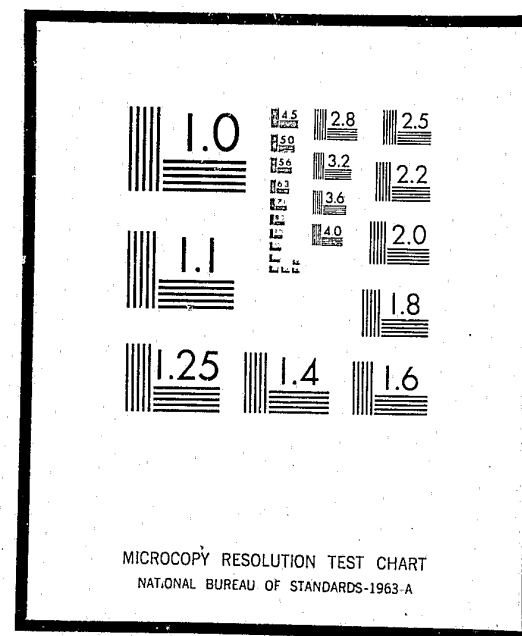


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## HOW TO WATCH A COURT

BY MICHAEL N. BORISH AND BARBARA FENOGLIO

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NOVEMBER 1974  
SEPTEMBER 1975

## Chapter 1

### WHY WATCH A COURT?

#### THE PROBLEM

Taking pot shots at the criminal courts is a popular pastime in Illinois. No license is needed....only a platform. And the audience, a worried public, shudders at each new charge.

The message that all is not right with the administration of criminal justice has come through clearly enough. But people are confused about what is wrong and what might be done about it. And no wonder! Each critic looks at the courts from his own particular vantage point and, naturally, sees different problems, different causes and different solutions.

Some citizen groups blame "lazy," "rude," "too strict," or "too lenient" judges. Others criticize antiquated procedures. Judges cite an increasing volume of cases, inadequate courtroom space, lack of personnel, excessive demands for continuances. Criminologists point accusing fingers at laws attempting to regulate morality for jamming the courts with "victimless" crimes, an estimated 50 per cent \* of the case-load.

To what extent these factors affect the quality of justice in the state's criminal courts is uncertain. But the League of Women Voters of Illinois believes there is a way for interested citizens to assess the various charges being leveled at their courts and to work with the judiciary and the public toward improving the system. It is the citizen court watching project.

#### COURT WATCHING WORKS!

The value of this method -- using trained volunteers to collect data and recommend improvements -- has already been demonstrated in a number of communities in the United States.

For example, monitor's reports have resulted in several changes in court procedures in Rochester, N.Y.. To alleviate confusion, bailiffs now announce at the beginning of each session what kinds of cases are to be heard in that court. Dockets are posted on bulletin boards in each courtroom listing the names of all persons whose cases are to be heard there. Judges take more pains to explain procedures.

In Peoria, Ill., the calendar call in misdemeanor courts has been staggered so that less waiting time is spent by police and other witnesses, lawyers and defendants. An information booth has been installed in the courthouse lobby at the suggestion of court watchers, who are now working to inform the community of the need for a court administrator.

After reports from Massachusetts volunteers, the chief justice of the Supreme Judicial Court promulgated a set of rules for the district courts which include requirements that the advice of rights and other statements by judge and clerk be clear and intelligent.

\* President's Commission on Law Enforcement and the Administration of Justice, The Challenge of Crime in a Free Society.

gible, that there be no bench conferences during a trial, and that a judge announce his finding of guilty or not guilty before looking at a defendant's previous record.

Chester (Pa.) court watchers helped make public trials truly public by winning installation of an audio system where it had been impossible to hear the proceedings.

Thus there is a way for citizens to help improve their courts, and the Illinois Court Watching Project was designed to assist them in doing so.

#### THE PROJECT

Daily from February through June 1975, trained volunteers will monitor courts in pilot projects in four Illinois counties -- Champaign, Cook, DuPage and Warren. Watchers will collect data on some of the factors which critics charge are affecting the quality of justice: continuances, "victimless" crimes, courtroom procedures and facilities, and treatment of persons appearing before the court.

Court watchers will be guided by local steering committees which will talk with local judges, analyze the information collected and make recommendations for improvements, if indicated. A state steering committee, composed of representatives from numerous civic and professional organizations, will issue a final report to the Illinois Law Enforcement Commission, the League of Women Voters of Illinois, the judiciary and the public.

Plans for the second and third years of the program call for expanding the project to additional circuits and courts and collecting other kinds of information. The League hopes that the project will serve as a model for citizens in other communities to use in monitoring their courts.

#### WHY MISDEMEANOR COURTS?

The misdemeanor courts were chosen for the first year's project because they are "the people's courts," the place where most offenders meet the law for the first time. As such, they should be models which exemplify justice under law. Studies have shown this is not always the case.

Unglamorous, hardworking, often neglected by reformers, the Illinois misdemeanor courts dispose of more than 300,000 cases a year. The burdens of increasing population and rising crime rates are, in some places, forcing assembly-line justice. The situation has been likened to that of a factory built to produce Brooks Brothers suits which is suddenly confronted with the need to supply Robert Hall.

Shocked at what it saw in the lower criminal courts, the President's Commission on Law Enforcement and the Administration of Justice warned that no program of crime prevention would be effective without a "massive overhaul" of these courts.

The advice given years ago by Charles Evans Hughes, Chief Justice of the United States Supreme Court (1930-41), still seems appropriate: "The Supreme Court of the United States and the courts of appeal will take care of themselves. Look after the courts of the poor, who stand most in need of justice. The security of the republic will be found in the treatment of the poor and ignorant; in indifference to their misery and helplessness lies disaster."

## Chapter 2

### ILLINOIS COURTS

#### A BRIEF HISTORY

"Before there was neither darkness nor light, evening or morning, earth or sea, fish or beast. And many looked upon this and saw that it was not good." With these words, University of Illinois Law Professor Rubin G. Cohn was describing not the primordial ooze but rather the condition of the Illinois court system prior to 1964.\*

Organized simply in 1818 under the first of four Illinois Constitutions, by the 1960's the court system had evolved into a cumbersome maze. There were hundreds upon hundreds of trial courts -- justice of the peace courts, police magistrate courts, county courts, probate courts, circuit courts, municipal courts, city courts, village courts, town courts and, in Cook County, Superior Court and Criminal Court. Their jurisdictions were limited, special, parallel, overlapping.

From this the voters of Illinois delivered us in 1962 when they approved a judicial amendment to the state Constitution. It took effect on January 1, 1964, and gave the state a modern, unified court structure, one widely accepted as a model.

The change was brought about through the efforts of a large number of civic, business and professional organizations which conducted a statewide campaign to win voter approval of the 1962 judicial "Blue Ballot" amendment. Some of the same groups (including the Illinois State Bar Association and the League of Women Voters of Illinois) have continued working for a change in the way Illinois judges are chosen. Instead of contested, political election, these groups endorse the non-partisan "merit" appointment method.

In the 1970 referendum on the new Constitution, a merit plan was submitted to the voters as a separate issue. Although the issue carried in Cook, DuPage, Lake, Kane, McHenry and McLean Counties, it failed to pass statewide. Therefore, candidates for the bench are still nominated by political parties in primary elections and presented to voters in contested elections.

#### STRUCTURE

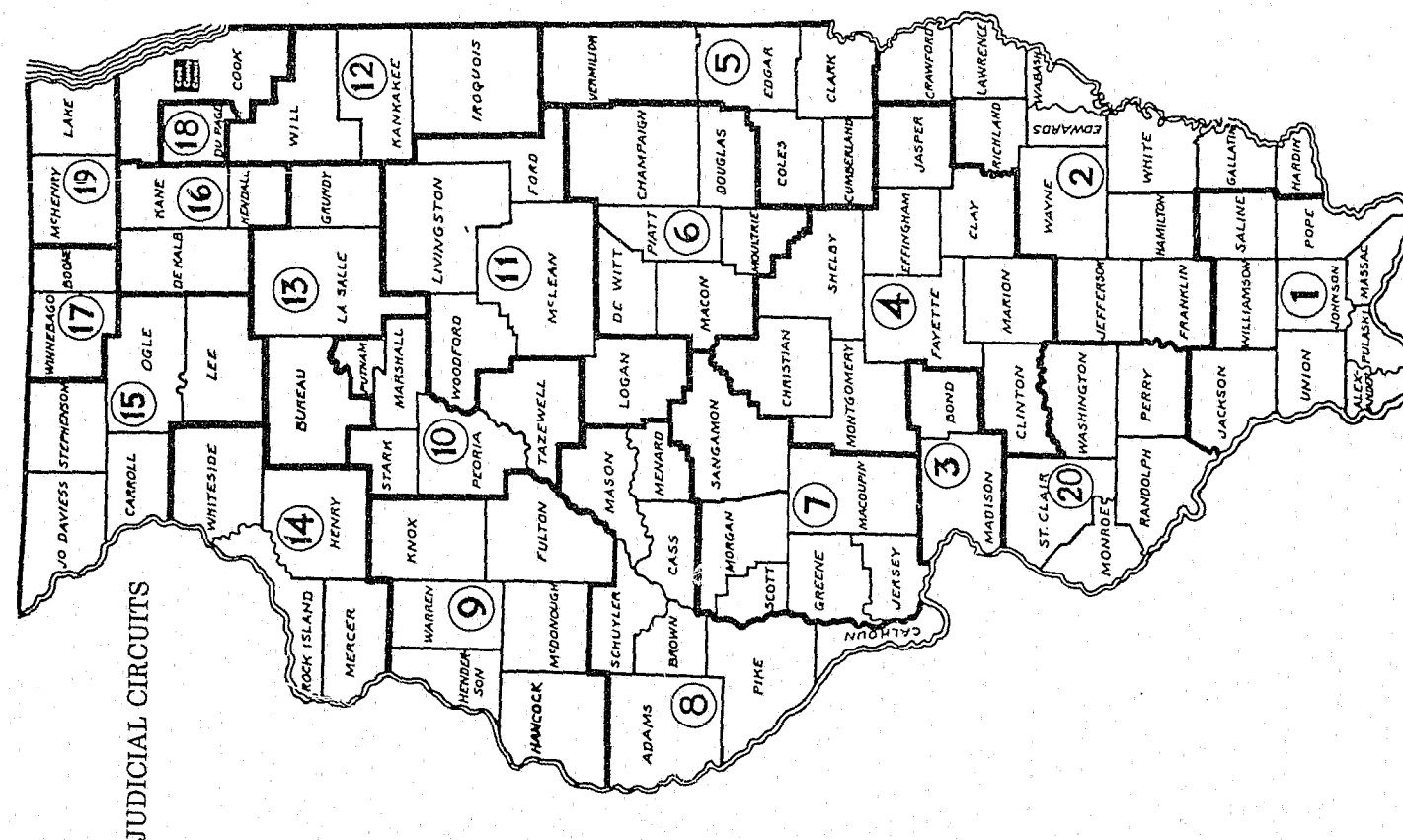
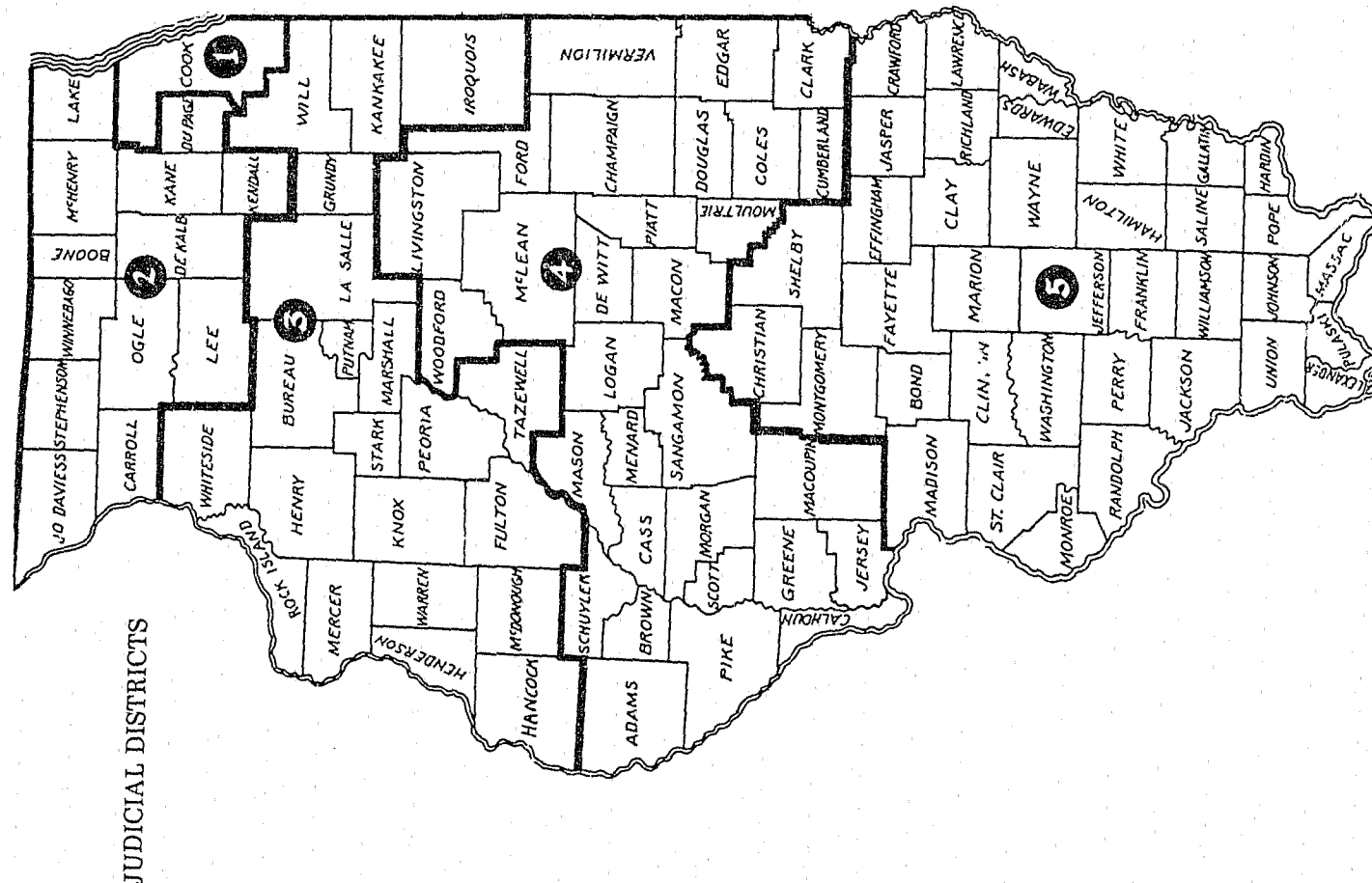
All of the state's judicial power is vested in three courts: Supreme, Appellate and Circuit. Their respective jurisdictions -- both as to geographic area and type of case -- are outlined below.

#### CIRCUIT COURTS

Geographic areas -- Illinois is divided into the judicial circuit of Cook County and 20 numbered downstate circuits. (See map on p. 4) Other than Cook, the only circuit presently comprised of a single county is the 18th -- DuPage. (Organization of the Cook County Circuit is described in "The Largest Court in the World" in Chap. 7.)

Jurisdiction -- The Circuit Courts have been termed "the main nerve center of the Illinois court system." As the only trial courts in the state, they are empowered to hear virtually all litigation, civil and criminal.

\* Rubin G. Cohn, To Judge with Justice: History and Politics of Illinois Judicial Reform



There are only three areas in which the Circuit Court may not exercise its jurisdiction: 1) The Supreme Court has original and exclusive jurisdiction in cases involving legislative redistricting and the ability of the governor to serve in office. 2) The Supreme Court has concurrent, discretionary original jurisdiction to hear cases relating to revenue, *mandamus*, *prohibition* and *habeas corpus*.\* (And if it chooses to exercise that original jurisdiction, the Circuit Court is barred from acting in the same case.) 3) The Appellate Court directly reviews orders of the Pollution Control Board and of the State Board of Elections on matters dealing with campaign financing disclosure.

#### APPELLATE COURT

Geographic areas -- The Illinois Appellate Court is divided into five districts, each of which hears appeals arising from the Circuit Courts within that district. Cook County comprises the 1st District; within it are five divisions, all sitting in Chicago. The other Appellate Districts sit in Elgin (2nd), Ottawa (3rd), Springfield (4th), and Mount Vernon (5th). (See map on p. 4.) Each Cook County Division and each downstate District has four judges. They sit in panels of three, and two judges must concur in every decision.

Jurisdiction -- Any judgment of a Circuit Court may be appealed to the Appellate Court as a matter of right, with two exceptions: 1) certain cases -- e.g. a death sentence -- which must go directly to the Supreme Court and 2) acquittals in criminal cases. (The Constitution protects a defendant charged with a crime from double jeopardy -- being tried twice for the same crime.)

The Appellate Court also can review certain orders issued by a circuit judge during a trial, such as those involving injunctions, suppressed evidence, illegal confessions. After the Appellate Court has ruled on the particular point of law under question, the trial of the case may continue in the lower court.

Appellate decisions are final unless the Supreme Court grants leave to appeal.

#### SUPREME COURT

Geographic area -- The Supreme Court's authority encompasses the entire state.

Jurisdiction -- Most of its workload involves deciding cases appealed from the lower courts. Concurrence of four of the seven judges is necessary.

An appeal may be taken from the Appellate Court only if the Supreme Court permits or as a matter of right when a constitutional question arises initially in the Appellate Court or when that court certifies that a question is of such importance that it must be decided by the Supreme Court.

An appeal from a circuit court comes directly to the Supreme Court (bypassing the Appellate Court) only in cases in which a statute has been ruled invalid, or the death sentence has been imposed or for review of Industrial Commission orders.

Other powers -- Important duties given to the Supreme Court in the 1962 judicial amendment (and continued in the 1970 Constitution) are the administration and supervision of the state's entire judicial system. This court regulates practice before the lower courts. (Supreme Court Rules 61 through 71, a standard of conduct

\*Italicized terms throughout this handbook are defined in the Glossary in Chap. 7.

JUDGES: SALARY, SELECTION, TERM

(September 1975)

POSITION	NUMBER	SALARY	METHOD OF SELECTION	TERM
Supreme Court Justice	7	\$ 50,000	Nominated by political parties in primary (or by petition); elected at general election. Incumbents run uncontested on retention ballot which requires a 60% "yes" vote.	10 years
Cook County	3			
Downstate	4			
Appellate Court Judge	34*	45,000	SAME	10 years
Cook County	18			
Downstate	16			
Circuit Court Judge	377*	35,000	SAME	6 years
Cook County	168	+ 7,500 from county	Some are elected from the county-at-large, some from only Chicago, some some from only outside Chicago. Number in each category is based on population.	
Downstate	209	+ 7,500 from county	Some elected from circuit-at-large, some from individual counties within circuit. Each county in each circuit elects at least one.	
Associate Circuit Court Judge	290*	32,500	Appointed by the elected circuit judges	4 years
Cook County	129	+ 4,500 from county	At least 25% must reside outside Chicago.	
Downstate	151	+ 4,500 from county	-----	
To be assigned by Supreme Court	10	+ 4,500 from county	Appointed by elected circuit judges.**	

\*Represents total number authorized. When caseloads warrant, the Supreme court may and does call judges out of retirement and temporarily assign incumbent Circuit judges to the Appellate or to other Circuit benches. When associates are reassigned, they always serve in an associate capacity. Vacancies are filled by appointment of the Supreme Court.

\*\* The Supreme Court has the power to allocate up to 10 additional associate judgeships to circuits that can demonstrate a need for additional judges.

Note: The chief justice of the Supreme Court is selected by his fellow judges to serve for a term of three years: the chief judge of each Circuit is elected by the judges of that Circuit, by secret ballot, to serve at their pleasure.

for Illinois judges on and off the bench, are examples of regulatory rules.) The Supreme Court can and does temporarily assign a judge outside his Circuit or Appellate District in order to relieve a heavy caseload. It can fill vacancies that occur on the bench between elections by appointment.

The Supreme Court is required by the Constitution to provide for an annual judicial conference to "consider the work of the courts and to suggest improvements in the administration of justice." A report of the conference must be submitted in writing to the General Assembly.

JUDGES

ELIGIBILITY

Judges and associate judges must be citizens, licensed attorneys-at-law in Illinois, and residents of the judicial unit from which they are elected or appointed. They must devote full time to their judicial duties and cannot practice law, hold a position of profit or hold any other office in government or in a political party.

SALARY, SELECTION, TERM

(See chart on p. 6 )

RETIREMENT

A judge is automatically retired in December following the first general election after his 70th birthday. (A "grandfather clause" in the present law, however, allows judges elected or appointed before July 20, 1965, to serve until they reach age 70, finish 18 years of judicial service in a court of record, or until January 1, 1976, whichever is last.)

With his consent, a retired judge may be recalled to the bench by the Supreme Court.

DISCIPLINE

The recent Constitutional Convention provided Illinois with a new two-tiered system for disciplining judges: the Judicial Inquiry Board to screen and prosecute complaints and the Illinois Courts Commission to adjudicate them. Both groups are staffed and permanently convened.

Judicial Inquiry Board -- This board may receive and initiate complaints against sitting judges, conduct investigations, and prosecute complaints before the Illinois Courts Commission. Every complaint received is considered, but the board has found that most do not justify further action. (Many complainants are disgruntled litigants in divorce and child custody proceedings.)

Nine persons sit on the board: two Circuit judges, appointed by the Supreme Court, and three lawyers and four non-lawyers, appointed by the governor. No more than two of the lawyers and two of the non-lawyers may be of the same political party. No member may serve more than two four-year terms. Members are not salaried but receive \$ 100 a day honorariums for attending meetings, and they are reimbursed for travel expenses.

The board can file a complaint with the Courts Commission when at least five



members believe:

- 1) That a reasonable basis exists to charge a judge with willful misconduct in office, persistent failure to perform his duties, or other conduct that is prejudicial to the administration of justice or that brings the judicial office into disrepute;
- or
- 2) That a judge cannot perform his duties because of physical or mental disability.

As of June 30, 1975, the board had closed 358 complaints. From December 1972 through July 1975 complaints against 15 judges were filed with the Courts Commission. (The complaints covered a range of charges -- conflict of interest driving while intoxicated, threatening persons with a gun, finding defendants guilty before a defense could be fully presented, accepting favors from attorneys and failure to discharge judicial responsibilities due to physical disability.)

Acting on the 15 complaints, the Commission dismissed the charge against one judge, removed two from office and disciplined ten others; one judge retired before adjudication of the complaint (mental and physical disability); and one case is pending.

Illinois Courts Commission -- When it receives a complaint against a judge from the Judicial Inquiry Board, the commission must give notice and hold a public hearing on the charge. If three of the five commission members concur, the judge charged can be absolved, removed from office, suspended without pay, censured or reprimanded. A judge who is found to be physically or mentally unable to perform his duties can be suspended with or without pay or retired.

The commission consists of five judges: one Supreme Court justice selected by that court, two Appellate Court judges selected by that court, and two Circuit Court judges appointed by the Supreme Court. There are no set terms, and members are not compensated for other than expenses.

### OTHER PERSONNEL IN THE CIRCUIT COURTS

#### STATE'S ATTORNEY

The state's attorney, elected in each county every four years, is responsible for the prosecution in court of all persons charged with violations of Illinois law -- both misdemeanors and felonies.

One student of Illinois criminal justice has termed him the most important official in the system: "The importance of the prosecutor flows directly from his central position, for his duties encompass the entire range of criminal justice. While other law appliers specialize in one area (the police in arrest, for example), the prosecutor must be concerned with all stages of a case. He is the only official who works with all the other law appliers. The prosecutor is dependent upon the police for input into his office. The processing of these cases requires contact with judges, defense attorneys and probation officers. Further, he must be conscious of the general public for the public will sit on juries and...may vote him out of office."\*

The state's attorney is most in the public eye when he argues cases at trial. Less

\* David W. Neubauer, Criminal Justice in Middle America

## WHO PAYS FOR WHAT IN THE CIRCUIT COURTS?

(SEPTEMBER 1975)

Personnel	Paid by
Judge and associate judge	<u>State and county.</u> (Salaries are supplemented by counties, as provided by state law.)
State's attorney	<u>State and county.</u> Amount paid by county is proportional to population (the larger the county, the larger the stipend).
Assistant state's attorney	<u>County.</u> In certain "impact areas" state contributes funds for additional assistants.
Public defender	<u>County.</u>
Clerk of Circuit Court	<u>County.</u> (Until recently, this was a fee office directly financed by fees collected, with excess monies turned over to the county board. Now expenses of the office are in the county budget and <u>all</u> fees are returned to county.)
Deputy clerk of Circuit Court	<u>County.</u> (Same as clerk.)
Court reporter (stenographer)	<u>State.</u>
Sheriff	<u>County.</u>
Bailiff	<u>County.</u> (Frequently out of appropriations made to the sheriff.)
Facility	Paid by
All physical facilities	<u>County.</u>

visible but also important are two other functions: screening charges before prosecution in the Circuit Court and continuing prosecution before the Appellate Court of those cases appealed. In some counties (Cook, for example) his office screens all felony charges made by the police to ascertain whether they can be substantiated by evidence and taken to court with reasonable promise of success. If not, the charge may be changed or dropped. In larger counties, misdemeanor cases rarely undergo such screening.

In populous counties, the prosecutor in misdemeanor cases is apt to be an assistant state's attorney. (Assistants are appointed by the state's attorney, as authorized by the county board. Currently, in more than half the counties in Illinois, the state's attorney has no assistants.)

#### PUBLIC DEFENDER

The public defender is an attorney who represents, without fee, indigent persons who are held in custody or charged with criminal offenses punishable by imprisonment. However, there are no statutory guidelines for determining indigency, so a county's financial status may influence its policy in declaring defendants indigent and in assigning public defenders.

By Illinois law, a public defender office is to be established in each county which has a population greater than 35,000, but not every such county has done so. The county board is to appropriate funds for salary and expenses, and Circuit judges are to appoint the public defender. The "PD" may name as many assistants as the judges deem necessary and the county will pay for.

Forty-eight of the state's 102 counties have public defender offices (staffed by as many as 140-plus lawyers in Cook County to as few as one part-time attorney in rural Warren County). The rest of the counties provide defense services for indigents through some form of assignment of private members of the bar, essentially on a case by case basis, according to a recently published report on "Criminal Defense of Indigents in Illinois."\*

The report notes that virtually all Illinois defenders and their assistants are part-time and are paid substantially less than their prosecutor counterparts.

#### CLERKS, SHERIFFS, BAILIFFS, REPORTERS

A clerk of the Circuit Court is elected in each county every four years. His responsibility is preparing and keeping records of the court proceedings. He appoints the deputy clerks and assigns at least one to each courtroom.

The sheriff, elected for a four-year term, is the chief county law enforcement officer. As "conservator of the peace," he is responsible for operating the county jail and for executing the writs, orders, warrants, processes and decrees of the Circuit Court. Appointed by the sheriff, bailiffs are employees of the Circuit Court whose duties are to protect the judge from bodily harm and preserve order during court sessions. (In Cook County, a judge appoints his personal bailiff.)

A court reporter (stenographer) appointed by the chief judge, makes a verbatim record of all proceedings in open court. This includes bench conferences between the judge and attorneys. The transcript is a public record, and a copy can be furnished to the defendant for a minimal charge. (In Illinois, a copy is furnished free to indigents.)

\*Illinois Defender Project, "Criminal Defense of Indigents in Illinois, 1973" (Report to Illinois Law Enforcement Commission, 1974)

## Chapter 3

# MISDEMEANOR OFFENSES

## JUST WHAT IS A MISDEMEANOR?

### GENERAL DESCRIPTION

Misdemeanors and felonies are both criminal violations of the law, a misdemeanor being the less serious. Illinois' Unified Code of Corrections defines the two as follows: "misdemeanor" means an offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one year may be imposed; "felony" means an offense for which a sentence to death or to a term of imprisonment in a penitentiary for a year or more is provided.

Most Illinois laws which specify criminal acts and their penalties are codified in Chapter 38, "Criminal Law and Procedures," of the Illinois Revised Statutes. (This chapter is also referred to as the Criminal Code of 1961.) However, crimes relating to marijuana and other drugs are delineated in Chapter 56½, "Food and Drugs," and traffic violations are enumerated in Chapter 95½, "Motor Vehicles."

### CLASSES OF MISDEMEANORS

The Unified Code of Corrections divides misdemeanors into three categories:

Class A -- Punishable by a term up to one year in a prison other than a state penitentiary and/or a maximum fine of \$ 1,000.

Class B -- Punishable by imprisonment up to six months and/or a maximum fine of \$ 500.

Class C -- Punishable by imprisonment up to thirty days and/or a maximum fine of \$ 500.

Some crimes that are misdemeanors on first conviction become felonies upon a second or subsequent charge.

*In observing court, an important part of the monitor's job will be to record the charge(s) against each defendant. Often the charge is listed only by statute number. (E.g., 38122 which would refer to the Revised Statutes Chapter 38, Section 12, Paragraph 2.) Therefore in the listings which follow, statute numbers have been included as a reference for monitors. Brief explanations of some misdemeanors follow the lists.*

*In addition, other details are provided as background information: A, B and C to denote the class of a misdemeanor and asterisks to indicate those misdemeanors which become felonies upon a second or subsequent offense.*

*Monitors in the lower criminal courts will also be likely to see prosecutions of some traffic offenses and local ordinance violations.*

MISDEMEANORS IN THE CRIMINAL CODE

OFFENSES AGAINST PERSONS

Homicide

Chap. 38: 9-4 A Concealing Death of a Bastard

Sex Offenses

Chap. 38: 11-5 A Contributing to the Sexual Delinquency of a Child  
11-6 A Indecent Solicitation of a Child  
11-7 A Adultery  
11-8 B Fornication  
11-9 A Public Indecency  
11-13 A Marrying a Bigamist  
11-14 A Prostitution  
11-15 A Soliciting for a Prostitute  
11-17 A Keeping a Place of Prostitution  
11-18 B Patronizing a Prostitute  
11-19 A Pimping  
11-20 A\* Obscenity  
11-21 A\* Harmful Material  
11-21F B Child Falsifying Age

Bodily Harm

Chap. 38: 12-1 C Assault  
12-2 A Aggravated Assault  
12-3 A Battery  
12-5 A Reckless Conduct

Explanations--The terms assault and battery are often used synonymously, but the distinction between the two is significant. Assault is engaging in conduct which places another in reasonable apprehension of receiving battery. Battery is intentionally or knowingly causing bodily harm to an individual or making physical contact of an insulting or provoking nature. While a battery cannot be committed unless bodily harm is inflicted, an individual can assault another without actually harming him.

Aggravated assault is (1) assault involving the use of a deadly weapon or concealment of the assaulter's identity by a hood, robe or mask, or (2) is that directed against certain public employees in the performance of their duties. (School, park district, municipal and state employees including department of public aid workers; peace officers; firemen; employees or passengers in a public transportation system.) Reckless conduct is an act performed recklessly which causes bodily harm or endangers bodily safety.

Chap. 38: 12-5.1 A Criminal Housing Management  
12-8 A Dueling  
12-10 C Tattooing Body of Minor

Violations of Civil Rights

Chap. 38: 13-1  
2 B Violation of Civil Rights  
3

Chap. 38: 14-1  
2 A Eavesdropping  
3  
4

Explanation -- Eavesdropping refers to illegal use of a device to hear or record oral conversation whether such conversation is conducted in person, by telephone or by any other means.

Blind Persons

Chap. 38: 65-1 C Blind Persons Accompanied by Guide Dog -- Admission in Places of Public Accomodation

Information Obtained in Business of Preparing Income Tax Returns

Chap. 38: 65-11 A Disclosure or Conveyance of Information

Equal Opportunities for the Handicapped

Chap. 38: 65-23 C Employers -- Unlawful Employment Practices  
65-24 C Labor Organizations -- Unlawful Employment Practices  
65-25 C Employers and Labor Organizations -- Discrimination Against Person Seeking Benefits of this Act  
65-26 C Unlawful Housing Practices -- Sale or Rentals  
65-27 C Unlawful Housing Practices -- Lenders

OFFENSES AGAINST PROPERTY

Theft and Related Offenses

Chap. 38: 16-1 A\* Theft  
16-3 A Theft of Labor or Services or Use of Property  
16-5 A\* Theft from Coin-operated Machines  
16-6 A Coin-operated Machines; Possession of a Key or Device

Explanations--Theft is committed when a person knowingly obtains or exerts unauthorized control over the property of an owner, obtains by deception or threat control over the property of an owner, or obtains control over stolen property with the knowledge that the property was stolen. In order to commit a theft, a person who receives stolen property must also intend to deprive the owner of permanent use or benefit of the property. Theft is a misdemeanor if the property is not from the person and does not exceed \$ 150 in value.



Deception

Chap. 38: 17-1	A	Deceptive Practices
17-2	C	Impersonating Member of Police, Fraternal or Veteran's Organization, or Representative of Charitable Organizations -- Use of Words "Chicago Police", etc.
17-4	A	Deceptive Altering or Sale of Coins

Explanations--Deceptive practices are causing another by deception or threat to dispose of property or incur pecuniary obligations: the acceptance of a deposit or an investment by the director of a financial institution with the knowledge that the institution is insolvent; making or directing another to make false statements to the public promoting the sale of a property or service, and the writing of bad checks.

Damage and Trespass to Property

Chap. 38: 21-1	A	Criminal Damage to Property
21-1.1	B	Criminal Damage of Fire Fighting Apparatus, Hydrants, or Equipment
21-2	A	Criminal Trespass to Vehicles
21-3	C	Criminal Trespass to Land
21-4	A*	Criminal Damage to State Supported Property
21-5	A	Criminal Trespass to State Supported Land
21-6	A	Unauthorized Possession or Storage of Weapons
21.1-2	B	Residential Picketing
21.2-2	C	Interference with a Public Institution of Higher Education (second offense is a Class B.)

When one knowingly damages another's property without his consent, the crime (21-1) is a Class A misdemeanor only if the damage is \$ 150 or less; if more, it is a Class 4 felony. If one knowingly damages state supported property (21-4), it is a Class A misdemeanor when damage is \$ 500 or less; if more, it is a Class 4 felony.

Sale of Realty

Chap. 38: 70-51	A*	Inducements to Sell or Purchase by Reason of Race, Color or Religion
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OFFENSES AFFECTING PUBLIC HEALTH, SAFETY AND DECENCY

Narcotic Drugs

Hypodermic Syringes and Needles Act

Chap. 38: 22-50	A*	Possession of Instruments Adapted for use of Controlled Substances or Cannabis by Subcutaneous Injection Prohibited
22-51	A*	Sale or Exchange of Such Instruments
22-52	A*	Records -- Inspection

Explanation--"Cannabis" refers to the cannabis sativa plant used to make marijuana

Deadly Weapons

Chap. 38: 24-1	A	Unlawful Use of Weapons
24-3	A	Unlawful Sale of Firearms
24-3.1	A	Unlawful Possession of Firearms and Firearm Ammunition
24-4	B	Register of Sales by Dealer
24-5	A	Defacing Identification Marks of Firearms

Mob Action and Related Offenses

Chap. 38: 25-1	C	Mob Action
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Explanations--Mob Action is the use of force or violence which disturbs the public peace by two or more persons acting together without lawful authority, or the assembly of two or more persons to do an unlawful act. If a participant in mob action does not withdraw after being told to do so by a peace officer, the offense becomes a Class A misdemeanor.

Disorderly Conduct

Chap. 38: 26-1	Elements
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There are five elements of disorderly conduct which are misdemeanors:

- 1) Acting in such an unreasonable manner as to alarm or disturb another to provoke a breach of the peace. (Class C)
- 2) Making a telephone call with intent to annoy another. (Class C)
- 3) Making a bomb threat. (Class A)
- 4) Reporting commission of an offense to a peace officer or other public employee with the knowledge that report is false. (Class B)
- 5) Window-peeping (Class B)

Criminal Defamation

Chap. 38: 27-1	A	Elements
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Explanation--A person commits criminal defamation when, with intent to defame another, living or dead, he communicates by any means to any person matter which tends to provoke a breach of the peace. However, the law states that the truth, when communicated with good motives, is an affirmative defense in the prosecution for criminal defamation.

Gambling and Related Offenses

Chap. 38: 28-1	A	Gambling
28-3	A*	Keeping a Gambling Place
28-4	B	Registration of Federal Gambling Stamps (second offense is a Class A)

Bribery in Contests

Chap. 38: 29-3	A	Failure to Report Offer of Bribe
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Interference with Public Officers

- Chap. 38: 31-1 A Resisting or Obstructing a Peace Officer
- 31-3 B Obstructing Service of Process
- 31-7 A Aiding Escape

Official Misconduct

- Chap. 38: 33-2 A Failure to Report a Bribe

Property Forfeiture

- Chap. 38: 37-1 A\* Maintaining a Public Nuisance

Explanation--It is illegal for a person to knowingly maintain a building used in the commission of numerous offenses listed in the Criminal Code (e.g., murder, kidnapping, syndicated gambling); the Cannabis Control Act, and the Illinois Controlled Substances Act. (First offense is a Class A misdemeanor; subsequent offenses are Class 4 felonies.)

Bail Bond

- Chap. 38: 32-10 A\* Bail bond violation

Explanation--Bail bond violation is a Class A misdemeanor if the offense for which bail was set was a misdemeanor. If the offense was a felony, then the violation is a Class 4 felony.

MISCELLANEOUS PROVISIONS

Aerial Exhibitions

- Chap. 38: 50-1 A Necessity of Safety Net or Other Safety Device
- 50-2 A Authorization or Permission to Participate without Net -- Prohibition

Intoxicating Compounds

- Chap. 38: 81-1 C Use
- 81-2 C Sale

Abortion Law

- Chap. 38: 81-17 B Criminal Abortion - Advertising, etc. of Act in Violation -- Failure to Submit Report -- Sale of Abortifacient -- Punishment

Explanations--The commission of a criminal abortion is a felony, but failing to submit reports to the Illinois Department of Public Health, as required by the Act, and the sale of an abortifacient without a prescription are misdemeanors.

Firearms and Ammunition

- Chap. 38: 83-2 A Requisites for Acquisition or Possession -- Exempted Persons or Entities
- 83-3 A Requisites for Transfer
- 83-4 A Application for Firearm Owner's Identification Card

Boarding Aircraft with Firearm, Explosive, or Lethal Weapon

- Chap. 38: 84-1 B Boarding or Attempt to Board

Public Demonstrations Law

- Chap. 38: 85-3 A Unlawful Action -- Parade Permit
- 85-4 A Acting with Other Groups -- Size of Assemblage
- 85-5 A Notice of Assemblage in Writing -- Contents

MISDEMEANORS IN THE FOOD AND DRUG CODE

CANNABIS CONTROL ACT

This law relates to production, distribution and possession of marijuana, hashish and other substances identified as parts of the cannabis sativa plant.

- Chap. 56½:704 Possession of Cannabis -- Violations -- Punishment

Explanation--It is unlawful to knowingly possess cannabis. Severity of punishment depends on the amount:

- 1) Up to 2.5 grams (Class C)
- 2) More than 2.5 grams up to 10 grams (Class B)
- 3) More than 10 grams up to 30 grams (Class A but any subsequent offense is a Class 4 felony.)

- Chap. 56½:705 Manufacture or Delivery of Cannabis

Explanation--One cannot knowingly manufacture, deliver or possess with intent to deliver cannabis. Again, the sentence depends on the amount involved:

- 1) Up to 2.5 grams (Class B)
- 2) More than 2.5 grams up to 10 grams (Class A)

- Chap. 56½:706 Casual Delivery of Cannabis as Possession

Explanation--Penalties are same as those for possession. "Casual delivery" means delivery of not more than 10 grams of any substance containing cannabis.

- Chap. 56½:707 Persons under 18 Years of Age -- Delivery -- Enhancement of Penalty

Explanation--Any person who is at least 18 years of age who delivers cannabis to a person under 18 years of age who is at least 3 years his junior may be sentenced up to twice the maximum term otherwise authorized.

- Chap. 56½:708 Production of Cannabis Sativa Plant (Class A)
- :710 First Offenders -- Probation

Explanation--If a first offender pleads guilty or is found guilty, the court can defer proceedings and place the offender on probation without entering a judgment of guilt. When the conditions of the probation are fulfilled, the person will be discharged and the proceedings dismissed without a conviction being put on the record.

CONTROLLED SUBSTANCES ACT

This law establishes a uniform system for the control of manufacture, distribution and possession of controlled dangerous substances. A controlled substance is placed

in one of five "schedules," according to the medical and social ramifications of its abuse; severity of penalty is graduated accordingly. Most violations of this act are felonies. Misdemeanors are listed below:

Chap. 56½:1403 Counterfeit substances -- Manufacture or Delivery

Explanation--One cannot knowingly manufacture or deliver a counterfeit substance. Counterfeiting of substances in Schedules IV or V is a Class A misdemeanor.

Chap. 56½:1406 Miscellaneous Violations -- Penalties

Explanation--This section deals mostly with the regulation and record keeping required of persons (such as druggists or physicians) authorized to dispense drugs. A first offense is a Class A misdemeanor, while subsequent offenses are Class 4 felonies.

#### VIOLETIONS OF THE MOTOR VEHICLE CODE

*Traffic offenses are usually segregated from misdemeanor cases in that they are tried in certain sessions on certain days, often in field courts in localities other than the county seat. Monitors will not be observing these special Traffic Courts but should be ready to record the pertinent information when, on occasion, a traffic case appears in the court they are watching. For the most part, monitors will see a traffic case when a jury trial has been demanded.*

#### PROSECUTION OF TRAFFIC OFFENSES

Usually traffic offenses are not considered crimes, but several of the more serious violations of the Illinois Vehicle Code--Chapter 95½ of the Illinois Revised Statutes--carry maximum penalties as severe as those for a Class A misdemeanor.

Traffic offenses are prosecuted as violations of statute or ordinance. There is some overlap between state and local traffic law though, so that in many cases the arresting officer must decide whether to charge the offense as a violation of statute or ordinance. A state's attorney will prosecute the former, a municipal prosecutor the latter. But no matter which, the case will appear before the same court and the same judge.

#### SOME SERIOUS TRAFFIC OFFENSES

Statute numbers of offenses most apt to appear in jury court are listed below:

Chap. 95½:6-303 Driving While License or Permit Suspended or Revoked

Explanation--The penalty provided is imprisonment for not less than seven days nor more than a year; the defendant may also be fined not more than \$ 1,000.

Chap. 95½:11-501 Persons under the Influence of Intoxicating Liquor or Narcotic Drugs

Explanation--A first conviction carries a mandatory sentence of not less than two days nor more than 1 year or a fine not less than \$ 100 nor more than \$ 1,000. Any conviction requires driver's license revocation.

Chap. 95½:11-503 Reckless Driving

Explanation--First conviction carries a penalty of imprisonment of not less than five days nor more than 90 and/or a fine of not less than \$ 25 nor more than \$ 500.

## Chapter 4

## PROSECUTION OF MISDEMEANORS

## ARREST

## "ON VIEW" ARRESTS

Via TV screen or traffic officer, most people are familiar with the commonest form of arrest -- the "on view" arrest. As the term implies, this occurs when a policeman sees someone committing an offense and immediately apprehends him. Illinois law also allows the policeman to make an arrest without a warrant when he has "reasonable grounds" to believe that an offense has been committed and that the defendant is the one who did it. (The case of the fleeing purse-snatcher chased by an irate citizen, for example.)

## NOTICES TO APPEAR

Whenever a peace officer is authorized to arrest without a warrant, he may issue a notice to appear. Usually used when the offense is a minor one, it requests the accused to appear in court at a certain time. A notice to appear does not require either the arrest of the defendant or the posting of bond. Should the accused not appear in court, the court may issue a summons or a warrant.

## SUMMONSES AND WARRANTS

Summonses and warrants are orders issued by the court, not by police officers. A judge acting on the sworn complaint and testimony of a citizen, policeman, state's attorney or municipal prosecutor can issue a summons or an arrest warrant. A summons commands the accused to appear before the court at a certain time; a warrant commands a peace officer to arrest the accused. A summons does not require the posting of a bail bond, but a warrant does. (The law provides that the amount of bail required be specified in the warrant by the judge issuing it.)

In practice, summonses are common in minor misdemeanor cases, although preference for them over warrants is not indicated by Illinois law. (Quite obviously, answering a summons is less embarrassing than being taken into custody at home or work in full view of family or co-workers.) Summonses are also used to command witnesses to appear in court.

## "BOOKING"

Once an arrest has been made, the accused is usually brought to the police station and "booked". This is a clerical procedure which involves the charges being entered into the police register and, in some cases, the fingerprinting of the accused.

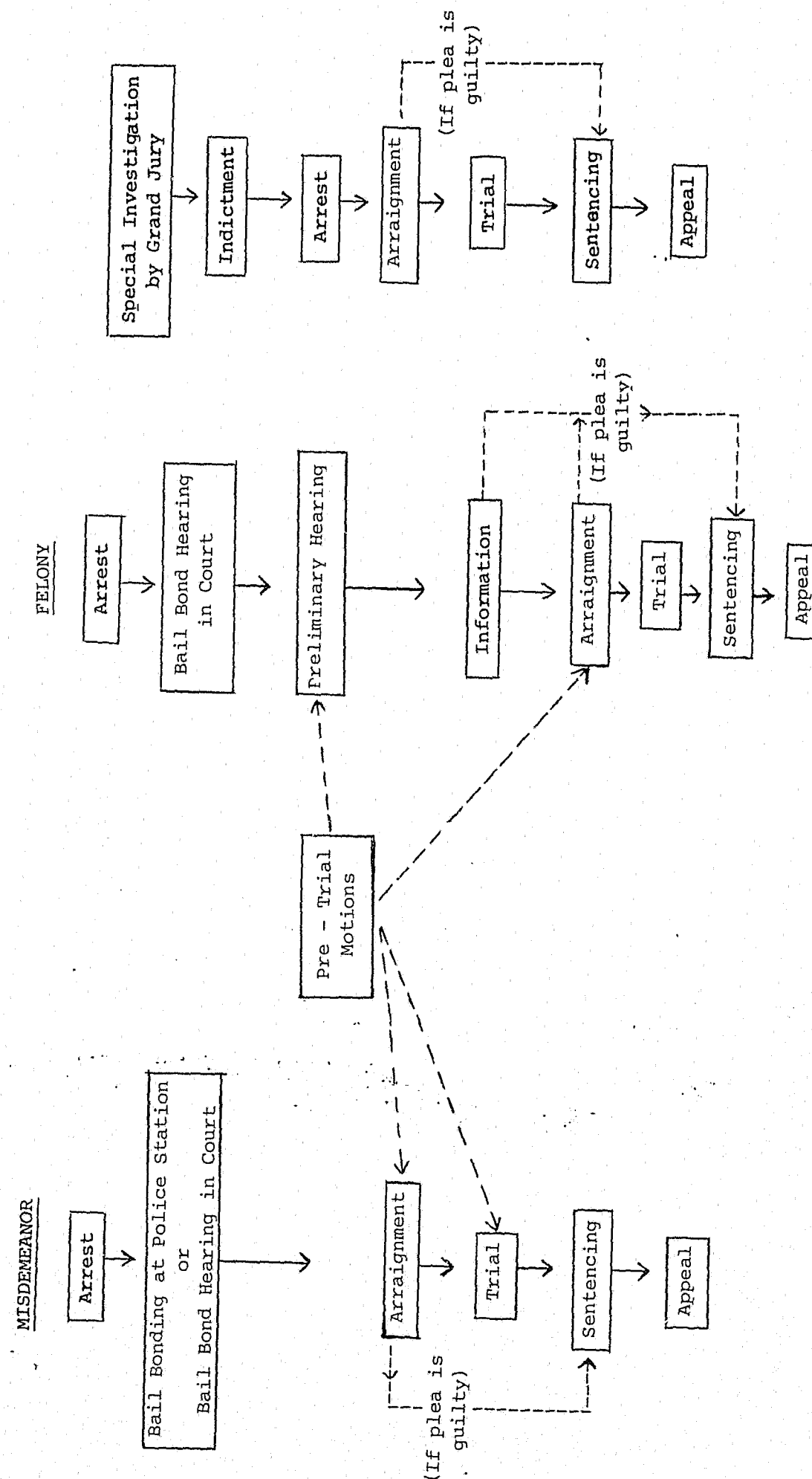
## BONDING

## POSTING BAIL AT THE POLICE STATION

Because of the hour or the circumstances, the accused sometimes cannot be brought

October 1, 1975

## STEPS IN CRIMINAL PROSECUTION



immediately before a judge to have bail set. To avoid undue delay in freeing the individual, a bond may be offered at the station to those charged with traffic, ordinance, *conservation* and misdemeanor offenses, according to a schedule set by the Illinois Supreme Court.

Bail for misdemeanor offenses punishable by imprisonment has been set by the court at \$ 1,000. In Illinois, the accused must post only 10 per cent of this amount to gain his release. The bail for those misdemeanors punishable by fine only is \$ 50 cash. The amount of bail for traffic and conservation offenses varies according to the gravity of the violation, but police must adhere to schedules set by the Supreme Court.

Police are not empowered to reduce bail or to *release on recognizance* except in certain cases.\*

The accused has the right to communicate with an attorney and family members by making "a reasonable number of phone calls." If he cannot raise the money, or is charged with a felony, he must be detained in the station's lockup or, in some places, transferred to a county jail to await a bail-bond hearing before a judge. (However, in Chicago anyone who can't make bail can petition the night bond court immediately to have bail set or reduced, and there is an emergency phone number for such cases in each of Cook County's suburban districts.)

#### THE BAIL-BOND HEARING IN COURT

Persons who are not released must be brought before a judge as soon as possible. These bail-bond hearings are usually separate from arraignment and trial even in misdemeanor cases.

At the hearing, the judge must 1) inform the defendant of the charge against him and provide him with a copy it, 2) advise the defendant of his right to counsel and, if indigent, to a court-appointed lawyer and 3) set bail.

*Monitors may observe motions by the defense or prosecution to lower or raise the amount of bail or to change from a bail bond to a recognizance bond or vice versa.*

The court may set a bail bond or a recognizance bond. (In Cook County, these are known respectively as D-bonds and I-bonds.) The bail bond requires the accused to deposit a sum of money, determined by the judge, which is sufficient to insure compliance with conditions set forth in the bond, particularly appearance in court on a certain date. Bail must be in line with the offense charged, be non-oppressive and take into account past actions, criminal record and financial abilities of the accused. As at the police station, the defendant need post only 10 per cent of the bail. He may meet bail at any time prior to conviction. When conditions of the bond are fulfilled, 90 per cent of the bail money is returned; 10 per cent is retained to cover administrative costs.

The recognizance bond enables a person to be released on his signature. It is simply an agreement by him to comply with provisions of the bond. If he fails to do so, he forfeits a certain sum of money set in the bond.

Illinois statutes do not provide guidelines for judges to determine eligibility for

\*Recognizance bonds may be issued by police in juvenile cases if the bond is co-signed by an adult. In Chicago only and only in traffic cases with a \$ 25 fine, police may release the accused on recognizance if he is without a license or the \$ 25.

recognizance bonds or require them to justify their decisions on granting them. In referring to release on recognizance, though, the law does state, "This section shall be liberally construed to effectuate the purpose of relying upon criminal sanction instead of financial loss to assure the appearance of the accused."

Prosecutors in Illinois usually do not encourage release on recognizance, so the request for this kind of bond must be made by the defendant, who will usually fail to do so if not advised by an attorney. Yet, many persons have their bonds set before acquiring counsel.

A defendant can appeal to a higher court an order setting, modifying, revoking or denying bail, or a refusal by the court of a defense motion to modify bail.

#### "BAIL JUMPING"

A person "jumps bail" when he fails to appear in court on the day and hour designated in his bond. When this happens, the judge may issue a bond forfeiture warrant (BFW) for the defendant's arrest. Before the court can enter a judgment for the amount of bond and costs, though, it must give the defendant 30-day's notice.

The possible penalty for "jumping" a felony is one to three years in prison and \$ 10,000, for "jumping" a misdemeanor, one year in jail and \$ 10,000. In theory, like any other charge, this one is brought by the state's attorney. In practice, little is done because there is usually more than enough authority for the court to punish the bail jumper by a border sentence on the original charge or on some new charge that arises out of his apprehension.

#### ARRAIGNMENT

Note: Following arrest and bail, the ensuing steps in prosecution of a misdemeanor are arraignment, trial and sentencing. But the method of handling these steps varies. In some instances, all three occur at one hearing. Other times, they are separate. In some circuits, arraignments for misdemeanors (along with preliminary hearings for felonies) and pre-trial motions are assigned to particular judges. In Chicago, certain types of offenses are assigned to "specialty" courts which hear that type of offense exclusively -- examples are Rackets Court (petty gambling), Auto Theft Court, Women's Court, Theft Court (shoplifting).

#### PURPOSE

An *arraignment*\* is an open public hearing held in the Circuit Court to make a formal charge against the person accused of a crime and to register his plea of guilty or not guilty.

The following actions should occur:

1) Formal charging -- If he requests it, the defendant will be read the charge

\* "Arraignment" is a term frequently misused for any first appearance of a defendant before the court. It should not be confused with 1) the bail-bond hearing that must be given every defendant who can't make bond or 2) the preliminary hearing in a felony case where the court decides whether there is probable cause to charge the defendant with a felony.



before his plea is entered. In any event, the court must furnish him a copy of the charge.

- 2) The plea -- Defendant is asked to plead guilty or not guilty. Every defendant is permitted to confer with legal counsel before pleading, and the judge can recess for a "reasonable time" to allow the defendant to contact an attorney and confer.
- 3) Choice of jury or bench trial -- If a not guilty plea is entered, defendant has absolute right to a jury trial but may waive it in favor of a bench trial.
- 4) Trial date set -- Again this refers only to a defendant pleading not guilty.

Right to counsel -- If the defendant is indigent and wants a lawyer, the court must appoint one, either a private attorney or a public defender.\*

The defendant can waive his right to counsel in open court if he so desires.

In misdemeanor cases the court is not required by law to inform the defendant of the right to counsel or to ascertain whether he understands the waiver. (This is a requirement in felony cases, though.) Nonetheless, some judges make a practice in misdemeanor cases of pointing out to defendants what waiver of counsel entails, that an attorney might be able to make defenses of which the defendant is unaware and so forth.

#### WHEN THE PLEA IS GUILTY.....

Duties of the court -- If a defendant pleads guilty, before accepting this plea the court must inform him of and determine that he understands:

- 1) The nature of the charge.
- 2) The maximum and minimum penalties for the offense.
- 3) His right to plead guilty or not guilty.
- 4) The consequences of a guilty plea -- forfeiture of a trial of any kind and waiver of the right to be confronted by witnesses against him.

The court must also determine whether there is a factual basis for the plea and whether the plea is voluntary. To accomplish this, the judge must directly question the defendant.

The plea agreement -- A guilty plea is often the result of plea bargaining -- an agreement between defense and prosecution to lessen the charge and/or recommended penalty in return for a plea of guilty.

For example, in exchange for a guilty plea, the prosecutor may agree to change the charge from a felony to a misdemeanor or to reduce it from a Class A misdemeanor to a Class B or C; to drop all or some of the additional charges, or to recommend a lenient sentence to the court. This is most apt to occur when the prosecutor feels the police have "overcharged" and/or the evidence is too weak to gain conviction on the violations charged.

\*According to Illinois law, in counties with a population of more than one million, a public defender must be appointed in all misdemeanor cases in which a defendant is indigent, unless more than one defendant is involved, in which case private counsel may be named for additional clients.

The process of plea bargaining is acknowledged in Supreme Court Rule 402, which provides guidelines for judges to follow when there has been a plea agreement: After a plea agreement is stated in court, the judge is supposed to confirm the terms by personally questioning the defendant to determine whether force, threats or promises outside of the agreement were used to obtain the plea. A judge may not initiate plea negotiations, but he is not explicitly prohibited from participating in them once underway. The parties involved can either request the judge's concurrence in court prior to entering the plea or his previous agreement can be stated when the plea is entered.

*Monitors cannot actually observe the plea bargaining process because the critical discussions are privately held. However, the result -- the plea agreement -- must be announced in open court. It should be noted that plea bargaining is relatively rare in cases in which the original charge is a misdemeanor, as the defendant often does not have an attorney and will often plead guilty on his own.*

*For pro and con arguments about plea bargaining, see Chapter 5, "Some Issues People Are Talking About."*

#### WHEN THE PLEA IS NOT GUILTY.....

Choice of bench or jury trial -- If a defendant pleads not guilty, the judge must ask whether he wants to be tried by a jury. If he does, the case is automatically continued and assigned to a courtroom in which a jury will be sitting.

If the accused waives his right to trial by jury, his case will be heard in a bench trial. (The waiver is a defendant's absolute right, but the burden is on the court to insure it is made "knowingly and intelligently." The defendant's attorney can announce the waiver if he attests he has explained it to his client.)

In practice, in Cook County and many other places the jury trial is rarely waived on the first appearance in a misdemeanor case. A Cook County judge claims the reason for this is that defense lawyers maintain the jury demand as a bargaining point and a delaying device.

Right to speedy trial -- A defendant's right to a speedy trial is guaranteed by the Sixth Amendment to the United States Constitution. According to Illinois statutes\*, a person in custody must be brought to trial within 120 days after he has been arrested. If the defendant is not in custody, the period is 160 days but the time does not start to run until he demands trial.

If the defendant is not tried within the statutory time limit, Illinois law provides that he be released from custody and the charges dropped. (The judge, however, is not required to inform a defendant of his rights under this law.)

The statutes specify delays which are excluded from computation of the time for trial:

- 1) Delays caused by defendant or continuances he agrees to;

\*Often called the "Four Term Act," although the word "term" is archaic. It referred to an earlier time when the Circuit Courts sat in "terms," rather than in continuous session.

- 2) A competency examination or hearing;
- 3) An adjudication of incompetency for trial;
- 4) A continuance granted after determination by judge of a defendant's physical incapacity to stand trial;
- 5) An interlocutory appeal.

The important things to remember are that if the defense moves for a continuance, or agrees to a motion for one, the new time period begins from the date to which the continuance has been granted, and that the allowable time period is always 120 or 160 days. (There is no "tacking" of one period of delay to another when they are separated by a delay caused by the defendant.)

Continuances -- A motion for continuing a case to a later date may be made at either the arraignment or trial stage by either the defense or prosecution. It is granted or denied by the judge.

When the request is made 30 days after arraignment, the court is supposed to demand an affidavit explaining the grounds for the continuance, but this is rarely done. After the 30-day period, the defense can continue a case only on grounds that the counsel is ill or at another trial; that he is unable to prepare for the trial because of above reasons; that witnesses are unavailable and their absence would harm defendant's case; that accused cannot stand trial because of physical or mental incompetence; that adverse publicity exists, or a change in the bill of particulars is a surprise to defendant.

The state can ask for a continuance because of prosecutor's illness or presence at another trial; the unavailability of witnesses, the absence of whose testimony would harm prosecution's case, or adverse pre-trial publicity.

The judge can order a case continued "in the interest of justice."

Although these are the only grounds allowable by law, continuances have been granted for reasons which have no relation to those legally permitted.

*For purposes of this project, it is necessary that monitors note which side made the motion for a continuance and the reason offered.*

## TRIAL

### PURPOSE

The purpose of the trial, be it bench or jury, is to examine the evidence, hear the testimony and determine the innocence or guilt of the accused. Like the arraignment, it is a formal public proceeding held in the Circuit Court. The judge presiding over a misdemeanor trial is apt to be an associate judge.

### THE BENCH TRIAL

Most trials in misdemeanor cases are bench trials in which a judge, rather than a

jury, renders the verdict. These trials are often rather perfunctory, with the judge reaching a verdict after brief questioning of the defendant, complainant and witnesses (if any). There are, of course, bench trials in which defense and prosecuting attorneys find thorough examination and cross-examination of witnesses necessary.

### THE JURY TRIAL

Choosing the jury -- Once the panel of prospective jurors is ready, the judge should introduce the parties and their counsel and outline the nature of the case. It is also his duty to initiate the *voir dire* examination during which he questions potential jurors to ascertain their qualifications and to assure that they will be free of bias or prejudice in reaching a verdict. Lawyers are permitted to ask supplemental questions.

Both defense and prosecution have the right to excuse or "challenge" prospective jurors and there is no limit to the number of challenges "for cause," e.g. that the juror is prejudiced, related, sick, deaf or so forth. Depending on the kind of case, both sides also have a number\* of *peremptory challenges* in which no reason for eliminating a juror need be shown.

A petit jury, consisting of 12 persons, is finally selected to "inquire into the truth and questions of fact." This jury serves for two-week periods, or until a trial is concluded and a verdict rendered.

Conduct of the trial -- The jury is supposed to base its decision only on proper evidence. Often during a trial there is a dispute between the parties as to what is "proper" or admissible evidence. It is the judge's responsibility to decide that and other points of law. Usually, he does this by merely "sustaining" or "overruling" objections by one of the lawyers. However, sometimes if the court lets a question like "When did you stop beating your wife?" be asked, the damage is done and can't be erased. Thus lawyers frequently ask to be heard on an objection in chambers when they can talk freely without prejudicing the jury.

During the trial, the jury may be escorted out of the courtroom while defense and prosecution argue points of law before the judge. The judge may take the time to advise or instruct the jury as to any legal technicalities brought forth in the trial.

*Monitors should observe the physical treatment of the defendant during trial to note whether the person is treated in a way that might have a detrimental effect on the outcome of his case. Although there is no statute or court rule in Illinois dealing with physically restraining the accused, it is customary here to avoid those restraints which might be prejudicial.*

*(In Peoria, court observers suggested removal of the iron railings surrounding the docket because they felt it placed a stigma on the defendants.)*

*There is no Illinois law concerning defendants' attire, but the wearing of prison clothes in the court is a violation of due process.*

\* In a misdemeanor case, the law allows five peremptory challenges for each side if there is one defendant. If there is more than one, each defendant is allowed three and the state gets as many as the defense. Thus, in a misdemeanor case with two defendants, there can be 12 peremptories, six for each side.

## SENTENCING

## PRONOUNCEMENT OF SENTENCE

A person convicted of a misdemeanor will be sentenced immediately unless a pre-sentence report is ordered by the court. (In this event, a continuance is granted and the sentencing hearing held at a later date.) The sentence must be imposed by the judge who accepted the guilty plea or presided at the trial, unless he no longer sits in that courtroom.

## PRE-SENTENCE REPORTS

Pre-sentence reports are prepared by the court's probation department. Although they are mandatory in felony cases, their preparation in misdemeanor prosecutions is at the discretion of the judge. The reports provide him with information on the defendant's background, possible mitigating circumstances involved in the crime, chances for successful probation, and suggested programs of rehabilitation, treatment or education. The judge is not legally obliged to follow the probation department's recommendations, and most often the department will make none unless the court has asked for it.

*Although not required by the project, monitors may be interested in noting whether the court requests a pre-sentence report when it seems appropriate and whether the court appears to be fully informed about the defendant's background before sentencing.*

## SENTENCING ALTERNATIVES

The judge has five alternatives in meting out a sentence: imprisonment, a fine, probation, conditional discharge or periodic imprisonment. He is, of course, limited by statutes which proscribe maximum lengths of incarceration and amounts of fines for the various classes of misdemeanors and felonies.

Although a judge is not legally bound to disclose the basis for his sentencing decision, some do. (A Cook County judge has commented that since sentencing is a high psychological point, "it is good for the court to attempt some explanation of the sentence and give the defendant an opportunity to explain his position in a spirit of understanding and justice without anger.") Terms of probation, conditional discharge, or periodic imprisonment must be stated in open court.

- 1) The jail sentence -- Under Illinois' Criminal Code, incarceration is not the preferred sentence unless it is necessary for the protection of the public, the offender needs correctional treatment that can best be provided by imprisonment, or probation or conditional discharge would deprecate the seriousness of the crime and be inconsistent with the ends of justice.

If multiple offenses are all misdemeanors, consecutive sentences cannot exceed the maximum one for a Class A misdemeanor. In Illinois, all sentences run concurrently unless the court specifies

otherwise. A defendant is given credit for all time spent in custody or on probation for an offense. Rights to crediting this time should be explained by the judge.

The court can reduce or modify a sentence within 30 days after its imposition, but it cannot lengthen the sentence.

- 2) The fine -- According to Illinois law, in setting the amount of a fine, the court must consider the financial resources of the defendant and the effect of the fine on his ability to make reparations to the victim. There is no uniform policy in obtaining this information.

The court can reduce or revoke a fine or extend the payment time period. A court cannot imprison an indigent defendant for nonpayment; but if the court holds a hearing and finds that the defendant is willfully refusing to pay, he can be held in contempt and jailed for that.

- 3 & 4) Probation and conditional discharge -- Some judges prefer these sentences because they feel they offer greater hope for rehabilitation and are much less expensive than imprisonment.

A misdemeanant assigned probation or conditional discharge is released under certain conditions set by the judge, stated in a certificate handed to the defendant. These conditions may be that the offender work at a job, make restitution or reparation, go to school or support dependents. If during either of these sentences (which cannot exceed two years for misdemeanors) the person commits any criminal offense, the probation or conditional discharge can be revoked and imprisonment substituted.

The main difference between these two sentences is that during probation, the probationer is under the supervision of a probation officer and must report to him periodically. A conditional discharge does not require supervision by any person or agency although this may be included as one condition of the discharge.

When violations of the conditions are alleged, a hearing must be held at which the offender has the right to be represented by counsel and cross-examine witnesses. If the judge rules conditions have been violated, he can modify or revoke that sentence or resentence to a penal institution.

- 5) Periodic imprisonment -- A term of periodic imprisonment, which is served on certain days, may be given to enable the defendant to work, take care of a family, go to school or receive medical or psychological treatment. Violations of conditions imposed are considered in hearings similar to those held for probation and conditional discharge violations.

## APPEAL

Few misdemeanor cases are appealed to a higher court. However, the right to appeal bail determination, conviction and sentence does exist.

All defendants have the right to appeal, but only certain defendants -- those who have plead not guilty or have been convicted of offenses punishable by more than six month's imprisonment -- must be notified of these rights by the court at the time of sentencing. According to Supreme Court Rule 605, such persons must be informed of the right to appeal and, be furnished, if indigent, with a free transcript of the proceedings and with counsel on appeal. The defendant also must be advised that the right to appeal can be insured only if notice is filed within 30 days of sentencing and that he has a right to ask the clerk to prepare and file the notice for him.

The court determines indigency of defendants before appointing an appellate defender. In Cook County, the attorney is usually from the county public defender's office; downstate, he is usually from the Office of the State Appellate Defender.

In practice, appellate courts rarely disturb a sentence handed down in a lower court; and if they do, they will request the court which originally imposed it to reconsider. Sentences given as part of a plea agreement can be appealed, but in all sentence appeals -- whether from a jury or bench trial -- the burden is on the defendant to present reasons the sentence should be reduced.

## OBLIGATIONS OF THE BENCH AND BAR

### THE BENCH

"In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor, and immune from private, political or partisan pressures. He should administer justice according to the law....."

--from the Preamble to Illinois Supreme Court Rule 61, "Standards of Judicial Conduct."

The performance of a judge affects the quality of justice more than any other factor. So far as the citizen before him is concerned, he is not only the court; he represents the criminal justice system, the law, society itself. It is not enough that his rulings are technically fair -- the judge himself must appear to be fair and just. For when his demeanor engenders disrespect, respect for justice under law suffers.

The main guideline in Illinois for the conduct of judges on the bench is Supreme Court Rule 61\*. (See Chap. 7, "Reference Material.") Any judge who consistently violates these standards of conduct is subject to discipline by the Courts Commission, according to Rule 62. (Although Supreme Court Rules are not law, they have the force of law.)

Aside from court rules and laws governing judicial ethics, a number of higher court decisions regulate a judge's conduct and demeanor while he is presiding over a trial. Some of those requirements follow:

Order in the courtroom -- A judge must be present at all stages of the trial. He has the power and duty to preserve order, enforce obedience to lawful orders and control witnesses and the conduct of attorneys. He should assure an orderly trial and

\*Adopted in 1970, Rule 61 is based on the American Bar Association's Canons of Judicial Ethics of 1924. The ABA revised its Canons in 1972, but the Illinois Supreme Court has not altered Rule 61.

keep it within bounds prescribed by decency and the ordinary rules of good conduct.

Impartiality -- It is essential that the judge hearing a case be devoid of any personal interest in it, and he should disqualify himself if there is any direct or indirect interest. He should strive for impartiality, maintain poise and show due respect to a witness. He should not assume the role of prosecutor. (Strong remarks after a finding of guilty are not manifestations of prejudice where based on evidence.)

He should not indicate by his conduct or remarks either favor or disfavor toward witnesses. But he can admonish a witness to "speak up" so as to be heard or to answer a particular question.

Discipline of attorneys -- The trial judge may admonish and rebuke lawyers guilty of misconduct, as occasion may require, and use other preventive measures necessary to maintain the court's dignity.

Treatment of witnesses -- The judge has a right to control examination of witnesses. He may give the witness an opportunity to explain an answer or assist a confused witness or cure a misunderstanding over the meaning of words between witness and lawyers. He may protect a witness from unfair treatment. He may compel an attorney to proceed with an examination with dispatch. The court has discretion in whether to permit a witness to be recalled for further examination.

Keeping the trial moving -- While a judge must be cautious to conceal his feelings, he must conduct the proceedings so that the trial moves at a reasonable pace. (An occasional impatient remark by the judge, while not entirely proper, does not in itself indicate prejudice toward a party and thereby deny him a fair trial.)

Regarding evidence -- The judge must refrain from making his own private investigation of the facts in a trial pending before him. However, he may take judicial notice of certain facts properly presented to him. On his own motion, he may exclude evidence that is not relevant, material or competent.

In short, the judge is supposed to do more than play the part of a wise old owl, merely gazing at the participants and looking distinguished. He must observe with care and seek to understand issues and testimony. He must rule quickly and correctly. However, in a bitterly fought trial, the judge is under great pressure complex questions arising quickly and often. If there were time for reflection and research, he might rule differently. Accordingly, reviewing courts have given a trial judge considerable latitude in the conduct of a proceeding.

### THE BAR

The Illinois Code of Professional Responsibility\* is regarded as a standard for the conduct of judges, defenders and prosecutors. It does not have the force of law although it has been adopted by the two major bar associations in Illinois -- The Illinois State and Chicago Bar Associations -- and the Illinois Supreme Court has considered adopting it.

The prosecuting attorney -- The chief function of the prosecutor, as defined in the Code, is to seek justice, not merely to convict. The Code is rather explicit in regulating the conduct of the prosecutor in plea bargaining: he must obtain the defense counsel's permission before negotiating directly with the defendant; he must not mis-

\* An offshoot of the American Bar Association's Code of Professional Responsibility of 1969.

represent his recommendations to the defendant, and he must determine that the plea is voluntary.

Prosecutors are given statutory authority to offer evidence and information at the sentencing hearing and to present arguments as to sentencing alternatives, but there is a disagreement among judges and prosecutors as to whether a prosecutor can actually recommend a sentence to the court.

The defense attorney -- The gist of the Code's rules governing defense attorneys is that a defender must represent his client zealously and with the bounds of the law -- he is forbidden to make a defense unwarranted by law, to advise his client to do something illegal or to employ coercion. A defender is supposed to tell his client about trial risks and range of sentences and relay to him any prosecution offers.

The Code further states that a lawyer should not involve himself in cases he is not competent to handle or for which he cannot prepare adequately. Neither defender nor prosecutor should engage in "undignified or discourteous conduct which is degrading to a tribunal."

## SOME ISSUES PEOPLE ARE TALKING ABOUT

### BRICKS, MORTAR, BATHROOMS AND JUSTICE

"The atmosphere is like that of a bus terminal waiting room. People constantly wander in and out, unseen babies cry, and children play hide-and-seek in the aisles. Every five minutes the Lake-Dan Ryan el thunders past...six stories below. Even with the windows closed, the rumbling wipes out every other sound in the room."

"There is no air conditioning. One lone pedestal fan in the back of the courtroom stirs just enough air to keep the room habitable on warm days. In the winter, radiators give off too much heat."

--Marcia Slater Johnston, "Justice for Women: Separate but Equal?," The Chicago Guide, February, 1974

The paragraphs above describe Women's Court, Room 800 in the Central Police Court Building. Its inadequacies may be in the extreme, but the description suggests a definite relationship between a court's physical facilities and the quality of justice able to be administered in them.

Inadequate facilities may hamper the administration of justice in numerous respects. For example:

The judicial process itself may be impaired. (Noise level may prevent judge or jury from hearing testimony....uncomfortable jury deliberation rooms lacking adequate bathroom facilities are apt to produce hasty verdicts....Lack of space for lawyers and clients to confer in private works a hardship on both....lack of library facilities hinders judges.)

A courtroom's atmosphere may affect the tone of what goes on there. (It is difficult for personnel to maintain the necessary dignity, decorum and efficiency in a cramped, rundown place.)

Respect for the criminal justice system is apt to break down for the defendant tried in a noisy, dirty, courtroom that does not look like a place where he'd "get an even break."

The cost of all physical facilities for the Circuit Court are borne by the county. County boards are often understandably reluctant to authorize large expenditures or bond issues for court facilities that the average taxpayer/voter rarely sees and even more rarely understands.



# STANDARDS FOR COURTHOUSE PHYSICAL FACILITIES

The following standards for courthouse physical facilities have been recommended by the National Advisory Commission on Criminal Justice Standards and Goals in its Report on Courts (1973):

1. The courthouse structure should be adequate in design and space in terms of the functions housed within and the population served. In areas served by a single judge, adequate facilities should be provided in an appropriate public place. In metropolitan areas where the civil and criminal litigation is substantial and is served by the same personnel, there should be one centrally located courthouse. All rooms in the courthouse should be properly lighted, heated, and air-conditioned.

2. The detention facility should be near the courthouse.

3. The courtroom should be designed to facilitate interchange among the participants in the proceedings. The floor plan and acoustics should enable the judge and the jury to see and hear the complete proceedings. A jury room, judges' chambers, staff room, and detention area should be convenient to each courtroom.

4. Each judge should have access to a library containing the following: the annotated laws of the State, the State code of criminal procedure, the municipal code, the United States code annotated, the State appellate reports, the U. S. Supreme Court reports, the Federal courts of appeals and district court reports, citators covering all reports and statutes in the library, digests for State and Federal cases, a legal reference work digesting law in general, a form book of approved jury instructions, legal treatises on evidence and criminal law, criminal law and U. S. Supreme Court reporters published weekly, looseleaf services related to criminal law, and if available, an index to the State appellate brief bank.

5. Provision should be made for witness waiting and assembly rooms. Separate rooms for prosecution and defense witnesses should be provided. The rooms should be large enough to accommodate the number of witnesses expected daily. They should be comfortably furnished and adequately lighted. The waiting areas should be provided with reading materials, television, and telephones, and should be serviced by a full-time attendant.

6. Juror privacy should be maintained by establishing separate entrances, elevators, and food service facilities for exclusive use of jurors. Similarly, lounges and assembly rooms should be provided for jurors; these should not be accessible to witnesses, attorneys, or spectators. They should be furnished comfortably and lighted adequately. Television, magazines, and other diversions should be provided. A full-time attendant should service the lounge, and telephone service should be available.

7. A lawyers' workroom should be available in the courthouse for public and private lawyers. The room should be furnished with desks or tables, and telephones should be available. It should be located near a law library. A receptionist should be available to take messages and locate lawyers. There also should be rooms in the courthouse where defense attorneys can talk privately with their clients, without compromising the security needed.

8. The physical facilities described in this standard should be clean and serviceable at all times.

# STANDARDS FOR INFORMATION AND SERVICE FACILITIES

In addition, the Commission suggested these guidelines for providing information concerning court processes to the public and to participants in the criminal justice system:

1. There should be information desks strategically placed in public areas of the courthouse and manned where necessary by bilingual personnel to direct defendants (and their friends and relatives), witnesses, jurors, and spectators to their destinations. In metropolitan courthouses, visual screens should be installed to identify the proceedings currently in progress in each courtroom and other proceedings scheduled that day for each courtroom.

2. The information service should include personnel who are familiar with the local criminal justice system and the agencies serving that system. These persons should be under the supervision of the public defender or legal aid office. Their role should be to answer questions concerning the agencies of the system and the procedures to be followed by those involved in the system.

3. The defendant, in addition to being told of his rights, should be provided with a pamphlet detailing his rights and explaining the steps from arrest through trial and sentencing. This pamphlet should be provided to the accused by the police at booking. Where necessary, the pamphlet should be published not only in English but also in other languages spoken by members of the community. The pamphlet should be drafted in language readily understood by those to whom it is directed.

4. The prosecutor and the court should establish procedures whereby witnesses requesting information relating to cases or court appearances in which they are involved may do so by telephone.

5. To assist the prosecutor and the court in responding to telephone inquiries from witnesses, each witness should be provided with a wallet-size card giving a phone number to call for information, and data regarding his case. The card should contain the name of the defendant or the case, the court registry or docket number, and other information that will be helpful in responding to witnesses' inquiries.

6. The judge should instruct each jury panel, prior to its members sitting in any case, concerning its responsibilities, its conduct, and the proceedings of a criminal trial. Each juror should be given a handbook that restates these matters.

## VICTIMLESS CRIME...PLACATING ANCIENT GODS?

Victimless crimes are those in which there is no readily identifiable or unwilling victim. Prostitution, gambling, drug use, adultery, drunkenness and vagrancy\* are examples of crimes commonly labeled as victimless. In essence, these actions are defined as criminal by society (and state legislatures) in an attempt to enforce virtue on a public that often finds vice more interesting: cases resulting from victimless crime account for an estimated 50 per cent of the courts' caseload!

This burden on the criminal courts is one reason many criminologists and legal scholars are urging removal of some victimless crimes from the law books.

In The Honest Politician's Guide to Crime Control\*\* , the authors complain that "we overload our criminal justice system to a degree which renders it grossly defective as a means of protection in the areas where we really need protection -- from violence incursions into our homes, and depredations of our property." They suggest that criminal justice agencies should be allowed to concentrate on serious crime and criminals not on "those who are merely being sacrificed to prejudice and taboos. Public sacrifice, throwing virgins off the rocks, to placate ancient gods, is not the job of the criminal justice system," they add.

### WHERE THE ACTION IS

Currently, the most action in decriminalizing victimless crime is taking place in respect to marijuana. Since 1971, most state legislatures -- including Illinois' -- have reduced possession of small amounts of marijuana from a felony to a misdemeanor. Prosecution of pushers, however, remains a top priority. Oregon prosecutes possession as a civil offense (like overtime parking) rather than a criminal violation.

In 1973 the American Bar Association proposed total removal of criminal laws against possession of small amounts of marijuana. The bar group was concerned not only that court resources were being pre-empted with pot cases but also that open disregard for marijuana laws was setting a dangerous legal precedent.

The Illinois State Bar Association followed the ABA's lead in June 1974 by urging repeal of laws punishing personal use or simple possession of marijuana. The ISBA also suggested that consideration be given to the feasibility of regulating the use of marijuana by licensing its distribution.

### SOME ARGUMENTS FOR DECRIMINALIZING VICTIMLESS CRIMES

- 1) Private morality should not be the business of the criminal law. Because there are no complaining witnesses, police have sometimes invaded the privacy of individuals and resorted to illegal search and seizure techniques to obtain evidence.
- 2) Historically, attempts to "cure" immorality by using police, courts and jails have usually failed anyway. Serious problems of alcohol and drug addiction should be referred to treatment facilities through an administrative procedure outside the

\* Public drunkenness and vagrancy are not listed as offenses in the Illinois Criminal Code. They are ordinance violations in many communities and, as such, may be prosecuted with misdemeanor cases in the Circuit Courts.

\*\* Norval Morris and Gordon Hawkins, The Honest Politician's Guide to Crime Control

criminal justice system.

- 3) Prosecution of victimless crime is responsible for a massive and expensive overload on criminal justice agencies. Their resources are thereby diverted from the primary problem of protecting life and property.
- 4) Laws relating to victimless crime are criminogenic, that is, they actually produce crimes -- notable organized crime and its corollary, official corruption. (E.g., Prohibition.)

### SOME ARGUMENTS AGAINST DECRIMINALIZATION

- 1) The state, through its criminal law, should try to protect the individual from himself by making certain personal, potentially harmful activities illegal.
- 2) Repeal of laws relating to victimless offenses might be interpreted as public sanction of activities considered immoral by many citizens and might increase their incidence.
- 3) Constitutional rights and safeguards might be abridged if administrative procedures are substituted for formal court procedures in treating deviate behavior. A Center Report article on "Criminal Justice in 2,000 A.D."\* predicts that in the future "the state may be in the business of 'detoxifying' drunks, 'rehabilitating' drug addicts and users, keeping prostitutes under strict medical supervision, 'treating' homosexuals -- all without asking those affected whether they choose these routes to self-improvement. In short, the newer forms of social control may be more intrusive and more coercive than the old, and since they will not involve costly trials or imprisonment, they will be applied to a greater number of people."

### PLEA BARGAINING

So much head-shaking and hand-wringing over plea bargaining is going on in mass media and learned journals that some readers might fear a palsey epidemic has struck. The cause of the confusion is that The Experts disagree. There are distinguished opinions and compelling arguments both pro and con. Although appraisal of the process does not come within the scope of this project,\*\* it is estimated that 80 per cent of all guilty pleas are the result of "bargaining," and court watchers should be aware of the continuing controversy.

Plea bargaining is the term given to negotiations between the defense and prosecution in which concessions are made regarding the charging and/or sentencing of the defendant by the prosecutor in exchange for a guilty plea. In Illinois, the process is recognized and regulated by Supreme Court Rule 402. (Refer to p. 25)

### SOME ARGUMENTS FOR:

(Proponents of regulated plea bargaining include the American Bar Association and the President's Commission on Law Enforcement and the Administration of Justice.)

- 1) Were it not for plea bargaining, the criminal courts would be even more swamped

\*"Criminal Justice in 2,000 A.D." Center Report, October, 1974

\*\*It was not included because it didn't seem to be an issue that could be appraised by merely observing the end result in open court.

than at present. Adjudication would be delayed and much more costly if every case went to trial.

- 2) Plea bargaining allows for tailoring justice to the individual case.
- 3) Plea bargaining allows the prosecutor to adjust the charge to evidence and witnesses available. Many prosecutors believe that police tend to "over-charge" and that resulting prosecutions will fail and the accused let off entirely if the prosecutor can't bargain. (Particularly in sex crimes, victims are reluctant to testify because of embarrassment involved.)
- 4) It sometimes serves important law enforcement needs by exchanging leniency for information or testimony about serious offenders.
- 5) A defendant can be spared the anguish and publicity a trial can entail -- even one in which he is acquitted.

#### SOME ARGUMENTS AGAINST:

(Opponents include the National Advisory Commission on Criminal Justice Standards and Goals, which has recommended abolition of plea bargaining by 1978.)

- 1) Plea bargaining is based on the presumption that a defendant is guilty. An innocent person may plead guilty to a lessened charge rather than take his chances at trial.
- 2) The deterrent effect of trial and punishment is weakened. The accused is not faced with witnesses against him and may not perceive the relationship between the crime committed and the punishment received.
- 3) Sentences received by defendants in exchange for guilty pleas are too light.
- 4) Those who shunned bargaining and were subsequently convicted are disillusioned by the disparity between their sentences and those of defendants who bargained.
- 5) A "bargain basement" atmosphere undermines the ideals of the judicial system and ultimately victimizes the defendant.

## Chapter 6

### HOW TO WATCH A COURT

*Specific instructions for filling out court watchers' report forms will be given by each local project's lawyer/advisor and local coordinator. The following advice of a more general nature is based mostly on the experience of the League of Women Voters of Illinois, which has been sending observers to meetings of governmental bodies for nearly a half century.*

- Do your homework! Read the handbook and attend the training sessions conducted by your lawyer/advisor. Ask questions about anything you do not understand. Go to court on your own at least twice during the training period.

- Once the daily monitoring starts, make every effort to attend court on the day you are scheduled. If it is impossible for you to go that day, let your local coordinator know as far ahead of time as possible so that she can find an alternate.

- Get to court early -- at least 15 minutes before it is scheduled to begin. Check to see whether the current day's call and the notice of defendant's rights are posted. Pick up a copy of the call if that has been previously arranged.

- If any effort should be made to bar your attendance, do not argue; merely note the fact on your report form. (The same is true if you are denied any reasonable information or the opportunity to take notes.)

- Introduce yourself to the judge, if possible, and to the clerk as an official observer from the Illinois Court Watching Project; show your Project ID card if appropriate.

- Sit where your lawyer/advisor or local coordinator has suggested. If the judge asks you to sit somewhere else, don't argue.

- Be as unobtrusive as possible in appearance and demeanor. NEVER INTERRUPT THE PROCEEDINGS. Always be courteous, no matter what the provocation.

- REMAIN NEUTRAL. Do not betray your personal feelings by any facial expression or remark. If a judge or anyone else asks your opinion about anything that you have observed, politely refrain from commenting. Emphasize that you are merely collecting data and cannot speak for the Illinois Court Watching Project. Refer the person to the local coordinator or project chairman.

- While you are observing, try to jot down all the data requested on the case observation form. If you miss some of it, ask the clerk for the additional information during a recess or after adjournment. Do not pressure anyone, though.

- Make no movies, photographs or tape recordings in the courtroom.

- Note any special problems you encounter and any suggestions you wish to make on the back of your report form or report them to your local coordinator.

## REFERENCE MATERIAL

### ILLINOIS SUPREME COURT RULE 61: STANDARDS OF JUDICIAL CONDUCT

#### A. Definitions

1. Wherever the word "judge" is used in the Standards and Rules it includes circuit and associate judge and judges of the Appellate and Supreme Court.
2. Wherever the pronoun "he" is used in the Standards and Rules it includes the feminine as well as the masculine form.

#### B. Preamble

The assumption of the office of judge imposes upon the incumbent duties in respect to his personal conduct which concern his relation to the State and its inhabitants, the litigants before him, the principles of law, the practitioners of law in his court, and the witnesses, jurors and attendants who aid him in the administration of its functions. In every particular his conduct should be above reproach. He should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor, regardless of public praise, and immune from private, political or partisan pressures. He should administer justice according to law, and deal with his appointments as a public trust. He should not allow other affairs or his private interests to interfere with the prompt and proper performance of his judicial duties, nor should he administer the office for the purpose of advancing his personal ambitions or increasing his popularity.

#### C. Standards

1. *The integrity of our legal system.* A judge should bear in mind that ours is a government of law and not of men and that his duty is the application of general law to particular instances. He should administer the office with due regard to the integrity of the system of the law itself, remembering that he is not a depository of arbitrary power, but a judge under the law.
2. *The public interest.* Courts exist to promote justice, and thus to serve the public interest. Their administration should be speedy and careful. Every judge should at all times be alert in his rulings and in the conduct of the court.
3. *Constitutional obligations.* It is the duty of all judges to support the Federal and applicable State Constitutions; in doing so, they should fearlessly observe and apply fundamental limitations and guarantees.
4. *Avoidance of impropriety.* A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach.
5. *Essential conduct.* A judge should be temperate, industrious, attentive, patient, impartial, studious of the principles of the law and diligent in endeavoring to ascertain the facts. He shall devote full time to his judicial duties and shall normally conduct morning and afternoon sessions of court for hearing and deciding matters regularly assigned to him.

6. *Promptness.* A judge should be prompt in the performance of his judicial duties. He should recognize that the time of litigants, jurors and attorneys is of value and that habitual lack of punctuality or diligence creates dissatisfaction with the administration of the court.

7. *Court organization.* A judge responsible for administration should organize the court with a view to the prompt and convenient dispatch of its business. No judge should tolerate abuses or neglect by clerks and other assistants.

All judges should cooperate to promote the satisfactory administration of justice.

It is the duty of a judge to hear and decide all matters regularly assigned to him except in those cases in which he has a conflict of interest.

8. *Consideration for counsel and others.* A judge should be considerate of, and courteous to, counsel, especially the young and inexperienced, jurors, witnesses, and others in attendance upon the court.

He should also require, and so far as his power extends, enforce on the part of the court personnel and counsel, civility and courtesy to the court, to other counsel, and to jurors, witnesses, litigants and others having business in the court.

9. *Special responsibility in crowded courtrooms.* In courts having a large volume of cases, tending to crowd the courtrooms, the judge should give serious and careful attention to all decisions, and should take special care to enforce reasonable order and decorum.
10. *Unprofessional conduct of attorneys.* A judge should criticize or discipline with prudence unprofessional conduct of attorneys in matters pending before him, and if such action is not a sufficient corrective, should refer the matter to the proper authorities.
11. *Appointees of the judiciary and their compensation.* All appointments in judicial proceedings should be made on an impartial basis, with a view of selecting competent persons of good moral character. A judge should avoid nepotism and action tending to create suspicion of impropriety. He should not offend against the spirit of this standard by interchanging appointments of trustees, receivers, guardians and other persons, but should not permit this choice to be improperly influenced, nor his free judgment to be impaired. He should not make unauthorized or unnecessary appointments. While not hesitating to set or approve just amounts, a judge should be most scrupulous in granting or approving compensation for services of appointees so as to avoid excessive allowances, whether or not the same be excepted to or complained of. He cannot rid himself of this responsibility by consent of counsel.
12. *Self-interest and freedom from influence.* A judge should neither perform nor take part in any judicial act in which his personal interests or those

of a relative are involved. He should not allow any person to influence him improperly or enjoy his favor; he should not be affected by the kinship, rank, position or influence of any litigant or other person and he should not convey the impression by his conduct that he can be so influenced or affected.

13. *Independence.* A judge should not be swayed by partisan demands, public clamor, considerations of personal popularity or notoriety, nor permit fear or unjust criticism to influence his judicial action.
14. *Interference in conduct of trial.* A judge should so direct the trial of a case as to prevent unnecessary waste of time but he should bear in mind that his undue interference, impatience, or participation in the examination of witnesses, or a severe attitude on his part toward witnesses, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto.

The judge should avoid controversies with counsel which are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witnesses, he should avoid a controversial manner or tone. He should give careful attention to the arguments of counsel and should avoid unnecessary interruptions.

15. *Ex parte hearings.* In proceedings where an ex parte hearing is proper, a judge should act only when he is convinced, after a careful examination of the facts and principles of law on which the application is based, that the facts and the law require such action.
16. *Ex parte communications.* Except as permitted by law, a judge should not permit private or ex parte interviews, arguments or communications designed to influence his judicial action in any case, either civil or criminal.

A judge should not accept in any case briefs, documents or written communications designed to influence his judicial action in any case, either civil or criminal.

17. *Continuances.* In considering applications for continuances, a judge, without forcing cases unreasonably or unjustly to trial, should insist upon a proper observance by counsel of their duties to their clients, and to adverse parties and their counsel, so as to expedite the disposition of matters before the court.
18. *Sentences and punishments.* In imposing sentence, a judge should follow the law and should not compel persons brought before him to submit to some act or discipline without authority of law, whether or not he may think it would have a beneficial corrective influence. He should endeavor to conform to a reasonable standard of punishment and should not seek popularity or publicity either by exceptional severity or by undue leniency.

19. *Review.* A trial judge should promptly certify the report of proceedings on timely application if it fully and fairly presents the questions as they arose at the trial.
20. *Legislation.* A judge has exceptional opportunity to observe the operation of statutes, especially those relating to practice, and to ascertain whether they tend to expedite or impede the just disposition of controversies. Where it is clear that he might contribute to the public welfare, he should advise those in authority of his observation and experience in order that they may remedy defects of procedure.
21. *Inconsistent obligations.* A judge should not accept duties or obligations which will interfere, or reasonably appear to interfere, with the proper performance of his official duties.
22. *Gifts and favors.* A judge should not accept gifts or favors from litigants, lawyers practicing before him, or others whose causes are likely to be submitted to him for judgment.
23. *Social relations.* A judge should be particularly careful to avoid any action that tends reasonably to arouse the suspicion that his social or business relations or friendships influence his judicial conduct.
24. *Improper publicizing of court proceedings.* Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the courtroom during sessions of the court or recesses between sessions, and the broadcasting or televising of court proceedings detract from the essential dignity of the proceedings, distract participants and witnesses in giving testimony, and create misconceptions with respect thereto in the mind of the public and should not be permitted.
25. *Conduct of court proceedings.* Proceedings in court should be so conducted as to reflect their importance and seriousness. Judicial robes should be worn whenever practicable.



## THE LARGEST COURT IN THE WORLD

September 1, 1975

The Circuit Court of Cook County is not only the largest of the 21 circuits in Illinois but, in volume of cases adjudicated annually, the largest court in the world.

To expedite disposition of this caseload, the circuit is divided into two departments: the County Department and the Municipal Department.

COUNTY DEPARTMENT

The County Department has seven divisions, each under the supervision of a presiding judge. Divisions and locations of their courtrooms are:

Law Division, Chicago Civic Center  
Probate Division, Chicago Civic Center  
Juvenile Division, Juvenile Center, 1100 S. Hamilton St., Chicago  
Divorce Division, Chicago Civic Center  
Chancery Division, Chicago Civic Center  
County Division, Chicago Civic Center  
Criminal Division, Criminal Courts Building, 2600 S. California Ave., and Chicago Civic Center. (This division hears all criminal cases in which a felony has been charged by a grand jury indictment or by an information from the state's attorney. It does not handle misdemeanor cases.)

MUNICIPAL DEPARTMENT

The Municipal Department is subdivided into six geographic districts, each with a presiding judge and numerous branch courts. Courts in this department are responsible for misdemeanor cases, in addition to: traffic cases, some civil cases, municipal ordinance violations and felony preliminary hearings. The six Districts are:

District I -- The City of Chicago comprises the First District, which handles the largest volume of cases and has the most courtrooms. The presiding judge is Eugene L. Wachowski, 1303 Chicago Civic Center. A list of District I courts follows:

Criminal Court Building, 2600 S. California Ave.

Branch 25 -- Narcotics Court, room 101  
 Branch 44 -- Felony Court, room 402  
 Branch 57 -- Narcotics Court, room 100  
 Branch 66 -- Felony Court, homicide and rape, room assigned daily

Central Police Court Building, 1121 S. State St.

Branch 26 -- Central District Court, room 1100  
 Branch 40 -- Women's Court, room 800, 9:30 a.m.  
 Branch 41 -- Domestic Relations Court, room 900  
 Branch 64 -- Auto Theft Court, room 1000  
 Branch 65 -- Shoplifting Court, room 800, 1:00 p.m.

51st and Wentworth, (Police Command - Area I)

Branch 34 -- Local Court  
 Branch 48 -- Youth Court Central

Kedzie and Harrison Police Building, (Police Command - Area 4)

Branch 27 -- Central District Court  
 Branch 43 -- Youth Court North

Chicago Civic Center Courts

Branch 5 -- Miscellaneous Court\*, room 1410, 9:30 a.m.  
 Branch 20 -- License Court, room 1402, 9:30 a.m. on Mon., Tues., Fri.  
 Branch 20 -- Pollution Cases, room 1402, 9:30 a.m. and 2:00 p.m. on Tues. & Fri.  
 Branch 20 -- Violations of Weights & Measures, room 1402, 9:30 a.m. & 2:00 p.m. on Wed.  
 Branch 20 -- City of Chicago, Steam Boiler Inspections etc., room 1402 9:30 a.m. & 2:00 p.m., Fri.  
 Branch 30 -- Unincorporated Areas Ordinance Violations, room 1401, 2:00 p.m. on Mon. & Wed.  
 Branch 60 -- Violation of Probation Court, room 1508, 11:00 a.m.  
 Branch 67 -- Suburban Pollution Cases, room 1102, 2:00 p.m. on Tues. & Thurs.  
 Branch 91 -- Processing of Appeals, room 1303, 9:30 a.m., Thurs.

Conservation & Endangered Species, room 1402, 2:00 p.m. on fourth Mon.

Unemployment Compensation Fraud Cases, room 1401, 2:00 p.m. on Tues.

Building Violations, rooms 1103, 1105, 1107, 1109, 1111, 1113, 9:30 a.m.

Outlying Courts

Branch 28 -- Monroe Street Court, 100 S. Racine  
 Branch 33 -- Paternity Court, 113 W. Chicago Ave.  
 Branch 38 -- South Chicago Local Court, 8855 S. Exchange  
 Branch 42 -- Youth Court East, 937 North Wood St.,  
 Branch 43 -- Youth Court North, 937 N. Wood St.  
 Branch 46 -- Criminal Jury Court, 321 N. La Salle St.  
 Branch 49 -- Youth Court South, 6100 S. Racine  
 Branch 95 -- Public Safety Court, 321 N. LaSalle St., 2:30 p.m.

Traffic Court -- Traffic Court is located at 321 N. LaSalle St. and there are 21 courtrooms assigned to this operation.

Mass Arrest Courts -- Mass Arrest Courts are activated whenever 50 or more people are arrested in one incident and if no more than 300 are involved they will be processed at 1121 S. State St.. In the event 300 or more are involved, they will be processed through the courts at 1121 S. State St. and 2600 S. California Ave..

Night and Holiday Courts

A night bond court is in session seven nights a week at the Central Police Building. Holiday courts are in session Saturday, Sunday and holidays. Those courts are:

Branch 53 -- Felony Court, room 402  
 Branch 54 -- Misdemeanor Court, room 602

\* Branch 5 hears cases transferred from various courts throughout the First District, including all criminal housing management cases, both jury and non-jury.

# Night and Holiday Courts (cont'd)

Branch 55 -- Women's & Traffic Courts, room 100  
Branch 56 -- Monroe Street Court, 100 S. Racine Ave.

*Districts II thru VI are located in the suburbs. Their jurisdictions, both as to cases handled and areas served, are listed below.*

*Each of these districts has established procedures for emergency bonding during weekday evenings and maintains holiday court on Saturday mornings and holidays.*

District II -- This district serves the townships of Evanston, New Trier, Northfield, Wheeling, Niles and Palatine. The presiding judge is Harold W. Sullivan, 8333 Lincoln Ave., Skokie. Branch courts are located at:

Branch 1, 33 S. Arlington Heights Rd., Arlington Heights -- FPH\*, M\*,  
Branch 3, 1501 Oak St., Evanston -- T, M  
Branch 3, is also located at 1454 Elmwood, Evanston -- FPH, T, M, C, CRJ  
Branch 9, 6918 N. Keeler, Lincolnwood -- T  
Branch 11, 1225 Cedar Lane, Northbrook -- T (M & FPH heard in Northfield)  
Branch 12, Happ & Willow Rds., Northfield -- T, M, FPH  
Branch 15, 8333 Lincoln Ave., Skokie -- T, M, FPH  
Branch 16, 255 W. Dundee, Wheeling -- T  
Branch 18, 510 Green Bay Rd., Winnetka -- C & T

Juvenile Court is held each Tuesday at 5127 W. Oakton St., Skokie.

District III -- This district serves the townships of Barrington, Hanover, Elk Grove, Schaumburg, Maine, Norwood Park and Leyden and the Village of Niles only in Niles Township. The presiding judge is Anton A. Smigiel, 7166 Milwaukee Avenue, Niles. Branch courts are located at:

Branch 2, 11 Conti Parkway, Elmwood Park, -- M, T, FPH  
Branch 3, 7100 W. Touhy, Niles -- T, M, FPH, Informations  
Branch 4, 55 E. North Ave., Northlake -- T, M, FPH  
Branch 5, 2601 Thatcher, River Grove -- T, M, FPH  
Branch 6, 9545 W. Belmont, Franklin Park -- T, M, FPH  
Branch 7, 9526 Irving Park Road, Schiller Park -- T, M, FPH  
Branch 8, 4020 N. Olcott, Norridge -- T, M, FPH  
Branch 9, 7343 W. Lawrence, Harwood Heights -- CJ, T, M, FPH  
Branch 10, 6126 N. River Rd., Rosemont -- T, M, FPH  
Branch 11, 505 Park Place, Park Ridge -- T, M, FPH  
Branch 12, Miner & Graceland, Des Plaines -- T, M, FPH, CRJ  
Branch 13, 112 E. Northwest Highway, Mt. Prospect -- T, M, FPH (also serves State Police Division 3, branch 20; and Division 15, branch 30; T, M, FPH)  
Branch 14, 901 Wellington, Elk Grove -- M, T, FPH  
Branch 15, 1200 Gannon Drive, Hoffman Estates -- T, M, FPH  
Branch 16, 331 S. Civic Drive, Schaumburg -- T, M, FPH (also serves Hanover Par branch 17; Streamwood, branch 23; Bartlett, bran 25; and Elgin)  
Branch 18, 121 W. Station, Barrington -- T, M, FPH (also serves Barrington Hill and South Barrington, branches 24 & 22)

\*Abbreviations: T - Traffic Court; M - Misdemeanor Court; FPH - Felony Preliminary Hearings; C - Civil Court; CJ - Civil Jury Court; CNJ - Civil Non-Jury Court; CRJ - Criminal Jury Court

Located at 7166 Milwaukee, Niles (no branch number), are the offices of the Court Clerk, personnel (1st floor), Juvenile Court and Civil Non-Jury Court, as well as the offices of the State's Attorney, Public Defender, Probation Department and the Presiding Judge's headquarters.

District IV -- This district serves the townships of Proviso, River Forest, Riverside, Oak Park, Berwyn and Cicero. The presiding judge is Norman A. Korfist, 655 Lake St., Oak Park. Branch courts are located at:

Branch 1, 655 Lake St., Oak Park -- CRJ, FPH  
Branch 1-A, 1 Village Hall Plaza, Oak Park -- T  
Branch 2, 517 Des Plaines, Forest Park -- T, M  
Branch 3, 2726 St. Charles Rd., Bellwood -- T, M  
Branch 4, 5819 Electric Ave., Berkley -- T, M  
Branch 5, 6700 W. 26th St., Berwyn -- T, M  
Branch 6, 1600 Roosevelt Rd., Broadview -- T, M  
Branch 7, 8820 Brookfield Ave., Brookfield -- T, M  
Branch 8, 4936 W. 25th Pl., Cicero -- T, M  
Branch 9, 30 N. Wolff Rd., Hillside -- T, M  
Branch 10, 447 N. Catherine, La Grange -- T, M  
Branch 11, 125 S. 5th Ave., Maywood -- T, M  
Branch 12, 1805 W. Lake St., Melrose Park -- T, M  
Branch 13, 2400 S. DesPlaines Ave., North Riverside -- T, M  
Branch 14, 400 Park Ave., River Forest -- T, M  
Branch 15, 27 Riverside Rd., Riverside -- T, M  
Branch 16, 1629 N. Mannheim Rd., Stone Park -- T, M  
Branch 17, 10240 Roosevelt Rd., Westchester -- T, M

District V -- This district serves the townships of Lyons, Stickney, Worth, Lemont, Palos Park and Orland Park. The presiding judge is Irving W. Eiserman, 5240 W. James St., Oak Lawn. Branch courts are located at:

Branch 1, 5240 W. James St., Oak Lawn -- FPH, Informations, Violation of Probation for district  
Branch 2, 5831 W. 115th St., Worth -- Jury Court for whole district  
Branch 3, 5240 W. James St., Oak Lawn -- T & M, Cook County Sheriff's police call; also Metro Enforcement Group call  
Branch 4, 5240 W. James St., Oak Lawn -- T & M, State Police call  
Branch 6, 5240 W. James St., Oak Lawn -- T, M  
Branch 7, 300 W. Burlington, La Grange -- T, M  
Branch 8, 7801 W. Ogden Ave., Lyons -- T, M  
Branch 9, 5810 Archer Ave., Summit -- T, M  
Branch 10, 4331 Southwest Highway, Hometown -- T, M  
Branch 11, 7800 S. Archer Rd., Justice -- T, M  
Branch 12, 7401 W. 75th St. Bridgeview -- T, M  
Branch 13, 9420 S. Kedzie Ave., Evergreen Park -- T, M  
Branch 14, 15045 West Ave., Orland Park -- T, M  
Branch 15, 8997 Lyons St., Hodgkins -- T, M  
Branch 16, 50th & Glencoe, McCook -- T, M  
Branch 17, 5550 S. East Ave., Countryside -- T, M  
Branch 18, 418 Main St., Lemont -- T, M  
Branch 19, 8480 Archer Ave., Willow Springs -- T, M  
Branch 20, 6535 S. Central, Bedford Park -- T, M  
Branch 21, 740 Hillgrove, Western Springs -- T, M  
Branch 22, 6533 W. Pershing, Stickney -- T, M  
Branch 23, 7000 W. 46th St., Forest View -- T, M

Branch 24, Alsip -- T, M        heard in Worth  
Branch 25, 5831 W. 115th St., Worth -- T, M  
Branch 26, Hickory Hills -- T, M        heard in Worth  
Branch 27, 10655 S. Oak Ave., Chicago Ridge -- T, M  
Branch 28, Palos Heights -- T, M        heard in Worth  
Branch 29, Palos Park -- T, M        heard in Worth  
Branch 30, 8555 W. 103rd St., Palos Hills -- T, M, MUN  
Branch 31, Merrionette Park -- T, M        heard in Worth  
Branch 32, Indian Head Park -- T, M        heard in Western Springs  
Branch 33, Hinsdale -- T, M        heard in Western Springs  
Branch 34, West Haven -- T, M        heard in Worth  
Branch 35, Burr Ridge -- T, M        heard in Western Springs  
Branch 36, Secretary of State -- T, M heard in Oak Lawn  
Branch 37, Department of Conservation -- T, M heard in Oak Lawn  
Branch 38, Commerce Commission -- T, M heard in Oak Lawn  
Branch 39, 5240 W. James St., Oak Lawn -- T, M, Forest Preserve Ranger call  
Branch 40, 5240 W. James St., Oak Lawn -- T, M, Tollway Police call  
Branch 41, 6530 W. 79th St., Burbank -- T, M  
Branch 80, Rabies Control -- M heard in Oak Lawn

District VI -- This district serves the townships of Thornton, Bremen, Calumet City, Bloom and Rich. The presiding judge is Paul F. Gerrity, 15320 Broadway, Harvey. Branch courts are located at:

Branch 1, 13051 S. Greenwood Ave., Blue Island -- T, M  
Branch 2, 1430 Chicago Rd., Chicago Heights -- T, M, Paternity, Non-support  
  
Branch 9, 204 Pulaski Rd., Calumet City -- T, M  
Branch 10, 12409 S. Throop St., Calumet Park -- T, M  
Branch 15, Park Drive and Sterling Ave., Flossmoor -- T, M  
Branch 16, 15320 Broadway, Harvey -- T, M  
Branch 17, 1820 W. 170th St., Hazel Crest -- T, M  
Branch 18, 2020 Chestnut Rd., Homewood -- T, M  
Branch 19, 3404 Lake St., Lansing -- T, M  
Branch 20, 16313 S. Kedzie Parkway, Markham -- T, M  
Branch 23, 15601 Cicero Ave., Oak Forest -- T, M  
Branch 24, 200 Forest Blvd., Park Forest -- T, M  
Branch 27, 127th and Stewart, Riverdale -- T, M  
Branch 28, 3327 W. 137th St., Robbins -- T, M  
Branch 30, 333 E. 162nd St., South Holland -- CJ, T, M  
Branch 31, 6825 W. 173rd St., Tinley Park -- T, M  
Branch 55, 15320 Broadway, Room 2, Upper level, Harvey -- CRJ, PD M CT\*  
Branch 66, 3059 W. 159th St., Markham -- FPH  
Branch 96, 3059 W. 159th St., Markham -- FPH

\*Public Defender Misdemeanor Court

ABBREVIATIONS

(FOR REFERENCE ONLY)

A -- Assault  
A&B -- Assault & Battery  
Acc -- Accused  
Acq -- acquitted  
Adj -- Adjudication  
Afdvt -- Affidavit  
Agg Asslt -- Aggravated Assault  
AKA-- Also Known As  
AKU-- Also Known Under  
Arr -- Arraignment  
ASA -- Assistant State's Attorney  
Asslt DW -- Assault with a Deadly Weapon  
  
B A -- By Agreement (both sides agree to continue a case)  
B&E -- Breaking & Entering  
BFC -- Bond Forfeiture Capius  
BFV -- Bond Forfeiture Vacated  
BFW -- Bond Forfeiture Warrant  
BO -- Bound Over  
Brby -- Bribery  
  
CAP -- Alias Capius  
C of C -- Contempt of Court  
CCW -- Carrying a Concealed Weapon  
CR -- Capius Recalled  
CS -- Costs Suspended  
  
D - Bond -- Bail Bond  
DWI -- Driving While Intoxicated  
DWLR -- Driving While License Revoked  
DWLS -- Driving While License Suspended  
DWP --Dismiss for Want of Prosecution  
  
Est B -- Estreat Bond  
  
FG -- Found Guilty  
Frd -- Fraud  
Fug -- Fugitive

G -- Plead Guilty  
G JU -- Grand Jury  
Gtd -- Granted  
  
HOC -- Hold On Call  
  
I - ond -- Recognizance Bond  
Indet Lib -- Indecent Liberties  
Intox -- Intoxication  
  
JU -- Jury Demanded  
JDA -- Jury Demanded & Allowed  
Juv -- Juvenile  
  
LFD -- Leave to File Denied  
  
Marij -- Marijuana  
Marij, Sale of -- Sale of Marijuana  
MD -- Motion Defendant  
Misd -- Misdemeanor  
MS -- Motion State  
MV -- Motor Vehicle  
  
NG -- Plead Not Guilty  
No Cont -- Plead No Contest  
NOLLE (NP) -- Nolle Prose (State decides not to prosecute)  
  
NP -- No Plea  
  
OC -- Order of the Court

ORP -- On Recommendation of Prosecutor

P (Prob) -- Probation

PD -- Public Defender

Poss -- Possession

PP -- Parties Present

Pros., Prost.-- Prostitute, Prostitution

PSI -- Pre-sentence Investigation

Rest -- Restitution

ROR -- Release On Recognizance

Sol -- Soliciting

SOL -- Stricken Off the Call with  
Leave to Reinstate

St Atty -- State's Attorney

T -- Trial

TO -- Traffic Offense

W/ADJ -- Withhold Adjudication

W/C -- Worthless Check

W/J -- Waive Jury Trial

September 1, 1975

GLOSSARY

ACQUITTAL -- A verdict or finding of not guilty by a jury, or in cases in which a jury trial is not requested, by the court.

ADJUDICATION -- The giving or pronouncing of a judgment or decree in a cause; also the judgment given.

ADMISSIBLE EVIDENCE -- Evidence or testimony which is allowed by the judge to be introduced during the trial.

AGGRAVATION AND MITIGATION -- A hearing held after conviction in which both counsels offer evidence and information to the judge in order to aid him in deciding the sentence.

ALIAS CAPIUS -- A warrant issued by a judge for an individual's arrest.

APPEAL -- A proceeding for review by a higher court of bail, sentence or verdict handed down by a lower court.

ARRAIGNMENT -- The formal act of calling a defendant into open court, informing him of the offense charged, and asking for a plea of guilty or not guilty.

ARREST -- The taking of a person into custody for the purpose of holding or detaining him to answer a criminal charge. An arrest can be made when a warrant has been issued or a police officer has reason to believe that an individual has committed an offense.

B

BAIL -- An amount of money set by the court, the payment of which procures the release from custody of a person charged with a criminal offense. Bail is set in order to insure the appearance of the accused in court on the date his hearing is scheduled and compliance with the conditions of the bond.

BENCH TRIAL -- A trial heard by the judge without a jury. The judge delivers the verdict in a bench trial. If a defendant wants a bench trial, he waives a jury trial.

BILL OF PARTICULARS -- A more detailed statement of the offense charged than that in the indictment or information. Its precise nature enables the defendant more properly to prepare his defense.

BOND -- An undertaking (either secured by bail or the signature of the defendant) by which the defendant binds himself to comply with the conditions stated in the bond.

BOND FORFEITURE WARRANT -- A warrant directing forfeiture of bond and re-arrest of a defendant who has not appeared in court at the proper time.

C

CASE LAW -- Law of a particular subject as evidenced or formed by the adjudged cases.

CHALLENGE FOR CAUSE -- An objection to a juror, made in a voir dire examination, for a cause stated, which points out the grounds upon which the juror is disqualified.

CHALLENGE FOR FAVOR -- An objection lodged against an individual juror for bias, such to be determined by the trial court acting in the exercise of a sound discretion.

CHARGE -- A written statement, presented to the court, which accuses a person of committing an offense. A charge can be in the form of a complaint, or in the case of felonies, an information or indictment.

CIRCUIT COURT -- The trial court of first impression in Illinois. These courts hear all civil and criminal cases within their jurisdiction with a few exceptions specified elsewhere in this handbook. The state is divided into 21 judicial circuits, consisting of one or more counties.

CITATION -- A notice to appear issued by a police officer in a traffic case to an individual to appear in court on a certain date.

COMPLAINT -- A written statement presented to the court charging the commission of an offense, other than an information or indictment. A complaint can be filed by a civilian or a police officer.

CONCURRENT AND CONSECUTIVE SENTENCES -- Concurrent sentence is one in which sentences for different offenses are served at the same time. Consecutive sentence is one which is served after another has been finished.

CONDITIONAL DISCHARGE -- A sentence of conditional or revocable release under conditions which may be imposed by the court. There is usually no probationary supervision of a defendant who is conditionally discharged.

CONSERVATION OFFENSE -- A violation of the Illinois laws relating to fishing, hunting, state parks, state forests, forest preserves, and so forth.

CONTEMPT OF COURT -- Conduct tending to bring the authority and administration of the law into disrespect or disregard, interfering with or prejudicing parties or their witnesses, during the litigation, or otherwise tending to impede, embarrass, or obstruct the court in the discharge of its duties.

CONTINUANCE -- The postponement or adjournment of legal proceedings.

CONVICTION -- An adjudication that a person is guilty of a crime based upon a verdict or by a plea of guilty.

COUNT -- A separate part of an indictment or information wherein a separate and distinct offense is stated.

COURT CALENDAR/COURT CALL -- (Terms are interchangeable) A list of cases set for trial on a particular day.

COURT REPORTER -- A stenographer who, during the proceedings in open court, records the testimony of witnesses and the colloquy between counsel and between counsel and the court, and later prepares transcripts from such record which may be needed and ordered for appeal or review of proceedings.

COURT SUPERVISION -- See SUPERVISION.

CRIME -- An act committed in violation of the criminal law.

D

DEFENDANT -- The person against whom the complaint or charge is filed.

DEFERRED PROSECUTION -- An alternative method for dealing with non-violent misdemeanants, in which the state's attorney's office withholds prosecution for a stated time while offender undergoes counseling or other treatment. If he fulfills conditions and stays trouble-free for a certain period, prosecution is declined.

DEPOSITION -- Testimony taken down in writing under oath. Although it is part of a judicial proceeding, the deposition is not taken in open court, but outside the courtroom.

DETENTION -- Incarceration in a lock-up or detention cell (usually in the police station) after arrest and booking.

DISCOVERY -- The process by which the prosecution and defense supply to each other information about the case. In Illinois, this information can only be obtained through motions made in the trial court.

DISMISS -- To send an action out of court with out any further consideration or hearing.

DISPOSITION -- The outcome of the case.

DOCKET -- 1) A list of cases awaiting court action. Often used synonymously for court calendar, court call, case sheet. 2) The running record kept by the Circuit clerk's office for each individual case. It lists all the pertinent data for that case including orders by the judge, such as continuances, and final disposition. 3) The list of cases assigned to a particular judge; a judge's "personal docket."

DUE PROCESS -- The law in its regular course of administration through the courts of justice. The guarantee of due process requires that every man have the protection of a fair trial.

E

ESTREAT BOND -- Withdrawal of a bond by order of a court.

EVIDENCE -- The means by which any matter of fact, the truth of which is submitted to investigation, may be established or disproved.

EX PARTE -- From or on one side only. An ex parte proceeding is one brought for the benefit of one side only with no notice to the other side.

F

FELONY -- An offense for which a death sentence or imprisonment for a year or more in a penitentiary is provided. A felony is a more serious crime than a misdemeanor.

"FOUR-TERM ACT" -- The act in the Illinois Revised Statutes (Chap. 38 103-5) which supports the right of the accused to a speedy trial. The "four-term" is the 120-day period after a defendant is taken into custody during which he must be brought to trial. For those free on bail, the term is a 160-day period beginning as soon as a trial is demanded.

G

GUILTY -- A plea or judgment which places the responsibility for the violation of the law on an individual.

H

HABEAS CORPUS -- "You have the body" -- a writ requiring a person be brought before a judge or court on the cause for which the individual is being held.

HUNG JURY -- A jury which does not unanimously agree on a verdict.

I

INCARCERATION -- An imprisonment.

INCOMPETENT -- A defendant is incompetent, or unfit, to stand trial or be sentenced if he is unable to understand the nature and purpose of the proceedings against him or cannot assist in his defense because of a mental or physical condition.

INDICTMENT -- A written statement presented by the grand jury to a court which charges the commission of an offense. Indictments are delivered only in felony cases.

INFORMATION -- A written statement, signed by a state's attorney and sent to a court, which charges the commission of an offense. An information is presented only in felony cases.

INJUNCTION -- A court order requested by one party prohibiting another party from performing an act that infringes on the complainant's rights. Such an order may also be issued to compel the performance of an act.

INTERLOCUTORY APPEAL -- An appeal from an order of the court before final disposition of a case.

J

JOINDER -- An order by the court that two or more separate charges be combined into one, or that two or more defendants tried separately be made co-defendants in a single trial.

JURISDICTION -- The power of a court to inquire into the fact, to apply the law, and to declare the punishment, in a regular course of judicial proceeding; sometimes referring to the territorial area, national or state, by way of indicating the law applicable to a case or the place where a cause was tried.

JURY COMMISSION -- A body of three commissioners appointed by the Circuit Court to prepare a list of voters who qualify for jury duty.

JURY, GRAND -- A jury of 23 persons which hears evidence and testimony presented by the state's attorney and conducts special investigations. If at least 12 of the jurors decide that the case is strong enough to justify a trial, a "bill of indictment" is returned and an arrest warrant issued for the accused.

JURY, PETIT -- A body of laymen selected and impaneled according to law in order to ascertain, under the guidance of a judge, the truth in questions of fact arising in either a civil or criminal proceeding on the basis of testimony and evidence presented before them. A petit jury consists of 12 or fewer jurors, and a verdict of either "guilty or "not guilty" is reached unanimously. It is sometimes called a trial jury.



K

L

M

MANDAMUS -- "We command" -- a writ by the Illinois Supreme Court and directed to a private or municipal corporation, or any of its officers, or to an executive, administrative, or judicial officer, or to an inferior court, commanding the performance of a particular act therein specified.

MANDATE -- A judicial order directing the proper authorities to enforce a judgment or sentence.

MISDEMEANOR -- An offense for which the imprisonment provided by statute is less than one year in a penal institution other than a penitentiary. A misdemeanor is a less serious crime than a felony.

MISTRIAL -- An invalid trial because of errors in procedure, law, or fact. A new trial before a different jury or bench must be held if a mistrial has been ruled. Some examples of grounds for a mistrial are failure of a jury to reach a verdict, lack of jurisdiction, or errors in the selection of a jury.

MOTION FOR SETTING -- Court's motion to set a date for a jury trial. (Applicable in DuPage County.)

MOTION TO SUPPRESS -- A request by defense to suppress evidence (such as drugs, guns, stolen property, confessions) on grounds it was obtained illegally. Evidence which is suppressed cannot be used in trial.

N

NON-SUIT -- A dismissal of a suit by a municipality against an accused ordinance violator; in other words, dropping of charges. (It is analogous to an SOL on a statutory offense.)

NOTICE TO APPEAR -- A notice issued to a person arrested without a warrant by a peace officer which sets forth the nature of the offense and requests the

accused to appear before a court at a certain time and place.

O

OBJECTION -- The ordinary method of raising in the trial court a question which would not otherwise appear upon the record, the matter being brought to the attention of the trial court for judge's ruling.

OFFENSE -- A violation of criminal law.

P

PERIODIC IMPRISONMENT -- A prison term served on certain days or periods of days. This sentence allows a person to pursue activities outside of jail -- taking care of a family, going to school working, etc..

PERJURY -- The legal offense of testifying falsely and deliberately under oath.

PETTY OR BUSINESS OFFENSE -- Any unclassified offense which does not provide for a sentence of imprisonment. (Sentence may be a fine or conditional discharge.)

PLEA -- The reply of the defendant, either guilty or not guilty, to the charges filed against him at the arraignment.

PLEA BARGAINING -- Negotiations between the defense and prosecution in which concessions are made regarding the charging and/or sentencing of the defendant by the prosecutor in exchange for a guilty plea.

POLLING THE JURY -- The practice of asking each juror individually in open court whether he concurs in the verdict.

PEREMPTORY CHALLENGE -- A challenge to a juror to be exercised by a party to a civil action or criminal prosecution without assignment of reason or cause.

PRELIMINARY HEARING -- A hearing held after arrest for a felony in which the prosecution presents its evidence to the judge who determines whether there is "probable cause" to believe that a crime was committed and that the defendant may have committed it. If probable cause is found, an information is filed by the state's attorney and the defendant scheduled for arraignment.

PRE-SENTENCE INVESTIGATION -- A written report by the court's probation department about the defendant's social background. For misdemeanor offenses, the preparation of the pre-sentence

report is at the discretion of the judge.

PROBATION -- A sentence of condition and revocable release under a probation officer's supervision.

PROHIBITION -- An order prohibiting an inferior court from proceeding in an action over which it has no jurisdiction.

R

REASONABLE DOUBT -- An actual and substantial doubt of the defendant's guilt arising from a fair comparison and consideration of all the evidence in the case, both for the state and for the defense. If a jury has a reasonable doubt about the truth of a charge, then it must render a verdict of not guilty.

RELEASE ON RECOGNIZANCE (R.O.R.) -- An undertaking in which no bail is set. A person binds himself to comply with the conditions set in the bond, and a sum of money may be forfeited if the defendant fails to comply with these conditions.

RECUSATION -- Challenging a judge for prejudice or bias; challenging a judge for disqualification, including a challenge on the judge's own motion.

REST -- An indication that a party has no more evidence to offer at the particular stage of the trial.

REVOCATION HEARING -- A hearing in which it is determined whether or not a probationer has violated the terms of his probation.

SEARCH WARRANT -- A written order issued by a judge directing a law enforcement officer to search a place or person for instruments, articles and things described in the order. A search warrant has to be issued in most instances for a search and seizure to be legal.

SELF-INCRIMINATION, GUARANTEE AGAINST -- Both United States and Illinois Constitutions guarantee that no person shall be compelled to give evidence against himself in a criminal case. A defendant or witness can refuse to answer a question posed by counsel on this ground.

SEVERANCE -- Separate trials of defendants in a criminal case because of antagonistic defenses, admission or confession by one, etc.

SOLICIT -- To command, authorize, urge, incite, request, or advise another to commit an offense.

SPEEDY TRIAL -- The right of a defendant to have a trial within a certain period of time as specified in the statutes.

STATUTE -- A section of the Illinois Constitution or an act of the Illinois General Assembly.

SUBPOENA -- A written order calling for an individual's presence in court in a situation involving someone else. A judge or state's attorney usually issues the subpoena.

SUPERVISION -- As opposed to incarceration or probation, it is a continuance of the matter for a period (usually no more than one year). At the end of the period, if the defendant has not been charged with a subsequent offense, the original offense is dismissed. Supervision is not a sentence.

SUMMONS -- A notice issued by the court commanding a person to appear in court at a given date and time. A summons can be sent to an individual charged in a complaint, to a witness, or to a juror.

T

TECHNICAL PLEA OF NOT GUILTY -- A declaration by defendant that he will not contest allegations made by prosecution but does not admit guilt. (Such pleas are most often heard in certain traffic cases and in cases where an order of supervision is made by judge.)

TESTIMONY -- Words heard from the witnesses in court as distinguished from evidence derived from writings.

TRANSCRIPT -- An official record of proceedings in a trial or hearing.

U

## V

VACATE -- To annul or set aside.

VENIREMAN -- A citizen who has been summoned for jury duty. The jury is selected from the group of veniremen.

"VICTIMLESS CRIME" -- Crimes in which there is no readily identifiable victim. (Examples often cited are some drug violations, prostitution, gambling, public drunkenness, homosexuality, fornication, adultery.)

VOIR DIRE -- "To speak the truth" --- An examination made by the court, through the judge or counsel, of a juror as to his qualifications. The examination is held in open court.

## W

WAIVE -- To give up a right, such as right to jury or right to counsel.

WARRANT -- A written document issued by a judge authorizing a law enforcement officer to make an arrest, conduct a search, or carry out a judgment.

WARRANT FOR VIOLATION OF PROBATION -- A warrant issued by the judge for a probationer who is suspected of violating the terms of his probation. A revocation hearing is held in which the State assumes the burden of proving the content of its petition for revocation.

WRIT -- An order issued from a court requiring the performance of an act or giving authority to have it done.

WRIT OF CERTIORARI -- A writ issued by a superior to an inferior court requiring the latter to produce certain records for review by the former.

## X

## Y

## Z

## BIBLIOGRAPHY

- Administrative Office of the Illinois Courts, 1972 Annual Report to the Supreme Court of Illinois.
- American Bar Association Project on Standards Relating to the Function of the Trial Judge, American Bar Association, 1972.
- 1973 Annual Report, The Circuit Judges of the Eighteenth Judicial Circuit, DuPage County, Illinois, 1974.
- Edward L. Barrett, Jr., "Criminal Justice: The Problem of Mass Production," The Courts, the Public and the Law Explosion, American Assembly, Columbia University, 1965.
- Rubin G. Cohn, To Judge with Justice: History and Politics of Illinois Judicial Reform, published for the Institute of Government and Public Affairs by University of Illinois Press, 1973.
- Criminal Practice in Cook County: Arrest, Bail, Preliminary Hearing, Chicago Council of Lawyers and Lawyers Committee for Civil Rights under Law, September, 1969.
- "Criminal Justice in 2000 A.D.," Center Report, Center for the Study of Democratic Institutions, October, 1974.
- Macklin Fleming, "Court Survival in the Litigation Explosion," Selected Readings: Court Congestion and Delay, edited by Glenn R. Winters, American Judicature Society, 1971.
- Jack Fuller, "Debating 'Victimless Crime'" Chicago Tribune, August 17, 1974.
- "Grass Grows More Acceptable," Time, Sept. 10, 1973.
- Hunter's Trial Handbook for Illinois Lawyers, Lawyers Cooperative Publishing Co., 1972; supplement, 1974.
- Illinois Criminal Law and Procedure for 1974, (Reprinted from Illinois Revised Statutes, 1973, State Bar Association Edition), West Publishing Co., 1974.
- Illinois Defender Project Defender Survey, Criminal Defense of Indigents in Illinois, A Report to the Illinois Law Enforcement Commission, March 1974.
- Illinois Practice Act and Rules, West Publishing Co., 1974.
- Illinois Voters Handbook, League of Women Voters of Illinois, 1973.
- Marcia Slater Johnston, "Justice for Women: Separate but Equal?", The Chicago Guide, February 1974.
- Harry W. Jones, "Introduction," The Courts, The Public, and the Law Explosion, The American Assembly, Columbia University, 1965.
- Norval Morris and Gordon Hawkins, The Honest Politician's Guide to Crime Control, University of Chicago Press, 1970.
- Charles E. Moylan, Jr., "Temple Bar to Megalopolis," Selected Readings: Court Congestion and Delay, edited by Glenn R. Winters, American Judicature Society, 1971.
- National Advisory Commission on Criminal Justice Standards and Goals, Report on Courts, U.S. Government Printing Office, 1973.
- David W. Neubauer, Criminal Justice in Middle America, General Learning Press, 1974.
- President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society, U.S. Government Printing Office, 1967.
- Stephen A. Schiller, The American Bar Association Standards for the Administration of Criminal Justice: Illinois Compliance, Chicago Bar Association, 1974.
- "Second Report and Recommendations of the Court Observer Program in Peoria Quasi-Criminal Courts," Court Observers, Inc. of Peoria, Ill., October 1973.
- "Task Force on Courts -- 2nd Report to the Community," Church Women United of Rochester, N.Y., 1973.
- Daniel M. Winograd, "Measuring the Judges: A Proposal," May 1973 (unpublished manuscript).
- Ernest Winsor and Edgar A. Dunn, "Keeping an Eye on the Courts in Massachusetts," Judicature, October 1973.

**END**