

The State of the Courts
Annual Report of the Chief Justice
Chief Justice Edward E. Pringle, Colorado Supreme Court
Written Message
March 30, 1972

1971 in Brief

Nineteen seventy-one was a year of many improvements in the administration and operation of the Colorado judicial system. In general, the system is in good condition, considering the greater demands placed upon it by ever increasing caseloads. There are a number of continuing problems, however, some of major significance. These problems are discussed in subsequent sections of this report.

Appellate Courts

Most notable among the accomplishments in 1971 was the reduction of 159 cases in the appellate backlog through the combined efforts of the Supreme Court and the Court of Appeals, despite the filing of 835 new cases, 13 more than 1971. The Supreme Court closed 594 cases, 345 by written opinion, and the Court of Appeals closed 402, 356 by written opinion.

Trial Courts

The trial courts had a substantial caseload increase in 1971, especially at the district court level where 77,767 cases were filed as compared with 67,088 in 1970, an increase of almost 16 percent. As a consequence, the number of pending cases at the end of the year increased by almost 2,500 over the preceding year, even though 75,301 cases were closed, 20.5 percent, or 15,276, more than in 1970.

The increase in cases filed in the county court in 1971 was 81.6 percent. Exclusive of the Denver County Court, 120,074 cases were filed as compared with 110,574 in 1970. While terminations increased at a greater rate than filings (9.5 percent), with 116,427 cases closed, there was an increase of 3,647 in pending cases.

Administrative Improvements

Steps were taken to decentralize administration as much as possible in keeping with good management principles to provide flexibility and encourage active participation in administration at the trial court level. This was done primarily through the delegation of authority and responsibility to the chief judges by the Chief Justice. This delegation is in keeping with Article VI, Section 5(4) of the Colorado Constitution which provides:

(4) The chief justice shall appoint from the district judges of each judicial district a chief judge to serve at the pleasure of the chief justice. A chief judge shall receive no additional salary by reason of holding such position. Each chief judge

shall have and exercise such administrative powers over all judges of all courts within his district as may be delegated to him by the chief justice.

Even though chief judges were granted increased authority, this authority must be exercised within the framework of applicable statutes and the rules and regulations promulgated by the Chief Justice or the Supreme Court or issued by the state court administrator at the direction of the Chief Justice or Supreme Court. Under the powers delegated by the Chief Justice, each chief judge was given blanket authority to assign judges interchangeably, where qualified and as needed, between the county and district courts. This has made more efficient allocation of judicial manpower possible and has reduced the need for assigning judges from outside the district, resulting in savings in time and travel.

Jury Selection

The Uniform Jury Selection and Service Act was adopted by the General Assembly in 1971. This Act eliminates almost all exemptions from jury service and establishes a random selection procedure. The act also makes it possible to automate the jury selection process. A centralized automated program was developed by the judicial department to handle jury selection in 14 counties, including the mailing of questionnaire and summons. The ten largest counties and four others are presently in the program, and all other counties over 15,000 population will be added during the current year. The Act took effect on January 1, 1972, and the automated system was set up and in operation in time to select the first juries under the Act.

Court Libraries

During 1971, the state supreme court librarian made an inventory and study of all the law libraries which became the responsibility of the state on January 1, 1970. As part of this study, she developed collection standards for different size libraries, depending on location, population, caseload, availability of other law libraries, etc. These standards were then applied to the current library inventories, and a plan developed to bring libraries up to minimum standards in phases over a three year period. This plan and a copy of the study was transmitted to the Joint Budget Committee, along with the request for funds to implement phase one in FY1973.

Fiscal Management

In the fiscal management area, much was accomplished in 1971. A uniform accounting system for court registry funds was developed and installed in a number of courts in 1971. Court registry funds include the payment of all moneys into the court, such as fines, fees, and alimony and support payments. The system will be completely installed in all but the largest courts in the first few months of 1972. In the largest courts, the system is semi-automated because of the volume, and the extension of installation depends on the amount to be appropriated for machine rental. These funds have been requested in the FY1973 budget. In addition, a comprehensive uniform budgeting and fiscal reporting system has been established and is operational, and an automated personnel record system has been developed and has been integrated with the payroll and payroll records.

Caseload Data

The automated district court caseload statistical reporting system was improved during 1971 to make it more timely and accurate. The reports generated by this system are an aid in good docket management. For example, one report shows each civil case under advisement 60 days or more and another shows criminal cases over six months from arraignment. These reports are circulated by the Chief Justice to the chief judges, directing that action be taken as soon as possible on these cases and requesting an immediate reply on the status and expected disposition of these cases.

Projects and Programs in Progress

Several projects and programs were started in 1971 which will improve the administration of justice significantly.

Criminal Jury Instructions. The Supreme Court has appointed a committee of bench and bar chaired by Justice William Erickson, to draft criminal jury instructions. Civil jury instructions were adopted by the Colorado Supreme Court in 1969 after a similar committee completed its work. The criminal jury instructions will be completed for Supreme Court adoption by July 1, 1972, so that their promulgation can coincide with the effective date of the new Colorado Criminal Code.

Juvenile Justice Standards. The Chief Justice has appointed a committee of seven juvenile judges to draft standards of juvenile justice. An advisory committee of probation officers and other court service workers will be appointed in the near future. The standards will cover such matters as intake, detention, adjudication, dispositional hearings, and probation services. It is hoped these standards, when completed and adopted, will promote more uniformity throughout the state in the handling of juvenile cases, ensure that these cases are handled as expeditiously as possible, and reinforce statutory and constitutional due process requirements.

Record Management Study. Courthouses throughout the state are becoming buried under tons of old court records and exhibits. The state court administrator's office has launched a study to determine the most effective way to deal with this problem. Initially, the study is concentrating on record storage problems in El Paso County. There is an immediate and pressing need to develop and put in effect a court record storage and disposition program in that county before the court's move to the new courthouse in June. Archives is cooperating with the judicial department in this effort, and the Institute for Court Management has provided some assistance. The judicial branch's budget for FY1973 includes a request for funds to provide courts with the microfilm equipment required if record storage is to be reduced.

Management Information System. Under a discretionary grant from the Law Enforcement Assistance Administration, the state court administrator's office is expanding and improving present management data collection. The present county court caseload data manual collection system will be improved and automated. An automated probation information system is being developed, an area where accurate data has not been readily available. Improvements are also planned in the budgeting and accounting systems, with further steps taken in the application

of program budgeting. Last, but not least, an automated inventory information system will be developed to make possible better property control and management.

Volunteer Probation Services. Colorado is among the nation’s leaders in the development and operation of volunteer probation service programs, especially with juvenile offenders. Through a highway safety grant, the judicial department now has a volunteer probation services coordinator, who is assisting county and municipal courts in organizing and operating volunteer programs for traffic offenders and misdemeanants. This is another important facet of the judicial department's responsibility for coordinating probation and related court services.

In-Service Training. Through the same highway safety grant, the department has employed a training officer, whose responsibility is to design, organize, and conduct in-service training programs for county court and municipal court nonjudicial personnel. This program will upgrade employees, with resulting improvement in the quality of court operations.

Trial Courts

The state court administrator will issue a more detailed statistical report on trial court activity at a later date. This section, therefore, just highlights what happened in 1971.

District Courts

Cases Filed. The rate of increase in cases filed in district court in 1971 was almost double that of each of the preceding three years. This 15.9 percent increase meant that 10,673 more cases were filed in 1971 than in 1970. Criminal cases had the largest rate of increase, 34.4 percent; followed by domestic relations, 17.1 percent; juvenile, 16.2 percent; and civil cases, 12.5 percent. Mental health and probate cases increased only eight and 4.4 percent, respectively.

Seven districts experienced more than a 20 percent increase in filing rates; surprisingly, only two of these districts are urban. Water rights adjudications account for a substantial portion of the increase in three of the nonurban districts, and two are in rapidly growing mountain resort areas. These seven districts are:

District	Cases filed	Increase	Pct.
6 th (Archuleta, La Plata, San Juan)	1051	553	90.0
9 th (Garfield, Pitkin, Rio Blanco)	1425	577	68.0
12 th (San Luis Valley)	1369	442	47.7
11 th (Custer, Chaffee, Fremont, Park)	1543	357	30.0
5 th (Eagle, Lake, Summit)	524	115	28.1
4 th (El Paso, Teller)	9154	1948	27.0
10 th (Pueblo)	4953	838	20.4

Numerically, the greatest increase was in Denver (2nd), where 2,536 more cases were filed (11.2 percent) in 1971 than in 1970. Other districts with 500 or more cases filed in 1971 than in 1970, were: 1st (Jefferson, Gilpin, Clear Creek), 814 (16.3 percent); 17th (Adams), 761 (15.8 percent); and 18th (Arapahoe, Douglas, Elbert, and Lincoln), 649 (15.6 percent).

Only two districts experienced a decrease in the number of cases filed in 1971; the 16th district (Otero, Bent, and Crowley), 865, down six, or .07 percent; and the 22nd district (Montezuma and Dolores), 335, down 37, or 9.5 percent.

Dispositions. The district courts closed 15,276 cases more in 1971 than in 1970, but still could not keep up with the increased filing rate (77,767 filed and 75,301 closed). In part, the substantial increase in the number of cases closed represented, in several districts, a clearing of the docket of inactive cases and a concerted effort to close other old cases by trial or settlement. Efforts were also directed at disposing of older criminal cases - those six months from arraignment or longer.

Seven districts exceeded a 20 percent increase in the number of cases terminated in 1971 as compared with 1970.

District	Cases closed	Increase	Pct.
9 th	1126	472	72.2
5 th	501	189	60.5
10 th	6069	2120	53.7
22 nd	488	165	51.0
17 th	7450	2472	49.7
7 th	1494	428	40.1
8 th	2022	372	22.5
*Delta, Montrose, Gunnison, Hinsdale, Ouray, and San Miguel counties.			

Numerically, the greatest increase in dispositions was in Denver (2nd) where 3,007 more cases were terminated (14.8 percent) in 1971 than in 1970. Other districts with 500 or more cases terminated in 1971 than in 1970 were: 1st, 815 (13.3 percent); 18th, 708 (18.1 percent); and 4th, 612 (8.1 percent). No district disposed of fewer cases in 1971 than in 1970.

In part, the increase in the 2nd and 4th districts was due to the increase in judicial manpower in these districts which was approved by the General Assembly in 1971. The 2nd district received two new judges and the 4th district one judge, effective July 1, 1971.

Use of Outside Judges. In part, the increase in case terminations throughout the system can be attributed to the assignment of outside and retired judges to meet overloaded dockets, to handle disqualifications, and to substitute for judges who were ill or on vacation. As shown in the following table, 1051.5 days of judge time was provided in 1971 by retired judges and district and county judges sitting outside of their jurisdictions on assignment by the Chief Justice.

Assignment of Retired and Outside Judges, 1971

	Retired Judges	District judges	County judges	Total
Supreme Court	2.5	24.5	--	27
Denver District Court	53	145	10	208
Other District Courts	58.5	342	33	433.5
County Courts	18.5	--	283.5	302
Denver Probate	--	2	9	11
Denver Juvenile	2	8	7	17
Denver Superior	--	--	53	53
Total	134.5	521.5	395.5	1051.5

County Courts*

Cases Filed. Traffic cases accounted for almost three-fourths of the increase in county court cases filed in 1971. Misdemeanors, other than traffic, and preliminary hearings accounted for the rest of the increase. There was a slight decrease in the number of civil cases filed - 561. Of the 120,074 cases filed in 1971, 89,719 (74.7 percent) were traffic; 16,955 (14.1 percent) were other misdemeanors and preliminary hearings; and 13,400 (11.2 percent) were civil cases.

As might be expected, most of the increase in felonies was experienced in the largest counties, for example, Arapahoe, 22.9 percent; Boulder, 25.6 percent; Adams, 18.9 percent; El Paso, 14.8 percent; and Pueblo, 14.7 percent. A number of smaller counties have had substantial caseload increases as well. These include: Clear Creek, Douglas, Eagle, Gunnison, La Plata, Logan, Morgan, Pitkin, and Summit. Traffic cases account for most of the increase in these counties, although there was a significant gain in misdemeanors, other than traffic. Additional state patrol officers, extension of the interstate system, and ski resort development have all contributed to the increase in county court business.

Cases Closed. A record 116,427 county court cases were closed in 1971, 10,138 more than in 1970. Of this total, traffic cases accounted for almost 75 percent; other misdemeanors and preliminary hearings, 14 percent; and civil cases, 11 percent. The rates of increase in dispositions over the previous year were traffic cases, 9.4 percent, and other misdemeanors and preliminary hearings, 22.3 percent. The disposition of civil cases decreased slightly, 2.2 percent or 301 fewer cases being disposed of in 1971 than in 1970.

*Other than Denver County Court.

Problems and Legislative Recommendations

Appellate Caseload

As previously indicated, the Supreme Court and Court of Appeals reduced the total appellate backlog by 159 cases in 1971, despite the filing of 835 new cases. The filing rate continues to

increase and is running in excess of the estimated projections at the time the Court of Appeals was created.

Through the help of the Court of Appeals, it is now possible for the Supreme Court to hear civil cases within 30 to 60 days of issue (the time the case is ready for oral argument); however, civil cases filed initially in the Court of Appeals are being heard within six months of issue, which is the maximum time limit to maintain currency. While the Supreme Court has reduced the time lag in criminal cases from 30 months to 11 months, this is still much too long for the disposition of criminal appeals.

In 1971, the two appellate courts together had one of the highest opinion production rates in the country. But the workload' is extremely heavy, and it is not likely that the appellate filing rate will level off, if for no other reason than the almost 16 percent increase in the number of cases being filed in the district court.* Consequently, it may be necessary to ask the General Assembly to increase the size of the 'Court of Appeals in 1973 to reduce the time lag in criminal cases and in cases filed initially in the Court of Appeals to a maximum of 60 days, despite increased filings. This would also make it possible for the Supreme Court to give immediate attention to those matters which warrant such consideration without causing undue delay in other cases before the court. Further experience in 1972 will determine what recommendations, if any, will be made in this regard to the General Assembly in 1973.

* The more cases filed and disposed of at the trial level, the greater the number of appeals.

New Trial Judgeships

District Court. An additional district judge is recommended for the 9th judicial district (Garfield, Pitkin, and Rio Blanco counties) effective July 1, 1972. This will give the district three district judges. The caseload in this district increased more than 75 percent in 1971, as new case filings increased 68 percent. This increase is in addition to the more than 10,000 water rights adjudication matters expected to be filed in the next few months by the United States, as well as other water rights adjudication filings required under the Water Rights Adjudication Act of 1969. At the present rate of increase, total case filings, exclusive of water rights, will exceed 1,700 by July 1, 1972.

Unless a third judge is added, case disposition in this district will be slowed considerably, and an even greater backlog will develop.

County Court. One additional county judge is needed in each of three counties - Arapahoe, Boulder, and El Paso - effective July 1, 1972. A full-time county judge can be expected to handle 3,500 cases a year and keep his docket current, so that nonjury cases are disposed of in 30 to 60 days and jury trials in 90 days.

Arapahoe County Court experienced a 22.9 percent increase in cases filed in 1971, with each judge having an average caseload of almost 5,000; this explains why there was more than a 30 percent increase in the number of cases pending on December 31, 1971, over the preceding year.

In Boulder County Court, the average caseload per judge in 1971 was 4,590 and that was exclusive of the 828 felony advisements and preliminary hearings heard by District Judge Rex Scott sitting in county court for this purpose. To meet the emergency caused by the judge shortage in this county, Judge Scott was assigned to hold the preliminary hearings and felony advisements, which should of course be heard by the county judges. This has placed a tremendous burden on the other district judges, which they cannot handle in an expeditious fashion. It is a case of robbing Peter to pay Paul. An additional county judge will not only help alleviate the 27 percent increase in backlog, but will also permit Judge Scott to devote his full time to the ever-increasing docket in district court.

The situation in El Paso County Court is also critical. New case filings increased almost 15 percent in 1971 and the average caseload per judge is 5,565, and the number of pending cases has increased almost 20 percent.

Facility Needs

For more than 10 years, the construction of a separate court building has been a major consideration in the development of capital improvement programs for the state capitol complex, has been the subject of study by a number of interim committees, and recommended by the Supreme Court. In the meantime, the Court of Appeals has been created and the State Court Administrator's office expanded to carry out the responsibilities imposed by the 1966 constitutional amendment and state funding legislation adopted in 1969. Also the Supreme Court clerk's office has been enlarged to handle the paper work related to the increased appellate caseload.

The Court of Appeals is housed in the State Social Services Building, but must use the law library in the Capitol and hear oral argument in the Supreme Court Chambers. This is an unsatisfactory arrangement at best, and the situation will become much worse, if the Court of Appeals is expanded.

The State Court Administrator's office is presently located in three different places, two on the third floor of the Capitol and one (the research and statistics unit) in the Social Services Building. The available space is also too small for the number of people. In some instances, two people are crowded in an 8' x 10' office.

Even if the initial steps are taken to construct a building this year, it will be at least three years before it would be ready for occupancy. To wait longer would seriously impede the administration of justice.

Judicial Salaries

The General Assembly is presently considering and is likely to adopt legislation which will make it possible for chiefs of executive departments to receive salaries in excess of \$39,000. This legislation will also make it possible for other executive branch division heads and key personnel

to receive salaries of \$30,000 or more - a salary level already attained by some college presidents, vice presidents, and deans.

The present salary of the Justices of the Colorado Supreme Court is \$27,500 and that of the Chief Justice, the executive head of the Colorado Judicial System, is \$28,000. Colorado Supreme Court Justices presently rank 28th in salary nationwide, as contrasted with the Governor, Lieutenant Governor, and Attorney General who rank in the upper one-fourth or higher. The upper quartile salary nationwide for supreme court justice is \$33,400. This figure is particularly significant, because it has been used as a bench mark in the past in determining the salary levels for key executive branch personnel.

Several states still have judicial salary increases under consideration in the current legislative session, including Alaska, Arizona, Connecticut, and Missouri. New Mexico recently adopted \$7,000 judicial salary increases across the board (Supreme Court, Court of Appeals, and District Court) and the state of Washington adopted a \$5,500 increase. This pending legislation will worsen Colorado's position even further nationwide with respect to national ranking, the upper quartile, and the national average, which is presently \$30,030.

It is ironic that Colorado which has a judicial system considered a national leader and looked to as a model for reform and innovation should have a judicial salary level lower than half the states. It is also ironic that Supreme Court salaries, already lower, than those of many executive branch and college officials, will also be as much as \$12,000 lower in some instances by July 1, 1973.

The situation is comparable for the Court of Appeals, whose judges presently receive a salary of \$25,000, and even worse for the district bench, where the present salary of \$22,500 places Colorado 33rd nationwide. The upper quartile for district judges' salaries is \$29,875, and the average salary is \$25,895. The Attorney General whose salary for years was the same as that of district judges now receives \$3,500 more, and there currently is legislation pending to pay district attorneys a higher salary than that received by district judges, which will be the first time this has happened in Colorado.

All of this strongly suggests that in the 1973 legislative session, the General Assembly give serious consideration to salary increases which will place the judicial branch on a parity basis with comparable positions in the executive branch and on the campuses, as well as with judges of similar courts in other leading jurisdictions. One way in which a fair and equitable judicial compensation schedule could be developed is through the appointment of a compensation commission by the Governor similar to those established in other states. This commission should not be limited to consideration of judicial salaries alone, but should also examine legislative compensation, because it is important to the proper functioning of the American system of government that the legislative branch also be treated properly in this regard.

The National Conference on the Judiciary held in Williamsburg in March 1971, and attended by 500 leading jurists, scholars, and experts in judicial administration, led by Chief Justice Warren Burger, reached the consensus that all state appellate and trial judges should be compensated at

the same level as federal circuit and district judges. This should be the ultimate objective, recognizing that fiscal limitations may make immediate attainment not feasible.

Elimination of Judgeships

In exercising administrative and fiscal responsibility, the judicial branch has an obligation to recommend to the General Assembly the elimination of judgeships if no longer needed, as well as to request additional judges when increased caseloads so require, recognizing that the final decision, of course, lies with the General Assembly.

It is, therefore, recommended that the associate county judgeship in Brush (Morgan County) be eliminated. This court is located only 10 miles from Fort Morgan (county seat of Morgan County) on two good highways. The Brush court handles only 350-400 cases a year, and these could be heard by the county judge in Fort Morgan. In fact, he could, if necessary, sit in Brush on a fixed schedule, or as needed.

The elimination of this judgeship would save the state some \$11,000 a year, as a clerk's position would be terminated in addition to, the judgeship. If this court is to be eliminated without waiting another four years, action in the 1972 session is necessary. The judge is up for retention in 1972, and his term of office expires in January 1973. Consequently, it is recommended that this legislation, if adopted by the 1972 session, become effective as of the second Tuesday in January, 1973.

It is also recommended that the associate county judgeship in Rangely (Rio Blanco County) be eliminated, or if not eliminated, at least reduced from an associate judgeship (one-half pay) to an assistant judgeship (one-fourth pay). The total caseload in Rio Blanco County has been declining over the past three years and could be adequately handled by the county judge in Meeker, who could travel to Rangely weekly, or more often, if necessary, to hold court. Because of the distance between Meeker and Rangely (60 miles), however, there may be some justification for retaining a judge in the latter city, but the caseload no longer requires an associate judge to handle it.

Uniform Jury Selection and Service Act

In 1971, the General Assembly adopted the Uniform Jury Selection and Service Act. In implementing this Act, the state court administrator, as previously mentioned, has centralized and automated the jury selection process, including the mailing of jury questionnaires and summonses for 14 counties - the 10 largest and four others. By the end of 1972, every county with 15,000 population or more will be part of the central automated system.

A technical amendment to the Act is needed so that the jury commissioners of the counties in the central automated system do not have to come to Denver each month to watch the computer when jury panels are selected. This large expense is unnecessary.

Another amendment is recommended to the Act to specify the maximum amount that will be paid to governmental units and private vendors for lists to be used in compiling the master

list for jury service.

The Act requires that the basic list to be used for jury selection is the list of voters registered to vote in the most recent general election. The Act also requires that a new jury list be prepared on January 1 of each year. In odd numbered years, it is impossible to meet this deadline and comply with the provision on voters' registration lists. It is, therefore, recommended that this date be changed to March 1.

Responsibilities for Court Facilities

In his report on the State of the Courts in February 1970, Chief Justice Robert H. McWilliams, in discussing the state court funding legislation adopted in 1969, observed that the provisions concerning responsibility for court facilities should be revised to make clear the respective obligations of the state and the counties.

At that time, the state court administrator asked the Attorney General for an interpretation of these provisions (37-11-10, C.R.S. 1963, 1971 Cum. Supp.). The following excerpts from the Attorney General's opinion indicate some of the problems with this statute.

First, in the use of the word "continue" [in 37-11-10(1)] the General Assembly implies the county commissioners shall do what they have done in the past, namely, provide and maintain the facilities housing the courts. Second, the word "provide" implies something more than merely seeing to the upkeep of existing facilities, particularly when that word is used with the word "maintain". Third, the word "adequate" implies the commissioners will see to it that the courts shall have the facilities necessary to carry out their business. Finally, the county commissioners shall have these duties "except as otherwise provided in this section." This implies that the primary responsibility is for the county commissioners; however, the responsibility may be relieved under the conditions specified in the remainder of 37-11-10.

Unfortunately, these remaining conditions are not completely clear. It does appear, however, that the ultimate intent is for the state to determine the need for, and provide the funds for, acquisition of court facilities other than those which presently exist. Until that time, however, the only logical conclusions are these: (1) The courts must be housed, and their facilities maintained; (2) When the need for additional facilities arises, the need must be met; (3) Unless and until the need is met by the state, and burden falls upon the counties. The means by which the need is to be met are not specific, thus the matter is left to the discretion of the county commissioners, so long as the facilities provided are adequate; (4) Any change in the duty to provide court facilities must come about through a legislative act.

Several counties have refused to make desperately needed improvements, such as fencing a detention facility to prevent escapes, on the grounds that this is now a state responsibility. On the other hand, the General Assembly seems to hold the opinion that capital construction for trial

courts is a county rather than a state responsibility. Consequently, there is an impasse, and the General Assembly should amend this statute in 1973 to clarify who has what responsibility, whether it be the counties or the state.

Judicial Budget

The judicial budget for fiscal year 1973 is the third one to provide for state funding of the judicial system since the adoption of the enabling legislation in 1969.

The overall budget consists of seven separate and distinct programs: Supreme Court, Court of Appeals, Court Administration, Public Defender, Trial Courts, Probation, and Juvenile Detention. The latter three are subdivided into several major activities or subprograms.

The total fiscal year 1973 general fund budget request is 2,605,802. This total is 11.2 percent more than estimated expenditures for fiscal year 1970.

The major percentage increases are in judicial administration, probation, and detention. For judicial administration, some of the increase relates to the development and expansion of automated programs already in operation, including payroll, personnel records, accounting and budget, district court statistics, and jury selection. It also includes a new position of internal auditor, and additional funds for investigations by the Judicial Qualifications Commission. New probation officers and clerical support constitute most of the increase in the probation budget. These new positions are required, because of the large increase in criminal and juvenile cases to which reference has already been made. New positions are also required in detention, because of the increase in the number of juveniles, being detained and the expansion of the Zebelon Pike Juvenile Detention Center in Colorado Springs.

The biggest amount of increase is in the trial court budget request (\$990,396). Part of this increase is for new employees required to process the ever larger trial court caseload. Some of the increase is for law library development and for the microfilm equipment required for proper record management.

Comparison of Judicial Budget FY1972 and FY1973

	<u>FY 1971^a</u>	<u>FY 1972</u>	<u>Increase</u>	<u>Pct</u>
Supreme Court	575,163	589,044	13,881	2.4
Court of Appeals	313,418	329,919	16,501	5.3
Court Administration	383,739	510,497	126,758	33.0
Trial Courts	11,948,727	12,939,123	990,396	8.3
Probation	2,895,093	3,386,246	491,153	16.9
Juvenile Detention	1,036,603	1,302,480	265,877	25.6
Public Defender	<u>1,379,907</u>	<u>1,548,493</u>	<u>168,386</u>	<u>11.2</u>
Total	18,532,650	20,605,802	2,073,152	11.2
a. estimated				

New Judges Appointed

Fifteen judicial appointments were made in 1971 under the judicial selection system, compared with 16 in 1970 and 16 in 1969.

Three of the district court appointments were made to fill vacancies caused by retirement or resignation, and three were made to fill newly created district judgeships in the Second Judicial District (2) and the Fourth Judicial District (1). One was made to fill a vacancy caused by the elevation of the former district judge to the Court of Appeals, and one to fill the vacancy caused by the promotion of the former county judge to the district bench. All the county court appointments were made to fill vacancies caused by resignation.

Judges appointed in 1971 were:

Court of Appeals

Judge Donald P. Smith, Jr., Littleton

District Court

Judge Harper L. Abbot, Tenth Judicial District
Judge Gilbert A. Alexander, Second Judicial District
Judge Charles R. Casey, Fifth Judicial District
Judge Robert w. Johnson, Fourth Judicial District
Judge Joseph N. Lilly, Second Judicial District
Judge George E. Lohr, Ninth Judicial District
Judge Donald N. Pacheco, Second Judicial District
Judge Marcus o. Shivers, Eighteenth Judicial District
Judge Zita L. Weinshienk, Second Judicial District

County Court

Judge Judson E. Devilbiss, Garfield County
Asst. Judge Edward J. Hummer, Larimer County at Estes Park
Judge John M. Levin, Gunnison County
Judge Allen J. Nossaman, San Juan County
Judge John A. F. Wendt, Pitkin County

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 on 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 1971 to make recommendations to the Governor for judicial appointments: Supreme Court, 2nd district, 4th district, 5th district, 6th district, 7th district, 8th district, 9th district, 10th district, and 18th district.

Judicial Qualifications Commission

The Judicial Qualifications Commission was established pursuant to Article VI, Section 23(2) 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. 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. Some 25 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

The members of the Judicial Qualifications Commission are:

Judge Saul Pinchick, 2nd Judicial District, Chairman
Judge Williams. Eakes, 6th Judicial District, Vice Chairman
Houston Waring, Littleton, Secretary
Judge Conrad L. Ball, 8th Judicial District
Judge Harold P. Moss, Mesa County Court
Judge Zita L. Weinshienk, Denver County Court
Arthur E. March, Esq., Fort Collins
Dr. Leo C. Riethmayer, Boulder
Charles Rosenbaum, Esq., Denver

Commission Activities

The Commission on Judicial Qualifications has held 24 meetings since it was officially formed in April 1967, with five held during 1971. Sixty-one cases have been considered by the Commission since 1967; 18 of these were filed in 1971. Most of the cases were disposed of after preliminary investigation or informal hearing. Several complaints were dismissed for lack of jurisdiction, because the complaint was frivolous and not substantiated upon investigation, or because proper redress would be through the appellate process.

One case resulted in censure, and one judge resigned. Eight cases were continued for further investigation and action.

The Colorado Commission's experience has been quite similar to the one in California, which was the model for the Colorado 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.

Annual Judicial Conference

The Twelfth Annual Judicial Conference was held in Colorado Springs, October 11 through 14, immediately preceding the annual convention of the Colorado Bar Association. The Conference was attended by all members of the Supreme Court, Court of Appeals judges, 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, the judges in attendance were divided into seminar groups and discussed three major subject areas: The Colorado Criminal Code, the A.B.A. Standards of Criminal Justice, and the Uniform Consumer Credit Code.

At the opening session, progress reports were made by the Chief Justice and the State Court Administrator. Recent developments in criminal law were covered by Justice William H.

Erickson, who discussed United States Supreme Court decisions and John P. Moore, Deputy Attorney General, who discussed Colorado Supreme Court decisions.

Discussion leaders for the seminar groups were judges, legislators, and attorneys who have been instrumental in drafting material in the three seminar areas, either in Colorado or elsewhere.

Former Chief Justice of the Colorado Supreme Court O. Otto Moore, William D. Neighbors, Chief Trial Deputy of the Colorado Public Defender's office, and Carroll E. Multz, a Deputy District Attorney from the Fourth Judicial District lead the discussion on the new Colorado Criminal Code.

State Representative Ronald H. Strahle, who was the chief sponsor in the Colorado General Assembly, Neil E. Butler, Acting Administrator of the U.C.C.C. for the Colorado Attorney General's Office, Harold E. Read and c. Russell Mattson both of whom were active in the drafting of the uniform act, and Richard Wheatley, former Director of the Oklahoma Department of Consumer Affairs, lead the discussion on the new Uniform Consumer Credit Code.

Justice William H. Erickson of the Colorado Supreme Court, Justice Walter F. Rogosheske of the Minnesota Supreme Court, and Judge Jack Grant Day of the Ohio Court of Appeals, served as discussion leaders for the seminars on the American Bar Association Standards of Criminal Justice. These three judges are members of the A.B.A. committee that drafted the criminal justice standards.

National College of State Trial Judges

The National College of State Trial Judges was conducted at the University of Nevada in 1971. 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

Seven Colorado district judges attended the National College in 1971; in all, 46 have participated since 1964. In addition, six Colorado judges have served as faculty advisors.