



JUDICIAL  
SYSTEM  
IN  
NORTH  
CAROLINA

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ADMINISTRATIVE OFFICE OF THE COURTS  
Raleigh, North Carolina / 1975

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THE  
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NORTH  
CAROLINA

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## FOREWORD

Each year the Administrative Office of the Courts receives many requests for information about the North Carolina court system. We are pleased to offer this booklet to meet that need. The booklet was written by C. E. Hinsdale and originally published by the Institute of Government under the title *The North Carolina General Court of Justice*. It was brought up to date and expanded by Joan G. Brannon, a member of the Institute faculty, as part of the request submitted by the Governor's Committee on Law and Order to the Law Enforcement Assistance Administration for funds to improve the criminal justice system in North Carolina.

Being informed about the present structure of the courts is a prerequisite to the informed dialogue that must precede any improvement in the court system. We hope that this publication will help provide that necessary groundwork.

Bert M. Montague, Director  
Administrative Office of the Courts

Raleigh  
Summer, 1975

WHEN THEY HEAR about the court system, most people immediately think of judges, district attorneys, and defense attorneys. These officials, along with the Administrative Office of the Courts, are very directly involved, but other organizations also play an important, although indirect or ancillary, role in the operation of the court system. This booklet will explain the formal structure of the court system and identify the various groups and processes that influence that structure.

## THE GENERAL COURT OF JUSTICE

In 1962, the voters of North Carolina adopted a new Judicial Article of the Constitution for the state court system. The new article, amended in 1965 to authorize an intermediate appellate court, creates a unified statewide and state-operated General Court of Justice consisting of three divisions: the Appellate Division, the Superior Court Division, and the District Court Division. This new General Court of Justice changed the previously existing court system in many respects. On the appellate level, an intermediate appellate court — the Court of Appeals — was created to relieve the heavy caseload of the Supreme Court. On the highest trial level, the superior court lost its original jurisdiction over misdemeanors, minor civil cases, juvenile matters, and domestic relations. At the next lower trial level, many varied city and county courts were replaced by a uniform district court system. And at the lowest level, the justices of the peace and mayor's courts were replaced by the magistrate, who operates within the District Court Division.

Perhaps the most significant change brought about by this uniform judicial system was the centralization of administration and budgeting. All court personnel are now paid by the state; the Administrative Office of the Courts is responsible for developing a single budget to cover the entire judicial system. Also, the Administrative Office is re-

sponsible for administering the court system. Centralized administration and budgeting permits uniform policy throughout the state and makes new programs easier to implement since they need not depend on local financing or philosophy.

**The Appellate Division**

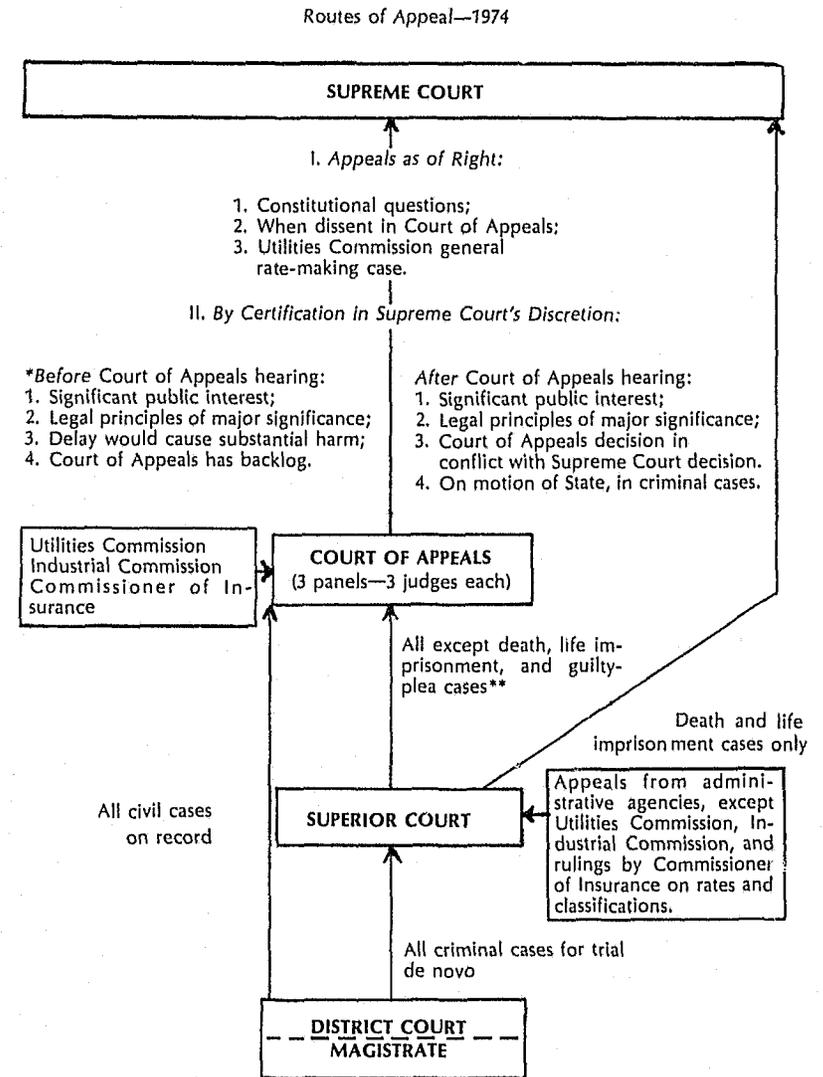
The Appellate Division of the General Court of Justice has two branches—the Supreme Court and the Court of Appeals. The Supreme Court consists of seven justices who sit as a body, in Raleigh, and hear oral arguments in cases appealed from lower courts. The Supreme Court has no jury, and it makes no determinations of fact; rather, it considers errors in legal procedures or in judicial interpretation of the law and hears arguments on the written record from the trial below. Its decisions are printed in bound volumes. Since the establishment of the Court of Appeals, the Supreme Court's caseload has consisted primarily of cases involving questions of constitutional law, legal questions of major significance, and appeals in criminal cases in which the death penalty or life imprisonment is involved.

The Court of Appeals is composed of nine judges, who sit in panels of three. Most of the court's sessions have been in Raleigh; but individual panels may be authorized to sit in various localities throughout the state. Like the Supreme Court, the Court of Appeals decides only questions of law. This court was created in 1967 to relieve the Supreme Court of a portion of its caseload. It hears and decides cases in which the questions of law are less significant. No matter what the question is, the appealing party has a right to be heard by one or the other of these courts, and in some cases by both.

Chart I shows the routes of appeal. Cases involving death and life imprisonment go directly to the Supreme Court from superior court; other cases go to the Court of Appeals. Cases involving a constitutional question, Utilities Commission rate-making cases, and cases in which there is a dissent in the Court of Appeals go to the Supreme Court from the Court of Appeals by right (i.e., the appealing party has a right to have the case heard by both appellate courts). Other cases go to either the Supreme Court or the Court of Appeals or both by certification (i.e., the Supreme Court determines which court hears it).

The Supreme Court is located in the Justice Building in Raleigh and the Court of Appeals is located across the street. Each court is supported by the Supreme Court Library and by a clerk, who is that court's administrative officer. Each justice or judge has a research assistant, who must be a law school graduate. The Supreme Court librarian also

**Chart I**  
**GENERAL COURT OF JUSTICE**



\*Utilities and Industrial Commissions and Insurance Commissioner cases must be heard by Court of Appeals before Supreme Court can hear.  
\*\*Post-conviction hearing appeals go to Court of Appeals by writ of certiorari only, and no further, except State may move for certification.

serves as the marshal (bailiff) to the Supreme Court; the Court of Appeals has no marshal.

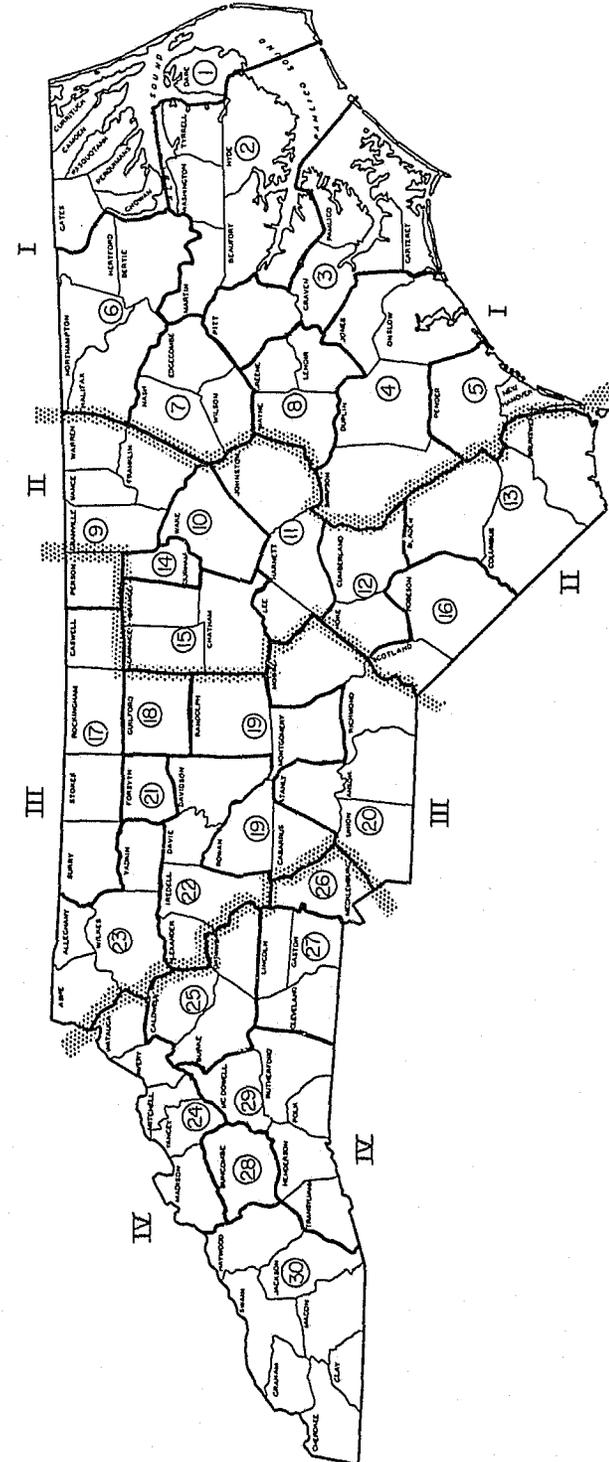
### The Superior Court Division

The Superior Court Division consists of the superior court, which is the court with general trial jurisdiction. This court sits at least twice a year in each county of the state; in the busiest counties, several sessions may be held concurrently each week. The state is divided into thirty judicial districts, each of which has at least one regular superior court judge (the busiest district has four). These thirty judicial districts are grouped into four divisions, each of which represents approximately a quarter of the state. The map on page 5 shows the judicial districts and divisions. (See Table I, pages 25-28.)

**Judges.** There are forty-seven regular superior court judges. The number of judges is specified by the General Assembly and is based on the volume of judicial business. The Constitution requires judges to rotate, or "ride circuit," from one district to another in their division. Each regular superior court judge holds court for six months in each district of his division. When he rotates to a district with two or three resident judges, his rotation period in that district is lengthened accordingly to twelve or eighteen months. A regular judge, therefore, spends only six months in every 4½ to 5½ years holding court in his district of residence. The rest of the rotation period he holds court in the other districts of his division. Many regular judges spend months or years holding court as far as 200 miles or more away from their homes, commuting on weekends, or in some instances establishing a second home in the district to which they are temporarily assigned. Rotation of judges costs the state a great deal more than would a non-rotation system because of tremendous travel expenses. It also allows a lawyer, by delaying his case, to shop for the judge before whom he wishes to try his case; and often it results in several judges' hearing parts of the case at different times rather than one judge's seeing the entire case through. On the other hand, the rotation system avoids the favoritism that might result from always having a judge hold court where he lives, where he has his close friends among the lawyers, and where he might be more personally familiar with and interested in the particular cases tried before him.

In addition to regular superior court judges, eight special superior court judges are appointed by the Governor to four-year terms. These judges are assigned by the Chief Justice of the Supreme Court to hold sessions of court in any county of the state where they may be needed without regard to their district of residence or rotation requirements.

NORTH CAROLINA JUDICIAL DIVISIONS AND DISTRICTS



Theoretically, a special judge over the years could sit in every county of the state. In practice, they are usually assigned to those counties closest to their residences.

**Jurisdiction.** The civil jurisdiction of the superior court is concurrent with that of the district court (see page 7). Cases involving \$5,000 or more in money and a few special categories of cases (injunctions, constitutional issues, eminent domain actions, corporate receiverships) are usually tried in superior court. A twelve-man jury is available in civil cases.

As to criminal jurisdiction, the superior court has exclusive jurisdiction over all felonies (major crimes) and jurisdiction over misdemeanors (crimes for which the punishment cannot exceed two years' imprisonment) appealed from a conviction in district court. Trials are by a jury of twelve. In criminal cases appealed from the district court, the defendant gets a trial de novo (a whole new trial). Approximately 50 per cent of the cases in superior court are cases on appeal from district court.

#### The District Court Division

As it is for the superior court division, the state is divided into thirty district court districts; the numbers and boundaries of the districts are the same as the superior court judicial districts. Like the superior court, the district court sits in the county seat of each county. It may also sit in certain other cities and towns specifically authorized by the General Assembly. Most counties have only one seat of court, but a few counties have several; the present number of additional seats is thirty-seven. (See Table I, pages 25-28.)

**Judges.** District judges serve full time and are forbidden from practicing law privately. Each district has from two to eight judges, depending on population and geography. The Chief Justice of the State Supreme Court appoints one of them as chief district judge. The responsibilities of the chief district judge include assigning himself and the other judges of his district to sessions of court, prescribing the times and places at which magistrates will discharge their duties, assigning civil ("small claims") cases to magistrates for trial, and promulgating a schedule of minor traffic offenses for which magistrates and clerks of court may accept written appearances, waivers of trial, and pleas of guilty.

Subject-matter specialization by judges is possible in the areas of domestic relations, juvenile matters, civil matters, and criminal mat-

ters. However, total specialization can be achieved only in those districts where four or more judges hold court in the same city. Some argue that specialization should not be practiced because each judge should be capable of handling all cases heard in district court.

**Magistrates.** Magistrates for each county are appointed for two-year terms by the senior regular resident superior court judge, on nomination of the clerk of superior court. The maximum and minimum numbers of magistrates allowed each county are fixed by law. Magistrates are officers of the district court, and they are subject to the supervision of the chief district court judge in judicial matters and the clerk of court in clerical matters. They are full-time or part-time officials, as determined by the chief district judge; and their salaries, paid by the state, vary in accordance with their duties. If the minimum quota (never less than one) of magistrates in a county proves to be inadequate, additional magistrates within a maximum quota per county may be authorized by the Administrative Office, on recommendation of the chief district judge.

**Jurisdiction.** The jurisdiction of the district court is somewhat complicated and can be explained clearly only by reference to both trial court divisions, including the magistrate. In addition, for convenience the subject should be treated in four categories: civil, criminal, juvenile, and magisterial.

*Civil.* Except for the clerk of superior court's exclusive original jurisdiction over the probate of wills and the administration of decedents' estates, civil jurisdiction is concurrent between the trial divisions (superior and district) of the General Court of Justice. The proper division, however, for cases involving amounts in controversy of \$5,000 or less is the District Court Division; for cases involving amounts in controversy over \$5,000, the proper division is the Superior Court Division. Normally this \$5,000 dividing line is followed, but if the parties consent, for reasons of speed or convenience, cases may be filed and tried in the "improper" division. No case is ever "thrown out," therefore, for lack of jurisdiction, although a case, on motion before a superior court judge, may be transferred to the proper division. Exceptions to the general rule that the amount in controversy determines the proper forum arise in certain specific subject-matter categories. For example, civil domestic relations matters (divorce, custody and support of children, etc.) are properly the business of the district court, and the superior court is the proper forum for constitutional issues, special proceedings, eminent domain actions, corporate receiverships, and review of certain administrative agency rulings.

Civil cases involving amounts not over \$500 may, under certain conditions, be assigned to a magistrate for trial.

*Criminal.* The criminal jurisdiction of the district court is somewhat less complicated. Since felony cases must be tried in the superior court, the district court has authority in these cases only to conduct preliminary hearings to determine whether there is probable cause to bind the defendant over (require giving an appearance bond in place of which the defendant remains in jail pending trial) to the grand jury for indictment to stand trial in superior court. In misdemeanor cases, the district court has exclusive original jurisdiction that, with respect to very minor offenses, it shares with the magistrate. Trial is without a jury.

*Juvenile.* The district court also has jurisdiction over juvenile matters. These cases concern children under the age of sixteen who are "delinquent," "dependent," or "neglected" and those under the age of eighteen who are "undisciplined." Proceedings against children who may be found by the court to belong in one of these statutory categories are initiated by petition (as distinguished from the arrest warrant used in adult cases), and the hearing conducted by the judge is often less formal than in adult cases. Recent cases, however, have held that juveniles must be afforded due process rights. Thus children charged with actions that might result in their being transferred to the superior court for trial (this can happen in felony cases only) or to confinement in a state institution are entitled to the services of an attorney at the hearing.

*Magisterial.* Magisterial jurisdiction is both civil and criminal. The magistrate's authority in criminal matters is limited to trying worthless-check cases in which the check is for \$50 or less, accepting guilty pleas to other minor misdemeanors for which the maximum punishment is thirty days' confinement or a \$50 fine, accepting waivers of trial and guilty pleas to certain traffic cases, issuing arrest or search warrants, and fixing bail. For minor traffic offenses — a high percentage of all misdemeanors — the fine for each offense is fixed in advance by a uniform statewide schedule promulgated by the chief district judges, so that the magistrate has neither trial nor sentencing discretion in these cases. In about 70 per cent of all traffic offenses (approximately 700,000 cases), trial is waived and the matter never goes to court. The magistrate or clerk assesses the fine according to the uniform schedule.

In civil cases, the magistrate is authorized to try small claims involving up to \$500 in money value, including summary ejection (landlord's action to oust a tenant) cases, on assignment of the chief

district judge. The parties are not usually represented by attorneys, and simplified trial procedures are followed. The magistrate's judgment has the same effect as that of a district judge and is recorded by the clerk of superior court. An appeal from magistrate's court to district court gives the appealing party a trial de novo.

Besides hearing small claims cases, the magistrate is authorized to perform various quasi-judicial or administrative functions formerly discharged by justices of the peace. Of these, performance of the marriage ceremony is the most common. Other authorized functions include administering oaths, verifying pleadings, and taking acknowledgments (notarizing) of instruments.

#### How Judges Are Selected and Removed

In North Carolina judges are selected in partisan elections—except for the eight special superior court judges, who are appointed by the Governor. Supreme Court and Court of Appeals judges are nominated and elected by the voters of the entire state for eight-year terms. Superior court judges are nominated by the voters of their district and elected by the voters of the entire state for eight-year terms. District court judges are nominated and elected by the voters of their districts for four-year terms. When a vacancy arises (usually through death or mid-term retirement) in a judgeship, the Governor fills the vacancy by appointment effective until the next general election (except for district court judges, who are appointed for the remainder of a term). At the general election, the incumbent appointee almost always runs for office and almost always is elected. Thus while the Constitution provides for election of judges, almost all of the appellate and superior court judges attain office originally by appointment.

Since they do run in partisan primaries and elections (either to attain a judgeship originally or to hold a seat first attained by appointment), judges must campaign for office and seek contributions like other elected officials. However, the Code of Judicial Conduct, adopted by the North Carolina Supreme Court in 1973, places certain limitations on the campaign practices of judges and candidates for judicial office. Generally, the Code provides that a judge or candidate for election to a judgeship should not act as a leader or hold any office in a political organization, should not make speeches for a political organization or candidate or publicly endorse a candidate for public office, and should not solicit funds for a political organization or candidate. A judge may attend political gatherings, speak to such gatherings on his own behalf when he is a candidate for election, identify himself as a member of a political party, and contribute to a political party or

organization. More specifically, with regard to actions of a judge or a judicial candidate during his own campaign, the Code provides that the candidate should maintain the dignity appropriate to judicial office, should prohibit public officials or employees subject to his discretion or control from doing for him what he is prohibited from doing for himself, should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office, and should not announce his views on disputed legal or political issues. A candidate should not himself solicit campaign funds but may establish committees of responsible persons to secure and manage the expenditure of funds for his campaign and to obtain public statements of support for his candidacy. Such committees are not prohibited from soliciting contributions and public support from lawyers.

The Code covers all aspects of judicial conduct, not merely conduct with regard to political matters. It requires a judge to perform the duties of his office impartially and diligently and sets out standards for meeting these duties—including when a judge should disqualify himself in a proceeding in which his impartiality might be questioned—and use of broadcasting and photographic equipment in the courtroom. Also, the Code requires a judge to file a public report of extrajudicial activities for which he receives compensation. A judge who violates the Code may be subject to disciplinary action by the Judicial Standards Commission (see page 11). The Code is published in Volume 283, page 771, of the North Carolina Supreme Court Reports; an annotated version is available from the Institute of Government.

A "merit selection" plan for choosing judges has been under consideration in this state for several years. The plan, which would require a constitutional amendment, would make judicial offices appointive rather than elective: A nominating committee of lawyers and citizens would submit three names for each judicial vacancy to the Governor, who would appoint a judge from that list. Judges would first serve a "probationary period" until the first general election that occurred later than one year after their appointment. At that election and every eight years thereafter (six years for district court judges), judges would stand unopposed for a vote of confidence by the voters. Merit selection was first considered by the Courts Commission (see page 20), which recommended its passage to the General Assembly. The Commission felt that the plan, if enacted, would result in the selection of higher-quality judges and make the selection process less political. The plan was defeated in the General Assembly by a narrow vote in 1974 but will very likely come up again.

North Carolina has a mandatory retirement age of seventy-two for appellate judges and seventy for superior and district court judges. Before January 1, 1973, there was no retirement age. Also, before that date appellate and superior court judges could be removed from office only for mental or physical incapacity by a two-thirds vote of each house of the General Assembly (a process called address), or for any other cause by impeachment. Now, all judges of the General Court of Justice, including district court judges, may be removed by impeachment or address. The Constitution also authorizes the General Assembly to prescribe a procedure in addition to impeachment for (1) removing a judge for a mental and physical incapacity that interferes with his duties; and (2) censuring and removing a judge for willful misconduct in office, willful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

The General Assembly established a Judicial Standards Commission to implement the new constitutional provision. The Commission is composed of three judges, two lawyers, and two non-lawyers. Members serve six-year terms and are not eligible for reappointment. The Commission is authorized to receive written complaints from citizens concerning the qualifications or conduct of any judge and to investigate those complaints. It is also authorized to make an investigation on its own without receiving a complaint. After a complaint has been investigated and the judge has been given a due process hearing, the Commission, if five or more of its members approve, may recommend to the Supreme Court that the judge be censured or removed, which the Court may do for the grounds set out in the Constitution. The Commission's proceedings are confidential. A copy of the rules adopted by the Commission to govern its operations is maintained in each county by the clerk of superior court. Copies may also be obtained or complaints about the conduct of a judge may be made by writing the Commission at P.O. Box 1122, Raleigh 27611.

This new method should for the first time give the state a realistic way to remove an unfit judge, since impeachment is ill suited to this objective, and its use is very rare. In its first annual report, the Commission reported that it received twenty-three complaints in 1973. Fourteen of the complaints were determined to involve matters not within the Commission's jurisdiction. One was determined not to warrant investigation; and one had not yet been considered. Seven complaints required preliminary investigation. In two of these investigations the judge was exonerated of misconduct; in two cases the judge vacated

his office before the investigation was completed; in one the judge accepted a reprimand in lieu of a formal hearing; and in two cases investigations were still in process.

#### **District Attorneys (formerly known as Solicitors)**

In criminal and some juvenile matters, the district attorney represents the state. The state is divided into prosecutorial districts that coincide with the judicial districts for the superior and district courts. The district attorney is elected in a partisan election by the voters of his district to a four-year term. Each district has one or more full-time assistant district attorneys, depending on the caseload (the busiest district has ten), who serve at the pleasure of the district attorney. They are paid by the state. District attorneys and their assistants are required to devote full time to their prosecutorial duties and may not engage in the private practice of law. Each district attorney is authorized to have an administrative assistant, who need not be a licensed attorney, to aid in office administration and calendaring of cases. In the most populous districts, the district attorney also has a staff investigator.

The primary duty of the district attorney, with his assistants, is to prosecute all crimes in the superior and district court divisions. His other duties include preparing the trial docket, advising law enforcement officers in his district, performing such duties related to appeals to the Appellate Division from his district as the Attorney General may require, and to represent the state in certain juvenile cases.

In this state, district attorneys have great discretionary power. They have full control over the calendaring of cases and over deciding which cases to try and in which cases to accept a guilty plea for a lesser offense than that for which the defendant was indicted. A district attorney may be removed from office for misconduct after a due-process hearing before a superior court judge.

#### **Clerks of Superior Court**

The clerk of superior court is elected for a four-year term by the voters of his county. He is paid by the state, his salary depending on the population of his county. The clerk is judge of probate—that is, he has exclusive original jurisdiction over matters relating to the probate of wills and the administration of estates of decedents, minors, and incompetents. He also has authority to hear a variety of special proceedings such as adoptions and condemnation of private lands for public use. The clerk is responsible for all clerical and record-keeping functions of the superior court. To these duties have been added the

identical functions of the district court, so that each county has only one trial court clerk's office. The clerk's former function as judge of juvenile court has been transferred to the district court, but he is empowered to issue arrest and search warrants and to exercise the same powers as a magistrate with respect to minor traffic offenses. Depending on the volume of business, the clerk has a number of assistants and deputies employed by him and paid by the state in accordance with a schedule fixed by the Administrative Office of the Courts.

The clerk's books and accounts are subject to annual audit by the State Auditor, and the clerk is bonded by a blanket state bond. In the event of a clerk's misconduct or mental or physical incapacity, the senior resident superior court judge serving the clerk's county is empowered, after notice and hearing, to remove him.

#### **Juries**

In criminal cases there is no jury in district court or before the magistrate, but there is a twelve-man jury in district civil court, on demand. The superior court has a twelve-man jury in both civil and criminal cases. The Appellate Division has no jury.

Every two years a master jury list is prepared in each county by a jury commission — three private citizens. The list is prepared by taking names from tax and voter-registration rosters in a systematic manner to avoid favoritism and discrimination. For each week of court, 36 to 48 prospective jurors are randomly selected from this list. All county residents are eligible for jury service except those who have served on the jury in the last two years, who are under eighteen years of age, who are physically or mentally incompetent, or who have been convicted of a felony and have not had their citizenship restored. Only the judge can exempt a person who has been called from serving. A trial juror's service is normally one week.

The grand jury consists of eighteen persons, half drawn from the jurors called for the first criminal term after January 1 and half from those called for the first criminal term after July 1. The grand jury determines whether persons accused of felonies probably committed the crime for which they are charged. Indictment (official accusation by the grand jury) is a necessary prerequisite to trying a person, unless the accused waives it. The accused can waive indictment in all cases except those for which the punishment would be death. A grand jury member serves twelve months (the grand jury usually meets for one or two days at the beginning of each criminal session).

### Representation of Indigents

Defendants accused of minor crimes (except for minor offenses that in fact will not result in imprisonment) who are financially unable to employ a lawyer to represent them are entitled to the services of a lawyer at state expense. If the trial judge determines that the accused is indigent, he assigns a local attorney to represent the accused. Fees and necessary expenses of lawyers so assigned are paid by the state.

In three judicial districts—the twelfth (Cumberland and Hoke counties), the eighteenth (Guilford County), and the twenty-eighth (Buncombe County) — the assigned-counsel system has been supplemented by the public defender system. The public defender is a full-time state-paid attorney whose sole function is to represent indigents. He and his staff represent most of the indigent defendants in the district, although private attorneys are still called upon from time to time to represent indigents. Two of the defenders are appointed by the Governor and the third (twenty-eighth district) by the senior resident superior court judge on the written nomination of their district bars for four-year terms. If the defender system proves to be more efficient than the assigned-counsel system, it will probably become the primary means for furnishing lawyers to indigents in a number of the urban districts of the state. Due to insufficient volume of cases, the defender is not likely to replace the assigned-counsel system in rural districts.

The costs of the system in 1973-74 were \$3,838,883.27, a 46.3 per cent increase over the previous year, and account for 11.3 per cent of total Judicial Department expenditures.

### Financial Support of the Courts

Since the unified court system was established in 1965, all operating expenses — \$34 million in 1973-74— of the Judicial Department have been borne by the state. These include salaries and travel expenses of all court officials as well as legal services for indigents and juror and witness fees. Counties and cities, however, continue to be responsible for providing the courtrooms and related judicial physical facilities (including furniture). All of the financing of the judicial system comes from state funds appropriated by the General Assembly. The courts return about 30 per cent of this to the state by assessing costs and fees. In civil actions there are two primary cost items: a *General Court of Justice fee*, which goes to the state for the support of the court system generally, and a *facilities fee*, which goes to the county or city that supplies the physical facilities to be used for the support of the court facilities only. In criminal actions, in addition to the General Court of

Justice and the facilities fees, the court collects a *law enforcement officers' fee* of \$2 for each arrest or personal service of criminal process, which goes to the county or city whose officer performed the service, and a *Law Enforcement Officers' Benefit and Retirement Fund fee* of \$3, which is remitted to the State Treasurer for the law enforcement officers' retirement fund.

### Uniform Basic Costs Bill

Type of Case	Magistrate	District Court	Superior Court
Criminal	\$16	\$16	\$40
Civil	\$ 7	\$10-15*	\$25

\*Costs of \$10 if the amount sued for is not more than \$500 and \$15 if it exceeds \$500.

In addition to these basic cost items, in particular cases the party held liable may be charged for other expenses such as witness or guardian fees. Witnesses are paid \$5 per day and jurors receive \$8 per day.

Fines and forfeitures must be distinguished from costs and fees. A fine is a money penalty imposed by the judge on a defendant as punishment upon conviction of a crime. A forfeiture occurs when a judge orders a bond forfeited for failure to meet the conditions of the bond. Under our State Constitution, fines and forfeitures go to the county school fund and are not used to support the court system.

### Administrative Office of the Courts

The Administrative Office of the Courts is the nonjudicial administrative organization responsible for administrative direction of the Judicial Department. The major duties of the office include establishing fiscal policies and preparing the budget for the Judicial Department; personnel management through establishment of position authorizations, job classifications, and pay plans; prescribing uniform forms, records, and business methods and systems for the offices of clerks, and supervising the establishment and maintenance of an office of consolidated records in each; maintaining statistical services; purchasing, contracting for, and maintaining property control; planning and research; making recommendations for improving the operations of the Judicial Department; supervising the assignment of legal counsel for indigents; and making court assignments for superior court judges. The Administrative Office is headed by a Director, who is appointed by the Chief Justice of the North Carolina Supreme Court.

### Juvenile Counseling Program

North Carolina has a uniform court counselor program operated under the control of the Administrative Office of the Courts to provide probation and after-care services to juveniles. Each judicial district has one or more court counselors, who not only have the duties of juvenile probation officers but also conduct pre-hearing social studies of children alleged to be delinquent or undisciplined. They help the court handle cases in which a child needs detention before or after a hearing. They may also receive complaints concerning a child alleged to be undisciplined or delinquent and conduct a preliminary inquiry to determine whether a juvenile petition should be filed against the child.

### Court Reporters

Court reporters are appointed by the senior resident judge for the superior court and by the chief district judge for the district court. Compensation is set by the appointing judge, within limits fixed by the Administrative Office of the Courts. Reporters are required to record verbatim courtroom proceedings, including testimony of witnesses, orders, judgments, and jury instructions of the judge. Transcripts of courtroom proceedings are required when an appeal is taken, and reporters receive a fee in addition to their salaries for preparing transcripts for the appealing parties. A reporter is not required in district court criminal sessions since, on appeal, there is an entirely new trial. The reporter's original notes are state property and are preserved by the clerk.

## RELATED AGENCIES

### The Department of Justice

The North Carolina Department of Justice consists of the Office of the Attorney General, the State Bureau of Investigation, the Division of Criminal Statistics (Police Information Network), the Division of Legislative Drafting and Codification, the Division of Consumer Protection, the Division of State Agencies, the Division of Local Government, and the Division of Lands and Contracts. It is the duty and responsibility of the Attorney General to appear in all actions, civil or criminal, in the appellate court division in which the state either is interested or is a party and to represent all state departments, agencies, and institutions. The Attorney General's Office consults with and

advises the district attorneys whenever they request such assistance, and has established a special Prosecution Division to prosecute or assist in prosecuting criminal cases at the trial level when requested to do so by a district attorney.

The State Bureau of Investigation helps identify and apprehend criminals, and also helps in scientifically analyzing evidence of crimes and in investigating and preparing evidence that is to be used in criminal courts. The SBI aids local law enforcement officers or district attorneys whenever asked for help.

The Police Information Network is a branch within the Department of Justice that operates a high-speed computerized communication system for receiving and disseminating to law enforcement agencies information that will assist them in performing their duties. Such information includes data on motor vehicle registration, stolen vehicles, wanted and missing persons, stolen property, firearms registrations, warrants, and parole and probation histories. Computer terminals are set up in state and local law enforcement agencies, so that an officer who needs this type of information while investigating a case can get it quickly and efficiently.

The Attorney General is also charged with giving his opinion on all questions of law submitted to him by state officers. These rulings are called Attorney General's Opinions and are published in bound volumes. These opinions are usually in response to an inquiry from a governmental official about an unclear area of the law. Attorney General's opinions are not binding, and are advisory only.

### The Governor's Committee on Law and Order

The Committee on Law and Order was established in 1969 pursuant to the federal Omnibus Crime Control and Safe Streets Act as a mechanism for allocating approximately \$13 million per year in federal funds within the criminal justice system of North Carolina. Supported by staff assistance from the Division of Law and Order of the Department of Administration, the Committee on Law and Order meets monthly to review grant applications. The Committee is composed of both state officials involved in the criminal justice system and private citizens and is chaired by the Governor.

Each year the Committee on Law and Order publishes an Annual Action Plan, which describes the types of projects that will be funded within the next fiscal year. It also prepared a Multi-Year Plan that forecasts the allocations to priority projects over a five-year period.

The Committee facilitates innovative projects in law enforcement, corrections, rehabilitation, and the adjudication process. Examples of projects funded by the Committee on Law and Order include: administrative and investigatorial assistants for district attorneys; the revision of the criminal code; training and educational opportunities for court-related personnel; revision of the rules of appellate procedure; study of indigent defense services of North Carolina; and a computerized court information system.

Further information can be obtained from the Division of Law and Order, 3800 Barrett Drive, Raleigh, North Carolina 27611.

## THE GENERAL ASSEMBLY

Although the General Assembly is not a direct component of the judicial system, its actions have a tremendous impact on the system, for it is the legislature, by its enactment of laws and funding of programs, that determines how the system will run and what its goals will be. The General Assembly receives reports and recommendations from commissions studying the criminal adjudication process and court system and decides whether to enact them into law. Also, the legislature enacts many laws that have not come from a study commission but have a great effect on the system.

Several committees of the General Assembly deserve special mention. Most laws dealing with trial procedure and substantive criminal and civil law changes come out of the judiciary committees of the House and the Senate. Each house has two judiciary committees — Judiciary No. 1 and Judiciary No. 2. Each house also has a Courts and Judicial District Committee, which generally handles matters concerning the administration of the court system, including bills creating additional judges or magistrates, establishing retirement plans for judges, providing for additional assistant district attorneys, and setting up public defender systems. Usually, before acting on any bill relating to the administration of the court system, these committees consult with the Director of the Administrative Office of the Courts

### Judicial Budget Process

Finally, the budget process merits attention. The budget process begins when the Director of the Administrative Office of the Courts

submits a detailed proposed budget for the Judicial Department to the State Budget Officer (who heads a division within the Department of Administration). The budget request is divided into three categories: (1) the base budget, which requests funds needed to continue the operation of the department at the same level of existing support; (2) the change budget, which includes a request for additional funds to provide for increases in salaries and caseloads and to establish new programs; and (3) the capital improvements budget, which includes requests for new buildings. The budget request is reviewed by the Budget Division and public hearings are held on it. Finally, the Governor and the Advisory Budget Commission (composed of the chairmen of House Finance and Appropriations committees, the chairman of Senate Finance and Appropriations committees, two other senators, two other representatives, and four other persons appointed by the Governor) in closed session decide how much of the request to put in the proposed budget. The Budget Division prepares the budget bills and sends them to the General Assembly when the Governor makes his budget message early in the legislative session. When the General Assembly receives budget bills, the House and Senate Appropriations committees meet jointly to consider them. The Budget Officer briefs the committees on the bills. The General Assembly has its own Fiscal Research Division, which is available to give technical assistance. The Director of the Administrative Office may appear at the committee hearings and try to get the committees to provide funds additional to those provided by the Governor and Advisory Budget Commission in the budget bills. Generally, the Appropriations committees spend from eight to ten weeks studying the budget and then report out to the full General Assembly a substitute bill that embodies the changes they have made from the bills submitted by the Governor and Advisory Budget Commission. The bills may be amended on the floor of the House and the Senate, but this does not often happen. Usually the budget is quickly enacted after it has been reported out of committee.

Once the budget has been adopted, other bills carrying an appropriation will be considered. For instance, if the Courts committees have approved bills creating new judgeships, or increasing the number of assistant district attorneys, these bills will have been sent to the Appropriations committees. After the budget has been adopted, the Appropriations committees will decide whether those particular bills are of high enough priority to merit an appropriation.

## STUDY COMMISSIONS

From time to time, the General Assembly has established various commissions and councils to study the court system as a whole or to study a particular aspect of the system. These commissions play a vital role in the judicial system: Their thorough studies and the resulting recommendations to the General Assembly have brought about major changes in the administration of the judicial system, in the substantive law, and in court procedure. A discussion of some of these commissions and their work is necessary to understand the judicial system.

### North Carolina Courts Commission

The North Carolina Courts Commission, originally established in 1963 by the General Assembly, is charged with making continuing studies of the structure, organization, jurisdiction, procedures, and personnel of the Judicial Department and the General Court of Justice. The Commission meets regularly when the legislature is not in session and makes recommendations to the General Assembly for changes to facilitate the administration of justice. It has fifteen members, at least eight of whom must be members or former members of the General Assembly and at least two of whom must be nonlawyers. Members serve four-year terms. The Commission holds its meetings in the Legislative Building.

The Commission was set up as a permanent body in 1969. Through the years it has planned and made legislative recommendations: for the Uniform General Court of Justice System; creating the North Carolina Court of Appeals; placing a mandatory retirement age for judges; establishing a Judicial Standards Commission to hear complaints regarding judges; setting up a new retirement system for judges; recommending a merit selection plan for judges (to replace current provisions for electing judges); modernizing the selection of jurors; revamping juvenile jurisdiction and procedures; and recommending that district attorneys be full-time state employees.

### Judicial Council

The Judicial Council, first established in 1949, consists of eighteen members who include judges, district attorneys, and members of the General Assembly. Its duties include: making a continuing study of the administration of justice in North Carolina; receiving criticisms and suggestions pertaining to the administration of justice; and rec-

ommending to the legislature or the courts changes in the law or in the organization, operation, or methods of conducting the business of the courts, or changes of any other matter pertaining to the administration of justice. The Council in the last few years has confined its studies and recommendations primarily to changes in criminal law and procedure, especially as suggested or required by recent court decisions. It annually files a report with the Governor. The Assistant Director of the Administrative Office of the Courts is its Executive Secretary.

### Crime Study Commission

The 1973 General Assembly established the Crime Study Commission to study legislation designed to reduce crime in North Carolina. The Commission is charged with collecting and reviewing: existing legislation in North Carolina designed to reduce crime; crime information reports; studies and findings in the field of crime from other state and national bodies; and information on the North Carolina criminal justice system with a view toward relating all of these items to the problem of reducing crime in North Carolina.

The Commission is required to make annual reports to the General Assembly. In its 1974 report, it concluded that a major problem confronting the justice system is excessive delay in the administration of justice and recommended a speedy-trial bill to the General Assembly to correct this problem.

The Commission has nine members, who serve two-year terms. Its office address is 2109 Legislative Building, Raleigh.

### Criminal Code Commission

In 1971, the General Assembly created the Criminal Code Commission to study North Carolina criminal law and procedure thoroughly and prepare proposed legislation for submission to the General Assembly. The Commission has thirty members appointed by the Attorney General; the membership includes judges, defense lawyers, district attorneys, law enforcement officers, and law professors. It has drafted and submitted to the General Assembly a comprehensive new code of pretrial criminal procedure (which in a greatly modified form was enacted by the 1974 General Assembly). After completing the pretrial procedure code, the Commission began studying and preparing legislation on trial and post-trial criminal procedure and plans to undertake a revision of the substantive criminal law.

## EDUCATION AND TRAINING OF COURT PERSONNEL

Because court personnel need to keep up with ever changing law and procedure, education and training programs for them are essential to a good judicial system. Several agencies play a role in providing this vital service.

**Administrative Office of the Courts.** The Administrative Office works closely with the Institute of Government in planning and preparing programs, and it supplies legal memoranda, books, and materials to court personnel.

**Institute of Government.** The Institute of Government (part of the University of North Carolina at Chapel Hill) engages in research, teaching, and consultation with court personnel. It conducts ten or twelve seminars or short courses per year for judges, clerks, district attorneys, and magistrates. It also publishes various articles, memoranda, and books to aid court personnel in their work. These publications are available from the Institute in Chapel Hill.

**Criminal Justice Training and Standards Council.** In 1971, with the intent that education and training be made available to persons who seek to become or are already criminal justice officers, the General Assembly established the North Carolina Criminal Justice Training and Standards Council. The Council is responsible for establishing the minimum educational and training standards for employment as a law enforcement officer and for certifying those who meet standards as law enforcement officers. It consults and cooperates with counties, cities, state agencies, colleges, and other institutions concerning the development of criminal justice training schools and programs of instruction. It also sets the minimum standards and levels of education or equivalent experience for all law enforcement instructors, teachers, or professors.

The Council has twenty-five members who include sheriffs, police officers, and representatives of the Attorney General's Office, the Department of Motor Vehicles, the correctional system, and the court system.

**Criminal Justice Education and Training System Council.** Set up in 1973, the North Carolina Criminal Justice Education and Training System Council is responsible for formulating basic plans and

promoting the development of a comprehensive system of education and training for employees of criminal justice agencies consistent with the regulations and standards of the North Carolina Criminal Justice Training and Standards Council. The Council is composed of sheriffs, policemen, county commissioners, mayors, criminal justice educators, law enforcement training officers, judges, district attorneys, and various ex officio members who head state departments that deal with the criminal justice system. A Criminal Justice Training Academy is now being set up at Salemburg. The Council is developing training programs that will meet the standards established by the Training and Standards Council. The first programs offered at the Academy will be for local law enforcement officers in smaller communities, since most larger cities now have their own law enforcement training programs. Eventually, as the Academy becomes firmly established, it will expand its programs to include other criminal justice personnel like corrections and probation officers.

## PRIVATE ORGANIZATIONS

Private associations of court officials, the North Carolina State Bar, and the North Carolina State Bar Association contribute to the working of the adjudication process.

**Private Associations of Court Personnel.** Each group of court officials has formed its own private organization to meet and discuss mutual problems. Each group holds at least one annual meeting (superior court judges, district court judges, and district attorneys hold more than one meeting a year). These meetings are primarily educational; speakers are brought in to discuss new changes in the law affecting the group and discussions are held about any matter that concerns the group. Generally, the officers of the associations plan the programs with the Institute of Government and the Administrative Office. Another function of these organizations is to permit the particular group of court officials to take positions and lobby for or against specific bills in the General Assembly of interest to the group.

These organizations include: North Carolina Conference of Superior Court Judges; North Carolina Conference of District Court Judges; North Carolina Association of Clerks of Superior Court; Association of Assistant and Deputy Clerks of Court; North Carolina Magistrates Association; North Carolina District Attorneys Association; and North Carolina Shorthand Reporters Association.

**North Carolina State Bar.** The North Carolina State Bar is the official organization of attorneys for the state. This organization, through its Board of Law Examiners, licenses attorneys. The State Bar also is the body to initiate disciplinary action against attorneys and to adopt the canons of ethics for lawyers. To practice, an attorney must be a member of the State Bar. In addition to its regular and prescribed functions, the State Bar also studies matters of general importance to the adjudication process. For instance, the Bar has a committee studying the use of paraprofessional staff in this state and has endorsed a pilot program for training paralegals to be conducted at Central Carolina Technical Institute in Sanford. Another Bar committee is studying the advisability of prepaid legal services, an issue of current national interest.

The North Carolina State Bar has issued a Code of Professional Responsibility, which defines the ethical conduct that the public has a right to expect of attorneys. Attorneys are bound by this Code and look to it for guidance with regard to acceptable professional conduct. The State Bar has a committee that investigates complaints of unethical practice by an attorney and, if a violation is found, initiates disciplinary action. Any citizen who wishes to make a complaint about the conduct of an attorney or who wants a copy of the Code of Professional Responsibility should contact the North Carolina State Bar, P. O. Box 25850, Raleigh.

**North Carolina Bar Association.** The North Carolina Bar Association is a private association of North Carolina lawyers. The association has many committees that study various areas of the law. A well-known recent Bar Association study was its thorough investigation of North Carolina's juvenile corrections system, entitled *As the Twig Is Bent*. The Bar Association provides continuing legal education programs for members of the bar, and this service is its most important function. It conducts several continuing-education seminars each year. These programs play an important role in keeping attorneys apprised of new procedures and changes in substantive law. The office of the Bar Association is located at 1025 Wade Avenue, Raleigh.

**Table I**  
Superior and District Court Divisions

Jud. Dist.	Trial Judges		Full-Time Asst. D.A.s	County	Magistrates		Add'l Seats of Court
	Sup. Ct.	Dist. Ct.			Min.	Max.	
1	1	2	2	Camden	1	2	
				Chowan	2	3	
				Currituck	1	2	
				Dare	2	3	
				Gates	2	3	
				Pasquotank	3	4	
Perquimans	2	3					
2	1	2	2	Martin	3	5	
				Beaufort	4	5	
				Tyrrell	1	2	
				Hyde	2	3	
				Washington	3	4	
3	1	4	4	Craven	5	7	Farmville Ayden
				Pitt	9	11	
				Pamlico	2	3	
				Carteret	4	6	
4	1	4	4	Sampson	5	7	
				Duplin	9	10	
				Jones	2	3	
				Onslow	8	10	
5	1	3	4	New Hanover	6	9	
				Pender	4	6	
6	1	3	2	Northampton	5	6	Roanoke Rapids Scotland Neck
				Halifax	7	11	
				Bertie	4	5	
				Hertford	5	6	
7	2	4	3	Nash	7	10	Rocky Mount Rocky Mount
				Edgecombe	4	6	
				Wilson	4	6	
8	1	5	3	Wayne	5	7	Mount Olive
				Greene	2	3	
				Lenoir	4	7	

Table I (continued)  
Superior and District Court Divisions

Jud. Dist.	Trial Judges		Full-Time Asst. D.A.s	County	Magistrates		Add'l Seats of Court
	Sup. Ct.	Dist. Ct.			Min.	Max.	
9	1	3	2	Person	3	4	
				Granville	3	4	
				Vance	3	4	
				Warren	3	4	
				Franklin	3	5	
10	3	6	8	Wake	12	16	Apex Wendell Fuquay-Varina
11	1	4	3	Harnett	7	9	Dunn Benson, Selma
				Johnston	10	12	
				Lee	3	5	
12*	2	5	7	Cumberland	10	15	
				Hoke	2	3	
13	1	3	2	Bladen	4	6	Shalotte Tabor City
				Brunswick	4	6	
				Columbus	6	8	
14	2	3	3	Durham	6	8	
15	1	4	4	Alamance	7	9	Burlington Siler City Chapel Hill
				Chatham	3	4	
				Orange	4	6	
16	1	3	3	Robeson	8	12	Fairmont Maxton Red Springs Rowland St. Pauls
				Scotland	2	3	
17	1	4	3	Caswell	2	4	Reidsville Eden Madison
				Rockingham	4	8	
				Stokes	2	3	
				Surry	4	6	Mt. Airy

\*The twelfth district also has four full-time assistant public defenders.

Table I (continued)  
Superior and District Court Divisions

Jud. Dist.	Trial Judges		Full-Time Asst. D.A.s	County	Magistrates		Add'l Seats of Court
	Sup. Ct.	Dist. Ct.			Min.	Max.	
18**	3	7	8	Guilford	17	22	High Point
19	2	5	4	Cabarrus	4	7	Kannapolis
				Montgomery	2	3	
				Randolph	4	6	
				Rowan	4	8	
20	1	4	4	Stanly	5	6	
				Union	4	6	
				Anson	4	5	
				Richmond	5	6	
				Moore	5	6	Hamlet Southern Pines
21	2	5	6	Forsyth	3	15	Kernersville
22	1	4	4	Alexander	2	3	Thomasville
				Davidson	5	7	
				Davie	2	3	
				Iredell	4	6	Mooresville
23	1	2	1	Alleghany	1	2	
				Ashe	2	3	
				Wilkes	4	6	
				Yadkin	2	3	
24	1	2	1	Avery	2	3	
				Madison	3	4	
				Mitchell	3	4	
				Watauga	3	4	
				Yancey	2	3	
25	2	5	4	Burke	4	6	
				Caldwell	4	6	
				Catawba	6	9	
26	4	8	10	Mecklenburg	15	25	Hickory
27	3	5	6	Cleveland	5	8	
				Gaston	10	18	
				Lincoln	3	5	

\*\*The eighteenth district also has seven full-time assistant public defenders.

Table I (continued)  
Superior and District Court Divisions

Jud. Dist.	Trial Judges		Full-Time Asst. D.A.s	County	Magistrates		Add'l Seats of Court
	Sup. Ct.	Dist. Ct.			Min.	Max.	
28***	2	4	4	Buncombe	6	10	
29	1	3	3	Henderson	4	6	
				McDowell	3	4	
				Polk	2	3	
				Rutherford	6	8	
				Transylvania	2	3	
30	1	2	2	Cherokee	2	3	Canton
				Clay	1	2	
				Graham	2	3	
				Haywood	4	6	
				Jackson	2	3	
				Macon	2	3	
				Swain	2	3	

\*\*\*The twenty-eighth district also has three full-time assistant public defenders.

Table II

Compensation of Officials of the Judicial Department, 1974

Chief Justice, Supreme Court	\$39,000
Associate Justice, Supreme Court	38,000
Chief Judge, Court of Appeals	36,500
Judge, Court of Appeals	35,500
Director, Administrative Office of the Courts	32,500
Judge, Superior Court*	30,500
District Attorney	27,000
Asst. District Attorney	17,500 (average)
Public Defender	27,000
Asst. Public Defender	17,500 (average)
Clerk, Superior Court	9,900-24,000
Chief Judge, District Court	24,500
Judge, District Court	23,500
Magistrate, District Court	1,200-10,074
Reporters (40 weeks minimum)	10,164-13,416 (plus fees)

\*Superior court judges receive a travel allowance of \$5,500 per year.

END