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~~X~~ THE EFFECTS OF STATEWIDE REFORM
ON A COURT IN TRANSITION: A REVIEW OF THE
ADMINISTRATION OF THE KANSAS CITY, MISSOURI
MUNICIPAL DIVISION, SIXTEENTH CIRCUIT COURT

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ACQUISITIONS

September 1979

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I. INTRODUCTION

A. Background

In 1976, the people of the state of Missouri approved a new Judicial Article, to go into effect January 2, 1979. It abolished courts of limited or special jurisdiction and established a three-tier structure: the Supreme Court, the Court of Appeals (with three geographical locations), and the Circuit Court (including magistrate, probate and municipal divisions). An implementation schedule was accepted at the same time, and, later, the 79th General Assembly adopted implementing legislation.

In the spring of 1979, about the time the former Kansas City Municipal Court was considering the impact of the new judicial reform, it found itself coping, as well, with problems of growth, personnel turnover and morale, and governmental inter-agency relations.

Judge Thomas E. Sims, Chairman of the Supreme Court's Transition Committee of the Municipal Court Division, and a member of the bench of what is now the Municipal Division of the Sixteenth Judicial Circuit Court, Kansas City, Missouri, requested that LEAA's Criminal Courts Technical Assistance Project at the American University provide consultants experienced both with state court systems and local trial court administration to address operational problems in the court.

The purpose of the assistance was to analyze the general administration of the Municipal Division, with an emphasis on personnel issues, and any problems caused by the Court's recent absorption into the state court system.

Chosen for the assignment were L.M. Jacobs, IV., Court Administrator of the Third Judicial Circuit Court, Detroit, Michigan, who has done considerable consulting in court management and personnel systems, and Beatrice Hoffman, an independent court administration consultant whose court and corrections work

includes providing the Missouri Supreme Court and the State Court Administrator's Office with periodic evaluation of its implementation of the new Judicial Article.

B. Methodology

The consultants prepared themselves for the assignment by reviewing materials provided by the court, including constitutional and statutory documents, city personnel department rules and regulations, court rules, and the present and proposed personnel structure. They made a site visit to the Municipal Division of the Sixteenth Circuit Court on July 18, 19 and 20, 1979, during which time they toured the court building, examined relevant records, and interviewed as many people as time permitted. These included judges, courtroom clerks, bailiffs, deputy clerks and other personnel of the court, plus other interested persons outside of the court. Appendix C gives a partial list of the people interviewed.

The courtesy shown the consultants by all the people they visited, and particularly the assistance given them by Judge Thomas Sims and Court Administrator Edwin T.S. Miller, was very gratifying.

This report details the conclusions reached by the consultants as a result of the site visit and from analyses done both during the visit and afterwards.

II. ANALYSIS OF EXISTING SITUATION

A. Brief Description of the Municipal Division Sixteenth Circuit Court, Kansas City, Missouri

Until the beginning of this year, when Constitutional Amendment No. 6 became law, the court was officially the Kansas City Municipal Court, and it will undoubtedly continue to be known informally by that name. (See Appendix B).

The court's jurisdiction is limited to municipal ordinances of the City of Kansas City, with maximum penalties of six months in jail or a \$500 fine. It is not a court of record and does not provide jury trials. It hears approximately 190,000 cases annually and processes an additional 130,000 cases or so in its traffic bureau. It provides a number of sentencing alternatives besides jail and fines, including Driver Improvement School, probation, and other correctional and social service programs.

The court has seven judicial personnel, appointed by the City Council through a merit selection system which provides for voter approval every four years. The judges en banc select one of their members to serve as presiding judge.

Excluding ten CETA workers, the court employs 92 non-judicial employees. With some minor exceptions in the case of the Clerk/Administrator (who is selected by the City Manager) and the judges' secretary (who is an unclassified employee), all non-judicial personnel are subject to all the rules and regulations of the city's personnel department. The city recognizes Local 500 of the American Federation of State, County and Municipal Employees and AFL-CIO as sole bargaining agent for all regular employees, excluding supervisory, managerial and confidential employees.

B. The Impact of Missouri's Recent Court Reform on the Kansas City Municipal Division

The court reform that occurred in Missouri is a major change to the judicial system, incorporating, among other things, consolidation of courts and creation

of a single trial court level, state funding of most court employees, and extension of administrative authority to the presiding judge of the circuit.

In such an extensive undertaking, involving a constitutional amendment and voluminous implementing legislation, it is not unexpected that there would be a few inconsistent provisions and unintended consequences. The consultants recognized not only the difficulty of writing massive legislation that is clear, uniform and comprehensive, but also the political climate that allows amendments at variance with the legislation's basic intent. Therefore, this discussion is not intended to be critical or carping, but is included only to point out some difficulties raised by the new judicial reform. These questions may be of considerable consequence to the Kansas City Municipal Division.

The following passages establish absolutely that municipal courts have ceased to exist in Missouri and are now municipal divisions of the circuit court.

Section 1, Article 5 of the Constitution, adopted August 3, 1976, (1) vests the judicial power of the state in "a supreme court, a court of appeals, consisting of districts as prescribed by law, and circuit courts."

Section 23 provides "each circuit may have such municipal judges as provided by law and the necessary non-judicial personnel assisting them."

Section 27 provides effective date (January 2, 1979) and transition provisions for the article. Subsection 2 states:

All magistrate courts, probate courts, courts of common pleas, the St. Louis court of criminal correction, and municipal Corporation courts shall continue to exist until the effective date of this article at which time said courts shall cease to exist....The jurisdiction of municipal courts shall be transferred to the circuit court of the circuit in which such municipality or major geographical area thereof shall be located and such courts shall become divisions of the circuit court.

Although the passages abolished municipal courts, the implementing legislation provided that the municipalities which retained municipal judges

rather than associate circuit court judges to hear municipal ordinance violations must pay all costs of the new division.

Section 27, subsection 9a, Article 5 of the Constitution provides:

All expenses incidental to the functioning of municipal judges, including the costs of any staff, and their quarters shall be paid and provided by the respective municipality as now provided for municipal courts unless otherwise provided by law....No associate circuit judges shall, however, act as a municipal judge in any city with a population of four hundred thousand or more until otherwise provided by law.

House Bill 1634, section 479.050 (2) provides, as well:

Where municipal violations are to be tried before a municipal judge or judges, the governing body of the municipality shall provide by ordinance for a clerk or clerks and such other non-judicial personnel as may be required for the proper functioning of the municipal division or divisions and shall provide a suitable courtroom in which to hold court. The salaries of the judges, clerks and other non-judicial personnel and other expenses incidental to the operation of the municipal divisions shall be paid by the municipality.

Although not all of the specific passages are quoted here, H.B. 1634 offered municipalities with a population under 400,000 incentives to allow associate circuit judges to handle their city ordinance violations, i.e., fines and forfeitures would be kept by the cities while costs of the municipal division would not have to be borne. Cities of 400,000 or over, namely St. Louis and Kansas City, were excluded; they must pay all costs but may keep fines, forfeitures and court costs.

Not only does this put Kansas City Municipal Division in an unusual category, but there are contradictions in the separate provisions which create a potential for problems.

Section 479.020.5 of H.B. 1634 singles out the Kansas City Municipal Division as an exception to the general administrative authority of the presiding judge of the circuit court. Under that section, the municipal judges and court personnel of Kansas City shall not be subject to court management and case

docketing by the presiding judge or to the rules in those areas of the circuit court of which the municipal divisions are a part.

This is in conflict with the constitutional mandate in section 15.3, which states that the presiding judge of the circuit court shall have general administrative authority over the court and its divisions, and it may be in conflict with any future administrative authority delegated by the Supreme Court to the presiding judge.

The terms "court management" and "case docketing" are not defined in the statute and, consequently, may be interpreted as broadly or as narrowly as the circuit court or municipal division chooses.

The provision also conflicts with section 479.951 of H.B. 1634 which permits municipal judges to establish traffic violation bureaus which are to be operated in accordance with the rules of both the Supreme Court and the circuit court.

Other superintending authority over the municipal Division is directed in 479.080.3: "The supreme court by administrative rule may provide for uniform procedure, and reporting forms for the collection and transmittal of fines and costs."

Records management is an area of potential conflict if Supreme Court or Circuit Court rules were to address that subject. Section 483.060.2 provides that where physical custody of municipal division records was not transferred to the circuit court, they "shall be considered thereafter as records of the particular municipality, and may or may not be disposed of as determined by the municipality." In Kansas City, the records have not been transferred.

The consultants were left with the impression (though not validated) that the legislative intent was to separate the procedural and administrative part of the court operation from the financial aspects, so that the municipal operation would be amalgamated as much as possible into the circuit court, while allowing

the city to keep fees, fines and court costs if it would pay all operating costs. Close to the end of the session, an amendment was adopted that not only lessened the administrative authority of the circuit court for the Kansas City municipal division, but also made separate provisions inconsistent.

This combination of being a circuit court division, with little administrative responsibility by the circuit court for its operation, and with complete dependence upon the City of Kansas City for its financial support, puts the Kansas City Municipal Division in a situation unique in the state.

C. Analysis of Court Administration at the Kansas City Municipal Division

Because the site visit was of short duration, the consultants had to limit themselves to an overview of the general administration of the court and, consequently, did not feel qualified to make recommendations concerning specific areas of operation.

In the three days, however, the consultants were able to observe enough to convince themselves that the reputation of the court as one of the most modern, efficiently run and attractively housed municipal courts in the country is well deserved. Both of the consultants have seen so many depressing, dingy, crowded and poorly-managed traffic courts that the contrast in Kansas City was a delightful experience.

In particular, there was an emphasis on serving the public that pervaded the entire court. This was reflected in the atmosphere, from the comfortable seating in the waiting area to the easily-read calendars on the courtroom doors, and in the attitudes of everyone from the clerks at the counter to the judges in the courtroom. Kansas City citizens probably do not realize they have one of the rare courts which has taken the goal of public service seriously, and the city is to be congratulated for providing the support that has allowed the objective to be realized.

The court makes use of modern technological tools, including extensive computerization of their records. The court employs a data processing staff to maintain and improve its programs, but its system is a sub-set of a major computer system under the authority of the Kansas City Police Department. Future expansion of the court component is limited by the size of the Police computer and higher priority needs as determined by the Police Department.

It is recommended that the court begin planning for its future needs in the 1980's, to include a decision whether computer expansion is advisable or whether other technological tools, such as word processors or micrographics, might be used to augment present computer use. Mini-and micro-computers are becoming relatively inexpensive and so sophisticated that separate systems or distributive processing (with a link-up to a larger computer system) may soon be within the range of many court budgets.

Such a needs assessment should include the benefits to be attained and the costs of each alternative.

Consultants are available for assistance, but the court will need to make the important decisions on what services they wish to provide, what type of economics they hope to make, and whether all equipment would be under the court's authority.

D. Personnel Problems Within the Kansas City Municipal Division

For some years the Kansas City Municipal Court has felt the need for a separate classification scheme within the larger city personnel system. As far back as 1972, they had requested the City Director of Personnel to create positions which would take into account the special legal and procedural knowledge required of court personnel, establish a career ladder within the court, and provide monetary incentives that would allow them to recruit and retain quality staff.

Some concessions have been made by the Personnel Director, namely the establishment of Deputy Court Clerk I and II and Bailiff positions, but the rest of the classifications and specifications are relevant to executive departments of the city as well as to the court.

Recently, the court felt the situation to be particularly critical, due to what they felt was an extremely high turnover rate. In attempting to validate the court's claims, the consultants were unable to obtain hard data as to city turnover rate in comparable classifications. Estimates given ranged from 15 to 20 percent.

Examination of the court's termination forms revealed that 40 people had left the court in 1978 and 1979 to date. Information from the forms was collected and compiled.

As the first table on the following page indicated, almost a third of those leaving resigned to take a job within city government. The court's impression that employees often left for such jobs because they were 'easier' was partially confirmed through interviews with staff, who stated that, in their opinion, court clerk's office positions were more high pressure jobs than others of the same classification in city offices.

The pressure was seen as existing because of time constraints, a constant and heavy workload, court calendar deadlines, and a concern for customer satisfaction.

Employees interviewed mentioned the lack of a career ladder much less frequently than salary requirements as a reason for turnover. This appears to be substantiated by the fact that a heavy percentage of people terminating had been less than two years on the job, with almost a half less than one year.

TABLE I.
TERMINATIONS BY POSITION HELD

<u>Position</u>	<u>No.</u>	<u>Percent</u>
Clerk-Typist I and II	11	27.5
Data Entry Operator I	9	22.5
DP Positions: Programmer and Programmer-Analyst	6	15.0
Bailiff and Deputy Ct. Clerk	4	10.0
Other Clerk's Office Personnel	<u>10</u>	<u>25.0</u>
Total	40	100.0

TABLE II.
TERMINATIONS BY REASON FOR LEAVING

<u>Reason</u>	<u>No.</u>	<u>Percent</u>
Other Job With City Govt.	11	32.5
Personal Reasons- including marriage, etc.	7	17.5
Disciplinary Reasons- includes those in probationary period	7	17.5
Better Job Other Than With City Government	10	25.0
Miscellaneous- death, etc.	<u>3</u>	<u>7.5</u>
Total	40	100.0

TABLE III
TERMINATIONS BY LENGTH OF SERVICE

<u>Length of Service</u>	<u>No.</u>	<u>Percent</u>
Less Than One Year	18	45.0
12-23 Months	9	22.5
24-35 Months	4	10.0
3 Years or More	<u>9</u>	<u>22.5</u>
Total	40	100.0

Although some of the turnover may be due to transitory supervision problems which appear to have been resolved, it is probable that turnover could be reduced if salary increases were achieved, since a higher salary generally attracts a more qualified, more experienced person. However, the city's policy of wanting equal pay for comparable positions is understandable.

Comparison of the turnover rate in the other divisions of the Sixteenth Circuit Court might be helpful, as would comparison of job classifications and salary structure. The consultants understand the city's Personnel Department is presently conducting such a study.

The Missouri State Courts Administrator's Office has recently embarked on a statewide study in preparation for a classification and salary plan for all state funded circuit court employees. This is expected to be completed by July, 1980. Regardless of what changes may or may not be made by the Kansas City Personnel Department in regard to court positions, comparison of the Municipal Division's personnel structure with the finally adopted statewide personnel plan is highly recommended.

The consultants feel that the turnover problem can be countered by a systematic orientation and training effort to assure that employees will identify more closely with the court. The consultants found some employees did not see important differences between judicial and executive agencies.

The consultants suggest a simple orientation manual which would set forth rules and regulations of the court and emphasize its singularity. An exchange of jobs on a temporary basis should be initiated, so that the entire workings of the court can be understood. This would help relieve the boredom of some routine jobs, and might moderate the antagonism between clerk's office and courtroom employees, a classic court personnel problem.

It is because the administration of this court has been so outstanding that it is believed that a Court Employee Development Program, such as just described, would be successful. Because the Kansas City Municipal Division has been in the vanguard of so many programs, it has the ability to do so again in the area of personnel.

E. The Separation of Powers Issue as it Applies to the Kansas City Municipal Division

Section 483.245 6 of H.B. 1634 provides that the Supreme Court may establish by administrative rule salary ranges and classifications for the various categories of clerks who will become state employees on July 1, 1981. This section would appear to establish the legislature's philosophy of court personnel managed by the judicial rather than by the executive branch of government.

Missouri is following other states (Colorado, Kansas, Hawaii, Maine, South Dakota) in establishing the creation of a separate judicial personnel system as basic recognition of the separation of powers concept in our form of government.

The power to control the qualifications and salaries of employees is critical to good court administration, a concept that has been recognized by both the American Bar Association and the National Advisory Commission on Criminal Justice Standards and Goals (3).

However, by allowing the selection, tenure and compensation of judicial and non-judicial personnel in municipal divisions to be set according to city charters, in Kansas City, at least, judicial employees will continue to be merged into an executive personnel system.

The advantages of such a practice are, for example, the many economies in centralized personnel management, benefits for employees in transferability, and benefits for the court in having experienced personnel specialists dealing with collective bargaining.

The main disadvantage is the inevitable treatment of the court as just another component of the executive branch. Many positions in the court simply are not comparable to any in the executive branch and a court is not just another "department" in city government. In fact, the charter of the City of Kansas City itself recognized the Municipal Court as the judicial power of the city, not another "department."

Yet many officials who stoutly defend our system of government fail to see the independence of the judiciary as necessary on the local level. The point must be made that the potential for abuse is always present when the executive branch can control the judiciary through its authority to make judgments on court personnel matters. This is true whether the control is on the national, state or local level.

This has been recognized by the American Bar Association's Committee on the Traffic Court Program. Part 2, Section 2.0- General Principle, of the Standards for Traffic Justice, states:

Traffic tribunals should be free from political influences and should be operated without regard to revenue production requirements. Traffic cases should be decided within a unified court system in the judicial branch of government.

The consultants wish to make it clear that they saw no evidence of Personnel Department or, indeed, of any executive branch interference in the administration of the court. The fact that none presently exists does not erase the future possibility. Therefore, it is incumbent on all three branches of government, not the judiciary alone, to recognize the danger and guard against possible abuse.

The confusion brought about by the unique status of the Kansas City Municipal Division under statewide reform makes the separation of powers issue particularly applicable to this court and presents it with an immediate policy-determination task.

III. RECOMMENDATIONS

Three sets of circumstances have converged to point towards a time of decision for the court. These include: 1) the extensive court reform which has transformed the Kansas City Municipal Court into a division of the Sixteenth Circuit Court; 2) the specific provisions that make the Kansas City Municipal Division unique within the state judicial system; and 3) the personnel problems that highlight the court's position as administratively dependent upon the executive branch of the city.

The consultants feel that it is critical for the court to come to a consensus on its new position within the Missouri judicial system, and issue a policy statement that will guide them in meeting any problems that involve either the separation of powers issue or the complex inter-relationship between the state, the Sixteenth Circuit Court, the Municipal Division, and the City of Kansas City.

It is important to clarify the court's position so that the court speaks with one voice. The consultants found that differences in points of view make it difficult for people both within and outside the court to respond to court requests. Because judges are trained to think and decide on a case-by-case basis judicially, it is sometimes difficult for them to see the need for administrative unity. Policy declaration is necessary to avoid the dissemination of conflicting messages and to convince executive agencies and legislative bodies that the judiciary has administrative capability.

Such a policy statement should be comprehensive enough to provide clear policy direction in major aspects of court administration, including but not limited to matters discussed in this report such as personnel management and future technological planning. Relations with other executive, legislative and

and judicial bodies, both locally and statewide, should be delineated. The roles of the full court, the presiding judge, specific committees and non-judicial bodies must be clearly defined.

The consultants stress that it is impossible to solve major problems or undertake new projects that affect the administration of the court until such a policy has been formulated. The court is in a new situation, one that is unique within the state, and one that needs to be assessed.

The Kansas City Municipal Court has done an excellent job. It is now up to the court to plan the future of the Municipal Division of the Sixteenth Circuit so that it will continue to serve the citizens of Kansas City as well as it is presently doing.

IV. SUMMARY

Court reform in Missouri has placed the former Kansas City Municipal Court in a unique position. It is now the Municipal Division of the Sixteenth Circuit Court, financially dependent upon the City of Kansas City, under authority of the circuit, and yet not under the authority of the Presiding Judge for case docketing or court management matters.

In addition, it is facing some problems of growth, personnel turnover and morale, and needs for future planning.

It is recommended that, before tackling specific problems, the court come to a consensus on its new position within the state judicial system and issue a policy statement that will provide guidelines and direction for future decisions in court administration, particularly personnel management and technological planning.

APPENDICES

APPENDIX A

FOOTNOTES

- (1) Vernon's Annotated Missouri Statutes. Volume 1A. Constitution, Articles 2 to 5, including Amendments Adopted Through November 7, 1978. St. Paul, Minn: West Publishing Co., 1979.
- (2) Second Regular Session (Truly Agreed To and Finally Passed) House Bill No. 1634. 79th General Assembly. Reproduction provided by Missouri State Courts Administrator's Office.
- (3) See also Lawson, Harry O., et. al., Personnel Administration in the Courts. Washington, D.C.: American University. Criminal Courts Technical Assistance Monograph No. Two, February 1978.
- (4) See Tobin, Robert, Trial Court Management Series: Personnel Management. Washington, D.C.: American University, February 1979.

State Seal Pushes Logo Off Paper

By John A. Dvorak
A Member of the Staff

The jury is still out at City Hall over the case of the Kansas City Municipal Court stationery.

Early this year, after new regulations covering the Missouri judicial system took effect, the court redesigned its stationery by eliminating the official red and blue emblem used on all city correspondence and substituting the state seal.

Instead of reading Municipal Court at the top, the stationery read Circuit Court of Missouri, Kansas City Municipal Division.

The switch irritated several City Council members, who during the last two months have been considering whether to increase the salaries of the seven municipal judges.

"They're not so autonomous that they can disassociate themselves from the city," Councilman Joe Serviss, mayor pro tem, said. "We fund it. I think it's our court."

The new judicial regulations give circuit courts a greater role in the Municipal Court, said Lawrence B. Saunders, an assistant city attorney, whose legal opinion gave blessing to the stationery change.

But the council members remain unhappy with the absence of a city emblem on the stationery. "There is nothing that would suggest any connection between the Municipal Court and City Hall," Councilman Emanuel Cleaver, a member of the City Council Municipal Courts Committee, said at a meeting called three weeks ago to consider the pay raises.

Judge Charles J. DeFeo Jr., who attended the meeting, promised to look into the emblem matter.

"We'll reconsider it," he said, adding: "There ought to be more communication with the council. I think it's a healthy thing."

The emblem issue arose again Thursday at another meeting of the committee. No action was taken, but the committee inquired about the stationery.

"We're working with them," said John K. Burge, assistant city manager.

Recently the court submitted a new design for the stationery, this time containing both the city emblem and the state seal. A committee of administrators that oversees city printing will review the new design soon, said Burge.

Edwin T.S. Miller, court administrator, refused Thursday to discuss the stationery. Judge Leonard S. Hughes Jr., the presiding Municipal Court judge, could not be reached.

Councilman Jerry Riffe, a lawyer and chairman of the Municipal Courts Committee, wasn't greatly upset with the stationery case.

"They are the Municipal Court of Kansas City. Their stationery should reflect that," he said. "The better judgment is to use the city emblem."

APPENDIX C

PARTIAL LIST OF PERSONS INTERVIEWED BY THE CONSULTANTS DURING SITE VISIT, JULY 18-20, 1979

Honorable Leonard S. Hughes, Jr.
Presiding Judge
Municipal Division of the
16th Circuit Court of Missouri

Honorable Charles J. DeFeo, Judge
Municipal Division

Honorable George C. Denney, Judge
Municipal Division

Honorable James F. Karl, Judge
Municipal Division

Honorable Thomas E. Sims, Judge
Municipal Division

Mr. Jerome Wolf, Esquire
President
Kansas City Bar Association

Mr. Thomas Lewinsohn
Director of Personnel
City of Kansas City

Mr. William E. Stipek, Chief
Classification & Pay
Division of Personnel
City Hall

Mr. Austin Van Buskirk
Court Administrator
16th Circuit Court of Missouri

Mr. Edwin T.S. Miller
Court Administrator
Municipal Division

Mr. Duyane Parker
Administrative Officer
Municipal Division

Judges Salvatore S. Nigro and Elmo M. Hargrave
were absent during the site visit.

Names of employees interviewed have been omitted
to protect their confidentiality.

END