

The State of the Courts
Annual Report of the Chief Justice of the Colorado Supreme Court
Chief Justice O. Otto Moore, Colorado Supreme Court
Written Message
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Introduction

1968 Accomplishments

Considerable progress was made in judicial administration in 1968, carrying forward the programs and projects underway in 1967 and initiating others, with several either completed or nearing completion. Among the most noteworthy accomplishments of 1968 are the following:

- 1) the continued high rate of disposition of cases by the Colorado Supreme Court, although below the 1967 all- time record;
- 2) the successful continuation of the program to reduce the backlog in the Denver District Court;
- 3) the completion of the revision of the rules of civil and criminal procedure by the Joint Rules Committee of the Supreme Court and the Colorado Bar Association;
- 4) the completion of the Civil Jury Instructions by the Supreme Court Committee on Pattern Jury Instructions after more than four years of comprehensive drafting and study;
- 5) the completion of rules of municipal court procedure (for the first time in Colorado) by a special committee appointed by the Supreme Court;
- 6) the formation of the Colorado Council of Juvenile Judges and the preparation of rules of juvenile procedure by a committee appointed by the president of this new organization;
- 7) the completion of a nine-month field study by the State Court Administrator and his staff, during which an administrative survey was made of each district and county court, a desk audit was performed on every job in the judicial system, and an in depth study was made of probation services and juvenile detention facilities and programs;¹
- 8) the holding of several extensive workshops for non-lawyer judges, those for county judges by the Colorado County Judges' Association and those for municipal judges by the Traffic Court Committee of the Colorado Bar Association;
- 9) the preparation of guidelines for press, radio, and TV coverage of court proceedings by a special joint Colorado Bar Association and Colorado Press Association Committee and their

¹ As far as can be ascertained, this is the first time such an extensive study has been made by the judicial department in any state.

adoption by the Colorado Bar Association (with adoption by the press association expected at the 1969 annual meeting);

10) the adoption by the Colorado Supreme Court of Guidelines for Campaign Behavior by Judges in Non-Competitive Elections for Retention in Office (in connection with the first such election held in 1968 under the provisions of the 1966 constitutional amendment); and

11) the initiation of a project to draft a municipal court procedural manual (for the first time in Colorado) and the revision of the district and county court manuals.

Most of these matters, as well as several others, are covered in some detail in subsequent sections of this report.

National Recognition

Colorado's judicial system continues to receive national recognition as one of the most progressive, both because of its constitutional framework and because of the efforts of the bench, bar, and court personnel and the programs and projects described in this report. For example, the Colorado judicial system was cited as a model for other states in a February article in the Christian Science Monitor by Howard James, who had previously written a series of articles and a book, Crisis In Our Courts, after a nationwide examination of each state's judicial system.

Colorado's national stature was also demonstrated by several important appointments and public appearances during the past year. The Chief Justice had the privilege and honor of serving on the resolutions committee for the Conference of Chief Justices. Justice Pringle was appointed by Justice Tom Clark to the Federal-State Relations Committee of the Federal Judicial Center and also was on the program of the Kentucky Citizens' Conference on the Courts and discussed drafting rules of procedure at the Ohio Judicial Conference. Both Justice Day and Justice Groves addressed the annual American Bar Association Regional Traffic Court Conference.

Colorado's court administrator was appointed by Attorney General Ramsey Clark to the five-member National Advisory Committee to the District of Columbia Administration of Justice Committee, which is making an in-depth study of the District of Columbia court system. He was also elected to the executive committee of the National Conference of Trial Court Administrative Officers.

Of the many other examples that could be mentioned, the following are cited because they show that Colorado's administrative capabilities at the trial court level are not going without notice. The November 1968 issue of Judicature, Journal of the American Judicature Society, contained an article on the administrative procedures and innovations developed by the judge, clerk, and staff of the Denver Superior Court, and detailed information on these procedures was requested by the District of Columbia Administration of Justice Committee. The clerk of the Adams County Court was elected secretary-treasurer of the National Association of Trial Court Administrators and also had an article on the use of computers in trial courts published in Law and Computer Technology, a publication of the World Peace Through Law Center.

Problem Areas

While 1968 was a year of many accomplishments, there remain a few, but significant and substantial, problems which are impediments in the effective administration of justice. One of these, the increasing backlog of the Supreme Court, despite the continuing high rate of case dispositions, is discussed in the sections immediately following on the Supreme Court and the recommendations of the Legislative Council Committee on Appellate Courts. The space needs of the Supreme Court and its various adjuncts are also discussed in connection with the Council Committee recommendations. Potential trial court judicial manpower needs are covered in the sections on district and county courts.

Judicial Compensation. While it may seem obvious, it is necessary to emphasize that the effective and efficient operation of a judicial system depends on the quality and dedication of appellate and trial judges. If these judges are of high caliber and devotion, proper justice will be dispensed even in the worst organized and administered judicial system. Without such judges, the best system of judicial organization and administration will not function as it should. My concern, upon reaching retirement, is that the judicial system of this state, of which we can all feel proud, shall continue to improve and reach new heights. Attainment of this goal depends on the retention of well-qualified, experienced, and dedicated judges now in office and the recruitment and appointment of the best qualified men and women to judicial positions as vacancies occur.

Colorado has been fortunate in the caliber of its judiciary, including the appointments made under the new selection system inaugurated in 1967 by the constitutional amendment adopted in 1966. But there have been some disquieting circumstances which do not bode well for the judicial system in the future. In one of the largest counties, there were only six applicants for a district judgeship. In another large county, there were only four applicants for a county judgeship - in this instance a full-time position.

A number of well-qualified and experienced attorneys, considered excellent possibilities for judgeships, have been contacted by several nominating commissions - including the Supreme Court Nominating Commission. These men declined to apply, because they could not afford a substantial reduction in income, even though interested in a career on the bench.

The 1967 survey of lawyers' compensation made by the Colorado Bar Association shows why many capable and experienced members of the bar in their 40s and 50s - their most productive years with growing families - are reluctant to apply for a judicial position, even though their interest is great.

This survey showed that for Colorado lawyers with 10 to 14 years' experience (a minimum for the trial bench) the median net income in 1967 was \$20,298 and 25 percent (upper quartile) had incomes of at least \$26,000. For 15 to 19 years' experience (a minimum for the appellate bench and desirable for the trial bench), the median was \$22,159, and the upper quartile \$30,714. Those attorneys with 20 to 29 years of practice (desirable experience for the appellate bench as well as the district bench) had a median income of \$23,043, and 25 percent made at least \$35,417.

Contrast these incomes with the salaries currently received by Colorado justices and judges, even after the pay increase adopted by the 1967 General Assembly: Supreme Court, \$22,000; district judges, \$18,000; and full-time county judges, \$16,000.

This salary disparity is emphasized when Colorado's judicial salaries are compared with those of other states. Only 13 states pay the judges of their highest appellate courts less than Colorado does, and only 11 states pay their general trial judges less than Colorado does. The national average salary for Supreme Court Justices is \$25,540, and the upper quartile is \$27,000. For district court judges, the average is \$21,655, and the upper quartile is \$24,500.

A number of state officials, executives, professors; and medical specialists receive salaries in excess of \$22,000, with a few more than \$30,000. There is no doubt that such salaries are justified, just as they are in private industry, and the state has shown little hesitation in providing this level of compensation. In this connection, the Committee on the Public Utilities Commission has recommended that the salaries of commissioners be increased from the present \$18,000 to \$21,000 annually. This recommendation is based on the conclusion that the members of the Commission should receive salaries commensurate with their public responsibilities."²

While the Supreme Court ranks 36th and the district court 38th nationally in salaries, a survey made by the State Court Administrator's office as of September 1, 1968, (and including the salary increases for elected officials enacted in 1967 to take effect in 1971) shows that the Governor ranks 17th; the Lieutenant Governor, 15th (of 38); and the General Assembly 15th (not including the \$10 daily expense allowance for legislators living more than 25 miles from Denver). Many appointed officials and executives under the classified civil service also rank much higher nationally in annual salaries than do Supreme Court Justices and district and county judges. For example, the members of the Public Utilities Commission, who receive the same salary as district judges, rank 18th nationally; the Director of Public Health, 3rd; the Director of Employment, 5th; and the Chief Highway Engineer and the Purchasing Agent, 7th.

Oregon is a state very similar to Colorado in population, geography, and economy. The bench in that state also received a salary increase in 1967, but the Oregon State Bar and Oregon Judicial Council are again recommending increases which would place the salaries of Supreme Court Justices at \$27,500 {from \$23,500}; circuit judges (comparable to our district judges) at \$25,000 {from \$21,500}; and district judges (generally comparable to our full-time county judges) at 23,000 (from \$16,500).

In making this recommendation, the Oregon Judicial Council made the following comments and observations:

It is necessary to insure the most efficient and effective administration of justice in this state that the judges of the courts of this state be men of the highest caliber and with the best legal training. It is exceedingly difficult to attract such men away from the private practice of today when the judicial salaries are low.

² Revision and Modernization of Colorado Public Utilities Statutes, 75 Irrot II, Report of Committee on the Public Utilities Commission, December 1968, p. 4.

The Committee on Judicial Administration of the Oregon State Bar in 1966 recommended substantial increases in the judicial salaries and such salaries were increased to a certain extent but not yet have they reached the sums originally recommended. In the meantime the cost of living has increased substantially.

At the present time Oregon is very fortunate in having men of excellent character and ability serving as judges in the courts of this state. The question is: will Oregon be able to retain these men? These men have a right to earn an income commensurate with the responsibilities and duties that they have assumed and sufficient to enable them to meet obligations they owe to their families.³

It is my hope that the General Assembly will face squarely this problem of adequate judicial salaries, so that the Colorado judicial system may continue to be one of the best in the nation.

Supreme Court Matters Before the Court in 1968

Cases Filed. There was an eight percent reduction in the number of cases filed in 1968 over the preceding year, but the total (590) was still the second highest in the Court's history, and projections by the State Court Administrator's office indicate filings will exceed 700 by 1971, 800 by 1975, and 900 by 1979. When Colorado is compared with other states without an intermediate appellate court, only two have a higher annual Supreme Court intake - Kentucky and Washington - and both have a population approximately one million greater than Colorado's. Oregon's Supreme Court filings are about the same as Colorado's, as is that state's population.

In 1955, only 12 original proceedings were filed in the Supreme Court. By 1965, this extracurricular work of the Court had grown to 131; this level was maintained in 1966 and 1967, when 130 and 129 original proceedings were filed respectively. The number of original proceedings diminished considerably in 1968, when only 87 were filed. In addition, there were two petitions for summary review under statutory provisions and 10 petitions for certiorari.

Cases Closed. The Colorado Supreme Court disposed of 484 cases in 1968. While this total was 104 less than the Court's record production in 1967, it was still the third highest in the Court's history. Written opinions accounted for 292 of the case dispositions. In an additional 23 cases, opinions have been announced awaiting action on rehearing. While the number of opinions is less than in 1967, it is still one of the highest in the Court's history and ranks among the top two or three states. Much less use was made of outside and retired judges during the past year than in 1967. While there was a change in the Court's membership with the resignation of Justice Sutton and his replacement by Justice Groves, the transition was made smoothly with little effect on the Court's operations. 1968 was a typical high production year, while 1967 was an exceptional one.

Table 1 Cases Before the Supreme Court 1955 through 1968

³ The Judicial Council of Oregon, Second Biennial Report, December 2, 1968, p. 31.

Year	Cases Pending Jan. 1	Cases Filed	Total	Number of Written Opinions	Cases closed
1955	198	287	485	184	284
1956	201	301	502	161	261
1957	241	345	586	197	230
1958	356	412	768	159	285
1959	483	407	890	250	342
1960	548	364	912	371	489
1961	423	420	843	355	524
1962	319	486	805	238	378
1963	427	505	932	255	424
1964	508	490	998	239	385
1965	613	550	1,163	264	464
1966	699	556	1,255	260	445
1967	810	639	1,449	378	588
1968	861	590	1,451	292	484 a

The 972 cases pending at the end of 1968 consisted of the following:

Cases At Issue Awaiting Oral Argument	543
Cases Orally Argued Awaiting Opinion	30
Cases Submitted Without Oral Argument	8
Opinions Announced Awaiting Action on Rehearing	23
Cases Reopened and Opinion Announced	<u>2</u>
Total Cases At Issue	606
Cases Not At Issue	366
Total Cases Pending	972

a. Includes five cases reopened and closed.

Matters of Course

The growing volume of work in the Colorado Supreme Court is not reflected entirely by case filings and dispositions and the number of opinions written. A significant amount of the Court's time is occupied with such matters as requests for extensions of time, motions to dismiss, and similar paper work - all of which have to be received, examined, stamped, listed, and studied by the Chief Justice (and often by other Justices for reports to the entire Court) and then orders issued and the papers filed, microfilmed, and stored.

In 1968, the Colorado Supreme Court received 1,900 requests for extensions of time and 1,488 other motions of various kinds for a total of 3,388 items. As statistics were not kept on these matters prior to 1965, a comparison must necessarily be limited; however, the increase of 1,342, or 65.6 percent over the 1965 total of 2,046, illustrates the increased activity in this area. It also demonstrates that delay begets delay, because it appears that the more cases that are not disposed of, the more requests that are made to the Court for extensions of time and the more motions that are filed to dismiss. It should be noted that these totals do not include orders transferring trial judges and other administrative actions taken through the office of the Court Administrator.

The Backlog Problem and Proposed Solution

Even though the Supreme Court disposed of 484 cases in 1968, the backlog increased by 111. Even more significant was the increase between January 1, 1968, and January 1, 1969, in the number of cases at issue awaiting oral argument. There were 446 cases in this category on January 1, 1968. As of the same date 12 months later, there were 543 cases, 97, or 21.5 percent more. The time between issue (when the case is ready to be heard) and oral argument was increased to approximately 20 to 22 months for cases not given advanced status on the docket (virtually all civil cases, except workmen's compensation and unemployment compensation). This means that, generally, it takes between two and two and one-half years from filing to disposition for cases on the regular civil docket. Ideally, there should be no longer than three months between issue and oral argument, so that, generally, cases would be closed nine to 12 months after filing.

The situation is expected to get much worse, as illustrated by the following table prepared by the court administrator's office. This table projects the backlog through 1980 using past population-case filing ratios and population projections. The assumption was made that the Court would close 550 cases per year, which means there would have to be 325-335 written opinions. This assumption is very optimistic; in light of the Court's experience in 1968, 500 would be a more likely possibility. But even if the Court could close 550 cases per year the backlog at the end of 1980 is estimated at 3,734 cases.⁴ Assuming an average annual disposition rate of 500 cases, the backlog would be slightly more than 4,300 cases. In either event, the time lag between issue to oral argument would be at least five years and probably closer to six years. In other words, it would take at least six years and, perhaps, closer to seven years from filing to termination for a case on the civil docket.

Table 2

Estimated Annual Number of Cases Filed And Backlog, Colorado Supreme Court, 1968-1980.

Year	New Cases Filed	Cases Closed	Yearly Remainder	Backlog
				861 a
1968	590	484 b	111	972
1969	642	550	92	1,064
1970	667	550	117	1,181
1971	692	550	142	1,323
1972	717	550	167	1,490
1973	743	550	193	1,683
1974	768	550	218	1,901
1975	793	550	243	2,144

⁴ This table varies from the one prepared for the Legislative Council Committee on Appellate Courts, because that one assumed an estimated 626 filings for 1968 and 550 dispositions. This table uses the actual case filings (590) and dispositions (484) for 1968 as part of the calculations. The difference in the two tables by 1980 is 58 cases, 3,731-1- as compared with 3,792 in the previous projection.

1976	818	550	268	2,412
1977	843	550	293	2,705
1978	868	550	318	3,023
1979	893	550	343	3,366
1980	918	550	368	3,734

- a. As of December 31, 1967
- b. Includes five cases reopened and closed.

Legislative Council Study. Recognizing the need to take immediate steps to find a feasible long-range solution to the Supreme Court backlog problem, the General Assembly in the 1968 session directed the Legislative Council to appoint a committee to study the problem and alternative solutions and to report back to the 47th General Assembly upon its convening in January, 1969.

This committee under the capable leadership of Senator James C. Perrill, Denver, studied a number of possible solutions and consulted with members of the bench and bar throughout the state.

The committee's findings and recommendations are contained in a research publication of the Colorado Legislative Council: *Intermediate Court of Appeals for Colorado*, and I commend this report to your attention.

The possible solutions considered by the Committee included: the creation of a separate court of criminal appeals; increasing the number of Supreme Court Justices; limitation on the right of appeal; more extensive use of district and retired judges; and the creation of an intermediate court of appeals. In the Committee's judgment, the only meaningful solution would be the creation of an intermediate court of appeals, which was the view expressed in my 1968 annual report.⁵

The following excerpts from the Committee's report to the General Assembly set forth the problem and the reasons for the recommendation that an intermediate court of appeals be created:

...When the anticipated case load is compared with court capability, the staggering, cumulative backlog which will develop is obvious. Stated briefly, the seven-man Supreme Court responsible for all appellate review cannot hope to keep abreast of the appeals being generated by a growing population and economy. The court, already with a delay of approximately two years, is losing ground rapidly and by 1980 it is conservatively anticipated that it will require more than six years for a case on the civil docket to be finally decided. Without reform of some type to ease the increasing backlog and delay, the right of appellate review in civil cases may become virtually nonexistent in a decade or so. Therefore, it is evident that a solution designed to alleviate the increasing case load of the Supreme Court; should be implemented, and that such a solution should be sufficiently flexible to serve both present and future needs.⁶

⁵ The State of the Courts, Annual Report of the Chief Justice, O. Otto Moore, Chief Justice, 1968, p. 7.

⁶ Colorado General Assembly, Colorado Legislative Council, Research Publication No. 138, November, 1968, p. xx.

...The Committee on Appellate Courts recommends the creation of an intermediate appellate court, to be known as the Court of Appeals. In recommending such an intermediate court, the committee was guided by several fundamental principles which were thought to be controlling in the creation of such a new court. These guiding principles are as follows:

1. The committee, in its deliberations, abided by what seems to be an invariable thesis: a litigant is entitled to at least one trial on the merits, and one appeal on the law, as a matter of right in every case. The principle that there should be no limitation on the right to at least one appeal in every case is the traditional principle of Anglo-Saxon and Colorado jurisprudence, and must be preserved.
2. As a corollary to the above principle, the committee believes that double appeals, as of right, are to be avoided. There is no object in having an intermediate court of appeals if litigants have an absolute right of appeal from the intermediate court to the Supreme Court. An absolute right of appeal, as a practical matter, would mean two appeals instead of one. Instead of dispatch such a system would breed further delay. American concepts of justice do not require more than one appeal. Therefore, it is essential that an appeal from the intermediate court to the Supreme Court be allowed only at the discretion of the Supreme Court.
3. The Supreme Court must remain the court entrusted with final decision in all cases. However, in order to ease the burden on the Supreme Court, certain cases must be left to the determination of the intermediate court, subject to further review at the discretion of the Supreme Court. A strictly limited category of cases should have direct access to the Supreme Court. Again, the committee believes that the Supreme Court should be afforded sufficient time to study thoroughly the cases presented to them so as to maintain high quality in their work and to develop those matters of major significance to the state as a whole.
4. Subject to the principle that matters of major importance should always have access to the Supreme Court, a fair and equitable division of labor must be maintained between the Supreme Court and the intermediate court, to the end that all cases on appeal are settled without unnecessary delay. To achieve this goal, jurisdictional allocation of cases between the two appellate courts is to be provided for, subject to the authority of the Supreme Court to adjust case loads equitably by exercising its discretion.
5. Any intermediate appellate court system should provide a considerable degree of flexibility so that the legislature can expand or reduce the court, and change the jurisdiction of the court as future experience deems necessary and desirable. This is necessary in order to readily resolve any problems that may arise in the future.
6. The intermediate appellate court should be operational as soon as practicable the Supreme Court's need for relief being urgent.⁷

Judicial Space and Facility Needs

⁷ Ibid., pp. xxiv and xxv.

Adequate facilities and sufficient space for the proper conduct of judicial business continue to be matters of considerable concern to the Colorado Supreme Court. One of the most pressing and immediate problems has been solved with the provision of additional space for the court administrator's office as part of the Capitol remodeling project. Additional space will be needed., however, if the state assumes the full fiscal responsibility for judicial system operation. Even in this event, it is likely that partitioning of the court administrator's old quarters in Room 312, State Capitol, will meet this need, at least in the immediate future.

The Supreme Court Clerk's Office needs additional space,⁸ and currently there is no office space available for the retired and active district judges called in to assist the Court. Further, there is no separate office available for the Chief Justice's law clerk; the Supreme Court conference room is less than adequate in size, and the Court does not have a separate robing room.

Intermediate Court of Appeals. These space and facility needs are in addition to those which will result from the creation of an intermediate court of appeals. In this connection, the Legislative Council Committee on Appellate Courts made the following comments:

...The additional space requirements which would be imposed by the recommended Court of Appeals include:

- 1) office space generally equivalent to that now provided for Supreme Court Justices to house six judges, six law clerks, and six secretaries;
- 2) space to house the Court of Appeals clerk's office; and
- 3) court room, robing room conference room, and law library.

The creation of a Court of Appeals will thus require considerable space for the judges of such court, and for secretarial and clerical personnel. It appears impossible that these space needs can be met through provision of space in the Capitol Building. Thus the judges, their staff, the clerk's office, etc., would have to be located elsewhere.

In addition, it would be very difficult, if not impossible, for the Court of Appeals to use the present Supreme Court chambers for oral argument. Even if schedule problems could be worked out so that both the Supreme Court and the Court of Appeals could temporarily use the Supreme Court chambers, it would be undesirable to separate the judges and their law clerks from the Supreme Court Law Library and from easy access to chambers.⁹

The Committee then made the following recommendation:

⁸ Originally, the Supreme Court Reporter of Decisions was to move to the quarters vacated by the court administrator, and the Clerk of the Supreme Court would acquire this additional space. The Reporter's present quarters were considered more suitable for his purposes, and the court administrator was advised to keep his old office in case state funding is approved. Further, the court administrator found it necessary to house part of his present staff in his old office, because Room 329 was not transferred to his office as originally expected.

⁹ Intermediate Court of Appeals for Colorado, 2P. cit., pp. xxxviii and, xxxix. Ibid., p. xxxix.

The committee recognizes that the creation of an Intermediate Court of Appeals will only accentuate, although to a considerable degree, the present space problems of the Supreme Court and its related offices and agencies. In addition to the understandably greater need for space by the General Assembly and its related agencies, so that it can conduct its business more expeditiously, there will be a need for more judicial staff space if the General Assembly assumes full financial responsibility for the judicial system. The committee finds that these other present and future needs cannot be met in the State Capitol Building. Therefore, the committee suggests that high priority consideration be given by the Legislative Council Committee on Legislative Procedures and by the General Assembly to a separate court building in the development of long-range capital construction plans.¹⁰

This recommendation was seconded by the Legislative Council Committee on Legislative Procedures as follows:

While the committee recommends no general, long-range policy on the acquisition of land nor which particular sites should be purchased, the committee does recommend that the highest priority be given to the immediate purchase of land or a building to house the Judicial Department.¹¹

The Supreme Court concurs in these recommendations that high priority consideration be given to a separate court building in the development of long-range capital construction plans for the Capitol complex.

District Courts

Denver District Court

Further progress was made in 1968 in reducing the backlog of cases in the Denver District Court, the only court where this has been a serious problem. The case calendaring or docketing system initiated on February 1, 1967, was continued during 1968. The court is divided into three sections: civil, domestic relations, and criminal. Eight judges were assigned to the civil section, four to the criminal section, and two to domestic relations. Instead of a master or central docket, each judge maintains an individual docket and sets his own cases. Cases are often reassigned for trial, however, by the Chief Judge if, for example, one judge is confronted with two trials and another judge finds that his case or cases for that day have settled or have gone off the trial calendar for some other reason.

Retired and outside judges have also been assigned to the Denver District Court, both to expedite the disposition of cases and to replace Denver judges during the summer vacation period. For the second consecutive year, jury trials were held during the summer months in an effort to reduce

¹⁰ Ibid., p. xxxix.

¹¹ Legislative Procedures in Colorado, Part III, Colorado Legislative Council, Research Publication No. 140, December, 1968.

the backlog. The magnitude of the assistance provided by retired and outside judges in the Denver District Court can be seen from the following table which compares 1967 and 1968.

Table 3
 Assignments of Retired and Outside Judges
 Denver District Court, 1967 and 1968

	Number of Judicial Days	
	1967	1968
Retired Judges	396	194.5
Outside District Judges	212	364
Outside County Judges	56	99
Total	664	657.5

The total of retired and outside judge time in the Denver District Court in 1968 was only slightly less (6.5 days) than it was in 1967. While there was a sharp reduction in retired judge time, the number of days provided by outside district and county judges increased almost 75 percent. The total number of days provided by retired and outside judges was the equivalent of 2.7 full-time judges as compared with 2.8 in 1967.

1968 Results. Preliminary statistics show that the Denver District Court disposed of 12,854 cases in 1968 - civil, 5,672; domestic relations, 5,041; and criminal, 2,141. This total was 683 more than the number of cases filed, even though filings increased 546, or 5.6 percent, over 1967.

While the number of cases disposed of was less than the record of 14,586 established in 1967, further strides were taken in reducing the time interval between filing and disposition and between issue and disposition. One of the reasons for the reduction in the number of dispositions was that a larger number of cases went to trial rather than reaching settlement before trial, as illustrated by the 1,122 trial days (both to court and jury) recorded in the eight civil divisions in 1968, an average of slightly more than 140 per judge. This is exclusive of hearings on motions, pre-trial conferences, and related matters.

It is now possible to try criminal cases within three months of arraignment, and contested civil cases are being set for trial to jury within 10 to 12 months of issue and for trial to court with six to eight months of issue. This is a most commendable achievement when compared with most other metropolitan areas where a delay of 18 months to three years is not unusual.

These results could not have been accomplished without the great degree of cooperation and devotion to duty by the 14 judges of the Denver District Court. Nor could they have been achieved without the help provided by retired judges and outside district and county judges.

The Family Court Committee of the Colorado Bar Association is recommending that an additional judgeship be created in the Denver District Court because of the continued increase in domestic relations cases. For example, 5,211 were filed in 1968 as compared with 5,041 civil cases. The addition of another judge in the Denver District Court is not without merit and would make it possible to reduce the number of days provided by retired and outside judges. In this

connection, it should be noted that such an addition would give the Denver District Court a 15th resident judge, and that court is now being served by the equivalent of 16.7 full-time judges.

Docket Status In Other Judicial Districts

Existing and potential backlog problems have been alleviated to a great extent in three of the larger judicial districts through the creation of additional district judgeships. One of these was created effective July 1, 1968, in the 19th Judicial District (Weld County), and the other two are effective January 14, 1969 - one each in the 1st Judicial District (Jefferson, Clear Creek, and Gilpin counties) and the 8th Judicial District (Larimer and Jackson counties).

Although the dockets in the 17th Judicial District (Adams County) and the 18th Judicial District (Arapahoe, Douglas, and Elbert counties) are current, especially for metropolitan districts, the population and economic growth (and resulting increase in litigation) in these Denver suburban areas could cause trouble in the not too distant future. This potential problem should be solved to a considerable extent by action already taken by the General Assembly. Pursuant to previously enacted legislation, each of these districts will receive an additional district judge in 1971.

Current Problems. There are two metropolitan judicial districts which are currently experiencing difficulties, because of a continued increase in case load; the 4th Judicial District (El Paso, Kit Carson, Lincoln, and Teller counties) and the 20th Judicial District (Boulder County).

The need for an additional judge in El Paso County probably can be postponed for another year or 18 months, if Kit Carson and Lincoln counties are transferred to another judicial district. While these two counties have very few cases, considerable time is involved in travel from Colorado Springs, and it is estimated that the equivalent of a 2/3 judge is now required to provide judicial services for these two counties from Colorado Springs. It is the Supreme Court's understanding that, after considerable discussion, the lawyer's in Kit Carson and Lincoln counties are willing to be transferred to the 13th Judicial District and that the judges and the bar association in the 13th Judicial District have voted unanimously to accept the transfer of these two counties.

This transfer makes sense from the standpoint of judicial administration, because the 13th District, although presently encompassing six counties, has a relatively small case load for a four-judge court. This case load is relatively stable and has not increased significantly in the past two years. It is expected that legislation will be introduced to transfer these two counties to the 13th Judicial District, and, since there appears to be general agreement by all of the parties involved, adoption of this legislation is recommended.

20th District. The State Court Administrator is currently making an analysis to determine whether an additional judge is warranted at this time in the 20th Judicial District. This analysis will be completed shortly and the results transmitted to the Supreme Court for review and ultimate presentation to the General Assembly. At the present time, the backlog in the 20th District is being met partially by the provision of outside and retired judges on a 1/4 time basis. Aside from the problems (both existing and potential) cited above, there are no other apparent judicial manpower needs at the district court level. Special mention should be made of the

current docket status of the Denver Superior Court despite increased filings. This has been accomplished through good docket management, including an analysis of average trial time and pre-trial settlement ratios of the attorneys who appear the most frequently in that court.

Assignment of Retired and Outside Judges

A significant number of retired and outside judge assignments were made to district courts other than Denver. These included: 69 days provided by retired judges, 181 days by outside district judges, and 32 days by outside county judges.

In addition, the following assignments were made to the Denver Probate, Juvenile, and Superior courts.

	Probate	Juvenile	Superior
Retired Judges	43	5	6
District Judges	-	2	-
County Judges	11	5.5	39
Total	54	12.5	45

County Courts

Preliminary statistics indicate that case filings in county court in 1968, exclusive of the Denver County Court, increased almost 9,000 (or slightly more than 10 percent) over 1967.¹² 86,156 cases (excluding Denver) were filed in 1967, and the preliminary total for 1968 is 95,034.

The preliminary total for case dispositions (exclusive of Denver) in 1968 is 95,805, 12,304 more than in 1967 (or 14.7 percent). These figures show that through diligent effort and devotion to duty, the county courts (exclusive of Denver) reduced the number of pending cases by more than 800 in 1968, despite the substantial increase in filings. This is a marked improvement over 1967, when pending cases increased 24.5 percent, as compared with only a 3.3 percent increase in filings.

Forty-two of the 62 counties {exclusive of Denver) had an increase in case filings in 1968. The counties with the greatest increase in case load include: El Paso, 1,162 (12.5 percent); Mesa, 1,136 (41.5 percent); Boulder, 1,125 (12.4 percent); Adams, 1,039 (13.8 percent); Weld, 784 (15.8 percent); Larimer 647 (13.4 percent); Pueblo, 462 (7.9 percent); Morgan, 374 (30.2 percent); Logan, 248 (22.0 percent); Gunnison, 241 (45.6 percent); Grand, 188 (36.0 percent); Prowers, 184 (21.3 percent); and La Plata, 178 (19.0 percent). Only three counties had reductions in filings of more than 100 cases in 1968: Rio Grande, 274 (31.4 percent); Delta, 164 (20.1 percent); and Montrose, 111 (7.1 percent).

Judicial Manpower

¹² Denver County Court statistics, as well as more comprehensive data on cases before all county courts in 1968, will be presented in a report to be issued by the State Court Administrator in March, 1969.

With the addition of one county judge each in El Paso and Jefferson counties as of July 1, 1968, the number of county judges now appears adequate. If case loads in certain large counties (Adams, Boulder, and Weld) continue to increase at the same rate as during the past two years, it may be necessary to consider additional judges by 1971. The reduction of one assistant county judge in Eagle County is recommended in 1969, and is discussed in more detail in the section on recommended legislation.

Assignment of Outside Judges. Assignment of outside county judges in other county courts accounted for 234.5 days in 1968. These assignments were made because of vacations, illness, disqualifications, or case backlog, and they were of great assistance in helping to keep county court dockets current.

New Judges Appointed

Twenty judicial appointments were made in 1968 under the new judicial selection system, compared with nine in 1967. Six appointments were made to fill vacancies created by retirement, and one of these was a promotion from the district court bench to the Supreme Court.

Five additional judgeships were created by the action of the 46th and previous General Assemblies. Three of these (one district judge and two county judges) took effect on July 1, 1968. The other two, both district judgeships, are effective January 14, 1969. One of the latter positions was filled by promotion from the county court bench.

One of the two Supreme Court appointments was made to fill the vacancy resulting from the resignation of Justice Leonard v. B. Sutton to accept the position of Chairman of the United States Foreign Claims Commission. The other Supreme Court appointment fills the vacancy created by the retirement of the Chief Justice on January 14., 1969. Two of the other appointments were to fill the vacancies created by promotion of District Judge Robert B. Lee to the Supreme Court and County Judge Robert K. Willison to the district court.

Three vacancies were created by the defeat of county judges in the first non-competitive election for retention in office held under the provisions of the 1966 amendment to the Judicial Article, and one of these judges resigned prior to the expiration of his term of office.

Unfortunately., three judges died in office in 1968: Judge James M. Noland, 6th Judicial District, Durango, after an outstanding 20-year career as one of Colorado's foremost district court trial jurists, and Judge Austin J. O'Malia, Lake County, and Judge W. A. Price., Las Animas County, both of whom served capably on the county bench under the judicial reorganization which took effect in January, 1965.

Justices and judges appointed in 1968 were:

Supreme Court

Justice James K. Groves to fill the vacancy created by the resignation of Justice Leonard v. B. Sutton.

Justice Robert B. Lee to fill the vacancy created by the retirement of Chief Justice O. Otto Moore on January 14, 1969.

District Court

Judge Hugh H. Arnold, Nineteenth Judicial District

Judge Conrad L. Ball, Eighth Judicial District (effective January 14, 1969)

Judge Byron V. Bradford, Sixth Judicial District

Judge Robert Francis Kelley, Eighteenth Judicial District (effective January 14, 1969)

Judge Robert K. Willison, First Judicial District (effective January 14, 1969)

County Court

Judge E. A. Howard Baker, Jr., Jefferson County (effective January 14, 1969)

Judge Eugene Francis Buckley, Hinsdale County (effective January 14, 1969)

Judge Kent J. Fennie, Yuma County (effective January 14, 1969)

Judge Harold A. Grant, Lake County

Judge Philip L. Icke, Ouray County (effective January 14, 1969)

Judge Mary C. Johnston, Pitkin County (effective January 14, 1969)

Judge Andrew J. Kasie, Jr., Gunnison County (effective January 14, 1969)

Judge Andrew J. Krodshen, Gilpin County

Judge Henry Leo Lobato, Costilla County (effective January 14, 1969)

Associate Judge Cecil E. Lollar, Rio Blanco County at Rangely (effective January 14, 1969)

Judge Joseph E. Maker, Jefferson County

Judge James F. Quine, El Paso County Judge Oakley Wade, Bent County

1969-70 Budget

The judicial budget comprises three components:

- 1) Supreme Court: Includes clerk's office and all court personnel other than those in the Judicial Department, salaries and state share of retirement and health insurance for Supreme Court Justices, and the non-contributory pension fund for retired justices or their spouses.
- 2) Judicial Department: Includes court administrator's office and special purpose funds, such as the Judicial Conference, retired judges' per diem, Judicial Qualifications and Nominating Commissions, National Trial Judges' College, and Pattern Jury Instructions Committee.
- 3) District Judges: Includes district judges' salaries, state share of retirement and health insurance, and expense reimbursement for district judges' travel within their own districts; also includes state salary payment of \$100 per month for each district attorney.

The total 1969-1970 judicial budget is \$2,145,875, \$61,920 (or only three percent) more than the estimated expenditures for the current fiscal year.¹³ The following table shows estimated

¹³ This total does not reflect any increase in judicial salaries, nor does it include an intermediate court of appeals or state assumption of full fiscal responsibility for the judicial system. The cost of an intermediate court of appeals is estimated at \$300,000. The cost of financing the judicial system is estimated at between \$7.2 and \$8.2 million depending on the components included.

expenditures for the current fiscal year, the budget request for the 1969-70 fiscal year and the amount and percent of increase for each of the three budget components.

Table 3
Judicial Budget Comparison By Major Components FY 1969 and 1970

	1968-69 Estimated	1969-70 Budget	Amount	Percent
Supreme Court	\$449,295	\$478,340	\$29,045	6.5
Judicial Administration	155,600	167,135	11,535	7.4
District Judges	1,479,060	1,500,400	21,340	2.0
Total	\$2,083,955	\$2,145,875	\$61,920	3.0

Approximately \$25,000 of the \$40,580 increase in the Supreme Court and judicial administration components reflects salary adjustments, including normal merit increases and the amount required for judicial employees to keep pace with the salary reclassification recommended by the Civil Service Commission. The other major increase is \$13,000 in the non-contributory pension for retired Supreme Court Justices or their surviving spouses. The increase in the district judges' budget component results from full-year funding in FY 1970 of the salaries and PERA of the additional district judges taking office in January, 1969. (These two positions are funded only for six months in FY 1969.)

Financing the Judicial System

In 1966, the State Court Administrator prepared a report on financing the judicial system for the Joint Budget Committee and the General Assembly, as requested by House Joint Resolution No. 1004 (1966). This report was requested because of the interest expressed by some members of the General Assembly in state assumption of judicial system costs. In the letter of transmittal in this report, the State Court Administrator expressed the position of the Colorado Supreme Court as follows:

...The major portion of this report is concerned with state assumption of virtually all judicial system costs. It does not advocate this course of action, but recommends the organization and procedures to be adopted and implemented, should the decision be made that the state assume this degree of financial responsibility...

All of the recommendations in the report concerning controls and procedures are in keeping with the provisions of the United States and Colorado constitutions establishing three equal and independent branches of government - executive, legislative, and judicial.¹⁴ (emphasis supplied)

¹⁴ Judicial System Finance and Administration, Prepared by the Judicial Administrator pursuant to H.J.R. 1004 (1966), October, 1966.

The General Assembly did not act on this matter in 1967, except to provide a subsidy for adult probation officers' salaries and to increase the existing salary subsidy for juvenile probation officers. During the past year there has been renewed interest in state assumption of fiscal responsibility for the judicial system as one way to lower property taxes or to provide funds for counties to meet other pressing needs.

1968 Report. This possibility was one of several explored by the Governor's Fiscal Policy Committee, chaired by Representative (now Senator) Leslie Fowler of Boulder. At the request of this committee, the State Court Administrator prepared a report updating the cost estimates contained in the 1966 report and also drafted legislation to implement state assumption of court costs, should this decision be made.

The preparation of this report and accompanying legislation should not be considered advocacy of full state fiscal responsibility by the Supreme Court or the State Court Administrator. The Supreme Court's position is still the same as expressed in the 1966 report¹⁵ cited above. The Court feels that this is a matter for legislative determination, but it will be ready to undertake the administrative responsibility in keeping with its constitutional authority and the provisions of the proposed legislation, recognizing that additional staff will be required by the State Court Administrator, as indicated in the 1968 report.¹⁶ The Foreword to this report also reiterates the Supreme Court's position:

In conclusion, the preparation of this report should not be construed as advocacy by the Supreme Court or this office of state assumption of fiscal responsibility for the judicial system. Rather it represents the intent of the judicial branch to cooperate with the General Assembly by providing information which may be helpful in arriving at a decision on this important matter.¹⁷

Legislative Recommendations

There are several measures affecting judicial administration which are called to the attention of the Governor and the General Assembly. One of these, the bill to create an intermediate court of appeals, is the result of the study made by the Legislative Council Committee on Appellate Courts and was commented upon in a preceding section.

The need for judicial salary increases has also been discussed and is mentioned again for emphasis. Adoption of the judicial salary proposals recommended by the Colorado Bar Association is strongly urged.

The proposal to transfer Kit Carson and Lincoln counties from the 4th Judicial District to the 13th Judicial District was covered in the section on district courts and does not require further amplification. In addition, there are several other measures which are worthy of consideration.

Elimination of Assistant County Judgeship (Eagle County)

¹⁵ Financing State Courts, 1970 Cost Estimates, Office of the Court Administrator, November, 1968.

¹⁶ *Ibid.*, p. 24.

¹⁷ *Ibid.*, p. ii.

The elimination of the assistant county judgeship in Minturn, Eagle County, is strongly recommended. This position has been vacant since November 15, 1968, because there have been no applicants. The county judge, who usually sits in Eagle, travels to Minturn one afternoon a week to hold court. This arrangement is sufficient to dispose of the county court cases in the east end of Eagle County. The number of cases docketed in the Minturn court has been less than 150 a year. A case load of this small size does not warrant the expenditure of \$1,331 per year for the salary of an assistant county judge, especially since it can be adequately handled by the county judge without inconvenience to litigants.

Municipal Courts

A field study made by the court administrator's office indicates that a number of small statutory municipalities are still compensating their police magistrates on a fee basis. This practice is contrary to the tenets of sound judicial administration and is in direct conflict with the National Highway Safety Standards for Traffic Courts. It is therefore recommended that Articles 85 and 86 of Chapter 139, Colorado Revised Statutes 1963, as amended, be amended to prohibit clearly the payment of fees as compensation to a municipal judge or police magistrate. It is recommended further that these two articles and Article 36 of Chapter 139 and Article 63 of Chapter 139 be combined and rewritten, so that there will be only one article concerning courts in statutory municipalities, instead of separate articles on city and town courts, trial by jury, and appeals.

Children's Code

Although finding the law satisfactory in most respects, several amendments to the Colorado Children's Code have been prepared by the Colorado Council of Juvenile Judges. Many of these are technical and procedural rather than substantive. The major changes include the following:

- 1) requirement that the district attorney prosecute all contributing to delinquency cases;
- 2) clarification of the news media's right to be present at juvenile hearings;
- 3) clarification of the application of the expungement provisions to juveniles found delinquent prior to July 1, 1967;
- 4) retention of jurisdiction by juvenile court if, after waiver of jurisdiction, the district attorney fails to file an information within 72 hours, exclusive of weekends and holidays;
- 5) establishment of facilities for older hard-core offenders and express authority for the juvenile court to commit offenders over the age of 18 under certain circumstances;
- 6) permissible extension of institutional commitments of delinquents for an additional two years after a court hearing; and
- 7) express authority for the juvenile court to sentence to county jail on a work or school release program for three months any delinquent over the age of 18 who has had his probation revoked.

Court Reporters' Expenses

37-12-34, Colorado Revised Statutes., 1963 (1967 Supp.) limits court reporters' expenses to \$12 per day when out of their county of residence. This limitation has been interpreted by the

Attorney General to apply when reporters accompany their judges on assignments in other judicial districts. Because expenses, including; overnight lodging, usually exceed this amount by several dollars, especially in urban districts, judges are reluctant to bring their reporters with them on out-of-district assignments. Consequently, the district to which the judge is assigned is forced to hire a free-lance reporter at a minimum of \$40 per day. This additional unnecessary expense could be eliminated by raising the limit on reporters' expenses to \$20 per day, the same as it is for judges.

Annual Judicial Conference

The Ninth Annual Judicial Conference was held in Colorado Springs, October 8 through October 10, immediately preceding the annual convention of the Colorado Bar Association. The conference was attended by all members of the Supreme Court and all district and county judges (except those few excused by the Chief Justice because of illness or docket conflicts), and the judges of the Denver Juvenile, Probate, and Superior courts.

Except for the opening session of the conference on October 8, the judges in attendance were divided into seminar groups and discussed three major subject areas: Public Understanding of and Respect for the Judicial Process; Selected Problems in Evidence; and Special Problems in the Judicial Function.

At the opening session, progress reports were presented by the Chief Justice and by the State Court Administrator. Justice Edward C. Day discussed the guidelines adopted by the Supreme Court for Campaign Behavior by Judges in Non-Competitive Elections for Retention in Office.

The National College of State Trial Judges assisted in the seminar program by printing the discussion material and supplying five members of the college's faculty to serve as discussion leaders including:

Honorable Horace W. Gilmore
Circuit Court, Detroit, Michigan

Honorable William C. Kandt
District Court, Wichita, Kansas

Honorable Sam P. McKenzie
Superior Court, Atlanta, Georgia

Honorable Alfred T. Sulmonetti
Presiding Judge, Circuit Court Portland, Oregon

Honorable Ernst J. Watts
Circuit Court, Elkhorn, Wisconsin

Also serving as discussion leaders for the seminar on Public Understanding of and Respect for the Judicial Process were: Senator Anthony F. Volland, Jefferson County; Representative John

D. Fuhr; Arapahoe County; Arthur Ballantine, Editor and Publisher, Durango Herald; and Houstoun Waring, Editor Emeritus, Littleton Independent. John Reed, former Dean of the University of Colorado Law School and presently Director, Institute for Continuing Legal Education, University of Michigan, prepared the material and served as a discussion leader for the seminar on evidence assisted by two Colorado attorneys, Charles J. Traylor, Grand Junction; and Fred M. Winner, Denver. Justices Robert H. McWilliams and Edward E. Pringle, along with Judges McKenzie and Kandt, were the discussion leaders for the seminar on Special Problems in the Judicial Function.

Judicial Nominating Commissions

As provided in Article VI, Section 24, of the Colorado Constitution, there are 23 judicial nominating commissions. The Supreme Court Nominating Commission is composed of nine members; the other 22 (one for each judicial district) are composed of seven members each. The Chief Justice serves as the non-voting chairman of the Supreme Court Nominating Commission, and each of the 22 judicial district nominating commissions is presided over by a Supreme Court Justice, who is a non-voting chairman.

Each nominating commission has at least one more non-lawyer member than the number of attorney members. The attorney members are appointed by majority action of the Governor, Chief Justice, and Attorney General. The Governor appoints the non-lawyer members. No more than one-half of the voting members plus one of each commission may belong to the same political party. They are appointed for staggered six-year terms and cannot succeed themselves. Initial appointments were for one, three, and five year terms.

The following judicial nominating commissions met in 1968 to make recommendations to the Governor for judicial appointments: Supreme Court, 1st District, 4th District, 5th District, 6th District, 7th District, 8th District, 9th District, 12th District, 13th District, 16th District, 18th District, and 19th District.

Judicial Qualifications Commission

The Judicial Qualifications Commission was established pursuant to Article VI, Section 23(3), of the Colorado Constitution. It is composed of three district judges, two county judges, two attorneys, and two non-lawyers. The district and county judges are appointed by the Supreme Court. The attorneys must have practiced in Colorado at least 10 years and are appointed by majority action of the Governor, the Chief Justice, and the Attorney General. The two non-lawyers are appointed by the Governor. All appointments are for a term of four years.

This section of the constitution charges the Commission on Judicial Qualifications with the responsibility of investigating complaints concerning alleged willful misconduct, willful or persistent failure to perform duties, or intemperance by a member of the judiciary. The Commission also investigates complaints concerning judicial incapacity because of physical or mental disability.

The Commission, after making an investigation, may order a hearing before it, or before masters appointed by the Supreme Court, concerning the removal or retirement of a justice or judge. Following this proceeding, the Commission, upon good cause, may recommend removal or retirement to the Supreme Court, which makes the final decision after a review of the record and any additional evidence which it may permit to be introduced. The constitution requires that all papers and proceedings before the Commission be confidential.

These constitutional provisions are patterned after those creating the California Commission on Judicial Qualifications. Nineteen states have similar procedures for the removal or retirement of members of the judiciary for just cause, and the number is increasing. This method is strongly recommended by many experts in the field of judicial administration and places Colorado among the leaders nationally in this regard.

Commission Members

There are currently two vacancies on the Commission, because of the death of Judge James M. Noland, and the appointment of Judge Robert B. Lee to the Supreme Court. These vacancies will be filled shortly by the Supreme Court.

The members of the Judicial Qualifications are:

Judge William H. Burnett, Denver County Court, Acting Chairman

Judge William L. Gobin, 16th Judicial District, Secretary

Judge Sidney A. Emeson, Weld County Court

Ben S. Wendelken, Esq., Colorado Springs

George A. Epperson, Esq., Fort Morgan

Dr. Leo C. Riethmayer, Boulder Houstoun Waring, Littleton

Commission Activities

During the past year, the Commission on Judicial Qualifications held five meetings. Twelve cases were considered by the Commission, most of which were disposed of after preliminary investigation or informal hearing. Three of these cases have been continued for further investigation. The Commission's second year of operation was similar to its first year's experience and to that of the California Commission. Usually, an informal hearing followed by a letter from the Commission is sufficient to eliminate the judicial behavior complained of or to have a judge resign or retire voluntarily without requiring a formal hearing and subsequent review by the Supreme Court.

The Commission's rules provide for regular quarterly meetings, with more frequent meetings as required upon call of the chairman.

National College of State Trial Judges

The National College of State Trial Judges was conducted at the University of Nevada and the University of North Carolina in 1968. The College's objectives have been stated as follows:

...to gather, study and disseminate information to state trial judges throughout the United States with respect to the problems of organization, trial and disposition of judicial business within the trial courts;...

It is the policy of the Colorado Supreme Court to arrange for all new district court judges to attend the four-week summer sessions conducted by the College as soon as possible after their appointment. In addition, more experienced judges are also given the opportunity to attend as funds and college enrollment quotas permit. All of the judges who have attended feel that the program is very worthwhile and of immeasurable help, as does the Supreme Court.

National College Attendance from Colorado

Five Colorado district judges attended the National College in 1968; in all, 27 (or almost two-fifths of the district judges) have participated since 1964, as indicated by the following list:

- 1965. Judge Howard O. Ashton, 20th Judicial District, Boulder
Judge William S. Eakes, 6th Judicial District, Durango
Judge John F. Gallagher, 4th Judicial District, Colorado Springs
Judge Merle R. Knous, 2nd Judicial District, Denver
Judge Robert Sanderson, 15th Judicial District, Lamar
Judge Donald P. Smith, Jr., 18th Judicial District, Littleton
Judge Albert J. Tomsic, 3rd Judicial District, Walsenburg
- 1966. Judge Edward J. Byrne, 2nd Judicial District, Denver
Judge James J. Delaney, 17th Judicial District, Brighton
Judge William M. Ela, 21st Judicial District, Grand Junction
Judge Waino Johnson 13th Judicial District, Fort Morgan
Judge Don Lorenz, 1st Judicial District, Steamboat Springs
Judge Whitford W. Myers, 12th Judicial District, Alamosa
Judge Edward M. Yaklich, 10th Judicial District, Pueblo
- 1967. Judge John Brooks, 2nd Judicial District, Denver
Judge William M. Calvert, 4th Judicial District, Colorado Springs
Judge James J. Carter, 21st Judicial District, Grand Junction
Judge Ronald J. Hardesty, 1st Judicial District, Golden
Judge Oyer G. Leary, 17th Judicial District, Brighton
Judge Dean C. Mabry, 3rd Judicial District, Trinidad
Judge Daniel J. Shannon, 1st Judicial District, Golden
Judge Jack A. Vohs, 15th Judicial District, Lamar
- 1968. Judge Clifford J. Gobble, 17th Judicial District, Brighton
Judge William L. Gobin, 16th Judicial District, La Junta
Judge Hunter D. Hardeman, 4th Judicial District, Colorado Springs
Judge Patrick M. Hinton, 4th Judicial District, Colorado Springs
Judge Howard E. Purdy, 11th Judicial District, Salida

In addition, four Colorado judges have served as faculty advisors: Judge Clifford H. Darrow (1964); Judge Marvin W. Foote, (1967); Judge Sherman G. Finesilver (1967); and Judge Howard O. Ashton (1968).

Pattern Jury Instructions Committee

The Colorado Supreme Court Committee on Pattern Jury Instructions, consisting of 21 judges and lawyers appointed by the Supreme Court from throughout the state, was established in March of 1964. On June 29, 1968, the 26th and last meeting of the full committee was held. During this four-year period the Committee formulated 369 instructions to be given to juries in civil cases.

On November 27, 1968, the manuscript for Colorado Jury Instructions, Civil was presented to the Supreme Court. Upon examination and adoption by the Supreme Court, the volume will be published in bound form. The mandatory use of these instructions will save the trial judges of this state countless hours of time in the conduct of jury trials and should have the effect of eliminating reversals of judgments because of erroneous instructions.

The Supreme Court gratefully acknowledges the fine efforts of this Committee.

Members

Ira C. Rothgerber, Jr., Denver Chairman
Robert E. Anderson, Colorado Springs
Honorable David Brofman, Denver
Honorable John Brooks, Denver
Myron H. Burnett, Denver
*Honorable Edgar L. Dutcher, Gunnison
Garrett Fonda, Pueblo
John F. Healy, Breckenridge
Charles W. Kreager, Jr., Sterling
Honorable Robert B. Lee, Littleton
James G. Martin, Boulder
Honorable Martin P. Miller, Littleton
William K. Ris, Denver
*Professor Austin W. Scott, Jr., Boulder
Charles J. Traylor, Grand Junction
O. Rex Wells, Fort Collins
Ty R. Williams, Denver
Kenneth M. Wormwood, Denver
Albert E. Zarlengo, Denver
* deceased

Contributors

John P. Holloway, Boulder

Fred M. Winner, Denver

Reporter

Professor Howard C. Klemme, School of Law, University of Colorado, Boulder

Joint Rules Committee

The Joint Rules Committee of the Colorado Supreme Court and the Colorado Bar Association has worked for two years on an extensive revision of the rules of civil and criminal procedure. This committee is composed of 22 members of the bench and bar (as listed below). It carried out its assignment in conjunction with the Supreme Court Rules Committee consisting of Justice Edward C. Day, Chairman, and Justice Edward E. Pringle.

The committee has completed its work, and drafts of the revised rules have been presented to the Supreme Court for review and adoption. When these rules are adopted, it will be the first overall revision of the civil rules of procedure since their adoption in 1942. While the criminal rules of procedure were adopted only a few years ago, it became apparent that an extensive review was required, especially in light of recent United States Supreme Court decisions.

Committee Members

Rules of Civil Procedure

M. O. Shivers, Jr., Chairman, Englewood
Jim R. Carrigan, Denver
James G. Martin, Boulder
James H. Mosley, Denver
George McLachlan, Lamar
Walter A. Steele, Denver
William A. Trine, Boulder
William P. Waggener, Denver
Fred M. Winner, Denver
Kenneth M. Wormwood, Denver
Garth C. Grissom, Denver

Rules of Criminal Procedure

Honorable William L. Gobin, Chairman, La Junta
William J. Chisholm, Denver
Lysle R. Dirrim, Brighton
William H. Erickson, Denver
John L. Kane, Jr., Brighton
Alex S. Keller, Denver
Robert T. Kingsley, Denver
John P. Moore, Denver
William L. Rice, Denver
Robert L. Russel, Colorado Springs
Garth C. Grissom, Denver

Municipal Rules Committee

Recognizing the need for uniform procedural rules in the some 150 municipal and police magistrate courts, the Supreme Court appointed a committee in February, 1968, to draft Colorado's first rules of procedure for municipal courts. This committee was composed of the following members:

Edwin P. Van Cise, Esq., Denver, Chairman
Jack Kent Anderson, Esq., Denver
E. A. Howard Baker, Jr., Esq. Chairman, Colorado Bar Association Traffic Court Committee, Arvada
Judge William H. Burnett, Denver County Court
Judge Raymond J. Cody, Arvada Municipal Court
Peter Cosgriff, Esq., Leadville
Judge Richard Hansen, Boulder Municipal Court
Ernest G. Hartwell, Esq., Loveland
Charles B. Howe, Counsel, Colorado Municipal League, Boulder
Judge Robert M. Isaac, Colorado Springs Municipal Court
Harry O. Lawson, State Court Administrator
Judge Martin I. Steinberg, Westminster Municipal Court

After several meetings, this committee completed its work, and a draft of proposed Municipal Court Rules of Procedure has been submitted to the Supreme Court for its review and adoption.

Rules of Juvenile Procedure

In July, 1968, Judge James J Delaney, President of the Colorado Council of Juvenile Judges, appointed a committee to formulate rules of juvenile procedure for presentation to the Supreme Court for its consideration and adoption. Colorado has never had separate rules of juvenile procedure, but most Colorado judges responsible for juvenile jurisdiction feel that such rules are desirable to standardize practice and procedures in juvenile matters and to supplement the Colorado Children's Code, enacted in 1967.

Initially, the Juvenile Rules Committee reviewed juvenile court rules in other jurisdictions and the model rules of juvenile procedure recently drafted by the National Council of Juvenile Judges. The committee held several meetings, and the first draft of the rules was revised several times. The penultimate draft was discussed at the October, 1968) meeting of the Colorado Council of Juvenile Judges. The final draft has now been prepared and will be submitted to the Supreme Court after further review by the Council of Juvenile Judges at the January, 1969, meeting.

Members of the committee in addition to Judge Delaney, who served as chairman, included: Judge Marvin Foote, 18th Judicial District; Judge Daniel Shannon, 1st Judicial District; Frank Elzi, Assistant City Attorney, Denver; Brian Morgan, Assistant Public Defender, Denver; Howard Rosenberg, Legal Aid Society; Marilyn Wilde, Deputy District Attorney, 2nd Judicial

District; Dave Williams, Clerk and Referee, Denver Juvenile Court; and Harry O. Lawson, State Court Administrator. The committee was assisted in research and drafting by Robert Bealmer, University of Denver College of Law.

State Court Administrator Organization and Duties

The State Court Administrator is appointed by the Supreme Court pursuant to Article VI., Section 5(3) of the Colorado Constitution, which provides in part.: The supreme court shall appoint a court administrator and such other personnel as the court may deem necessary to aid the administration of the courts."

The court administrator's office has a staff of seven. In addition to the administrator, they include: an executive assistant, a personnel and management officer, an administrative assistant (who is also the office manager), a statistical analyst, an accounting technician, and a clerk-typist.

The major duties and responsibilities of the State Court Administrator's office include:

- 1) statistical reporting and analysis of district and county court dockets;
- 2) assignment of active and retired judges, subject to approval of the Chief Justice;
- 3) fiscal coordination and budget control for the Supreme Court and its various functions, including administration of district judges' payroll and expenses, maintenance of fiscal records and administration of funds for retired judges, Judicial Qualifications Commission, and Judicial Nominating Commissions;
- 4) staff services for District and County Judges' Associations and Colorado Council of Juvenile Judges, including research and planning and conducting meetings and workshops;
- 5) staff services for Judicial Qualifications Commission;
- 6) field study and court visits to all district and county courts to examine administrative operations and determine problems, assist in the development of standardized forms and procedures and improved operating procedures;
- 7) development and administration of a merit system for all trial court employees (except municipal courts), including planning and establishing in-service training programs;
- 8) consultation and assistance on trial court personnel recruitment and salary schedules, also trial court budgets, including -conferences with county commissioners, as requested;
- 9) liaison with General Assembly, executive agencies (such as Department of Health and Department of Institutions, with programs and policies concerning the judicial system), and with other groups, such as the Colorado Bar Association, Colorado Parole, Probation and Correction Association, and Colorado Juvenile Council;
- 10) planning, development, and arrangements for annual Judicial Conference for all judges of courts of record;
- 11) preparation, revision, and publication of district, county, and municipal court manuals;
- 12) implementation of the traffic court standards of the National Highway Safety Act, including municipal as well as county courts;
- 13) bill drafting and research;

- 14) publication and distribution of current Supreme Court opinions and new legislation of special interest to the judiciary; and
- 15) holding of educational seminars for newly-appointed county judges.

Field Study and Administrative Survey

The State Court Administrator's office conducted an extensive nine-month field study during 1968. During this study, an administrative survey was made of the Supreme Court and each district and county court. In addition, a desk (or personnel) audit was performed on each employee and position in the system, and an extensive analysis was made of court services, such as adult and juvenile probation, juvenile detention, and marriage counseling.

This study had several major objectives:

- 1) together data for the preparation of a judicial merit system for all court employees, including a salary classification plan and a delineation of qualifications and duties and responsibilities for each position or class of positions;
- 2) to examine administrative operations and procedures for the development of more efficient and uniform trial court administration;
- 3) to determine basic in-service training needs;
- 4) to assist in the revision of the district and county court manuals; and services.
- 5) to determine needs and improvements in probation services.

Jack B. Ewing, Executive Assistant, and John E. Woods, Personnel and Management Officer, had the prime responsibility for conducting the study. From time to time, several district and county court clerks assisted in the survey. These included:

Kenneth Heinle, 18th Judicial District, Arapahoe County; Max James, 8th Judicial District, Larimer County; Robert W. Rhodes, 19th Judicial District, Weld County; Dee Schedlbauer, 16th Judicial District, Otero County; Dorothy Silvernale, 17th Judicial District, Adams County; Ted J. Soja, Denver Superior Court; Betty Stinnett, Adams County Court; Marle Thompson, Jefferson County Court; and Bernice Ward, 17th Judicial District, Adams County.

This assistance was extremely helpful in expediting the field survey and in giving the State Court Administrator's staff a broader understanding of trial court operations and problems. Special appreciation is also expressed to the chief and presiding judges whose cooperation made it possible for these key trial court administrators to take the time from their own heavy schedules to assist in the survey and to all of the judges and court employees throughout the system, without whose cooperation the field study could not have been accomplished.

The staff is now in the process of analyzing the data collected and preparing memoranda on administrative procedures as well as developing the classification plan. The classification plan and accompanying rules will be reviewed initially by special committees of the District and County Judges' Associations, the Trial Court Administrators Association, the adult and Juvenile probation officers, and the court reporters. Following this review, the plan and rules will be submitted to the Supreme Court for its consideration and adoption.

Court Manuals

Work is currently underway on the preparation of a municipal court manual and on the revision of the district and county court manuals. The district and county court manuals were last revised in 1965, and there has never been a comparable handbook for municipal courts. These manuals cover rules, procedures, forms, and related material and are often used by judges, as well as by other court personnel.

The municipal and county court manuals are scheduled for completion at the end of April and the district court manual in July. The Judicial Department received a \$10,000 federal grant under the National Highway Safety Act of 1966. This grant is in keeping with one of the recommended traffic court standards promulgated by the U. S. Secretary of Transportation: "There are current manuals and guides for administration, court procedures, and accounting."

Charles B. Howe, former counsel for the Colorado Municipal League, has been engaged as consultant by the State Court Administrator and has the prime responsibility for the basic preparation of the manuals. Advisory committees have been appointed to assist in the preparation of the municipal and county court manuals by reviewing drafts and making suggestions as to form and content. The members of these committees are:

Municipal Court Manual. Judge E. A. Howard Baker, Jr., Jefferson County Court; Judge Robert Isaac, Colorado Springs Municipal Court; Judge Helen Meyer, Alamosa Municipal Court; Judge Martin Steinberg, Westminster Municipal Court; Terry Aragon, Clerk, Boulder Municipal Court; and Paul Pomponio, Administrator, Denver County Court.

County Court Manual. Judge Robert E. Cole, El Paso County Court; Judge Francis Jamison, Jefferson County Court; Judge Frank J. Poston, Park County Court; Judge William E. Smoke, Larimer County Court; Judge Lee J. West, Weld County Court; Fred W. Besack, Clerk, Larimer County Court; Evelyn Kamuck, Clerk, Arapahoe County Court; Maxine Johnson, Clerk, Weld County Court; Paul Pomponio, Denver County Court; Betty Stinnett, Clerk, Adams County Court; and Marie Thompson, Clerk, Jefferson County Court.