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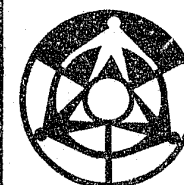
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A STUDY OF MANAGEMENT AND CASE
PROCESSING IN THREE COUNTY CLERK
OF COURT OFFICES:
WABASHA, RICE AND OLMPSTEAD
MINNESOTA



THE AMERICAN UNIVERSITY

Criminal Courts Technical Assistance Project
Institute for Advanced Studies in Justice
The American University Law School
Washington, D.C.



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MINNESOTA

April 1976

NCJRS

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MAR 8 1977

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I. INTRODUCTION

The Clerks of the District and County Courts of Olmsted, Rice and Wabasha Counties in Southeastern Minnesota requested that technical assistance be given to improve the organization, functions and administration of their services to the courts. The original request was made in the fall of 1975 to Region F of the Governor's Commission on Crime Prevention and Control and was forwarded to the American University Criminal Courts Technical Assistance Project through the Adjudication Division of the Law Enforcement Assistance Administration in Washington, D.C.

The Technical Assistance Project decided, because of the broad, diverse and general nature of the three requests, to initiate a Problem Definition Study of the three Clerks' offices to better determine the specific assistance warranted. The Problem Definition Study was assigned to a team comprised of Charles H. Starrett, Jr., Court Administrator of the Court of Common Pleas of Allegheny County (Pittsburgh), Pennsylvania, and Mark G. Geddes, Acting Regional Director of the St. Paul office of the National Center for State Courts.

Based upon the problems identified in the aforementioned study, the Courts Technical Assistance Project then assigned a study team to conduct an in-depth, on-site review of specific problems and to advance specific recommendations for their cor-

rection. The study team was comprised of Charles H. Starrett, Jr., team leader, who headed the Problem Definition Study; Grenville K. Hayes, Deputy Court Administrator of the Court of Common Pleas of Allegheny County (Pittsburgh), Pennsylvania; and Mrs. Rochelle Friedman, Esq., former Deputy Clerk of Courts of Allegheny County and presently law clerk to a judge of the Court of Common Pleas of Allegheny County.

The report herein documents the problems as observed by the study team and expressed by Court personnel and defines specific recommendations to alleviate these problems. The report is designed to provide a basis for implementing specific improvements as delineated from both the preliminary and final studies.

A. The Problem

Facing rising caseloads, a change in status from elected to appointed clerks and a reforming judicial system, the Clerks of Courts of many Minnesota counties, including the three counties specifically addressed in this study, are in need of guidance in realigning their offices and in adapting old procedures and instituting new ones to meet the needs of a modernized judicial system. The problems of the Clerks is further exacerbated by the limitations of their resources, by the lack of direction from the state level and by the very nature of the multi-faceted judicial organization they serve.

Thus, the problem facing the study team in the brief time assigned to it, was not only to seek out and provide recommendations for specific areas and procedures of difficulty, but also to look to the overall organization and operations so as to give a coordinating force to the individual solutions advanced.

B. The Methodology

The means employed by the consultant team in approaching the problem at hand were:

- * Review of statutes affecting Clerks of Courts operations.
- * Review of the Minnesota County Court Survey.^{1.}
- * Review of Problem Definition Study, Courts Technical Assistant Project, Washington University, Washington, D.C. (November, 1975).
- * On-site visits to each of the Clerks' Offices and interviews with each Clerk, deputies, clerical staffs and with available County and District Court judges.
- * Observation in detail of each process of each clerk's office.

^{1.} See Minnesota County Court Survey, Publication no. R0011, The National Center for State Courts, Denver, Colo. (March, 1974)

The following is a list of individuals interviewed by the team during their on-site visits in an effort to gain a better understanding of the needs of each county.

WABASHA COUNTY

Court Personnel

County Court Judge David Weber

Clerk of Courts David Meyer

E. Hanson, Chief Deputy-County Court

T. Holton, Deputy-District Court

M. Glickner

M. Johnson

D. Majerus

OLMSTED COUNTY

Court Personnel

District Judge O. Olson

District Judge D. Foley

Clerk of Courts John Rice

J. Henz, Chief Deputy

I. Culver, Chief Deputy

A. Chafos, Deputy

J. Knudson, Deputy

L. Rasmussen

D. DeVriendt

P. Brown

D. Knutson

J. Townsend

P. Veer

M. Hidestade

F. Stensrud

S. Callaway

Other Personnel

Law Enforcement Center, Merle Mewhorter

Corrections Department, B. Swanstrum

Police Department, R. Miller

RICE COUNTY

Court Personnel

District Court Judge Urban Steimann

County Court Judge Gerald Wolfe

Clerk of Courts Ray Sanders

M. Cramer

S. Brown

K. Trushenski

T. Von Ruden

FIFTH JUDICIAL DISTRICT

Court Personnel

Court Administrator, Fifth Judicial District, Ruth Eppeland

Clerk of Courts, Mankato County, Richard Fasnact

Data Processing Manager, Mankato County, Brian Novak

Other Personnel

Executive Director Region, F., Governor's Commission on Crime
Prevention and Control, Ronald Wiborg

II. ANALYSIS OF THE EXISTING SITUATION

Article VI of the Minnesota State Constitution divides the state into 10 judicial districts, the District Courts of which have general jurisdiction in civil and criminal matters, exclusive of grants to the County Courts of specific jurisdiction in certain matters. In some instances, the District and County Courts have concurrent jurisdiction. The District Court also has certain appellate jurisdiction as prescribed by law.

The Third Judicial District is comprised of 11 counties and is served by six district court judges presided over by a chief judge. Pursuant to passage of the County Court Act of July 1, 1972 each county in the Third Judicial District is served by a County Court except Olmstead and Dodge Counties, which are combined into one County Court as permitted by law.

A statistical profile of the case dispositions in the County Court of each County involved was made available to the team. These statistics were based on the statistical reports made to the State Court Administrator's Office and may contain some discrepancies based on different methods of tabulating dispositions. The statistics do indicate the relative case volumes involved in each of these Courts, which is not so great that similar procedures will not be equally applicable to all three. A comparison of statistics for case dispositions in 1974 indicates only a moderate increase in the level of case dispositions.

Although each of the Clerk's offices seemed to be operating in a smooth fashion, it became evident to the study team that the

counties are experiencing a rising volume of cases which is severely straining the capacity of the clerical staff to keep up with the case work and to maintain their ability to handle inquiries from the public and other agencies. The study team developed office organization charts for each of the clerk's offices (Figure 1, 2 and 3).

Much of the effort expended to keep the clerical process current could be reduced by better forms, procedures and practices so as to eliminate unnecessary paperwork and record-keeping which is of limited usefulness or is rarely accessed although required by law. Budget constraints give rise to serious questions as to the value of many of the clerical procedures, most of which are maintained by tradition.

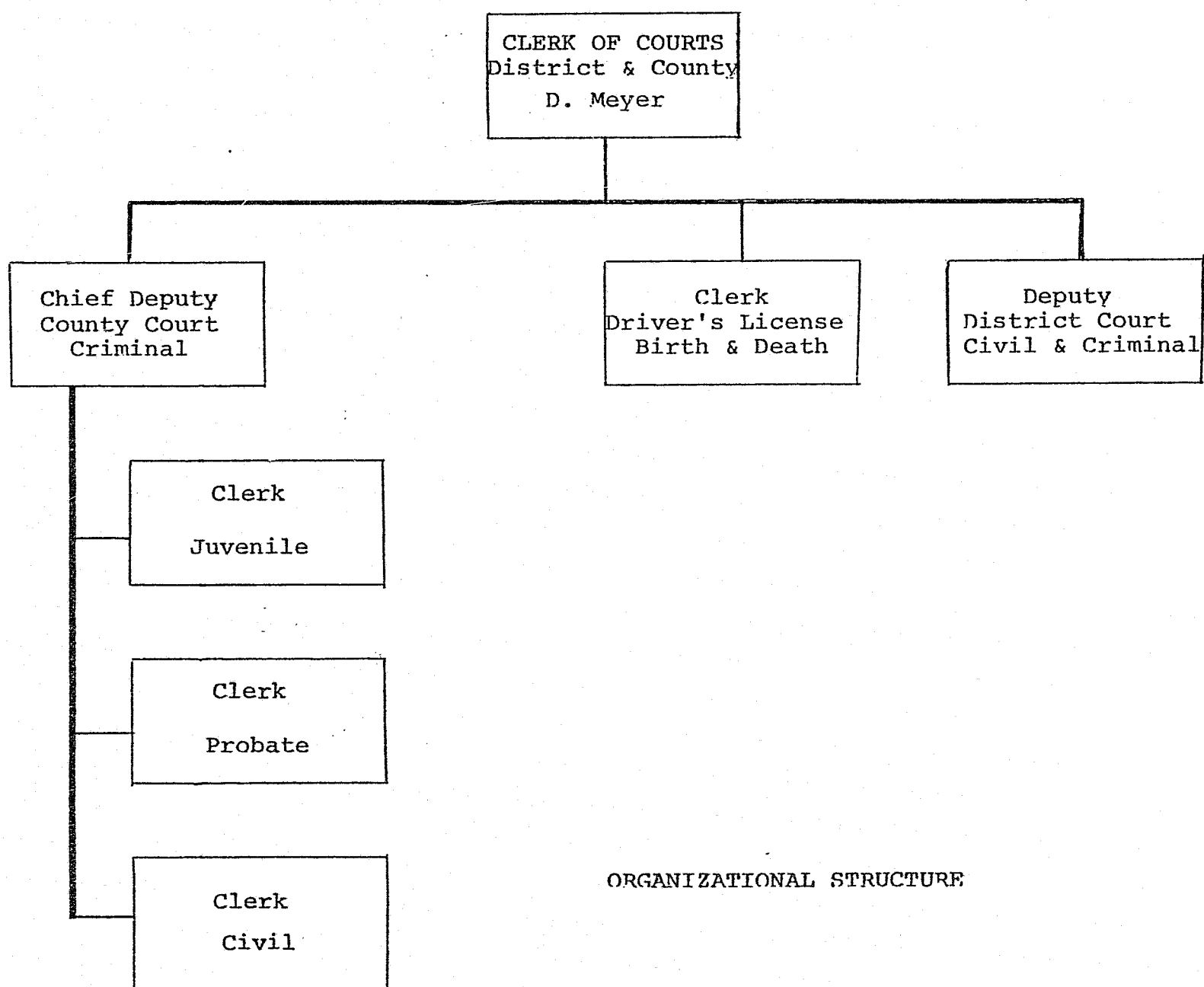
A. County Analyses

1. Wabasha County

Wabasha County has a population of 16,459. The county seat is the town of Wabasha, site of the District Court as well as the County Court. The latter has one elected County Court judge, with the assistance of a judicial officer (appointed by the Court) who presides over the conciliation (small claims) court in the nearby town of Lake City. All of the clerical duties are performed by the Clerk of Courts, who is completing an elected term and expects to be appointed, under a new state law, by the judges of the Third Judicial District.

In addition to regular duties in recording and keeping records for both District and County Court, the Clerk also keeps

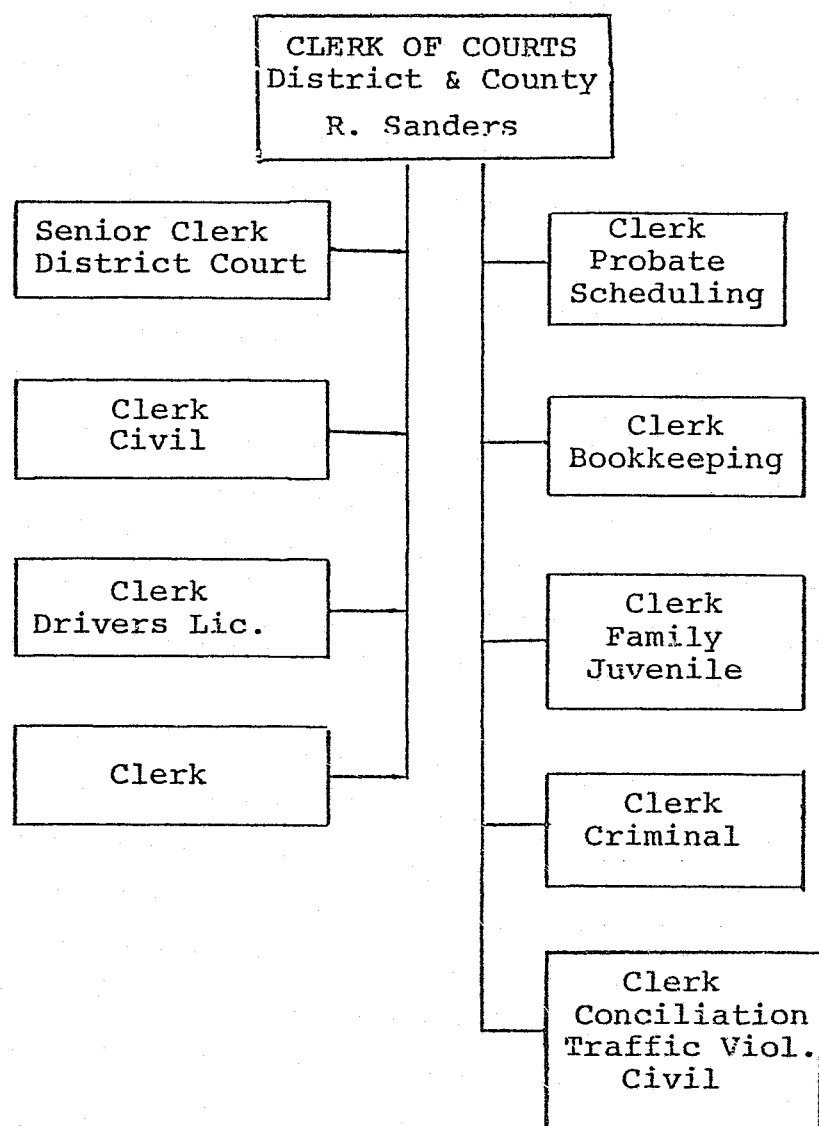
CLERK OF COURTS -- WABASHA COUNTY



ORGANIZATIONAL STRUCTURE

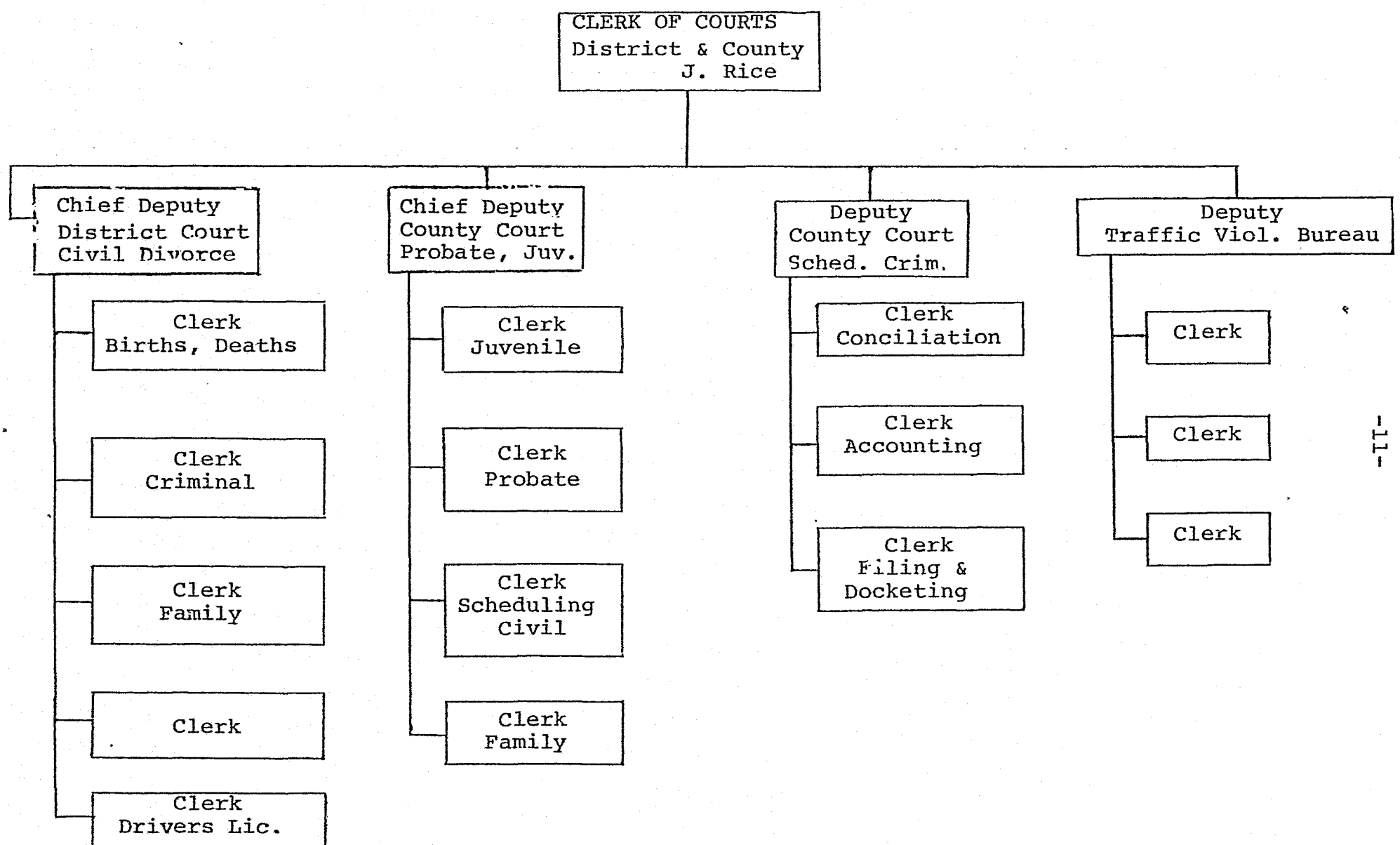
FIGURE 1

CLERK OF COURTS -RICE COUNTY



ORGANIZATIONAL STRUCTURE

CLERK OF COURTS -- OLMSTED COUNTY



ORGANIZATIONAL STRUCTURE

statistics on court operations, sets the various court calendars and assists in preparation of the Court budget. In actuality, he functions as a court administrator.

The Clerk is assisted by four clerks concentrating on County Court matters and two clerks assigned to the work of the District Court.

The request in Wabasha County, as expressed by Clerk of Courts David E. Meyer, is for assistance in improving the "criminal actions system" and advice on improving the "organization, function and administration" of his office.

The clerk's office appears to function well, and there is no significant backlog of County Court cases. But Clerk Meyer sees duplication in various record keeping functions. For example, a decree (or judgment) file is maintained even though the original is kept with case papers "because that's the way it's always been done." Traffic tickets are filed and kept indefinitely, and also entered in dockets, a process Clerk Meyer sees as unnecessary duplication.

County Court Judge Dennis Weber agrees with his clerk. He sees no uniform procedure for the various County Courts, even within his own judicial district. Both he and Clerk Meyer seek direction on the specific records to be maintained, the standard instructions on processing various types of cases, and the particular procedures and schedules for records retention and destruction schedules. While there are some statutory requirements for retention and destruction of records there is wide variation among clerks' practices.

The consultant team also observed that some records are flat filed while others are kept in the old fashioned jacket filing system. The team also was advised that the filing system varies with the individual clerks' offices throughout the judicial district.

2. Olmstead County.

Olmstead County has a population of 95,979, with significant population gains still occurring. The county seat is Rochester. The County Court is staffed by two full-time judges, with a third serving three days in Olmstead County and two days, Monday and Tuesday of each week, in Dodge County. (Olmstead and Dodge Counties, it will be recalled, form a multi-county Court.) Two of the six District Court judges of the Third Judicial District also are headquartered in the Olmstead County seat of Rochester.

The Clerk of Courts, John N. Rice, supervises clerical, record keeping and case scheduling operations in two locations, one in the Courthouse and another in City Hall eight blocks removed from the Courthouse. Both the clerk and County Court Judge Harold Krieger agree that case scheduling problems arise from a breakdown in communications between the two operations and the judge's chambers.

Currently a construction project is underway to provide an additional courtroom and other facilities in the courthouse so that the entire City Hall operation, formerly a Municipal Court operation until formation of the County Court, will be moved to the Courthouse. Clerk Rice sees the impending move

as the ideal time to restructure his staff to not only improve communications but consolidate filing, bookkeeping and other functions of both County and District Courts. Thus, the clerks assigned to handle cases being filed, for example, would perform that function for both County and District Court. The clerk also echoes the sentiments of the Wabasha County Clerk, that the lack of a procedures manual and records retention schedules hamper attempts to improve the efficiency of his operation.

A particular concern of Clerk Rice is the manual process in the handling of traffic tickets. The current volume of traffic cases is about 5,200 per month. A walk-through of the traffic operation revealed six specific manual entry functions, plus bookkeeping, which a computerized operation could simplify. There would also be a reduction in paper costs. The county computer hardware is available for this process, but the county computer personnel to perform the systems design and programming functions are not available.

The Clerk of Courts in each county also is a member, and usually chairman, of the county jury commission. The initial jury selection operation in Olmstead County is now computerized, but all other present qualification and notification procedures are manual. An increased level of computerization could be applied at the same time the traffic operation is computerized.

3. Rice County.

Rice County has a population of 43,693. The County Court of Rice County is served by one County Court judge and one Judicial Officer. The latter has the same jurisdiction as the judge, and is available to serve full time at the direction of the judge.

The County Court sits in the Courthouse in Faribault, the county seat, along with the District Court, presided over by one judge. The County Court also sits Wednesday mornings in Northfield, a smaller community on the northern edge of Rice County. The Clerk of Courts, serving both District and County Court in Faribault, is Ray L. Sanders. As is the case in the other counties visited, the County Court of Rice County is virtually current in its processing of cases, having reduced a four-month backlog existing in January, 1975, to current status.

Again, Clerk Sanders and County Court Judge Gerald Wolf perceive a need for the restructuring of the Clerk's office. Several of the five clerks in the County Court side of the office are new, and they have little documentation of office procedures and functions. The clerk and judge both voiced a need for specific instruction manuals for the clerks.

There also appears to be some duplication of files and dockets. Further, the judge is presently required to devote part of his time to the setting of trial lists. Both Judge Wolf and Clerk Sanders also see the need for standardization

of forms and procedures throughout the judicial district. Filing is primarily by jacket file, and dockets are handwritten and bound rather than the more modern typewritten loose-leaf type.

Plans now exist for construction of additional courtroom and clerical space in Faribault, with the expectation that the work will get underway during 1976. The expansion of space will be the ideal time for the clerk to combine certain district and county court clerical functions and to restructure procedures in his office. He hopes to have these procedural plans developed and ready to initiate once the physical plant is ready.

B. Report Structure

As a means of permitting ease of review and implementation of the many subject areas covered in this study, this report will be divided into sections. Each section will contain an analysis of the practices and procedures currently in use in each county and a recommendation as to the best course to follow. This will permit the clerks and judges to compare what is being done in one county as compared to the others.

However, there are certain matters of concern so general in nature that they do not properly fit into one of the sections. Therefore, these problems and recommendations will be advanced in the next section entitled, General Problems and Recommendations.

III. GENERAL PROBLEMS AND RECOMMENDATIONS

The problems identified and the remedies suggested in this section of the report are general in nature. They are related to the overall operation of the Clerk's office, and they deal with issues of sound administration of the justice system which concern the Courts in all the Counties.

Problem # 1

The Clerk of Courts must serve both the needs of the District Court and the County Court, which frequently strains his resources. Until recently, all clerks were elected; however, in Olmsted and Wabasha Counties, the clerk is now appointed. The clerks in these counties must respond to the needs of the District Judge who appointed him while being charged with the duty of serving the County Court Judge who does not appoint him.

Recommendation # 1

Since the number of judges is small, it would be relatively easy to correct or ameliorate the clerk's dilemma by holding monthly meetings of the District County Court judges with the clerk. This would acquaint all of the judges with the problems confronting the clerk attendant to his serving both courts. Recognizing that the direction of the clerk's role vis a vis the Judges is a politically delicate issue, the consultants believe that improved communications among the judges would help to clarify the need for the clerk to supervise the general

operations and to delegate certain duties to deputies serving the individual courts. For example, in many counties, the clerk is required to be present in District Court when it is in session, although he has responsibility for other operations as well. In Olmsted County, the District Court permits a deputy to serve in Court in place of the clerk. This arrangement should be permitted in the other counties.

Problem # 2

There is a need for greater communication between the Clerks of Court. There is a definite lack of standardization in all areas. The clerks tend to attempt to solve their problems individually, whereas, the solution, already tested, may be at hand in a nearby County.

Recommendation # 2

Regularly scheduled meetings of the clerks of the Third Judicial District should be held, with careful attention being given to the subject matter to be discussed. There is a need to discuss the details of procedures and practices. It is easy to forget how difficult it is to share ideas unless there is ongoing interaction. Such meetings would foster the needed standardization process for forms, procedures, and the like, which the Fifth Judicial District has accomplished by appointment of a District Court Administrator. A possible subject for one of the early meetings of the 11 clerks would be to review this report and to discuss the progress of the clerks in Rice, Wabasha, and Olmsted in implementing its recommendations.

Problem # 3

Little information and advice concerning legislative and Supreme Court rule changes filters down to the clerks. This has resulted in confusion among the clerks, and in the clerks seeking the time of various judges for interpretations.

Recommendation # 3

Ruth Eppeland, District Court Administrator for the Fifth Judicial District, currently performs this service for her district. She has indicated a willingness to supply information to a clerks' organization in the Third Judicial District. Such an arrangement should be established.

Problem # 4

There appears to be a lack of communication and coordination with the State Court Administrator's Office, with the result that there is a lack of uniformity in the way various clerks report their judicial statistics.

Recommendation # 4

It is significant to note that State Court Administrator, Richard Klein, personally attended the entry conference for this study in Faribault. Either the Administrator or a member of his staff should arrange for regular meetings with groups of clerks during the year so as to give guidance to the clerks and to react to their problems.

Problem # 5

There is some confusion concerning the statistics which are to be supplied to the State Court Administrator.

Recommendation # 5

The state reporting form should be revised to show the method of disposition and more accurately reflect the work performed by the Courts. For example, the form should make possible a distinction in the recording process of cases stricken from the calendar as opposed to those actually disposed of by judicial action, trial or otherwise. The combined clerks of the Third Judicial District could propose this.

Problem # 6

Personnel administration is an area of concern for all of the clerks.

Recommendation # 6

Each clerk should delegate specific, functional responsibilities to each staff member based on the type of cases handled by that clerk. In Olmsted County, one person should be designated supervisor for the District Court and another so designated for the County Court. Such delegation would permit the clerk to concentrate on cross-training of clerks so that more than one person is familiar with a particular clerical function. If the District judges recognize the viability of this suggestion, they will find that the clerk will have more time for communication with all of the judges and be more responsive to the judges needs. The clerk and his supervisors

in each office should establish specific responsibilities for each staff member, utilizing written job specifications and written procedures.

Problem # 7

Too often, the various staff personnel are unfamiliar with the work of others in the offices, resulting in slowdowns and work backlogs when illness or other absences strike.

Recommendation # 7

Using the written procedures and job specifications alluded to in the last recommendation, the supervisors can begin a cross-training program so that personnel can fill in various work stations at least on a temporary basis.

Problem # 8

Continuity is vital in recordkeeping operations such as the clerks and the untimely resignation of one or more employees can disrupt an otherwise smooth operation. Rice County is losing three employees within six months, including its Chief Deputy.

Recommendation # 8

An interval procedures manual should be established detailing the responsibilities of each employee in a given task. (See Appendix :1, Sample Procedure.)

Problem # 9

Physical separation of part of the office staff existing in the Clerks' offices hurts operational effectiveness.

Recommendation # 9

The clerks should concentrate on improving processing procedures, documenting the activities that should be performed and monitoring performance by reviewing records, status of pending cases, and adequacy of administrative support with the judges. These steps will improve operations in the Clerk's office and minimize the impact of physical separation. But if these steps are not taken, the major problems will continue to exist when the office is consolidated.

Problem # 10

Current diverse forms purchasing methods in the various counties results in cost factors higher than necessary.

Recommendation # 10

A system of purchasing standard forms from one supplier for all 11 counties of the judicial district could effectively lower the cost for each Clerk's office. Such an arrangement could be made through the existing Clerk's organization or under the direction of the Chief Judge of the District, with the counties sharing the cost based on their level of usage.

Problem # 11

Much time is expended by court personnel in the xeroxing of copies, because of the placement of xerox machines in the Courthouse. In Wabasha County the xerox machine is in the

District Court Office and in Rice County it is in the Auditor's Office, on another floor from the District Court Office. As a result, in certain circumstances, it takes less time to type a requested document than to copy it.

Recommendation # 11

The Clerks of Court should evaluate their needs for quick access to a copy machine and arrange to have the equipment moved accordingly. In Rice County, placement of the copier should depend on which office makes the greatest use of it. The alternative, of course, is to further standardize forms to be used by all counties so that one multi-purpose form, with check-off blocks, can save typing time and be ordered in cost reducing quantities. In no county visited did the team observe sufficient quantities of copying being done to merit the rental of another copier; however, better placement should be explored.

Problem # 12

Records are retained unnecessarily.

Recommendation # 12

Whenever records are being kept which have no utilitarian purpose they should be eliminated. Where retention is required by law, those requirements should be satisfied by combining two or more records in a way that combines the purpose with the duty.

Problem # 13

Judges have difficulty in scheduling cases to insure a full calendar.

Recommendation # 13

A judge needs to be able to see his schedule for a whole week at a time, and should have more interaction with his scheduling clerks to improve performance and insure a full calendar. The judge should make one individual responsible for each type of case, to promote the desired interaction and to allow the judge to inform the clerk how to determine the complexity and time required to hear the case. (See Appendix 2, Case Schedule.)

Problem # 14

Valuable judicial time is being spent on scheduling matters which can be handled by clerks.

Recommendation # 14

The judge should provide each clerk with written guidelines for case scheduling, including such information as the criteria for case review and number of cases to be scheduled during any one day.

Problem # 15

More control needs to be asserted with respect to case postponements.

Recommendation # 15

Postponements should be granted by the judge, or by the clerk under specific written criteria prepared under the judge's

explicit direction. All postponements should be prepared on a specific form and postponed to a DATE CERTAIN. The reason for the postponement should be clearly stated by the attorney on the form. If the judge does allow the clerk to postpone cases, the approved postponement should be submitted to the judge to insure the adequacy of the established criteria.

NOTE: Written postponements will also insure better documentation as to the progress of a case and reasons for delay, if any.

Problem # 16

The sharing and diffusion of case scheduling responsibility does not permit efficient scheduling of case types to reflect the amount of time they actually require.

Recommendation # 16

Only one person should have responsibility for scheduling any given type of case. The clerk should have responsibility for reviewing with the judge the progress of the calendar and designating the time periods, during a one- or two-week time span, during which specified types of case are to be heard.

Thought should also be given to having longer periods of time for cases to be heard, especially Criminal and Civil, where the length of time can vary and where jury trials can turn into pleas. Instead of giving only one half day or one day for each type of case it might be preferable to give two or three days for Criminal one week, and Civil the next. This should allow fewer postponements or carry-overs and insure better scheduling.

Problem # 17

When cases are not scheduled for a pre-trial plea bargaining conference a week before trial, there are more jury trials with resultant unnecessary costs.

Recommendation # 17

In Rice County, scheduling pre-trial conferences a week before the case is listed for jury trial, has resulted in a large percentage of the cases being settled by guilty pleas. This has eliminated both the unnecessary expenditure of time by jurors and the unnecessary expenditure of money for witness fees. Plea bargaining, prior to the date for trial, should, therefore be encouraged.

Problem # 18

The case scheduling process in all the counties needs to be modernized and more closely supervised, so that a more accurate accounting of caseloads can be achieved. The present monitoring systems do not permit ready availability of such basic statistics as the number of pending cases.

Recommendation # 18

All case scheduling should be to a date certain and there should be a system whereby cases are monitored at various stages to more readily permit statistical breakdowns. These proposals will be dealt with in more detail in the section in this report dealing with procedures.

One staff person must have the ultimate responsibility of seeing that cases are scheduled in a timely fashion, generally, on a first come, first serve, basis, and that any scheduling problems are brought to the attention of the Clerk of Courts for resolution. Since June, 1975, in excess of 75 juvenile cases have accumulated in boxes, unscheduled, unaccounted for and undisposed of, awaiting the return of a judge in June, 1976. The need for timely processing and scheduling became less apparent, in light of the more basic, inherent scheduling difficulties between personnel at City Hall and County Court and in light of the normal backlog of cases at City Hall. The situation is further complicated by the fact that there is currently no judge at City Hall, and the judicial officer there may not hear juvenile cases. This situation is illustrative of the quagmire that can result from lack of communication among staff. Monthly staff meetings should be held to provide a regular opportunity for problems to surface. Knowing that such an opportunity exists provides the impetus for constant evaluation and refinement of procedures and tasks.

To remedy the instant situation, the team, while on-site, advised the Clerk of Courts of the situation and recommended that all pending juvenile papers be transferred to County Court in the Courthouse for immediate scheduling with the County judges, until such time as the absent judge returns.

Problem # 19

Opportunities to eliminate the duplication of paperwork in subpoena production are being overlooked.

Recommendation # 19

Subpoenas -- In each county visited, a separate subpoena is issued for each witness. If more than one witness is ordered to appear in a case, a single subpoena can bear all of their names, as long as the clerk charges fifty cents for each name. M.S.A. 375.021 Subd. 2. (3). Although no county visited currently issues more than five subpoenas a week, the above procedure is more efficient and could represent a substantial savings of time as the population and volume of cases in each county increase. Olmsted County has a carbon foldover form (an original plus one copy) which is highly efficient and could easily be adapted for issuing additional copies by printing the "command to appear" on the face of the subpoena and certification of service on the back.

IV. RECOMMENDATIONS REGARDING PROCEDURES

Because of the time constraints of the study team, it was impossible to do an in-depth comparative study of each process in each division of the County and District Courts. The team, therefore, focused on those processes which had been identified as major problem areas either in the original Problem Definition Study or during the on-site visits to each county's offices. The comparative process analyses which follow include: Probate, traffic violations, juvenile traffic, juvenile, conciliation and criminal. The process analysis format presented here provides a framework for on-going self evaluation by the clerks. It can be applied to any process in the system by a process of:

- Identifying the records, indexes, monitoring and filing procedures;
- Acknowledging problem areas;
- Evaluating the accessibility, usefulness and duplication of all information recorded or filed; and
- Seeking better solutions as a result of a continuing idea and information exchange between clerks, judges, court and court-related personnel.

A. Criminal Case Process -- County Court

Cases discussed in this section are those which are initiated by citation or complaint, rather than arrest, yet which require a court appearance. Traffic Violation Process recommendations will embody many of the same concepts recommended here, but because of the significant differences in caseload

volume and in the penalties involved, this process is defined separately. If a defendant pleads not guilty to a traffic violation, his case would then be processed, as outlined below, in the same manner as cases requiring a court appearance.

1. Wabasha County

- Recording:
1. File folder envelope indicates: Defendant, day ticket issued, case number and disposition.
 2. Criminal Register Docket entry contains the same information as is recorded on the file folder envelope. This docket is typed at the conclusion of the case, and cases are listed in order of their disposition, not their filing.
 3. Report to the County Treasurer and Attorney indicates: Defendant, offense trial date, disposition and fine paid for defendants found guilty.
 4. Although Court minutes are not currently kept, the clerk indicated that they would be in the future.
 5. Traffic tickets, on the reverse sides (3) indicate: Disposition for state, police officer, and file ticket.

Indexing: Alphabetic index, by last name contained in front of Criminal Register Docket, is prepared after the case is concluded.

Case Monitoring: Court hearing date is entered in County Court calendar.

Filing: Pending disposition -- Alphabetic order of pending cases.

After disposition -- Alphabetic order.

2. Rice County

Recording 1. Index card indicates: Defendant, ticket number, license number, issue date, arraignment date, offense, bond data, police officer, postponements and disposition.

2. Daily Traffic and Misdemeanor Docket (8 1/2 x 14) indicates: Tag number, offense date, previous appearance date, defendant, offense, court date, plea and disposition. Typed on the day of hearing, it is used in the courtroom to record dispositions. Then it is filed in looseleaf notebook by date of hearing.

3. Register of Actions; if the case involves a not guilty plea, jail sentence or bench warrant, it documents: File number, defendant, all papers filed and date of filing, Court actions and the date of action, disposition

and date of disposition. It is handwritten as the case progresses.

4. Newspaper report -- contains defendants' names and dispositions of cases heard.
5. Traffic tickets on the reverse sides (3) indicate: Disposition for state, police officer, and file ticket.

Indexing:

1. Index cards (see above) are filed in alphabetical order while the case is pending and are then filed in historical alphabetic file.
2. Alphabetic Index is contained in the front of the Register of Actions.

Case
Monitoring

1. Pending citations and complaints, which are indicated by a slip of paper, are in the Criminal Case Monitoring file by date of required appearance. This file is also used when an individual has a deferred fine.
2. County Court calendar is typed indicating all scheduled trials. It indicates the case number, parties, offense or division, attorney(s), judge, type of trial, date and time. As cases are scheduled, they are added to this list.

Filing:

In cases requiring more than arraignment, a file folder is prepared for filing in numerical order.

- Forms Usage:
1. Xerox copy of ticket is sent to County attorney on not guilty pleas.
 2. Jail commitments prepared as required.
 3. Subpoenas are prepared for each prosecution and defense witness as requested by attorneys.

3. Olmsted County

- Recording:
1. Docket book entry listed in alphabetic order, indicate: Defendant, case number, offense, date of entry, city or county case, and state statute violated. It is loose-leaf book with typed entires, and it is rarely used.
 2. Court Docket (#2) prepared in order of case number documents: Defendant, date complaint filed, offense, police officer, plea, date of court appearance, disposition and amount of fine paid.
 3. Minute book sheet records trial proceedings, changes in pleas and reference to taped record of hearing. Entries are incomplete with very limited value and handwritten with pencil. A copy is included with the case papers.¹
 4. Traffic Offense and Disposition Report for all cases with 2 copies indicates: Tag number,

1. Appendix 3, Minutes

defendant, offense date, birthdate, license no., offense, police officer, plea, bail, disposition and amount paid. Copies are for the police, auditor and file mentioned in hearing date order.

5. Envelope file indicates case progress: Defendant, case no., offense and date, complainant, bail plea, trial date and disposition.
6. Weekly Report is prepared indicating: Dispositions of all moving violations and misdemeanors, tag numbers, defendant, offense and fine paid.

Indexing:

1. Alphabetic index by first two letters of last name for the docket book which is prepared in alphabetic order by last name.
2. Alphabetic index to docket sheets indicating: Ticket number, defendant, offense and docket sheet number.

Case
Monitoring:

1. Desk calendar is used to indicate cases set for trial.
2. Separate case files are established for cases with hearing date or continued indefinitely, cases with stayed fines or awaiting sentencing and cases scheduled for arraignment or with an outstanding warrant.

Filing:

Envelope file is established documenting progress of the case (see Recording, 4.); filed alphabetically according to case status (see Case Monitoring: 2.) At completion of case, the case envelope is filed in case number order.

Form Usage:

1. Defendant appearance reminder is a slip of paper indicating date, time and place of next appearance or the date the fine or bail is due.
2. Bail card is prepared for bail granted at arraignment and placed in separate file.

Scheduling:

1. Clerk considers non-availability of police officers and the time required for a given type of offense in listing cases.
2. Many problems and scheduling conflicts have resulted from having two clerks in two locations scheduling different types of cases before the same judge. Based on a sample inspection of cases scheduled, no preference was found to be given to either County or City cases with an equal number of cases from each jurisdiction.

4. Problems and Recommendations

Recording. A great variety of systems are used to document the actions on criminal cases, with little agreement among the County's surveyed as to the need for Dockets, Minutes or Register of Actions. The result of this considerable recording effort is that the documents have a very limited and infrequent use.

Recommendation # 20

- a. A Criminal Register Docket, using pre-printed, loose-leaf pages (8 1/2 x 11) that will be filed in case number order, should document: Defendant, tag number, offense and date, arresting officer, attorneys, each court action and date, judge, plea, disposition and date, amount of fine paid and date of payment and a list of case papers filed and the date of filing. The pages of this docket should be updated as the case progresses in the courtroom and kept with the case file until the case is disposed of at which time a copy would be made for the file and the original filed in the loose-leaf Criminal Register Docket.
- b. A Case Status Index Card with a pre-printed format should indicate: Defendant, case number, offense, date of offense, next action, next scheduled date and disposition. This card should be typed in duplicate or a two part form used.
- c. The two recordings above are adequate to solve Court case monitoring and disposition reporting needs. The Court also needs a hearing list that could be prepared the day before the hearing. This form should be designed so that

it can serve several purposes: basic reporting for the auditor, a report to the State concerning fines received and dispositions, and the report to the newspaper, if desired and used. To satisfy the other uses, the disposition information can be typed on after the hearing from the Criminal Register Docket pages outlined in 1 on the previous page.

Indexing. Court personnel need to be able to access a case either by defendant name, case number or by date of next action.

Recommendation # 21

Copies of the case status index cards should be filed alphabetically while the case is in progress. At the conclusion of the case, when disposition information is added, the index card should be placed in an historical alphabetic file. This would allow easy access to disposed cases, and to the Criminal Register Docket.

Case Monitoring. The status of all pending cases needs to be known and monitored to insure that cases do not get forgotten. The volume of cases requires a simple, easily maintained procedure.

Recommendation # 22

The case status index card should be filed in a Criminal Case Monitoring file by date of next action, whatever that action is: Arraignment, hearing, trial, payment of fine or any other. The case status index cards must be updated to preserve the monitoring function and to permit an easy response to inquiries.

Filing. Improvements can be made in filing procedures.

Recommendation # 23

- a. The case files should be maintained in the regular file in case number order. (Where the volume of these cases is small enough the pending case files could be filed alphabetically, which would eliminate the need for the duplicate case status index cards.)
- b. The file folder should definitely be a flat manila folder with clasp to hold all case papers. If a citation initiated the case, the citation should be clipped to the other side of the file folder to separate it from longer paper.

Form Usage. Many case files do not currently contain adequate documentation of the case disposition, often relying only on a receipt for a fine to indicate it.

Recommendation # 24

A copy of the Criminal Register Docket page, placed in the file, can serve as a definitive statement of disposition, although a separate order, which should be signed by the judge, could be prepared to adequately document the disposition. The case papers should always contain a complete record of the disposition, without requiring transcription of the stenotype notes or the tape recording.

Scheduling. The need to improve the efficiency of scheduling procedures and centralize this function in one or two individuals has been presented in the General Recommendations section of this report (see recommendations # 13-16, above.) It is repeated here.

B. Traffic Violation Process

This process covers all traffic violations which can be paid by mail, if desired by the defendant. It represents the largest volume of cases filed with the Clerks' offices and as a result will provide the greatest benefits with improved procedures. This process also involves a large number of financial transactions, but as local auditors determine many of these procedures, discussion of them will be limited in this report.

1. Wabasha County

Recording:

1. Pending Ticket List indicates: Defendant, ticket number, date of receipt, and fine paid.
- 2.. Traffic Docket records in alphabetic order by last name: Ticket number, date of issue, defendant, file number, offense, disposition and disposition date; typed at time of receipt.
3. Traffic tickets on the reverse sides (3) of the ticket indicate: Disposition for state, police officer, and file ticket.
4. Auditor's report documents: Ticket number, defendant, offense, trial date and disposition.

Indexing:

None

Case
Monitoring:

Pending ticket list indicates tickets that have not been paid.

2. Rice County

Recording:

1. Clerk's notebook documents: Date of receipt, police department, and defendant. Entries are handwritten as documents are received, and are rarely accessed.
2. Index card indicates: Defendant, ticket number, date issued, offense, court date and disposition. It is filed alphabetically, while the ticket is not disposed of.

2. Index card file indicates: Defendant, date issued, ticket number and appearance date.
3. Traffic Offense and Disposition Report with two copies documents: Tag number, offense, offense date, birthdate, license number, police officer, pleas, bail, disposition and amount paid; it serves as the docket for all paid tickets and the hearing list for tickets not paid prior to required Court appearance.
4. Traffic tickets on the reverse sides (2) indicate: Disposition, for state, motor vehicle bureau and ticket file.
5. Ticket disposition card for police department indicates: Defendant, address, sex, arrest and time, date, violation, violation location, birthdate, license number, tag number and officer number and disposition.

Indexing: None

Case
Monitoring:

1. The index card is filed in Ticket Case Monitoring File by date of Court appearance.
2. Hearing Docket (see #3 under Recording)

Note: There is effective case monitoring for unpaid cases in which the defendant did not appear and bail letters were issued.

CONTINUED

1 OF 3

Filing: Tickets are filed in numerical order at completion of case; periodically, they are removed from files and stored in record cartons that are designed to hold the tickets.

4. Problems and Recommendations

Recording. Duplication of recordings result in seldom used records that require significant time to prepare and maintain. Further, only Wabasha County maintains a docket in the form of a separate book.

Recommendation # 26

The volume of tickets and ability to pay prior to the appearance date requires simple, efficient defendant and case number systems and a minimum of duplication. We recommend the following procedures:

- a. Type the defendant, ticket number, license number, date issued, offense, argument date, pending status, appearance date, and disposition on a pre-printed index card. NOTE: This card then contains all the information contained on the Traffic Docket used in Wabasha County and on Olmsted County's hearing docket.
- b. Enter disposition on reverse sides of the ticket.
- c. Prepare auditor's report simultaneously with the receipt by using a pre-printed form set (see

Sample Form 5) except in Olmsted where a cash register receipt is used. A less desirable alternative is to indicate the ticket number on the receipt and type the Auditor's report from the receipts.

- d. The police department should be responsible for issuing their own tickets and for monitoring their use; the most that the Court (Olmsted County especially) should do is to record the ticket series used by each department and the tickets not received. This would require only a list of numbers, to be crossed off as tickets are received.
- e. The clerk and the judge should insure that the newspapers require and use the list of traffic dispositions, prepared in Rice County.
- f. In Olmsted County, the Rochester police department gets a copy of the docket, indicating case disposition. The clerk's office should discontinue filling out a duplicate card for them.

Indexing. A need exists to access a ticket either by defendant name or date of hearing.

Recommendation # 27

Index cards should be filed in alphabetic order while the case is pending. At the conclusion of the case index cards should be placed in a historical alphabetic file.

Case Monitoring. The need for case monitoring has been discussed earlier.

Recommendation # 28

1. Tickets should be filed by the next action date in a Traffic Case Monitoring file whether it is an arraignment hearing, response to bail letter, payment of fine or any other scheduled actions.
2. The index cards should be updated with the next action and next action date to allow for a quick response to any inquiries, which would most likely be made by name.

Filing. We propose the following filing procedures:

Recommendation # 29

1. While cases are pending:
Tickets should be filed in order of the next scheduled date. Index Cards should be filed in alphabetic order in case-pending file.

2. After case disposition:

Tickets should be filed in numerical order by ticket number. Index Cards should be filed in alphabetic order in historical file.

C. Juvenile Traffic Case Process

The current information and clerical procedures treat juvenile traffic cases separately, which is the reason for this section. However, the current attitude toward juveniles involves looking at their complete record; under this philosophy, the information and clerical procedures for all juvenile cases should be handled in the same manner. Thus, the recommendations for the juvenile traffic case process are essentially the same as those for juvenile delinquency cases, but are repeated to permit comparison to existing procedures and to define details peculiar to the traffic process. The recommendations can be implemented separately, but that would result in two files, two indexes and two registers or dockets -- a needless duplication in the opinion of the study team.

1. Wabasha County

Recording: Juvenile Traffic Docket is prepared with alphabetic sections, entered at conclusion of case and contains: Document name, address, birthdate, arresting officer, notice filed, date of hearing, offense, prior violations, findings and disposition. It is typed.

Indexing: Alphabetic index is kept on the clerk's desk because the docket is too cumbersome.

Case
Monitoring:

County Court Calendar indicates: Hearing date, defendant's name and the designation, "juvenile traffic."

Filing:

Hanging Pendaflex folder is used for each case, prepared by case number.

Forms:

Notices, dispositions are recorded on the file copy of the notice.

2. Rice County

Recording:

Juvenile Traffic register is prepared in case number order and contains: Name, case number, birth date, and offense, a record of each paper filed in the case and the date of filing. All entries are handwritten. Disposition is recorded by the clerk on the judge's calendar in the courtroom. A court reporter takes testimony, which usually is not transcribed. A monthly report of dispositions is typed. Disposition is entered on reverse of the ticket and forwarded to the state.

Indexing:

1. Alphabetic index in front of Juvenile Traffic Register is limited to the first letter of the defendant's last name and is handwritten.
2. Alphabetic loose-leaf index by first letter of last name contains: One-line entries made once every two months for cases that have been disposed of (includes Juvenile and Juvenile Traffic cases).

Case
Monitoring:

File folders are kept in clerk's desk until date of hearing. A typed schedule is prepared for judge for next week's hearing but there is no case designation on the calendar as to whether the case is to be heard by judge or judicial officer.

Filing:

The numbering system is the same for traffic and delinquency cases, but the file folders are filed in separate areas. When a license is suspended, that information is then placed on an index card indicating: Name, license number, date of license return, case file number, and filed by the date of the return order.

Forms:

An order for hearing (form 92) is prepared for the case file, which includes copies of all notices.

3. Olmsted County

(Note: This function is currently performed by the Juvenile Services Office, but it will be assumed by the Clerk in the next few months.)

Recording:

1. A minute book of Juvenile Traffic Offenders is maintained, documenting: Name, date ticket received, file number, officer, date of hearing, offense charged, prior violations appearances, findings and continuances. The file number order docket is rarely used.

2. The disposition of the case is entered on the back of the ticket and sent to the state on the Traffic Violation Bureau.

Indexing: Alphabetic index by defendant's name is maintained in the front of the Minute Book.

Case Monitoring: File folders are kept in separate file until hearing. A Court calendar is maintained showing hearings scheduled and the date the license is to be returned.

Filing: Folder is kept in alphabetic order and destroyed when juvenile becomes 18 years of age.

4. Problems and Recommendations

Recording. There is no consistency between counties as to the documentation of cases. One county uses a Register of Actions, and the other two use Minute Books. If both are required by statute, both should be maintained by all counties. If not required, then one system should be used. There is a lack of overview provided by the Court calendar in Rice County.

Recommendation # 30

An abbreviated Register of Actions should be maintained in case number order for all juvenile cases, and should include both juvenile traffic and other types, with the following information: Name, case number, date of birth, offense, date of final hearing, findings, disposition, judge, papers filed and date of

filing. This information should be entered onto the register as the case progresses. The docket page should be designed so as to allow at least five cases per page and be preprinted with the standard filings.

Indexing. There is a duplication of indexes for juveniles.

Recommendation # 31

An alphabetic index should be established in the front of the register which should be typed at the conclusion of the case.

Case Monitoring. There is no uniform method of documenting dispositions in the various offices, with the judge or judicial officer generally writing the disposition on the file copy of the notice.

Recommendation # 32

1. As cases are received, they should be assigned a hearing date; and the name, officer and case number should be indicated on the juvenile traffic hearing schedule for that particular hearing date.
2. Any case not ready for scheduling should be documented on an index card which then is put in a file of pending cases. These pending cases should be filed by reason for pending

status: for example, unavailability of witness, unavailability of juvenile or family, and the like. They should identify the case and indicate the next action and next action date.

Filing. There is a need to limit the number of filing cabinets containing active files in the various offices.

Recommendation # 33

All juvenile cases should be filed alphabetically. The file folder tab should indicate the birth date as well as case number, so as to expedite records removal at age 18, a process which should be conducted periodically. Traffic cases should use the same numbering, recording, and indexing system and be filed with juvenile delinquency cases.

Form Usage. The complaint copy of the traffic ticket is sent to the Traffic Violations Bureau. It should, instead, be kept with the file. Also, the Order for Hearing, form 92, used in Rice County is a duplication of other filings.

Recommendation # 34

1. The Traffic Violations Bureau needs the ticket only to account for all tickets. A form index card should be prepared indicating the ticket number, officer, date of offense and "Juvenile Offender" which will preserve the confidential

nature of juvenile records and maintain the integrity of the file.

2. It is not necessary to retain the order for hearing, as copies of notices are retained in the file.

Recommendation # 35 (general)

- a. When the license is held for a period of time and not sent to the State, the license should be placed in the case file and a notation recorded on the Juvenile-cases-pending index card file. That card should be filed in a section for License Returns filed by date of return.
- b. The number of filings per case is generally quite limited, but a folder should be established. The study team recommends that the cheapest manila folder be used and that the forms be stapled to the folder.

9. Juvenile Case Process

The need to maintain the special, more confidential nature of juvenile cases, and the Clerks' procedures that relate to these proceedings, are reflected in the discussion and recommendations for juvenile cases.

1. Wabasha County

- Recording: 1. Probate Registers of Actions are prepared in order of receipt of the complaints; documenting

papers filed in Juvenile Cases. This is typed as the case progresses. It indicates: Name, offense, date complaint received, type of paper filed, and date of filing.

2. Minutes are taken in the Court hearing and are included in the case file.

Indexing:

1. Alphabetic index by first letter of last name in loose-leaf binder is kept on clerk's desk; it contains traffic and delinquency.
2. Alphabetic index by first letter of last name is in the front of the Probate Register of Actions.

Case
Monitoring:

Index cards showing Defendant, offense, and date of action are prepared if the case is classified as pending, and the card is put on the judge's bulletin board. Except for these cases, there is an inadequate process of monitoring pending cases.

Filing:

Pendaflex file folders are made for each case, ordered by case number.

2. Rice County

Recording:

1. The Juvenile Register is prepared in case number order and documents all papers filed in juvenile cases. It is updated as papers are received and contains: Name, case number, date of birth, type of case (delinquency or depen-

dency), each paper filed and the date of filing; docket is handwritten.

2. Orders are prepared documenting the case disposition and included in the case file.
3. A monthly report on all dispositions is prepared for the newspaper.

Indexing:

1. An alphabetic index is maintained, by first letter of last name, in the front of Juvenile Register.
2. An alphabetic loose-leaf index is ordered by first letter of last name.
3. Entries are made once every two months for cases that have been disposed of (including juvenile traffic cases), and indicate: offense, disposition and date of closing.

Case
Monitoring:

1. File folders are kept in the clerk's desk until date of hearing.
2. A hearing schedule is typed one week in advance for the judge.
3. The number of cases to be heard is entered in judge's calendar.
4. When presentence is required, the judge announces the date of the next Court appearance from the bench to all parties, which is documented on the County Court calendar.

Filing: Juvenile and juvenile traffic cases share one numbering system, but their respective case folders are filed separately.

Form Usage: The Order-of-Hearing form is of very limited value.

3. Olmsted County

Recording: 1. A Register of Actions is prepared in case number order. It documents all papers filed in Juvenile Cases, as the papers are received.
2. Documentation of case disposition is made by judge on file copy of notice.

Indexing: 1. An alphabetic index, by first letter of last name, is maintained in the front of the Register of Actions.
2. The general index is based on a name code, permitting easier access to a large group of names.

Case Monitoring: As a case is scheduled it is entered on the juvenile calendar.

Filing: The same case number is assigned to all complaints against a juvenile, regardless of how many. Files contain papers for all these cases, and are kept in numerical order using a pocket file.

4. Problems and Recommendations

Recording. Confidentiality of juvenile records is compromised by putting them in the Probate Docket. Further, inaccessibility of Juvenile Register of Actions exists.

Recommendation # 36

Because of the limited time period a juvenile is under the Court's jurisdiction, and because of the high level of similarity in types of papers filed in a juvenile case, the Register of Actions should take the form of a preprinted page which would indicate: Name, birthdate, case number, offense, parents and disposition in the case, in addition to the papers filed and the date of filing. The standard filings would be printed, and the clerk would simply enter the date of filing. The Register should be a loose-leaf book with pages 8 1/2 x 11 inches to facilitate ease of handling and use. Large, unwieldy books only result in other additional, unnecessary notebooks on the Clerk's desk for convenience.

Indexing. The duplication of indexes and the effort involved in keeping the various indexes current creates unnecessary and burdensome work for the clerks. In particular, maintenance of a general index covering a long time period in Olmsted,

when juveniles are usually under the Court's jurisdiction for less than 10 years, has no benefit.

Recommendation # 37

The index cards which are to be used as the Register of Actions (see above) should be filed in alphabetic order either in the case-pending or case-disposed-of files and would serve perfectly as an index. They should not be clustered simply by first letter of last name, which is the current situation. The active file should be on the clerk's desk for easy and quick access.

Case Monitoring. Generally the case monitoring procedures are quite weak. Often, they involve no more than keeping the case file in the clerk's desk.

Recommendation # 38

- a. As cases are received they should be assigned a hearing date and added to the list of cases scheduled for a particular day.
- b. If a case cannot be listed or is not disposed of at the hearing, an index card should be prepared identifying the case, the next action and the next action date. This should be filed in the "Case Monitoring File - Juvenile" in a section that denotes its pending status.

- c. The cases scheduled for hearing should be recorded on the County Court Calendar.

Filing. Our recommendations on filing in juvenile cases parallel those made earlier with respect to other cases.

Recommendation # 39

- a. Juvenile cases should be filed in folders with clasps to insure that cases are not lost. A separate case folder and number should be established for each complaint. Case folders must be kept in alphabetic order and only removed for daily use; they should not be temporarily stored in another location.
- b. The case file folder should include the juvenile's birthdate to facilitate removal of a case from the active file, or destruction of it, as in Olmsted County, when the defendant reaches the age of 18.

Forms Usage. There is a lack of uniform, simply documented findings and dispositions.

Recommendation # 40

- a. The affidavit of Service form and Order of Hearing form (form 92) used in Rice County is not functional, and it should be eliminated.
- b. A findings and disposition form should be established for use of the judge in documenting

the results of the case. The form should be designed to allow recording any disposition, thus eliminating the need for separate forms for each type of disposition. The clerk should type identifying information on the form prior to the hearing in order to facilitate recording of the disposition by the judge.

B. Conciliation Court Process

Minnesota statutes permit the establishment of a conciliation (small claims) court.¹ In developing its study technique and resultant recommendations, the study team found it advisable to review the case handling process in each of the three counties, which is set forth below:

1. Wabasha County

Recording: The General Conciliation Docket, composed of conciliation complaints, is prepared as the case progresses. It documents in full all proceedings and final disposition. Conciliation Docket No. 1 indicates: Parties, addresses and disposition and is prepared at conclusion of case; docket is infrequently used.

Indexing: The Plaintiff's index and the Defendant's index are both in the Conciliation Docket.

1. Minnesota Statutes § 487.28.

Case Monitoring: There are no forms or procedures.

Filing: A notice file is maintained of all notices sent regarding date of hearing.

2. Rice County

Recording: The Conciliation Court Ledger lists cases by case number and filing date, and indicates: Only date of claim, parties' names and filing fee. The Conciliation Register documents filing date, parties' names and disposition of case. It is prepared at conclusion of the case; typed in case number order.

Indexing: The plaintiff and defendant alphabetic indexes are in Conciliation Register.

Case Monitoring: Conciliation forms are filed by hearing date; if a case is pending, the conciliation forms are filed in pending group. The court calendar contains: Case number, parties and disposition.

Files: Conciliation forms are filed in numerical order, 25 cases to a pocket folder, with parties and case numbers indicated on outside.

3. Olmsted County

Recording: The Conciliation Docket, composed of the conciliation complaint, is prepared as the case progresses. It documents all actions, notices and dispositions in the memorandum of proceedings.

Indexing: There is a defendant's loose-leaf alphabetical index. There is a plaintiff's loose-leaf alphabetical index.

Case Monitoring: There are no forms or procedures for monitoring of conciliation cases.

Filing: No filing system is used.

Form Usage: One form with carbons which includes: All summons and Notice of Trial, Plaintiff's Notice of Trial, Notice of Judgment for plaintiff, Notice of Judgment for defendant.

4. Problems and Recommendations

Recording. The study team found a significant level of duplication of recording information concerning the progress of the case and in the method of indexing the cases filed with the Court. While the forms were generally similar, the level of clerical effort to prepare them differed significantly. This procedure was designed to be a simple process, and it should not be made more difficult or cumbersome by additional filings, recordings or indexing which is accommodated in large part by the original conciliation form. The specific recommendations below define the basic clerical requirements for each part of the conciliation process.

Recommendation # 41

A significant cost savings can be achieved by using the Conciliation Complaint as the docket page and by eliminating the other forms and pro-

State of Minnesota,
COUNTY OF OLMSTED

IN COUNTY COURT
CONCILIATION COURT
ROCHESTER CITY HALL

Case No.

Plaintiff Address _____

Defendant Address _____

State of Minnesota,
COUNTY OF OLMSTED

AFFIDAVIT OF PLAINTIFF'S CLAIM

being duly sworn, on oath says:

That _____ he is _____ the plaintiff above named; that defendant is indebted to the plaintiff in the amount of \$ _____, plus \$ 5.00 filing fee, by reason of the following facts:

That said Defendant is not now in the military service of the United States, as defined by the Soldiers' and Sailors' Civil Relief Act of 1940.

Subscribed and sworn to before me

on _____, 19 _____.

Signed _____

Deputy Clerk

Phone _____

State of Minnesota,
COUNTY OF OLMSTED

AFFIDAVIT OF DEFENDANT'S COUNTERCLAIM

being duly sworn, on oath says:

That _____ he is _____ the defendant above named; that plaintiff is indebted to the defendant in the amount of \$ _____, plus \$ 5.00 filing fee, by reason of the following facts:

Subscribed and sworn to before me

on _____, 19 _____.

Signed _____

Deputy Clerk

ORDER FOR JUDGMENT

The above matter was called for hearing before the Court, on _____, 19 _____.

The plaintiff appeared and introduced evidence in support of plaintiff's claim.

The defendant appeared and introduced evidence in his behalf.

The defendant did not appear and the matter was heard as by default.

After hearing and considering the evidence introduced, the Court finds that the _____

_____ is entitled to judgment against the _____

in the sum of \$ _____ and _____

plus costs of \$ _____ and disbursements of

\$ _____

Let judgment be entered accordingly.

Dated this _____ day of _____, 19 _____.

Judge _____

IN COUNTY COURT
CONCILIATION COURT

Pursuant to the Order of the Court,

Dated this _____ day of _____, 19____.

By: _____ Deputy

Judgment becomes final and time for Appeal expires on _____ 19____

Upon cause shown by the _____ the within Judgment is hereby vacated.

Dated _____ 19____

Judge

The within Judgment is this date satisfied in full.

Clerk

Date:

litvaring set for

Notice of Hearing mailed

Notice returned, not delivered

Notice re mailed

Counterclaim file

Hearings continued to: Costs \$

Notion of contrived hearing mailed

Settled by parties prior to hearing.

Settled by parties prior to hearing
Order of Dismissal

Order of Dismissal

Judgment entered
At _____ 19__

Nature of Order for Judgment mailed

Re-hearing set for

Notice of re-hearing mailed

Appeal perfected

Order Vacating Judgment

Transcript to County Court issued

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\rightarrow [http://www.courts.wa.gov/court_records/court_records.htm](#)

Journal of Management Education 36(8) 907-924

1. *Journal of the American Medical Association*, 1997; 278: 1039-1044.

1. The following information is for your information only. It is not to be used for any other purpose.

1. The following table shows the number of people who attended the concert in each of the five years from 2000 to 2004.

cedures currently in use which, in some counties, prevents the clerical staff from keeping up with the increasing volume. Olmsted County has prepared a procedures manual for conciliation. Each Clerk of Courts should obtain a copy from Olmsted County for guidance in preparing his own.

Recording. In Rice County, which does not utilize the complaint as the docket, clerical time is spent unnecessarily creating and maintaining case files.

Recommendation # 42

All Counties should utilize a conciliation complaint, which can also serve as the docket page in the conciliation docket (see Sample Form, Conc. 1). No other recording should be established. The conciliation complaint should be kept in the docket, to avoid loss or difficulty in finding it and to determine case status.

Indexing. The time expended in the effort does not justify the maintenance of two indexes, one for plaintiffs and one for defendants.

Recommendation # 43

In the front of the Conciliation Docket an index should be established containing: Plaintiff's and defendant's index, showing the case number, the party's name, and whether plaintiff or defendant.

Case Monitoring. There is no fool-proof system to track cases which are in an active-pending classification.

Recommendation # 44

Based on the current, moderate, volume of cases, only those cases which are not scheduled or heard, for any reason, on the next available Court date should be monitored by using an index card file. Index cards should be prepared on each case, to be monitored by number, reason for deferral, next action and date of next action. These cards would be filed by date according to their current status: Deferred hearing, future hearing date, awaiting service of notice and other categories as deemed appropriate.

Note: In the event that the volume increases so that cases scheduled for the next hearing are not readily identified from the Conciliation dockets, two alternatives exist:

1. Prepare the index file discussed above for all cases, using the date of hearing to show all cases scheduled for that date.
2. Prepare a court calendar for each hearing date indicating the case number, parties for the case.

Filing. Files are being prepared solely for the purpose of keeping extra copies of court documents.

Recommendation # 45

No files need be established, because certification of notices sent can be indicated on the Conciliation complaint.

Forms. Inadequate use is being made of multi-copy forms.

Recommendation # 46

The Summons and Notice of Trial form and the Plaintiff's Notice of Trial form should be designed so that they can be prepared simultaneously using carbon paper, or they could be printed as a two-part form (see attached Sample Form Conc. 2). The Notice of Judgment should be prepared using carbon paper for the multiple copies.

F. Probate Process

Again, the study team has documented the ongoing practices in three counties so as to permit comparison and an understanding of the problems.

1. Wabasha County

Recording: Dockets

1. Order Granting Administration*
2. Order Discharging Representative*
3. Guardianships*

State of Minnesota,
COUNTY OF OLMSTED

Conciliation Court
Rochester City Hall

Plaintiff

Summons and
Notice of Trial

versus

No.

Defendant

The State of Minnesota to the above named defendant:

You are hereby summoned to appear at the hearing of the above entitled case on

.....at.....in.....205 Rochester City Hall

The plaintiff above named has filed a claim with this Court against you, including \$5.00 filing fee,
for the total amount of \$.....for:

If you fail to appear and answer this claim at the above time and place, judgment will be entered
against you by default for the amount claimed.

Counterclaims must be filed with the Clerk at least five (5) days before the date of hearing.

All correspondence and inquiries should be addressed, to the Clerk of County Court.

Dated:

Clerk of County Court

Continuances: Only the County Judge may change the date for trial of a case, and then only upon the consent of both parties or for good reasons stated in a written request which must be filed with the Clerk more than three days before the date of trial. All parties will be notified by the Clerk of any new date set for trial. The Court in its discretion may assess costs of not to exceed \$25.00, either absolute or conditional, to the other party as a condition of granting an order for a continuance of any case.

Counterclaims: The defendant may, if he has a claim against the plaintiff which is within the jurisdiction of the Court, file it with the Clerk not less than five days before the trial date with a fee of \$5.00. The Clerk will then notify the plaintiff of any such claim. Both the claim and the counterclaim will be tried at the same time.

Evidence: Each party should bring to the trial all witnesses and exhibits, including repair bills and estimates, deemed necessary to prove his case. Upon request the Clerk will issue subpoenas requiring witnesses to appear. Statements or affidavits from persons not present in Court are of little value.

Trials: After hearing the evidence, the Judge will usually take the case under advisement for later decision. The parties will be notified by mail of his decision. If a party changes his address, the Post Office must be notified.

State of Minnesota,
COUNTY OF OLMSTED

Conciliation Court

Rochester City Hall

Plaintiff

Plaintiff's

versus

Notice of Trial

No.

Defendant

The above entitled case on the Conciliation Court docket will be called on

.....at in 205 Rochester City Hall

Clerk of County Court

State of Minnesota
County of Olmsted

The above entitled case having been settled, the same may be and hereby is dismissed with my consent.

.....
Plaintiff's signature

Date:

Continuances: Only the County Judge may change the date for trial of a case, and then only upon the consent of both parties or for good reasons stated in a written request which must be filed with the Clerk more than three days before the date of trial. All parties will be notified by the Clerk of any new date set for trial. The Court in its discretion may assess costs of not to exceed \$25.00, either absolute or conditional, to the other party as a condition of granting an order for a continuance of any case.

Counterclaims: The defendant may, if he has a claim against the plaintiff which is within the jurisdiction of the Court, file it with the Clerk not less than five days before the trial date with a fee of \$5.00. The Clerk will then notify the plaintiff of any such claim. Both the claim and the counterclaim will be tried at the same time.

Evidence: Each party should bring to the trial all witnesses and exhibits, including repair bills and estimates, deemed necessary to prove his case. Upon request the Clerk will issue subpoenas requiring witnesses to appear. Statements or affidavits from persons not present in Court are of little value.

Trials: After hearing the evidence, the Judge will usually take the case under advisement for later decision. The parties notified by mail of his decision. If a party changes his address, the Post Office must be notified.

4. Decree*
5. Order Allowing Final Account*
6. Order Admitting Will*
7. Letters*
8. Order Confirming Sale*
9. Decree of Distribution
10. Probate Register
11. Register of Actions

[* Comment: These dockets formerly consisted of pre-printed, fill-in-the blanks form pages, which mirrored the original document. They are seldom used. Now, xeroxed copies are placed in loose-leaf dockets.]

- Indexing:
1. The bound Index to Probate Registry is a reference for the Register of Actions.
 2. The Index to Insane and Feeble-minded is now combined with Index to Probate Registry.

Case
Monitoring: None.

Filing: A case file is prepared for each decedent and all papers are kept within this file. Cases are filed in numerical order.

2. Rice County

- Recording:
1. The Probate Register contains captions and memoranda of proceedings, and a date file. It is bound and handwritten, one case per page.*
 2. Letters Testamentary**

3. Claim Book**
4. Bonds**
5. Orders**
6. Will Book
7. Final Account**
8. Letters of Guardianship (Conservatorship included)**
9. Order for Sale of Real Estate**
10. Final Decress**
11. Letters of Administration**
12. Decree of Descent**
13. Miscellaneous Record.

* Record that is used

** Pre-printed docket pages.

Indexing: 1. Index to Probate (used as reference to older cases)

2. Will Index.

Case Monitoring: Only accounts are monitored for compliance with the requirement of the filing of an annual report.

1. 5 x 7 index card system is kept for guardianships and conservatorships, by month of due date, alphabetically within each month.

2. Two steno pads are kept, listing pending cases as of December, 1975. (1 for Probate and 1 for Guardianship).

Filing: 1. Regular file folders contain a clasp on each side. One side holds all case papers, most

recently filed on top. The other holds all claims and orders for hearings, the most recent on top.

3. Olmsted County

- Recording:
1. Register of Actions
 2. Letter of Administrations
 3. Order for Private Sale of Real Estate (Order Record 67)
 4. Order Confirming Sale (#67)
 5. Order Granting Administration
 6. Order Record Appointing Guardian
 7. Letters of Guardianship
 8. Order Allowing Final Account
 9. Guardianship and Mental Illness
 10. Probate Register.
- Indexing:
1. Index to Probate Estates contains: Alpha looseleaf index with one line entries.
 2. Index to Guardianship and Mental Illness is illegible.
- Case Monitoring:
- Accounts are monitored by card index and attorneys are notified by letter from the Clerk's office if yearly report is due.
- Filing:
- Case files are stored in case number order. Within a file folder, which is a pocket type, the papers are ordered and are not attached to the folder.

4. Problems and Recommendations

Recording and Indexing. The numerous records that are kept as separate books for Probate are infrequently referred to. Further, those "dockets" that are pre-printed form pages are now obsolete under the new Minnesota laws regarding Probate. According to Ruth Eppeland, the cost of printing these pages is greater than the cost of xeroxing copies of the documents themselves.

Also, the Register of Actions for Mental Illness in Olmsted is illegible and requires continuation to other pages. More entries than can be accommodated are in the allowable space.

Recommendation # 47

- a. The various probate "dockets" should be unified into one, and all documents pertaining to one estate placed together in said docket. M.S. 15.17 permits xeroxed copies of the original documents to become the docket (as in Wabasha). The requirement that an index be kept, indicating the docket and page location of each document, must continue to be fulfilled. However, that does not require the keeping of separate dockets.
- b. Possible entries should be examined to determine if consolidation is feasible, and the clerks should be advised of any changes in the

procedure. A full page should be allotted for those types of cases that usually have a large number of entries. See Appendix 4, Probate Form Reference Table.

Case Monitoring. Many problems exist which interfere with the orderly and efficient closing of probate cases. For example, M.S. Sec. 525.475 and M.S. Sec. 524.3-1003 requires that probate cases must be closed with 18 months from the date letters of administration are issued. But no system has been developed for enforcing this requirement. Problems are compounded because attorneys or personal representatives file partial receipts and the final distribution of the estate cannot be completed. In Guardianships and Conservatorships, the law requires that an account for each pending case be filed each year until final disposition.

Recommendation # 48

- a. A file card should be prepared for each case when the Letters of Administration are granted, and then placed in a tickler file by year and month. One month before the 18-month period runs, a notice should be sent by the Probate Registrar to the personal representative or attorney.
- b. Rice County keeps a pre-printed 5 x 7 alphabetical (by name of Ward as required by law)

file card for all pending cases in a monthly tickler file, and sends out notices to the Guardian or Conservator a month before the filing of the annual account is due. The team recommends that this system be utilized in all counties, (see Sample Form Prob. 3) with the addition of the address of the guardian or conservator.

Filing. In Wabasha in cases of inebriety and mental illness commitments, detainees cannot be held more than 72 hours without a hearing. But because of logistical problems, papers are not received until after the commitment hearing.

Recommendation # 49

The examining doctor or other representative of the committing facility who appears as a witness at the hearing should bring the papers with him.

General Problem. Because informal probate (probate without attorneys) is now permitted, and the public has no knowledge of procedures or other requirements for probate, more clerical staff time is being spent informing individuals about how to proceed, without giving legal advice. This is very time consuming.

Recommendation # 50

The team recommends that all counties distribute to personal representatives an informal probate manual similar to the mimeographed manual pre-

SAMPLE FORM PROB. 3

NAME OF WARD			FILE NO.	OTHER NOS.
DATE OF BIRTH				
DATE OF PETITION				
NAME OF GUARDIAN				
REAL EST. APP. VAL. DATE				
PERSONAL PROPERTY --- LAST VALUATION				
DATE ACCOUNT DUE				
SOCIAL SEC.	V.A.	WELFARE DEPT.		
BOND --- AMOUNT				
NAME OF BONDSMEN				

pared by Lenore Miller, Probate Registrar and Judge Melvin J. Peterson, Hennepin County. It is an excellent "how to" booklet, and is easy to understand.

G. JUDGMENT PROCESS

1. Wabasha County

- Recording: 1. Default Judgment Docket (contains Default judgements only)
2. Judgment Docket (contains all judgements including those recorded in Default Judgement Docket).
- Indexing: 1. Plaintiff's Index
2. Defendant's Index.
- Case Monitoring: There is no procedural monitoring required.
- Filing: The numerous papers pertaining to entry of judgment, bill of costs, execution, satisfaction, etc., are filed with the case papers.

2. Rice County

- Recording: 1. Judgment Docket No. 1 consists of one line entries for each case, indicating: Judgement debtor, judgement creditor, court, case number, date of judgment, amount and dates execution issued and returned.
2. The Judgment and Orders Record is a one-half page typed entry.

3. The Register of Actions is the civil docket of cases, in which is recorded interim proceedings as well as the judgment in each case.

- Indexing:
1. Plaintiff's Index.
 2. Defendant's Index.

Case Monitoring: There is no procedural monitoring required.

Filing: Judgment is filed with case papers.

3. Olmsted County.

- Recording:
1. The Register of Actions is the civil docket of cases, in which is recorded interim proceedings as well as the judgment in each case.
 2. The Civil Judgment Docket contains: Judgment debtor and judgment creditor, court, date of judgment, docketing and discharge, amount of judgment, date of execution issued and returned and amount satisfied. This entry creates a lien against real estate for ten years.
 3. The Aperture Card is a permanent microfilm record.

Case Monitoring: There is no procedural monitoring required.

Filing: Judgment is filed with case papers.

4. District Court in Olmsted County

Recording: The Civil Judgment Docket contains: Judgment debtor and judgment creditor, court, date of judgment, docketing and discharge, amount of judgment, date of execution issued and returned and amount satisfied. This entry creates a lien against real estate for ten years.

5. Problems and Recommendations

Default judgments. In Wabasha County, default judgments are entered in both the Default Judgment Docket and the Judgment Docket, creating duplication of effort.

Recommendation # 51

The Default Judgment Docket should be eliminated since information contained in it appears elsewhere.

Conciliation judgments. Judgments entered in a conciliation court are not always transcribed to County Court and, therefore, are not part of a Clerk of Courts' certification of search of judgments.

Recommendation # 52

Conciliation Court judgments should be included in the judgment search, or attorneys should be notified of their possible existence.

H. Court Calendars

The study team have indicated below what is contained in each county's calendar so as to provide each of the counties with a sharing of information regarding how the other county is interpreting the requirements of the statutes as they pertain to the printing of a Court calendar. There is no need for standardization between the counties as long as there is compliance with the law. It should be noted that the caseload and needs of the judiciary and bar should also be taken into consideration. One county may find in this description a structure, or piece of structure, that would be more suitable to its needs than that now being used.

1. Wabasha County

Listings:	Terms of Court by County
	Judges of the Third Judicial District
	Court Officers of Wabasha County and Titles
	Wabasha County Bar and phone numbers
	Law Firms and phone numbers
	Designation of Terms of Court for Wabasha County, days and time court convenes
	Special Term Rules
	General Term Rules
	Names of petit jurors for term and city of residence
	Index of Civil Actions
	Calendar of Civil Actions -- Jury
	Calendar of Civil Actions -- Court

Calendar of Civil Actions -- Divorce

Index to Criminal Actions

Calendar of Criminal Actions.

2. Rice County

Listings: Third Judicial District Judges
Court Reporters
Court Officers and Titles
Third Judicial District Terms of Court by County
Rice County Bar and phone numbers for Faribault
and Northfield
Special Term Rules
General Term Rules
Designation of days and time court convenes, and
to whom jury is to report
Petit Jurors for Term
Calendar of Civil Jury Cases
Calendar of Civil Court Cases
Calendar of Criminal Cases
Index to all Cases

3. Olmsted County

Listings: Judges of the Third Judicial District and phone
numbers
Court Officers of Olmsted County and Titles
Designation of Motion days, and list of presiding
judges for Court and Jury Cases
Law Firms and phone numbers

Olmsted County Bar and phone numbers

Index to Civil Cases by Judge

Calendar of Court Cases, by each judge, listing
cases assigned to each judge, with a separate
listing for Court, Divorce and Jury

County Index of Cases, alphabetical.

N.B. Because there is no need for standardization of
calendars, and because calendaring practices of
the court vary from county to county according
to the needs of the court and the bar, we make
no specific recommendations regarding calendar
format. We suggest, instead, that each County
Clerk review, with the judges, the format of
the calendars in the other jurisdictions.

V. RECORDS MANAGEMENT

Records management programs have been initiated in all three counties to some degree in an attempt to cope with the severe records management problems in the Clerk of Courts offices. These steps have been forced upon the clerks who are faced with an ever-growing volume of records which must be stored with the utmost efficiency if the large number of new incoming records are to be properly received and filed. The problems faced by the clerks in both Rice and Olmsted Counties will be increased with the consolidation of their individual offices.

A. Problems

The problems of records management in all three counties affect the overall efficiency and effectiveness of court operations. More specifically, problems within the Clerk of Courts offices are:

1. Valuable space is being used for the permanent storage of records having short or no retention requirements.
2. Unnecessary effort is being exerted to maintain file documents that should have been discarded.
3. Excessive time is being spent in retrieving information from poorly structured files.
4. File security is jeopardized because of the necessity for overflow filing.

These problems occur in varying degrees in all three counties. The objective of the recommendations of the study team are to:

1. Release space presently encumbered by unneeded records
2. Improve retrieval time for documents and information that are used on a regular basis
3. Improve filing accuracy and security
4. Reduce maintenance costs for the management of records

B. Achievements to Date

As in all areas reviewed by the study team, one or more of the counties have initiated actions in the area of records management which would provide significant benefits to the clerks in other counties if these practices or techniques were employed there as well. Thus, many of the study team's recommendations will be based on sound records management procedures already being employed in some instances in one of the Clerk's offices. What is necessary is that all of these procedures be utilized so as to develop a maximum program for all case records to insure an increased level of benefits in terms of file integrity, efficiency of record access, space saved, and security against disasters. Specific practices that are currently being used include the following:

1. Wabasha County

1. Old records are routinely purged to a basement storage area.

2. Typical file cabinets have been replaced with storage units that are similar in design to open shelving, but are closed in the back and have the ability to be closed shelf by shelf in the front. This storage equipment eliminates the need for the three or four feet of space in front of the cabinets which normally is required to open the file drawer of a standard filing cabinet. These units also present a clean, efficient impression to anyone viewing them. In addition, they contain from 20 to 30 percent more space than a similar sized drawer in a typical file cabinet.

3. File folders have been developed which make it very easy to identify the case inside the folder, as well as basic information concerning the case, by merely noting the caption on the outside of the folder.

4. These folders utilize clips to keep case papers ordered and secure in the folder.

2. Olmsted County

1. A microfilming program has been instituted, and already microfilmed are:

- Civil district cases from 1937 through 1959;
- Criminal cases 1948 through 1958;
- Guardianships 1863 to 1919;
- Probated estates 1855 to 1956;
- Judgment docket consisting of copies of judgments as they are currently filed;

- Court reporters' stenotype notes 1948 to 1964;
- Juvenile records when individual reaches the age of 18.

2. A records destruction program has been begun, which is based in part on discarding those case files which have been microfilmed, and in part on discarding court reporters' notes, depositions, and juvenile traffic cases when the juvenile reaches the age of 18.

3. The use of record storage boxes to store old traffic tickets and case papers cheaply and efficiently has begun.

3. Rice County

1. A microfilming program has been instituted in the District Court. Already microfilmed are: Birth records (complete to date), death certificates, marriage certificates, and the register of deeds.

2. A records destruction program is not in operation, as the current purpose of microfilming is to maintain a record in case of fire.

These are some of the examples, and by no means all, of the efforts currently underway in the three counties to improve on procedures for records storage. Needless to say, much remains to be done. For example, in Olmsted County, the main record room has more than 50 filing cabinets which utilize space poorly and create confusion. Records should be stored in meaningful fashion, with greatest accessibility to the most current and frequently used, to improve on information retrieval.

C. Recommended Records Management Program

This program for records management has four primary components as follows:

1. Control and integrity of case papers.
2. Efficiency of record access and storage.
3. Record retention and disposition.
4. Microfilming.

These are the areas in which specific steps must be taken to insure the integrity of case files, the reasonable availability of court records, and protection against physical destruction at costs the court can afford. The courts are dependent on a good record system if they are to faithfully execute their responsibility to the public.

1. Record Control

The integrity of the case papers in each file and of the volume of files that constitute the court's work must be insured. An important consideration is the readability of a case file, which means that the papers must be in a reasonable order so that any individual using the case papers does not have to look through all the papers in a file to find the one needed.

Recommendation # 53

All papers should be filed in flat files with a clip so that the latest paper filed with the Clerk's office is on top. The only exception to this would be parking tickets, which are not placed in a file, and moving traffic tickets that are paid prior to or upon

arraignment in County Court. For civil cases in District Court, it may be necessary to supplement the basic file of case papers with additional files for depositions and transcripts. However, the basic system of papers being secured in a flat file, with the most recently filed paper on top, should be implemented for all cases. The file folder should also be pre-printed or stamped on the outside to allow for documentation of the parties in the case, the type of case, and an indication of the documents contained in the file and the date filed. Color coding of file folders, as in Olmsted County (County-yellow, District-brown, Criminal District-red, and Paternity-green) insures additional filing reliability. This latter practice would eliminate the need for opening and searching through the file to determine if a document had been filed. It would also provide a double check in the event that there was any disagreement as to the integrity of the contents of the case folder. These files also should have some sort of tab to facilitate retrieval of a specific set of case papers by case number.

2. Efficiency of Record Access and Storage

The basic principle of efficient record access is that those papers or files or indexes to such papers be readily available and close at hand. The converse is also important. That is, older papers, files, or indexes should be located or stored

in a more remote location; and those papers which are rarely, if ever, needed should be stored as efficiently as possible in the least desirable space. A program of efficient record storage, which promotes better access to needed records, can be initiated and implemented without delay. Neither micro-filming nor records destruction is necessary to start such a program of orderly record storage. Generally, the best way to implement such a program is to classify records as active, semi-active, or inactive. Active records are records which are used more than once a month; a semi-active record is one which is referenced no more than once a month and an inactive record is one which is referenced less than once every six months. Using these basic criteria, certain records can then be moved to less accessible areas to allow current, active records to be stored in the primary space locations. Once a record has become semi-active, it should be packed into cardboard storage boxes designed to hold one filing cabinet drawer efficiently without loss of space. These boxes can then be labeled simply by an identifying number. This allows the Clerk to maintain a log of records stored in each uniquely numbered box. It also prevents any unauthorized individual from going into the primary records storage area and attempting to find a particular file, since none of the boxes has a label identifying to an outsider its contents. This improves record security and prevents those rare instances of attempts by unauthorized individuals to gain access to or destroy valuable case records. And, this procedure is much less irrever-

sible than is destroying these records. Furthermore, it can be an effective way of learning which records are needed and which ones are not. This program also does not need to wait upon a careful and legal inquiry as to which records can or cannot be destroyed.

3. Records Retention and Disposition

To properly implement a records management program, it is essential that the movement and storage policies regarding records be clearly defined.

Recommendation # 54

It is recommended that for each type of case the Clerk prepare a record Retention and Disposition Schedule Form, Figure 4. This form should document the time period for which each record should be kept in each status as well as the final disposition; microfilm and retain, microfilm and destroy or destroy with microfilm, or keep indefinitely without microfilming. These forms will constitute the documentation for the Clerks' Records Management Program, which is essential to accurately control and to manage the disposition of Court records which are being filed in increasing numbers. This aspect of the Court's records management program can be developed without delay, although the final disposition of Court records might not be defined at this point. The study team strongly recommends that an inventory of forms and a proposed retention program be developed without delay.

Figure 4

_____ COUNTY, CLERK OF COURTS -- RECORDS MANAGEMENT PROGRAM

Record Retention and Disposition Schedule -- (Type of Cases)

NO.	RECORD TITLE	RECORD STATUS - TIME PERIOD			MICROFILMING	DESTRUCTION	REMARKS
		ACTIVE	SEMI-ACTIVE	INACTIVE			

CONTINUED

2 OF 3

Destruction of Court records is a very difficult question, which is currently being addressed throughout the State by many counties and by the Minnesota Historical Society. This body had the final authority over the destruction of records in conjunction with the Attorney General and the State Auditor.¹

It is difficult to understand why records would be required in one District or County Court and not in another. Within one Judicial District, consistency should be established especially regarding the policy towards records destruction, even if it isn't a problem for all Counties. Maintaining unneeded records is a very expensive proposition, wasting the personnel and space resources available to the Court.

Records Management is also an area in which the experiences and efforts of one County can readily be applied to other counties to avoid needless duplicative efforts. Much can be learned by sharing the current practices within this Judicial District and by communicating with the Fifth Judicial District, which has also been involved in this program.

The study team discussed the records destruction policies of the Minnesota Historical Society with Miss Lucile Kane, Archivist, who stated that a study had been approved to analyze all documents of District Courts and some documents of County Courts to determine the judicial use and historical purposes for each document. Based on this analysis, a report detailing the time period prior to disposition for each report would be issued, probably by the end of 1976. Until that time, they will continue

1. Minn. Stat. § 138.17 (1971) and § 138.17 (1973 supplement).

to use the guidelines established by the approval of earlier requests for record destruction, within the context of their general policy: Records prior to 1900 should be submitted to the Historical Society, while records after 1900 could be destroyed after microfilming. In addition other records can be disposed of as defined by statute and precedent. Appendix 5, Records Destruction Guidelines, indicates records being considered for destruction by other Courts and should be used as a guideline in preparing applications for records destruction. In this effort, which can commence immediately, records that should receive first consideration are those occupying the most of space:

Traffic tickets	-- Destroy after 5 years
Depositions	-- Destroy after 1 year if no appeal is filed.

All applications for records destruction must first be submitted to the Minnesota Historical Society, which will also be disseminating a record of all approved applications which have been received from the Clerks of Court throughout the State (14 were approved in 1975).

It is also recommended that the Clerks of the three counties send a list of the records which they propose to destroy to other clerks in the district, in order to assist them in implementing their own records destruction program. This could then be discussed among the clerks and one application presented to the Chief Judge of the District for approval.

4. Microfilming

The primary advantage to microfilming is that it permits significant space savings without any loss of information. Minnesota has taken advantage of this by permitting the use of microfilm in court to represent the original document and to be admissible as evidence in court. Much of the permitted records disposition will be based on the existence of microfilm.

When microfilming is initiated, two copies of the film should be created, in order to permit one copy to be stored in an off-site location in the unlikely event that the site of records storage is destroyed by fire or some other calamity. Off-site storage of microfilm insures the continued existence and availability of needed documents. The risk of fire is reduced by the replacement of large quantities of paper files with film.

Microfilming with today's equipment also permits indexing of records on the film, to assist in quick retrieval times. This becomes significant only if there are large numbers of records that require frequent access, such as judgments. Olmsted County has taken advantage of microfilm to establish a judgment docket composed of microfilm aperture cards which contain a copy of all judgments. These are filed in alphabetic order, not just by the first letter of the last name, permitting quick and easy access.

Recommendation # 55

Microfilming programs should be initiated for records which cannot be destroyed without microfilming. In terms of the space savings and backup achieved, the cost of having an outside firm microfilm court records is quite reasonable. The Clerks in Rice and Wabasha Counties should visit Olmsted County to get a first hand understanding of the achievements which have been made there using microfilm.

5. Benefits

The benefits of implementing the records management program, as recommended, cover many areas. Space will be saved, security will be enhanced, information will be easier to access, records will be periodically transferred out of the main Clerk's offices, and destruction of obsolete documents will be performed on a regularly scheduled basis. With the planned consolidation of Clerks' offices, space savings will provide more usable space for people instead of rarely used files. Decreased density in the use of floor space will also improve working conditions and the impression the public gets of the Clerk's office. By separating inactive and semi-active files from active files, access to the active records will be easier and faster. This will facilitate better control of records currently being used and will make case papers easier to locate.

D. Expunction

1. Problem

The need for an all encompassing procedure for expunction of a record exists because of several recently enacted Minnesota statutes which require or permit expunction of a record. The need for a definitive process exists both for the judges and for the Clerk of Courts. For purposes of complying with the law, what is expunction and how can it be accomplished? C.J.S., Vol. 35, pg. 343 defines "expunge" as "to blot out, as with a pen, to rub out, to obliterate, strike out, cancel or erase." Essentially, the purpose of expunction is to protect the defendant and to leave no trace of the defendant's court proceeding. This may not be achieved, however, if, as in Rice County, the record is ordered to be put under seal and the index to the appropriate docket is noted in red ink to indicate that no information on that case is to be given out. Since this index is a public record, the red ink indexing only highlights the case rather than obliterating it. (See Appendix 6, Expunction Reviewed.)

2. Recommendation # 56

A suggested method for expunction is to use white-out fluid where reference to the defendant's name is part of a permanent record. Whiting-out the name of the defendant, leaving the rest of the record as it appears, has no effect on the defendant or his civil rights, since said record can no longer be identified with any

particular person. This procedure appears to have a distinct advantage over covering the original docket entry with a sheet of paper which contains the caption of the case and explains the reason for granting expunction. The procedure currently used does not protect the defendant; white-out does.

The expunction process should begin when the judge enters the order for expunction and transmits it to the Clerk of Courts. The clerk should then notify in writing each "keeper of records" (County or City attorney, local police, FBI, State Police and Court Reporter, etc.), of the expunction order, requesting a return affidavit. To keep track of records to be expunged, impounded or sealed, the Clerk of Courts should develop a three by five card index file which can be kept secure from the public. The index card should be kept in alphabetical order, recording the last name first, the first name and initial and the birthdate or social security number for identification. Where the clerk encounters a refusal of a keeper of records to comply with the expunction order, the clerk should advise the judge, who then can determine the appropriate action to be taken.

VI. COMPUTER APPLICATIONS TO OLMSTED COUNTY COURT

Currently Olmsted County Court has no computer support for its clerical or case management operations. Lack of computer capability is a particular problem for this county, of the three counties studied, because of the high volume of cases it handles. Thus, the study team investigated the possibility of utilizing computer systems to support the processing of parking citations and moving traffic complaints. Given the high case volume of parking citations, almost 75,000 annually, and of traffic complaints, these cases were thought to be well suited for computer support. Both of these operations also involve several repetitive recording functions, difficult and high volume indexing, and moving functions, which are well suited to computer support.

In the process of investigating the feasibility of implementing computer information systems in this area, the study team became involved in discussions surrounding several on-going plans to implement much broader computer information systems which would provide operational support for the information processing functions of the Police, Courts and Correction agencies in Olmsted County and would promote an effective exchange of information between these agencies. One plan was for a local system, and the other was for a State system that would also support local operations. While a detailed investigation of these plans was beyond the scope of this effort, an examination of the Olmsted County Court's situation revealed several important factors that should be remembered when considering a large systems effort:

1. More effective communication between the Court, District Attorney's Office, Police Departments and Correction agencies will help all involved agencies.
2. The Court must decide what information it needs and could use from such an exchange of information. Benefits to the Court result only from information system outputs or reports that are meaningful for Court operations.
3. The Court has the responsibility for representing its own interests and insuring that the level of benefits provided is worth the effort involved.
4. The Court currently has no staff familiar with or experienced in the use and application of computer systems or their support for Court operations.

The cases handled by the Olmsted County Traffic Violations Bureau represent an excellent area for computer system support. Computerization of this operation would also educate Court personnel in the benefits, costs and processes that are involved in implementing and introducing computer information systems into the Court environment.

The study team also talked with persons* associated with the Mankato Court, who have recently implemented an information

* Richard Fasnact, Clerk of Court, Mankato Court; Brian Novak, Data Processing Manager, Mankato; and Ruth Eppeland, Court Administrator 5th Judicial District.

system to assist in processing citations and complaints for their Court. These individuals were most cooperative, and they would be a valuable resource in systems implementation effort involving traffic or misdemeanor cases.

A. Proposed Parking Citation System

The study team recommends a basic citation case monitoring system to handle the bulk of information processing involved with parking tickets. The basic functions to be performed are:

1. Indicate the status of all outstanding, unpaid parking violations;
2. Record on a daily basis all payments received;
3. Produce summons and warrants as required for nonpayment depending on the time since the citation was issued;
4. Provide a listing of all unpaid violations against a single auto license number;
5. Provide local police departments with an up-to-date list of all outstanding warrants resulting from parking violations;
6. Produce statistical reports that indicate the cases handled and the method of disposition on a periodic basis.

With only a few exceptions, the system implemented in Mankato, which is programmed in the same computer language used by the Olmsted County data processing bureau (RPG), can meet these functional requirements. The type of inputs and outputs required to support these functions are indicated in Tables 1 and 2. Such a system would utilize equipment presently available in the County's data processing bureau, with input being made through keypunch cards or their equivalent.

A detail that the Olmsted County Clerk may want to review is the Mankato case dismissal policy: If there are fewer than three tickets in thirteen weeks for one auto, then any unpaid ticket thirteen weeks old is dismissed.

B. Implementation Plan

Implementation of such a system would involve:

1. Working with the Olmsted County data processing bureau to permit the transfer and implementation of the Mankato system.
2. Developing a cooperative or contractual agreement with the people who implemented the Mankato system, who have the experience with the system, to do the work involved in transferring the system, in order to minimize potential problems. As this is the initial system implementation, the Clerk and a data processing specialist would be very beneficial in alerting the Clerk of Court in Olmsted County as to potential problems in reducing the implementation difficulties.

With minimal support from the data processing staff and adequate computer time, this transfer could be accomplished within a six week period of time, most of which will be spent in coordinating the effort with data processing defining and documenting new procedures and training court personnel.

By using the Mankato system as the basis, with only slight alterations to handle minor differences, the Olmsted Court will be able to take advantage of all the effort and experience of the Court personnel in Mankato. This system also has the advantage of being a very simple system, which will minimize the problems and operations difficulties. The study team strongly recommends an iterative approach to systems development to maximize the level of benefits for the effort required.

An overview of the Mankato system's basic processing, which would be completely transferrable to the operations of the Traffic Violation Bureau in Olmsted, is as follows:

COURT OPERATIONS

SYSTEMS OPERATIONS

- | | |
|--|---|
| 1. Parking violation is received | 1a. Key punch basic ticket data |
| | 1b. Receive listing of all input to verify accuracy |
| | 1c. Make necessary corrections |
| 2. File ticket in numerical order in pending ticket file | |
| 3a. Ticket disposed (paid, dismissed, etc.) | 3a. Key punch disposition data daily |
| 3b. Ticket transferred to closed file | 3b. Daily payment record produced (audit controls are built in to catch any errors) |
| 4. No payment received by Court date | 4. Listing of summons to be issued and summons printed. |
| 5. No payment received by summons date | 5a. Listing of warrants to be issued and warrants printed |
| | 5b. Updated list of outstanding warrants prepared for police. |

In addition to this overview of the case process as supported by the computer system, the system will produce indexes and lists to monitor pending cases, see Table 2 on system outputs.

Implementation of the proposed Parking Violation Information System will create significant benefits for the Court in an area which handles the greatest volume of cases. This is also the most routine Court process, the problems with which are created primarily because of the large volume.

Mankato County Court has also implemented a complaint monitoring system that is based on a similar straightforward philosophy of monitoring pending cases by recording next action date and disposition status. Simple operational documents are also produced, including: listing of daily case dispositions; listings of cases in which the defendant has not appeared, which require a warrant or summons to be sent; and the actual warrant or summons. Implementation of this system should be delayed, however, until the successful operation of the Parking Citation System has been achieved. This will permit Olmsted Court personnel to identify problems or desired improvements in the design of the Parking Citation System which can be easily applied to the Complaint System to improve its value to the Court. There is no substitute for direct experience with the development and implementation of computer systems to support court operations; a step-by-step implementation program will assure the Court maximum benefits for their effort and minimize possible problems.

TABLE 1 - PROPOSED INPUTS FOR PARKING VIOLATION SYSTEM

<u>INPUT</u>	<u>PURPOSE</u>
1. Parking Violation Record*	1. To record issuance and receipt by Court of a parking violation citation
2. Case Payment/Disposition*	2. To record disposition nonpayment resolution of citation or complete payment
3. Maintenance	3. To correct invalid information

* These proposed system features are currently implemented with only minor differences in the Mankato citation information system.

TABLE 2 - PROPOSED OUTPUTS FOR PARKING VIOLATION SYSTEM

<u>OUTPUTS</u>	<u>PURPOSE</u>
1. Parking Violations Recorded*	1. To allow verification of data from citations received
2. Pending Parking Violation Index	2. To provide an efficient index referencing citation number(s) when only the license number is known
3. Parking Citation Index	3. To index all tickets disposed in the last 3 months ordered by license number, allowing staff to answer inquiries.
4. Payment and Disposition Record*	4. To indicate the citation no., offense disposition and fine paid for all cases disposed of on a given day.
5. Summons and warrants to be issued*	5. To document cases on which summons and warrants are to be issued and to serve as a basis for requesting name and address from the State.
6. Summons/Warrant Report*	6. To indicate payments received and the status of outstanding warrants, in license number order.
7. Citation List	7. To identify citations not received and to respond to inquiries concerning a specific citation number.

* These proposed system features are currently implemented with only minor differences in the Mankato citation information system.

VII. VIOLATION BUREAUS

The largest volume of cases which produces a backlog in scheduling, at least in Rice County, is in the area of misdemeanors. Minnesota Rule of Criminal Procedure 23 provides for the establishment of a Violations Bureau and specifies that a misdemeanor may be reduced to a petty misdemeanor with the consent of the defendant and approval of the Court if the prosecutor certifies that, in his opinion, it is in the interest of justice that the defendant not be incarcerated.

A. Problem

Apparently in no county has a Violation Bureau been established under Rule 23. In Rice County, the Traffic Bureau is serving as the Violations Bureau. However, all provisions of the rule do not appear to be utilized or enforced for the maximum benefit to the Court. Perhaps one of the problems is confusion over the purpose and meaning of Rule 23.06, "Effect of Conviction." This section states, "A petty misdemeanor shall not be considered a crime." The interpretation of Judge Gerald Wolf of said section is that it means only that a petty misdemeanor shall not be punishable by incarceration. In other words, according to the judge, all "crimes" are punishable by incarceration. However, if this is not the meaning intended by the Supreme Court of Minnesota when they promulgated the rule, this rule could be utilized for effective plea bargaining.

B. Recommendation # 57

Serious consideration should be given to establishment of a Violations Bureau in each county. If we assume that the intention of the Supreme Court in promulgating this section of the rule was to give bargaining power to the prosecutor, then in exchange for a defendant's guilty plea with a maximum fine of \$100.00, the prosecutor would guarantee, under the rule, that the plea would not be considered conviction of a crime and no record would appear indicating a conviction of the crime. Unless the defendant is convinced of his innocence, the value of such a plea might be well worth his time. This is particularly true in light of information given to the study team that the criminal population of Minnesota is generally a working population, contrary to the indigent criminal population in other jurisdictions. In Rice County, at arraignment, the law enforcement officer sits in the courtroom listening to evidence presented. He then provides the county attorney with any rap sheets or other records pertaining to this defendant's previous criminal activity. He or any other such person would then be in a position to make recommendations to the county attorney which the county attorney could use to consider the possibility of reducing the misdemeanor to a petty misdemeanor.

Prior to date of trial, by letter or phone, the county attorney could contact the defendant or his attorney and indicate his offer to him. If accepted, the defendant would enter

a written plea of guilty according to the requirements of Rule 23.03 subd. 3 and pay the fine of not more than \$100.00 based on a fine schedule established under Rule 23.03 subd. 2. This could conceivably not only eliminate a court appearance and the expenditure of the valuable time of the judge and the county attorney but it could also eliminate the possibility of an increased backlog because of increased demands for jury trials made by defendants charged with misdemeanors. Under this Rule, a defendant whose misdemeanor has been reduced to a petty misdemeanor has no right to a jury trial. In discussing this process with the County Attorney, it became clear that the way in which this Rule is currently being exercised, the defendant has all the leverage. If a defendant requests a jury trial, the County Attorney will initiate the reduction of the misdemeanor to petty misdemeanor.¹ It is unlikely that such a rule was promulgated solely for the benefit of the defendant who has committed or allegedly committed a crime. Its purpose most likely is to effectively and expeditiously process cases, in the interest of justice and with full consideration of the general welfare of the public at large. This would permit the court to maximize its efforts on the more serious cases which directly affect the welfare of the community at large. There would also be a cost saving factor because police officers would not be called in to testify as witnesses. It is recommended that

1. Appendix 7, Designation of Offense.

full utilization of this Rule be encouraged. If the prosecuting attorney chooses to construe the meaning of Rule 23.06 to offer the benefits stated above to the defendant, and the defendant accepts, and the court approves, then who will challenge such interpretation?

VIII. CONCLUSIONS

One central thought recurred for members of the study team during the on-site visits, the examination of procedures and in assembling this report. That thought is that an 11-county judicial district needs a coordinating force. That force could be a judge; but judges should be occupied with the important task of judging cases and applying and interpreting the law.

The unifying force in the Fifth Judicial District has been supplied by the District Court Administrator. She does not see her role as one of supervision of the various Clerks of Courts. Rather, she views -- and we believe rightly -- her role to be coordinator, advisor, and information dispenser.

The unifying force also could be an effective Clerk of Courts organization within the Third Judicial District which meets regularly.

Necessarily limited in time and resources, the study team could only address itself to what it believed to be the most obvious and important problems confronting the Clerks. A district Court Administrator or effective clerks' organization on the scene would be far more effective in developing, initiating and recommending standard practices and procedures and in solving problems as they arise.

A P P E N D I C E S

APPENDIX 1

SAMPLE PROCEDURE

County Criminal Cases Misdemeanors that cannot be paid by mail, which require a court appearance.

NICE COUNTY

ResponsibilityFunction

- | | |
|---|--|
| 1. Receiving Clerk | Sorts citations into two categories:
Requiring court appearance
Not requiring court appearance |
| 2. Criminal Clerk | <ul style="list-style-type: none"> a. Prepares an index card indicating the license no., name and address, charge and date of offense (This card serves as an index to the ticket and should only have name and citation number). b. Files index card in alphabetic order of defendant's name. c. Files citation by date of court appearance (arraignment). |
| 3. Criminal Clerk on day of arraignment | <ul style="list-style-type: none"> a. Prepares docket sheet on morning of arraignment. b. Completes disposition at arraignment on docket sheet: plea, sentence or reappearance. |
| 4. Disposition of ticket | <ul style="list-style-type: none"> a. Pleads not guilty: xerox ticket and send to prosecutor's office, prepare manila folder and give to scheduling clerk. b. Pleads guilty: document result on back of citation, send copy to the State MV Bureau, file ticket. c. Deferred fine payment: file ticket with deferred payment letter by date that payment is due in ticket file(2c). |

Recommendation

Each individual's functions in the processing of a certain type of case should be documented in this manner and kept up to date.

CASE SCHEDULE - WEEK OF _____

A.M.

a-2

Judge

Judge

Monday

Tuesday

Wednesday

Thursday

Friday

CASE SCHEDULE - WEEK OF _____ P.M.

Judge

Judge

Monday

uesday

uesday

Friday

Friday

MINUTES

Currently, the Register of Actions indicates all papers filed in the case, but usually not the disposition, while the Minute Book documents what happened in the courtroom and the disposition in the case. The latter book is often maintained in date-of-hearing order limiting the use and access to this information. Loose-leaf minute books (notebook variety) appear to have little value because the information transcribed by the clerk in the courtroom is incomplete and often uninformative. The writing is illegible, inaccurate, or incomplete. For example, in Municipal Court in Olmsted County, the same attorney was listed for the plaintiff and the defendant, the court reporter was not identified nor was the court clerk. The division of court in which the case was heard was not indicated, and the offense was listed merely as "Thru Red Lite." There was no indication of a plea, and under the heading "Proceedings" only cryptic notes followed. Minute books of this type have no utilitarian purpose as they are not complete enough to be considered a record. They duplicate information contained in other documents or records, i.e. case papers, the Register of Actions, indexes, stenotype notes or tape recordings, and judges' notes, yet require significant effort to maintain. Where the Minute Book has no index but contains both Civil and Criminal minutes, in chronological order based on the date of the Court appearance, the minutes are inaccessible.

Since in their present form, the minutes do not fulfill a need, do they then fulfill a duty?

In the event that the State Court Administrator, Attorney General, judges, Clerk of Court, etc. find to the contrary, the

study team recommends consolidating the Register of Actions and Minute Book in the following fashion.

Under M.S. 485.07, RECORDS TO BE KEPT, every Clerk of Courts shall keep among his records a Register of Actions which shall contain a "minute of each paper filed in the cause, and all proceedings therein." Since other records to be kept are listed separately, under this section, it is apparent that "a minute of each paper filed in the cause," merely means a listing of the paper filed as it is presently done under the heading "Memoranda of Proceedings" in the Register of Actions.

"Minutes of the Court" which are binding in a Court of law are those notes taken by the court reporter. Czap v. Czap, 69 N.W. 2d 488, 489, 269 Wis. 557. Tennessee, Nevada, Indiana, and Texas also have case law or statutes which state that "the minutes of a Court are the memoranda of what takes place in Court, made by authority of the Court." In Minnesota, except in some in camera proceedings, minutes of the Court are recorded, whether by a Court stenographer or by electronic equipment, and should not be confused with the minutes required under M.S. 485.07, supra. There appears to be no other Minnesota statute requiring minutes for Civil cases.

Therefore, the team recommends the elimination of the keeping of Court minutes for inclusion in the record book and case papers because they are inconsistent, illegible, and not required by law.

The Register should consist of loose-leaf pages with a list of papers filed on one side and a summary of the proceedings in the courtroom on the other. The latter should be completed in the courtroom as is heard reducing the clerical time to maintain such a book. THIS IS A LONG-TERM RECOMMENDATION. A particular concern is the quality of minutes that are kept or will be kept by

Court personnel. As long as minutes are required, this should be done in a manner to insure their value and accuracy. This means that specific information has to be defined as to what will be included in the minutes and the form so designed so that all the information documented is clearly understood and not simply added in a rough handwriting as to be illegible or meaningless. The defendant should be indentified, the type of case, the charges or type of action involved, witnesses, the type of hearing, date of hearing, and the disposition of such a hearing. It should be noted that there is also a lack of consistency regarding which types of County Court cases should have minutes: Wabasha County has minutes for all County Court cases except Criminal or Traffic cases; Rice County has minutes for no County Court cases; and Olmsted County maintains minutes for Criminal cases which go to Court.

PROBATE FORM REFERENCE TABLE

It should be noted that the new Oswald Probate Blanks numbered under the new Probate Rules and Uniform Code correspond to the following statutory requirements under M.S. 525.03 Books of Record.

Subd. 3- a record of wills

no forms are furnished

Subd. 4. a record of bonds (if ordered by the court)

apparently none of the County Court Judges have made such an order

Subd. 5. a record of Letters

OS 203 Form 524.3-601 #3	Letters Testamentary
OS 204 Form 524.3-601 #4	Letters of General Administration
OS 320 Form 525.551 #6	Letters of General Guardianship
OS 336 Form 525.591 #10	Letters of Special Guardianship
OS 321 Form 525.551 #7	Letters of General Conservatorship
OS 337 Form 525.591 #11	Letters of Special Conservatorship
No form shown	Letters of Special Administration

Subd. 6. a record of orders

OS 189 Form 524.3-413 #3	Order Modifying Prior Order
OS 190 Form 524.3-413 #4	Order Vacating Prior Order
OS 269 Form 524.3-1002 #6	Order of Complete Settlement of the Estate and Decree of Distribution
OS 270 Form 524.3-1001 #7,8	Order of Complete Settlement of

the Estate and Order of
Distribution

OS 309 Form 525.51 #13 Final Decree: Summary Assignment
of Distribution

OS 340 Form 525.61 #3 Order for Restoration to Capacity

OS 344 Form 525.641 #1 Order Directing Sale of Real Estate

OS 345 Form 525.641 #2 Order Directing Mortgage of Real
Estate

OS 348 Form 525.662 #2 Order of Confirmation of Sale of
Real Estate

OS 350 Form 525.69 #2 Order for Conveyance Pursuant to
Contract

Record Destruction Guidelines Prepared by Judy Rehak
of the State Court Administrator's Office

RECORD	DESTROY
depositions **	Destroy 1 year after termination of case if no appeal filed
Exhibits - Civil and Criminal Cases	Destroy 6 mo. after termination of case with prior notice to parties
Jury Selection Records including * certificates of per diem and mileage for jurors, witnesses and bailiffs	Destroy after 10 years
Stenographic notes **	Destroy after 10 years
Law Library Receipts *	Destroy after 2 years
<u>FINANCIAL RECORDS</u>	
Cancelled checks and Stubs *	Destroy after 10 years
Fee Books (District Court Clerk * and Retired Justice of the Peace)	Destroy immediately
Court Fee and Fine Records in all * divisions including daily ledger sheets, bank statements	Destroy after 10 years
Unclaimed Fees and Funds Report *	Destroy after 10 years
Yearly Financial Report	Destroy after 10 years
Inventory Reports	Destroy after each succeeding report has been verified and accepted
<u>PROBATE RECORDS</u>	
Register of Claims	Destroy after 15 years from last entry
Probate Files	Follow Statute 525.091
Inheritance Tax Books (291.29)	Destroy after 15 years from last entry
<u>JUVENILE COURT</u>	
Juvenile Court Case Files (Traffic Tags)	Destroy after 5 years from disposition.
Juvenile Court Recording of Hearings	Destroy after 6 mos. after order of Adjudication
Juvenile Court Docket or Calendar	Destroy after 5 years

* Records destruction being considered in the Fifth Judicial District.

* Records destruction being performed in Olmsted County.

RECORD	DESTROY
Adoption Files	Destroy after 10 years if consent and the decree of adoption has been separately preserved by microfilm or posting in a permanent book.
Marriage Consents; Waiver Files	Destroy 10 years from approval
<u>COUNTY COURT CRIMINAL RECORDS</u> Criminal Case Files including those from JP and Probate Courts	Destroy after 10 years (if warrants are outstanding do not destroy ticket or complaint, unless charge is dismissed by order of court and warrant recalled.)
Traffic and Ordinance Violations ** Tags including those from JP and Probate Courts	Destroy after 5 years (if warrants are outstanding do not destroy tickets unless charge is dismissed by order of court and warrant recalled.)
Criminal Calendars including those from JP and Probate Courts	Destroy after 10 years
Bail Receipts	Destroy after 10 years
Search Warrants	Destroy after 5 years
Impounded Automobile License Plates	Destroy every third year when new plates are issued
Complaints filed with the court but dismissed without court action including those acquired from JP, Probate and Municipal Courts	Immediate destruction of those acquired from abolished courts and five years for those courts currently operational.
Commitment to Workhouse Authorizations	Destroy after 10 years
<u>COUNTY COURT CIVIL RECORDS</u> Daily Civil Calendars *	Destroy after 10 years
Civil Case Files	Destroy 15 years from filing unless an unsatisfied judgment exists or has been renewed and is enforceable.
Garnishments and Unlawful Detainer Case Files	Destroy after 10 years
Conciliation Court Files and Records	10 years from judgment unless an unsatisfied judgment exists or has been renewed and is enforceable.
Civil Case Files from Probate Courts with Civil/Criminal Jurisdiction	Destroy after 10 years from judgment

APPENDIX 6

A REVIEW OF MINNESOTA EXPUNCTION STATUTES

Minnesota has the following statutes pertaining to expunction of records or "purging" of one's record. The statutes are as follows:

M. S. 152.18 (1), (2) Prohibited Drugs, Discharge and Dismissal --
A person may apply for expunction if no judgment of a conviction is entered after he pleads or is found guilty of a violation of Sec. 152.09 subd. 1, clause (2).

M.S. 590.01 -- Post Conviction Remedy, Availability, Conditions --
If a person convicted of a crime petitions for relief asserting that his constitutional rights have been violated and said petition is granted, the sentence may be vacated or set aside.

M.S. 609.165 -- Criminal Code of 1963, Restoring of Civil Rights --
A person who has been convicted of a crime and thereafter discharged shall have his civil rights restored. Morrissey v. State, 1970, 286 Minn. 14, 174 N.W.2d 131, equates restoration of civil rights with expunction of the conviction.

M.S. 609.166 -- Criminal Code of 1963, Conviction setting aside in certain instances.

Any person who is convicted of or pleads guilty to a felony or gross misdemeanor may move for the order of an entry setting aside the conviction if said offense was committed before he was 21 years of age; if five years have lapsed since the expiration of the sentence or he was discharged from probation and has not been convicted of a

felony or gross misdemeanor during the five year period; and if the offense is not punishable by life imprisonment.

M.S. 609.167 -- Criminal Code of 1963, Procedure in entering order --
Notice must be given to the prosecuting attorney 30 days before presentation of the motion to the Court.

M.S. 609.168 -- Criminal Code of 1963, Effect of Order --
The person shall be deemed not to have been previously convicted where an order is entered setting aside the conviction.

Numerous questions are raised in studying the question of expunction.

1. What does expunction mean?

Expunction means to destroy, obliterate, eradicate, or to otherwise place a record in a position it was in before the crime was committed. C.J.S., Vol. 35, p. 343, further defines expunge as to blot out, as with a pen, to rub out, obliterate, strike out, cancel, efface. "Expunge expresses cancellation or deletion implying, not a legal act but a physical annihilation." As to the question of "purging," the purpose seems to be to restore the defendant to his civil rights. In another jurisdiction, Pennsylvania, a defendant may be restored to his civil rights by the granting of a pardon by the governor. However, it is specifically stated that the pardon itself does not give rise to obliteration of the record of the defendant's conviction or the fact that he has been convicted unless the pardon had been granted because of the defendant's original innocence. See Harold R. Cohen v. James Buerger, Commission, et al. Pa. Commonwealth,

314 A. 2d 353 (1974). Said case also stands for the proposition that "a pardon does away with the future consequences of the criminal act, as complete as if it had never been committed, and places the defendant where he stood before he committed the pardoned offenses with the limitations as stated heretofore. United States v. Dooley, 364 F. Supp. 75 (1973) at p. 78 enunciates the fact that a defendant can be cleared while his record is not cleared.

2. Is every person who is entitled to have his civil rights restored or his conviction set aside also entitled to expunction? The only Minnesota statute which explicitly grants expunction is M.S. 152.18 Subd. 1 and 2. Minnesota Case law expands expunction to include M.S. 609.165, and the related subsequent sections of the Minnesota 1963 Criminal Code. Since the person who has been accused and found not guilty has no given right to expunction of his record under either statute or case law, serious consideration should be given to whether the right of expunction should be extended under all of the statutes listed, supra.

3. For purposes of expunction, what is a record? Does a record mean only official records, those that are public, or can it include non-public records as well? M.S. 152.19 appears to equate "official records" with public records. Regardless of the answer to those questions, a list of record-keepers should be made and a request should be made to them to list all records which they keep which bear the name of the defendant and other indentifying information, separating that list into public and non-public classifications. Bases on the requirements of the specific statute, those record-

contained such as a case file or any index cards which can either be destroyed or put into said file, keeping said file apart from all those which are public records and, if necessary, keeping them under lock and key. Files or records which are part of a more complex record, such as an entry in an index or a half-page entry in a docket can most easily be obliterated or expunged by whiting-out the name of the defendant. The rest of the record as it appears has no effect on the defendant or his civil rights for it cannot be identified to any particular person. This is expedient and protective and seems to accomplish that which is required under the various statutes. Contrary to the kind of protection afforded here, the procedure currently used in Rice County when a record is ordered sealed, highlights or calls further attention to what is supposed to be removed from the public eye. There, when a record is ordered to be put under seal, the index to the appropriate docket is notated in red ink and indicates that no information on this case is to be given out.

Similarly, the treatment of the Criminal Register entry used in Rice County, calls to the attention of the public searching the files the name and offense of a given defendant. That procedure is to take a blank sheet of paper, to type the caption on the sheet of paper and to indicate what the verdict was and that it was set aside or no longer has the effect of a conviction. This half sheet of paper then

is taped over the original entry with the idea that it constitutes sealing the record. If the purpose of expunging or sealing is to protect the identity of the defendant, then this would be accomplished more easily and effectively by merely whiting-out the name of the defendant. If it is done both in the index and on the docket entry page, the record of this individual cannot be traced unless required by the court at which time the actual case papers, properly kept isolated and under seal or impounded are then brought to the court.

5. How can one create a procedure for expunction which has a beginning and an end? After the judge enters the order for expunction, it should then be transmitted to the Clerk of Courts. When all "keepers of records" for a specific case have returned their affidavits, the record is, in effect, expunged. The completion and final expunction may then be indicated to the judge by notice. Although this is not necessary, it is a courtesy. At this point, no one should be able to find any trace of this defendant's criminal record on any specific case in any office of public record. It should be noted that in some states, statutes specifically create a penalty for any individual or agency giving out information on said conviction after notice of the expunction has been received.

6. What happens when an individual's record is to be expunged and he is a co-defendant on a case with another defendant and there are records for both that overlap? Again, white-out can be used effectively to eliminate the name of the defendant whose record is to be expunged from the body of any other portion of a record of his co-defendant.

7. If records are expunged, impounded or sealed, how does the Court or Clerk of Courts keep track of them? A three by five inch index card can be made for each case, indicating the name of the defendant-last name first, the birthdate and/or social security number for identification purposes when names are similar, and kept in a file out of the reach of the public. Cases should be kept in their file in alphabetical order so that regardless of the year(s) involved, they can be located easily.

8. Do the state police and the FBI expunge when ordered to do so and what procedure must be followed to gain their cooperation? Essentially, it depends upon the rules or procedures set up with the individual state. In some states, the state police or FBI will not expunge unless notified to do so by the agency which supplied them with the original arrest records. In this situation once the order is sent to the local police agency, that agency sends notification to the State Police and FBI who return an affidavit of expunction to said local police agency or in some situations, notice of refusal to comply. Presently, the local agency does not verify to the Clerk of Courts that police records have been expunged until he has received verification from these agencies. Where there is a refusal, it usually is brought to the attention of the Judge by the Clerk of Courts who then determines whether a contempt of court citation is proper or whether there ought to be some other remedy. Generally, it becomes easier to gain the cooperation of said policing agencies if the Order contains the age and/or social security number of the defendant, the date of arrest and the name of the arresting agency. If they have specific policies regarding expunction for certain charges and/or

dispositions, then it is helpful to include the charge and disposition as well.

APPENDIX 7

STATE OF MINNESOTA
COUNTY OF OLMSTED

COUNTY COURT
CRIMINAL-CIVIL DIVISION

City of Rochester,
Plaintiff,

vs.

Raymond Dean Rear,
Defendant.

DESIGNATION OF OFFENSE
AS PETTY MISDEMEANOR

Consuming After Hours

I, the Prosecuting Attorney, hereby certify to the above-named Court that in my opinion it is in the interests of justice that the above-named defendant not be incarcerated, and thereby designate, subject to the approval of the Court, that this alleged misdemeanor violation be treated as a petty misdemeanor.

Dated: February 24, 1976

Charles F. Richards
Charles F. Richards
Assistant City Attorney
City Hall
Rochester, Minnesota 55901
(507) 288-6810

I hereby approve the designation of the offense involved in this particular case as a petty misdemeanor.

DA Schuman
Judge of County Court

END