75	1	0.75	8,698	20,921	3,500	33,119
Lee	5	4	1	34,792	27,894	10,000	72,686
LeFlore	3	2	1	17,396	27,894	6,000	51,290

FIGURE 5 (Continued)
 PROJECTED STAFFING NEEDS AND COSTS FOR
 A MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Magistrate Court Units			Potential Cost			Total
	Total FTE	Clerical FTE	Magistrate FTE	Clerical	Magistrate FTE	Operating Cost	
Lincoln	2	1	1	8,698	27,894	4,000	40,592
Lowndes	7	5	2	43,490	55,788	14,000	113,278
Madison	4	3	1	26,094	27,894	8,000	61,988
Marion	1.5	1	0.5	8,698	13,947	3,000	25,645
Marshall	2	1	1	8,698	27,894	4,000	40,592
Monroe	2	1	1	8,698	27,894	4,000	40,592
Montgomery	1.75	1	0.75	8,698	20,921	3,500	33,119
Neshoba	2	1	1	8,698	27,894	4,000	40,592
Newton	2	1	1	8,698	27,894	4,000	40,592
Noxubee	1.25	1	0.25	8,698	6,974	2,500	18,172
Oktibbeha	2	1	1	8,698	27,894	4,000	40,592
Panola	2	1	1	8,698	27,894	4,000	40,592
Pearl River	3	2	1	17,396	27,894	6,000	51,290
Perry	1.25	1	0.25	8,698	6,974	2,500	18,172
Pike	4	3	1	26,094	27,894	8,000	61,988
Pontotoc	1.5	1	0.5	8,698	13,947	3,000	25,645
Prentiss	1.25	1	0.25	8,698	6,974	2,500	18,172
Quitman	1.25	1	0.25	8,698	6,974	2,500	18,172
Rankin	5	4	1	34,792	27,894	10,000	72,686
Scott	2	1	1	8,698	27,894	4,000	40,592
Sharkey	1.25	1	0.25	8,698	6,974	2,500	18,172

FIGURE 5 (Continued)
 PROJECTED STAFFING NEEDS AND COSTS FOR
 A MAGISTRATE DIVISION OF THE CIRCUIT COURT

County	Magistrate Court Units			Potential Cost			Total
	Total FTE	Clerical FTE	Magistrate FTE	Clerical	Magistrate FTE	Operating Cost	
Simpson	3	2	1	17,396	27,894	6,000	51,290
Smith	1.25	1	0.25	8,698	6,974	2,500	18,172
Stone	1.25	1	0.25	8,698	6,974	2,500	18,172
Sunflower	1.75	1	0.75	8,698	20,921	3,500	33,119
Tallahatchie	1.25	1	0.25	8,698	6,974	2,500	18,172
Tate	1.25	1	0.25	8,698	6,974	2,500	18,172
Tippah	1.25	1	0.25	8,698	6,974	2,500	18,172
Tishomingo	1.25	1	0.25	8,698	6,974	2,500	18,172
Tunica	1.25	1	0.25	8,698	6,974	2,500	18,172
Union	1.25	1	0.25	8,698	6,974	2,500	18,172
Walthall	1.25	1	0.25	8,698	6,974	2,500	18,172
Warren	3	2	1	17,396	27,894	6,000	51,290
Washington	5	4	1	34,792	27,894	10,000	72,686
Wayne	1.25	1	0.25	8,698	6,974	2,500	18,172
Webster	1.25	1	0.25	8,698	6,974	2,500	18,172
Wilkinson	1.25	1	0.25	8,698	6,974	2,500	18,172
Winston	1.25	1	0.25	8,698	6,974	2,500	18,172
Yalobusha	1.25	1	0.25	8,698	6,974	2,500	18,172
Yazoo	1.50	1	0.50	8,698	13,947	3,000	25,645
TOTAL	194.25	137	57.25	1,191,626	1,596,953	388,500	3,177,079

In general, the projected operating cost should be considered to be high since often existing facilities and equipment will be available for mutual use.

The present system cost and revenues for justice courts and projected cost for a Magistrate Division of the Circuit Court are presented and compared in Figure 6. As depicted, the projected revenues to be generated by the justice court system approximate \$8,294,589³⁵ against a projected present system cost of \$4,162,646 for a present system net revenue of \$4,131,943. The projected cost for a Magistrate Division of the Circuit Court approximates \$3,177,079 which would generate a net revenue of \$5,117,510; this generates an increase in net revenue of \$985,567.

D. Recommended Funding Configuration

The logical breakout of funding for a Magistrate Division of the Circuit Court is for the state to fund all salaries and benefits and for the counties to fund total operating cost since the counties may already have available office space and equipment. Hence, the state would bear the "up-front" cost for salaries and benefits and the counties would bear the "up-front" cost for operating expenses at a minimum level specified by the Judicial Council.

All revenues from magistrate division operations, including fines, forfeitures, and fees, should flow to the state to: (1) compensate the state for salaries and benefits, (2) reimburse smaller counties for magistrate division expenditures

³⁵This figure includes fines, forfeitures and fees in criminal cases and case filing fees in civil cases.

FIGURE 6

JUSTICE COURT SYSTEM REVENUES AND COSTS:
PRESENT SYSTEM AND PROJECTED MAGISTRATE DIVISION

<u>System Revenues</u>		<u>Present System Costs</u>	
	<u>Projected 1979</u>		<u>Projected 1979</u>
Criminal Fines and Forfeitures	\$7,315,927	State Case Fees (paid to Judges)	3,142,272
Civil Case Fees	896,224	Other Receipts to Judges (from Co.)	41,712
Marriage Fees	32,579	Civil Case Fees	896,224
Notary Fees	6,864	Marriage Fees	32,579
Other Fees	42,995	Notary Fees	6,864
	<u> </u>	Other Fees	<u>42,995</u>
	\$8,294,589		\$4,162,646
		PRESENT NET REVENUE	<u>\$4,131,943</u>
 <u>System Costs: Magistrate Division</u>			
		Judges Salary Range	<u>\$22,000-\$26,000</u>
Salaries and Benefits:			
Magistrates		\$1,596,953	
Clerical		<u>1,191,826</u>	
Total		2,788,779	
Operating Costs		<u>388,500</u>	
Total Projected Costs		3,177,079	
Magistrate System		<u>5,117,510</u>	
INCREASE IN NET REVENUE		\$ 985,567	

incurred in excess of revenues, and (3) pay for all continuing education programs and administrative cost at the state level which are directly related to the magistrate division.³⁶

Revenue in excess of the above stated cost should be reverted to the general fund of the counties as a proportion of caseload for those counties which do not generate a deficit.

³⁶It should be noted that the establishment of an administrative capability at the state level to manage the fund flow and prepare materials for and conduct continuing education programs will be required.

IV. SUMMARY AND RECOMMENDATIONS

A. Summary

Research has shown that consolidation of trial courts of general and limited jurisdiction is economically and managerially advantageous. Some of the more obvious advantages include:

- 1) elimination of concurrent jurisdiction with procedural and administrative simplification;
- 2) flexibility in judicial and non-judicial personnel resources;
- 3) flexibility in the use of facilities; and
- 4) economic benefits.

The Mississippi Justice Court System offers an excellent opportunity for court consolidation and the resultant benefits. The Mississippi Justice Courts have been constitutionally challenged on the grounds of violation of defendants' rights to due process under the Fourteenth Amendment, asserting:

- 1) the lack of judicial qualifications for judges;
- 2) the fee system of compensation;
- 3) the blending of prosecutorial and judicial roles.

Though the Mississippi Justice Courts were held to be constitutional and did not violate the defendants' rights to due process, recent cases involving post-judgment fee collections were not. Beyond the constitutional questions which will continue to arise against the Mississippi Justice Courts are issues of the public's perception of the courts,

economic viability, and their impact on the entire state judicial system, together with the conceptual argument of whether or not those brought before the justice court recognize or are informed fully of their rights to, for example, a trial *de novo* before a lawyer-trained judge if they do not agree with the decision of the Justice Court Judge.

In the creation of a Magistrate Division of the Circuit Court for the State of Mississippi, there are certain issues which must be considered. The organizational structure to replace the justice courts should be a Magistrate Division of the Circuit Court with clerical support being provided by a separate department of the Circuit Clerks' Offices. This structure will provide full-time public access while making the most efficient use of available resources.

The magistrates should be lawyers and members of the Mississippi Bar. This level of qualification will allow the Magistrate Division to be of additional assistance to the Circuit Court as well as handling the contested matters of justice court jurisdiction. This caliber of judicial officer also should improve the public perception of the Mississippi Judicial System. To maintain a high level of professionalism in the Magistrate Division, the Judicial Council should establish and require attendance at continuing judicial education programs for the Magistrate Division.

Based solely on the present caseload of the justice courts, it is estimated that efficiencies realized by the establishment of the Magistrate Division will substantially reduce the cost of providing dispute resolution services at this level. In fact, this organizational structure should increase the net revenue to the counties by approximately one million dollars.

B. Recommendations

1. There should be established a Magistrate Division of the Circuit Court of Mississippi with subject matter jurisdiction at least that of the Mississippi Justice Courts.
2. The number of Magistrates in each county should be determined by formula based primarily on caseload with other pertinent factors being taken into consideration (e.g. population and geography).
3. The magistrates should be salaried state judicial branch employees with salaries set by the Mississippi Judicial Council.
4. The magistrates should be lawyer-trained and members of the Mississippi Bar.
5. The position of magistrate should be a county elective office.
6. A magistrate division clerks' department should be established as a separate department of the Circuit Clerk's Office.
7. The number of clerks to be provided for the Circuit Clerk's Magistrate Department should be determined by formula based primarily on caseload with other pertinent factors being taken into consideration (e.g. population and geography).
8. The clerks provided for the Circuit Clerk's Magistrate Department should be salaried state judicial branch employees with salaries set by the Mississippi Judicial Council.

9. The Mississippi Judicial Council should establish continuing education programs for the Magistrate Division of the Circuit Court.

10. Funding:

- a. All Magistrate Division salaries and personnel benefits should be paid by the state.
- b. All Magistrate Division operating expenses, including facilities, should be paid by the counties.
- c. All revenues generated by the Magistrate Division, including fines, forfeitures, and fees, should flow to the state for dispensation.
 - (1) State expenses for salaries, benefits, administration, and education programs should be reimbursed.
 - (2) Compensation should be made for counties which provided operating expenses in excess of revenues generated.
 - (3) The balance should be distributed proportionally to the counties experiencing a positive funds flow based on caseload.

11. Such staff as deemed necessary by the Mississippi Judicial Council should be added at the state level to adequately administer Magistrate Division programs.

12. Flexibility should be incorporated into the Magistrate Division system to allow those counties which do not obtain magistrate resources through the elective process to contract for such resources from other counties.

Analyses conducted during this study project indicate that if the same volume of cases is processed by the Magistrate Division as is processed currently by the Justice Courts, net

revenue to the counties would be increased by approximately one million dollars. This benefit of the recommended Magistrate Division does not include any of the projected benefits which would result from having lawyer-trained magistrates, such as hearing motions and other activities to help solidify the Circuit Judges' calendars and the improved public perception of the justice system in Mississippi.

APPENDIX A
BRIEF CHRONOLOGY OF LOWER COURT
REFORM IN OTHER STATES

APPENDIX A*

BRIEF CHRONOLOGY OF LOWER COURT REFORM IN OTHER STATES

1. Under constitutional amendments and supplementary legislation enacted in 1945, the Supreme Court of Missouri was given responsibility for operation of the court system and fee supported justice of the peace courts were replaced by magistrate courts, staffed by salaried attorney judges (except for non-attorney justices of the peace in office when the new courts were created).
2. In New Jersey in 1947, the justice of the peace courts were eliminated and police, magistrates and recorders courts were converted into municipal courts.
3. By legislation enacted in 1956, Louisiana eliminated the office of justice of the peace in cities of over 5,000 population and replaced them with city judges who were required to be attorneys.
4. By a 1956 amendment of its constitution Minnesota removed all references in the constitution to justices of the peace. Justices of the peace are being replaced by traffic violation bureaus, which are created as divisions of the county courts.
5. In 1957 New Hampshire enacted legislation abolishing the civil and criminal jurisdiction of justices of the peace, leaving them with ministerial functions only.
6. By legislation enacted in 1957 Ohio abolished all justice of the peace courts, replacing them with a system of county courts in all but twenty-six (26) counties.
7. In 1959 Connecticut enacted legislation establishing, effective January 1, 1961, a statewide system of circuit courts, staffed by full-time, salaried judges, replacing several types of lower courts, including justices of the peace.
8. By legislation enacted in 1959 Tennessee established a uniform system of general sessions courts, staffed by full-time salaried judges, and transferred to these courts all of the judicial powers of justices of the peace only such nonjudicial functions as the performance of marriage ceremonies.
9. In 1959 Wisconsin enacted legislation creating a statewide court system Under the provisions of the 1959 legislation justice of the peace courts were retained, with

* Appendix A of this report presents a brief chronology of actions taken by several states regarding justice of the peace courts. Major references for this chronology are: The American Judicature Society's "Selected Chronology" (Report No. 12, dated July, 1967, and Supplements) and Courts of Limited Jurisdiction: A National Survey, Knab, Karen Markle, ed., National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice, Washington, D. C.

limitations on their judicial powers, but in 1966 the Wisconsin electorate approved a constitutional amendment removing all judicial powers from justices of the peace.

10. In 1959 North Dakota effected a minor lower court reform by enacting legislation replacing justices of the peace with salaried county justices, who are required to be attorneys.
11. The state judicial system of Colorado was completely reorganized under constitutional amendments adopted in 1962 and 1966. Under the 1962 amendment, which was implemented by legislation enacted in 1964 and became effective in January, 1965, all justice of the peace courts were eliminated and replaced by a reorganized county court system.
12. In Illinois, pursuant to a 1964 Judicial Article and implementing legislation a single statewide system of circuit courts, with unlimited original jurisdiction over all justiciable matters, was created to replace the previous assortment of courts of general, limited and special jurisdiction which included circuit, superior, criminal, family, county, justice of the peace, police magistrate, municipal, city, village and incorporated town courts.
13. In 1962 the voters of North Carolina approved a constitutional amendment providing the framework for a unified court system. Under 1965 legislation district courts were established in each of thirty new judicial districts, replacing justice of the peace and various other courts of limited jurisdiction.
14. The process of court modernization in Idaho began in 1962 with the approval by the voters of a constitutional amendment eliminating all references to justices of the peace and probate courts from the constitution. Under 1969 legislation (effective January, 1971), all probate courts, justice of the peace courts and police courts were abolished and replaced by a new system of magistrate divisions in the district courts.
15. In 1963 the voters of Michigan approved a new judicial article of the state constitution which provided for the establishment of a unified court system. By legislation enacted in 1968, implementing the constitutional amendment, a system of district courts was established, replacing justices of the peace, circuit court commissioners, municipal courts, police courts and recorder's courts.
16. In 1967 the electorate of Oklahoma approved a constitutional amendment completely reorganizing the state judicial system. Under the new Judicial Article of the Constitution, which became effective in January, 1969, a single state trial court of general jurisdiction, called a district court, was established, and various other courts, including superior courts, common pleas courts, county courts, children's and juvenile courts and justice of the peace courts were abolished.

17. By legislation enacted in 1968, New Mexico implemented a constitutional amendment adopted in 1965, requiring abolishment of justices of the peace within five years and their replacement by magistrates courts.
18. In November, 1970, the Maryland voters approved a constitutional amendment completely reorganizing the lower court system. Under the reorganization, which became effective July 5, 1971, the former system (consisting of full and part-time people's and municipal court and trial magistrates) was replaced by a full-time district court system.
19. At the November, 1970, general election, the electorate of Virginia approved adoption of a new judicial article which makes future court reorganization possible without amendment of the constitution, by removing from the constitution all references to specific courts other than the Supreme Court of Appeals, substituting an authorization for establishment of courts of original and appellate jurisdiction by legislative enactment. Virginia, by legislation enacted in 1936, became one of the first states to initiate lower court reform, by substituting salaried trial justices for justices of the peace in certain municipalities and in counties not already having such justices. Virginia's court system was completely reorganized in 1973, when the state was divided into thirty-one districts, each having a general district court, and a juvenile and domestic relations court. A large number of county, municipal, traffic, police, justice and similar localized limited-jurisdiction courts were abolished.
20. In March, 1972, the Florida voters passed a constitutional amendment which abolished county judges' courts, juvenile courts, small claims courts, metropolitan courts, and justice of the peace courts effective January 1, 1973.
21. In Indiana, the legislature abolished justices of the peace in 1975 and set 1980 as the date for elimination of city and town courts.
22. In Kansas, revisions and proposals for revisions of the state's court system have been regular occurrences since 1969, when magistrate courts were established and justice of the peace courts effectively abolished.
23. In 1975, the voters of Kentucky passed a constitutional amendment creating a unified court system which replaced the variety of limited-jurisdiction courts by district courts staffed by attorney-judges.
24. Nebraska abolished its justice of the peace and police courts in 1972.

25. In January, 1975, a judicial system which had been organized by a 1972 constitutional amendment became effective in South Dakota. A variety of limited-jurisdiction courts were abolished, leaving South Dakota with a single statewide system of limited-jurisdiction magistrate courts and general-jurisdiction circuit courts.
26. A 1974 constitutional amendment altered Vermont's court system by giving the supreme court general administrative authority over the entire system and by abolishing justice of the peace courts.
27. A new judicial article was passed by West Virginia's voters in November, 1974. It called for the abolition of justices of the peace on January 1, 1977, limited the jurisdiction of municipal courts to ordinance violations as of that date and mandated the establishment of magistrate courts throughout the state.

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