

SELECTED IMPACTS OF MICHIGAN'S
1969 COURT REORGANIZATION ON
RURAL CITIZENS

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ABSTRACT

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By

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The courts of limited jurisdiction play an important role in the criminal justice system. The only direct contact the majority of citizens have with the judicial process is through these minor courts. Therefore, an understanding of how the courts of limited jurisdiction affect people's lives becomes a prerequisite to evaluating the effectiveness of the criminal justice system in its ability to provide law and order in society.

For more than a decade, the people of Michigan have been concerned with the operations of their courts of limited jurisdiction. Under a long wave of criticism, reorganization measures were approved with the adoption of a new State Constitution. The 1969 Reorganization abolished the Justices of the Peace and replaced them with centralized and consolidated district courts staffed with professional judges.

The people of Michigan were told to expect a better system of justice from the Reorganization. However, there were some rural areas which felt threatened by the new system.

To obtain a better understanding of some of the key issues involved, reorganization efforts in other states were explored.

Jackson County, with a large rural population, was chosen for measuring the selected impacts of the Reorganization to rural citizens in Michigan. The services once provided by the numerous justice courts were taken over by the Twelfth District Court of Jackson County, located in Jackson City. In this respect, it was possible to compare the justice courts of Jackson County prior to 1969 to the current Twelfth District Court.

The selected impacts chosen for this research involve the amount of resources required of the local community to utilize the services of the two court systems. Primary emphasis was placed on criminal violations occurring in the local community and rural citizens' attempts to enforce these violations through their respective local law enforcement units. The relevant data for the analysis was obtained through personal interviews with local police chiefs and through questionnaires mailed to former Justices of the Peace. In order to attribute the change in performance to the change in court organization, a with and without analysis was employed.

A significant increase in the amount of resources required by local communities in processing a violation can be attributed to the Reorganization. On the average, this impact necessitates a 13 percent increase in local law

enforcement budgets with some units requiring increases as high as 67 percent. This increase in resources was due to increased travel and waiting time by law enforcement officials. The burden of these implicit court costs falls on the local community. If local citizens are to maintain comparable levels of police protection, local taxes will rise.

In some instances, the burden of this increase in implicit court costs has fallen on law enforcement officials, requiring them to work longer hours at substandard compensation. While this may not have a direct affect on the local taxpayer, there may be behavioral consequences in law enforcement officials' willingness to make certain arrests.

The impact of the 1969 Court Reorganization to rural citizens raises some rather interesting questions for decision-makers contemplating reorganization efforts in other states and to court reformers advocating further changes in the Michigan courts of limited jurisdiction. Output performance measures of the court system are not available. The changed characteristics of the centralized, consolidated, and professionalized new court decisions have not been systematically recorded. However, some costs of this reform are now clear for rural citizens. The current level of knowledge about the Michigan experience suggests that the court reform movement should be tempered by this lack of benefit information to balance the cost information.

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TO MY FAMILY

especially my father for his
benevolent philosophy on life
and his generous concern for
the welfare of others.

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"Those apt to promise are apt to forget."

Proverb

CHAPTER I

INTRODUCTION

Problem Setting

In our society, the courts are essential in maintaining law and order with justice. Insuring the prompt, equitable, and effective administration of justice becomes a primary responsibility to all members in a civilized society. Deficiencies within the courts undermine not only the criminal justice process but also the fundamental legitimacy of a democratic society.

An analysis of the judiciary within the broad context of the criminal justice process must direct its attention to those people involved with the judicial system. We can identify the issues surrounding various groups associated with the courts. First, there are those issues involving groups engaged in the administration of justice. Within this group, there are lawyers, law enforcement officials, and judges. The selection, training, and financing of these groups greatly affects the performance of the judicial system.

Another category of issues involves those people who use the courts. Critical to this category are the consequences that flow to various groups and localities associated with and dependent upon the courts. To these people, the distribution

of justice in terms of whose law and whose order is of primary concern. The Fourteenth Amendment to the United States Constitution asserts that no state or local government shall "deny any person within its jurisdiction the equal protection of the laws." Other clauses in the Bill of Rights guarantee the right to an attorney, a grand jury indictment, a speedy trial, and a trial by jury.

Public interest in the judicial system stems from the suspicion that all groups and localities do not receive the equality proclaimed in the Constitution. What does it mean to be an effective participant in a judicial system? Simply being a citizen may not be enough. Access to the courts may be influenced by the citizen's income, level of education, in addition to court location. Empirically, the test of the judicial system is what it delivers to the citizen, the consumer in the system. We must know who gets what from the judicial system and why.

In Michigan, the concern for the judicial system stems from the inputs going into the system and the outputs which are generated by the system at the local level. Changes in the input-output categories and content were accomplished by the 1969 Reorganization within the courts of limited jurisdiction. The Reorganization phased out the Justices of the Peace and replaced them with a state-wide system of district courts. The change affected both the administrators of justice within the courts of limited jurisdiction--lawyers, law enforcement officials, and judges--as well as local citizens

who support the local judiciary and live with its consequences.

The people of Michigan were told to expect improved outputs in the form of a better quality justice which would result from:¹

1. Greater uniformity in the application of the law within counties and across counties within Michigan.
2. Generally better quality decisions would flow from judges of the reorganized courts.
3. Better monitoring of the courts of limited jurisdiction with the capacity to recognize and perhaps solve problems at higher levels of government.
4. A general claim of increased efficiency within the courts of limited jurisdiction.

The strategy for enhancing the standard of justice within the local judiciary was to be accomplished by:

1. Centralization and consolidation of the courts of limited jurisdiction.
2. Creating a professional image within the courts of limited jurisdiction by increasing the amount of legal training required of judges and setting standards for court facilities.
3. Establishing an alternative mechanism for financing the courts of limited jurisdiction and more specifically in the area of the judges' compensation.

However convincing the logic of governmental reform, the reformers must ultimately confront the fact that radical changes in the institutions and processes of society imply extensive redistribution of societal goods, wealth, power, and security. It is hardly surprising that those asked to

¹Harold J. Harris, Deputy Court Administrator for Michigan District Courts, personal interview held at his office: Law Building, Lansing, Michigan, January, 1973.

surrender what they consider to be disproportionate shares will resist such demands and develop a counter-logic to sanctify their resistance.² While changes in the courts of limited jurisdiction promised a better local judiciary for all parties concerned, there were some groups and localities that felt threatened by the Reorganization. The local groups argued in their counter-logic that:

1. The courts might be subject to more arbitrary budget limitations.
2. The courts might be less responsive to local needs and the local communities will lose control of the judicial process.
3. A disproportionate share of the costs must be supported by the local communities.

The problem setting for this research lies in the promises of court reformers and the allegations by those groups and localities which feel adversely affected by the 1969 Reorganization. The distributive impacts of the changed inputs stemming from the Reorganization constitute the researchable topic for this research. Another area which requires considerable attention and one that would exist in spite of the distribution problems, concerns the improved outputs of the Reorganization. Even if we could solve the problem of who is to pay for these court reforms, we still would not be sure of what we had purchased. In order for decision-makers involved in the local judiciary to make intelligent choices about reorganization, they must be aware of the impact which

²Lowdon Wingo, Reform of Metropolitan Governments, Resources of the Future (Baltimore: Johns Hopkins University Press, 1972), p. 1.

stems from both the changed inputs and the changed outputs.

Purpose of the Study

The 1969 Reorganization is still in the final stages of implementation. When establishing the new courts of limited jurisdiction, the decision-makers were operating under imperfect knowledge. All of the consequences of the Reorganization were not known at the time. Some consequences to various groups could only be discovered after the new program had been implemented. Feedback is important in order for decision-makers to make intelligent choices about proposed future changes. Information on the results of Reorganization in Michigan may prove useful to decision-makers contemplating such measures in other states.

More specifically, the purpose of this research is to measure some of the consequences of the Reorganization to various groups and localities. Court reformers predicted that higher standards of justice would flow from the new court system. How justice is defined within the criminal justice process depends upon the group or individual and his or her relationship to that process. On the one hand, justice is a legal term that simply describes the allocations made through the formal legal system (operation of the rule of law). On the other hand, justice is an ethical term used to evaluate the allocations made through the political and market system.³

³R. L. Meek, The Politics of Local Justice, ed. by James R. Klonski and Robert I. Mendelsohn (Boston: Little, Brown, and Company, 1970), p. 21.

Those groups which are engaged in operating the rule of law, lawyers, law enforcement officials, and judges, tend to limit their perception of justice to the allocations made through the formal legal system. The image of justice held by the people utilizing the services of the criminal justice process is much broader, encompassing the allocations made through the political and market systems in addition to the formal legal system. This inclusive definition of justice held by local citizens stimulates a concern about the local judiciary is being administered.

One explanation given for this increased concern stemming from the 1969 Reorganization is that these citizens want local control because that was the traditional model of government organization and that they are being stubborn, their fears only perceived in their resistance to change. Another explanation and one more amenable to research and efficacious in providing solutions for state and local decision-makers is that the local court reorganization may have led to not only a loss of control in the administration of the local judiciary but also to a loss in resources and an unfavorable distribution of costs. It is a demand by local communities for increased information on the distributive impact of the 1969 Court Reorganization that gives purpose to this research.⁴

⁴This research grew out of the dissatisfactions expressed by local citizens to Tom Martin of the Cooperative Extension Service in Jackson County. Tom serves as the Field Agent for the Center of Rural Manpower and Public Affairs at Michigan State University, made possible through a grant from the Kellogg Foundation.

Scope of the Study

An immediate problem the researcher encounters when examining the consequences of institutional reorganization is in determining which of the consequences are measurable as well as which of the consequences are meaningful to various groups and localities. A more immediate and observable consequence of the Reorganization is that operating costs have increased. A complete study would involve the totaling of all explicit costs of operating the courts of limited jurisdiction, including the salaries paid to judges and court personnel, along with the costs of maintaining and operating court facilities. In addition to these explicit costs, there are implicit costs incurred in utilizing the court services, including the increased costs to these local groups and areas in terms of law enforcement officials' time spent traveling to and in court which is reflected in additional manpower required to retain the same level of police protection in the community. These implicit costs may have been neglected or considered unimportant in the Reorganization. The problem setting was described in light of different groups involved with the criminal justice system. The scope of this research is selective with respect to these groups associated with the local judiciary and affected by the 1969 Reorganization.

As an initial step, this research will explore problems associated with local judiciaries in other states and the institutional arrangements designed to solve these problems. These experiences in other local judiciaries illustrate the variety

of institutional packages designed to resolve similar issues. To get a better understanding of the relationship between the local judiciary and the criminal justice process, we make use of a model for analyzing community economic problems. The events taking place within the local judiciary play a significant role in determining the kinds of products the criminal justice system delivers.

Our primary concern is with people and their relationships to the local judiciary. The study will restrict itself to citizens of Jackson County with implications applying to citizens in other counties of Michigan and to local judiciaries in other states. The study will concentrate on the Twelfth Judicial District of Jackson County which includes those groups and localities in that area thought most affected by the 1969 Reorganization.

Primary emphasis will be placed on the more immediate consequences of the Reorganization which came about as a result of the changed inputs employed by the local judiciary. These changed inputs involve the implicit costs of using the reorganized courts. The groups associated with these implicit costs belong to the general category of people which utilize the local judiciary. The changed inputs of the reorganized courts have distributive consequences to the local taxpayer in support of the local judiciary. While reference will be made to civil matters of these courts of limited jurisdiction, primary emphasis will be placed on criminal matters involving law enforcement officials, their relationship with the courts,

and how this affects the local community.

The scope of this research is to determine how citizens are affected by their local judiciary in selected dimensions. Such an analysis would be incomplete if we did not ask why have these consequences to various groups and localities associated with the local court taken place? Court reformers, with all of their good intentions for establishing a local judiciary which delivers improved outputs, may not have been aware of some of the consequences of the Reorganization, including the more immediate consequences on the input side and the intermediate consequences on the output side. An attempt will be made to explain the discrepancy between what was predicted by court reformers prior to the Reorganization and what is actually taking place with the Reorganization.

Objectives of the Study

The present trend among social scientists is to regard legal systems and processes as an integral part of greater social and political systems, thus bringing to an end the traditional insulation of legal systems from systematic and empirical inquiry.⁵ It can be said that court systems are organized in such a way as to serve all citizens. Those who violate the laws will be subject to the local judiciary and "justice" will prevail. Such an analysis is acceptable in theory if our concern is only for the enforcement of technical

⁵Edward A. Ziegenhagen, The Politics of Local Justice, ed. by James R. Klonski and Robert I. Mendelsohn (Boston: Little, Brown and Company, 1970), p. 35.

laws. Such an analysis ignores the fact that there are distributive implications to institutional design, in terms of how much it costs various groups and localities to maintain and utilize their local judiciary. The judicial process does not exist in a void. If we consider the services provided by the courts of limited jurisdiction as a collective good, one that individuals demand be collectively provided and one which these individuals are willing to pay for, we must take into account the fact that there are many public goods and services competing for public monies. People demand the services of their local judiciary but there is nothing absolute in their demand. People demand local justice--defined in terms of equity of costs and accessibility. Who pays for the local judiciary and which groups and localities have access is important to these communities along with whether or not the laws are enforced and the violators prosecuted. An objective of this research is to remove the judicial system from its traditional insulation and to evaluate the local judiciary in light of the alternative mechanisms for providing local justice.

This research will attempt to provide information to state and local decision-makers involved with the local judiciary. This information should shed some light on their problems and provide a base for intelligent choice. This information entails more than a descriptive approach of alternative institutions, by suggesting some aspects of the Court Reorganization that may have been ignored or considered inconsequential. How these real or perceived consequences are dealt with will be

the task of the decision-makers in Jackson County and the State of Michigan. If the problems are such that they are unique to Jackson County, solutions may lie at the local level. Perhaps the problem is not unique to Jackson County and exists in many localities across the State. If this is the case, further research is needed in this area, making this information vital to court administrators attempting to improve the performance of the District Court System at the State level.

Study Design and Format

The local judiciary makes up one aspect of the criminal justice system within the local community. Court systems within the local judiciary cannot be evaluated in a void. In a similar fashion, the local judiciary cannot be evaluated in a void. The relationships between the local court and other aspects of the local criminal justice system must be discovered before we can accurately assess the local judiciary. To aid in the understanding of these relationships and to establish the relevance of this research within the broad context of the criminal justice process, we introduce a model.

Since the local judiciaries compete for scarce public monies, problems within these institutions come under the realm of conventional economic problems: How do local communities go about the allocations of scarce resources for alternative institutions to obtain alternative objectives? Allan Schmid and James Shaffer provide a useful approach in analyzing these community problems in the context of the

criminal justice system. This approach is essentially one of looking at the local judiciary from the standpoint of structure, conduct, and performance.⁶ Initially, we examine the structure of the local judiciary. Structure encompasses the rules of the game and how these rules affect the people's relationship with the local judiciary and each other. We can observe two sets of rules which are essential to our analysis of structure: (1) There are those sets of rules established by statute which entail a particular kind of relationship between the court and the local citizen which requires a particular behavior or choice of inputs. For example, these rules state that all judges within the reorganized courts of limited jurisdiction must be attorneys and members of the Michigan State Bar Association and only these judges are authorized to hear cases at specified locations. The rule establishes the relationship between the citizen and the judge, i.e., citizens now have the right to have their case heard by a professionally trained judge, in a centrally located court; and conversely they do not have the right to low-cost, accessible para-professional judges. The rule entails a specific relationship which precludes any relationships inconsistent with these rules. For purposes of this research, these rules shall be described as

⁶James D. Shaffer and A. Allan Schmid, "Community Economics: A Framework for Analysis of Community Economic Problems," Department of Agricultural Economics, Michigan State University, East Lansing, Michigan, 1972, p. 10 (Mimeographed).

formal rules.⁷ (2) There are other rules which do not themselves contain a requirement for a specific relationship (the behavior or choice of inputs to be used.) For example, in districts of the second class which include the Twelfth Judicial District, the judges have an option to establish more than one site for holding court. The interaction of the right of the judge with the rights of other people associated with the local judiciary (e.g., voters elect the judge or the district control unit supplements the judge's salary) influence the eventual choice of the location of court inputs. The rule does not itself specify the only behavior, but it affects the relative power of different people to affect the choice of inputs, e.g., where the court will sit. For purposes of this research, these rules shall be described as informal rules.⁸

In addition to the distinction between formal and informal rules, we can make a further distinction between written and unwritten rules of behavior. The formal rules of court structure may be written or unwritten. While formal rules specifying behavior may be more easily identified if they are written, we cannot ignore formal rules which specify a particular behavior

⁷ These rules are labeled formal because the specified choice of inputs is required by law and the relationships between individuals within the local judiciary and associated with that institution are defined by law.

⁸ These rules are labeled informal because the choice of inputs is not specified by law and the relationships between individuals within the local judiciary and associated with that institution are not defined by law. The law merely sets bounds as to the type of relationships which are permitted, as well as to the relative bargaining powers of groups and individuals involved with the local judiciary.

and choice of inputs that are not written in the law books. These formal rules encompass those aspects of custom, tradition, and ethics not reflected in the written law. Written and unwritten rules may differ with respect to the sanctions employed to administer the rules and the groups which administer the sanctions, while the overall influence on the individual's behavior may be the same. The individual observes both written and unwritten laws, but answers to different groups when he or she disobeys them.

Structure is concerned with the alternative sets of opportunities of different people associated with the local judiciary, i.e., their rights and privileges as established by laws. When local judiciaries are designed similarly with respect to those elements of structure required by law (e.g., professionally trained judges, elected by the district, and compensated by salaries) and at the same time deliver different kinds of performance, we can no longer ignore the informal aspects of structure which do not imply a particular relationship or require a specific behavior and choice of inputs.⁹

The necessity for recognizing both formal and informal structures within the local judiciary comes when we evaluate the other aspects of the model: the conduct of people associated

⁹ By the same token, courts with dissimilar structures can result in similar kinds of behavior and perhaps deliver similar kinds of performance. For example, the rule may not require that judges be attorneys, but the people may prefer attorneys over lay individuals and elect formally trained individuals whenever possible. The dissimilar structures are the rules stating the judges' qualifications, and the similar behavior involves the fact that we have attorneys elected as judges in both systems.

with the local judiciary and the performance or sets of consequences which flow from the local judiciary. Conduct refers to the behavior and actions of people associated with the local judiciary involving their relationships and their choice of inputs into the system. Their behavior depends upon how they perceive their alternatives, which are determined by both the formal and informal elements of structure. The formal rule states that the court shall sit at each county seat within the district, at each city and incorporated village within the district having a population of 3,250. The informal rule states that the court may also sit at such place or places where the judges thereof determine. Analyzing behavior that is required by law is not often useful in determining why the anticipated performance of local judiciaries was not achieved. The behavior which is required by law is relatively easy to predict but is not in itself sufficient to predict the consequences of the local judiciary. To accurately predict the flow of consequences, we must understand the informal structure which leads to a variety of choices. This behavior is not required but bounded by law and results from the informal relationships within the local judiciary. Understanding the association between these informal relationships of structure and behavior encompasses the main theme of institutional analysis.

Performance is used here to include the intermediate products of the local judiciary: (1) the well-being of citizens from their association with and support for the

local judiciary, (2) the amount of resources required to hear a case, and (3) the final product of the local judiciary's contribution to the criminal justice process in combating crime (e.g., in saving lives by keeping drunk drivers off the streets and highways). Reorganizing the Michigan courts of limited jurisdiction was an attempt to achieve improved outputs from the local judiciary. The reformers changed some formal aspects of court structure. From these changes, it was assumed that a certain behavior would follow resulting in the local citizen choosing a different set of inputs for the local judiciary. Their behavior in response to the changed structure established by the legislature was to lead to improved outputs from the local judiciary. This study is designed primarily to discover how the change in the formal rules of the local judiciary has affected various groups and localities. It is practically impossible to identify all of the various consequences which flow from institutional reorganization. The consequences are so numerous that the researcher must select those consequences which are felt to be important (particularly those affected by the local judiciary that may have been previously unknown or ignored) and which are possible to measure with limited research resources.

The initial step will be to examine the structure of local judiciaries in other states. The institutional designs discussed by court reformers in other states present only a partial list of court structures from which we can predict the consequences of court reorganization. More accurate predictions

on what the local citizens can expect from reorganization could be made if the informal rules of the local judiciary were known and what the consequences of these rules were.

The second step will be to examine the structure of the Michigan courts of limited jurisdiction. This is necessary to understand the problem setting and how court reformers in Michigan went about solving these problems. Certain behavioral assumptions were made by these court reformers; and because certain formal and informal structural elements were ignored or unknown, various consequences have followed. The consequences selected for this research encompass the impact of the formal role change on aforementioned dimensions of the local judiciaries' performance.

This research is not intended to be a full-scale study of institutions. The alternative institutions discussed in this paper in no way exhaust the number of institutional arrangements that have been designed to provide local justice. Likewise, this study is not an attempt to discover the institutional arrangement that will result in the kinds of behavior that lead to improved outputs from the local judiciary from various groups' point of view. At the present time, these discoveries have been left up to court reformers with their behavioral assumptions and hunches on how people associated with the local judiciary should act.

This research concentrates on those rules of the Reorganization which tend to imply specific required behavior and inputs (e.g., all judges must be lawyers and in the Twelfth

Judicial District, the court must sit in Jackson City). Most of these rules are very straightforward and hard to evade. While we know that real behavior often differs from that required by law, especially if it involves complex administration (e.g., witness liquor prohibition), it will largely be assumed herein that the required behavior in fact occurs and in fact this will be actually observed. Therefore, the focus is not primarily on the relationship between the rights contained in the rules and the resulting choice of inputs which is the central question of a full-scale institutional study.¹⁰ It is not necessary to inquire very long into what rights and rules produce a certain input choice when the rules themselves require a certain choice and little administration is involved. However, the mandated initial choice of direct inputs is not the whole story. These choices affect other choices which are embedded in other rights and rules (some formal and some informal). This latter point will be touched on in this study. For example, the law enforcement officials' relationship with court sometimes requires overtime; and because of the way this works out in practice as a result of the Reorganization, it means in effect that officers no longer have the right to receive full compensation for their efforts in court. In measuring the performance of the local judiciary, it is

¹⁰For example, a further inquiry might be made as to the ability of a given group to affect court policy when the group's votes are aggregated within a certain district court boundary as opposed to a township boundary.

essential that we understand the indirect impact of the rule changes within the local judiciary on the behavior of law enforcement officials in the way they make or fail to make arrests. The rules which affect the behavior of law enforcement officials may be formal or informal which may be influenced by changes in the formal and informal rules of the local judiciary. Changing the rules of the local judiciary may also have an indirect impact on the behavior of citizens in their attempts to litigate civil matters.

This research begins with the behavior of people associated with the local judiciary as required by law and shows the relationship between this behavior and subsequent behavior and finally on the services produced by the local judiciary. The hypothesis can be stated as follows:

Centralization and consolidation of the local judiciary has led to higher implicit costs in utilizing courts of limited jurisdiction which in turn led to increased inputs with a significant burden of these costs distributed to certain groups and localities.

The hypothesis will be tested by measuring the implicit costs of the Reorganization to local groups and localities; more specifically,

1. Law enforcement official resources spent traveling to and from these courts of limited jurisdiction.
2. Law enforcement official resources used while in court.

Some of these implicit court costs will also be reflected as costs to local communities in the form of adding additional manpower in order to keep the same level of police protection.

To establish these impacts of the 1969 Court Reorganization,

a with and without analysis will be employed. The with and without principle creates the situation that would have existed in the absence of the Reorganization. We cannot simply compare the before and after situations and conclude that the changes in performance are due solely to the Reorganization. We must identify all of the changes taking place during our two observations. These implicit costs to these local groups and communities will be estimated for:

1. The Justice of the Peace Courts prior to 1969, and
2. The Twelfth District Court in 1972.

The estimate of implicit costs in the Justice of the Peace courts must be adjusted to reflect the change in implicit costs that would have occurred over time even in the absence of the Reorganization (the without situation). In addition to the impact of implicit costs to the local communities, this research will give some insight into the behavioral consequences for law enforcement officials which are attributable to the Reorganization and to management problems within the Twelfth District Court of Jackson County. Other intermediate consequences of the Reorganization not directly attributable to centralization and consolidation will be examined, including:

1. Accessibility to the courts of limited jurisdiction with respect to time and location.
2. Levels of abuse within the courts of limited jurisdiction.
3. Local autonomy and community satisfaction.
4. Training of judges.

5. Standards for holding court.

This study is designed to increase knowledge of the consequences of reorganizing an institution. With respect to our model of structure, conduct, and performance, this information will shed light on the performance of the local judiciary and its contribution to the performance of the criminal justice system. Advocates of court reform with their well intended reorganization efforts have much to benefit from such a study.

Investments in new and rather costly programs which do not always deliver the outputs (and distribute the costs thereof) as anticipated are too common an occurrence in our society. The experience of Jackson County should provide a basis for more intelligent choices of institutional alternatives in the future.

CHAPTER II

INSTITUTIONAL DESIGNS FOR COURTS OF LIMITED JURISDICTION

Introduction

The literature in the area of the local judiciary is quite abundant, but scientific research is relatively a new phenomenon. There has been little effort made at evaluating the various alternative institutions within the local judiciary. This is rather ironic when we consider the variety of institutional packages that have been designed in other states.

This author's main contention is that little attention has been paid to the economics of providing local justice. While emphasis is placed on the claimed dimensions of improved outputs of reorganization, little attention is given to actual measured performance and relative costs. Questions such as who is affected by changes in the court structure have not given adequate attention to all groups and localities concerned. The Shaffer-Schmid model serves as a useful tool for analyzing the local judiciary in its contribution to the local criminal justice system. The test of a local judiciary is what it delivers to the citizen at the local level. The analysis of performance involves an understanding of the formal and informal aspects of structure, the impact these rules

directly have on behavior and the choice of inputs. The consequences that these choices subsequently have on the choices which stem from other rights and privileges may in themselves be required by statute or merely bounded by statute.

To analyze the performance of local judiciaries in a systematic fashion, we must identify the relevant structural alternatives as well as the inputs and outputs of each system. The issues thought to be of significance to court reforms in other states involve these various structural alternatives in addition to the associated input and output categories. Included in these issues are:

1. Training and qualifications of judges.
2. Methods of selecting judges.
3. Methods of compensating judges.
4. Court location.
5. Standards of court facilities.
6. Uniformity in court procedures.
7. Local versus state supervision and administration.

Court reorganization experiences in other states illustrate some aspects of structure and conduct considered vital to decision-makers in those states. The rule changes were thought sufficient in bringing about changed inputs and improved outputs. It is not all together clear which decision-makers considered these rule changes important. Likewise, there have been some rule changes and behavioral consequences which may be important to certain groups and localities associated with the local judiciary.

Within the framework of structure, conduct, and performance, we observe input norms. With the input of judges' qualifications, we discover that some local citizens feel quite confident in allowing a lay justice to hand down decisions of a specific nature, while other citizens require that the Justice of the Peace receive some legal training. The role of the analyst is to articulate these input norms and discover the various consequences which flow.

A comparison of alternative institutions must take into consideration costs as well as benefits, and perhaps most importantly, their distribution. New outputs of the local judiciary may not be sufficient justification for bringing about such changes, since the consequences of changing the inputs may prove very costly.

Literature written in the area of examining the performance of courts as institutions in the criminal justice process has directed its emphasis towards the abolition of existing institutions. Studies of the Justice of Peace courts in other states have been directed at reorganizing these courts. The tone of these studies urges one to believe that reforms were necessary at all costs. In his review of existing literature on trends of the Justice of the Peace courts in other states, this author found little evidence of studies involving the relative costs of reform to various groups and localities. To measure the overall performance of institutions and institutional reform, we must evaluate all dimensions thought important by all of the groups and localities affected

by the institutions. The consequences which flow to the groups and localities utilizing the services of the institution are of interest along with the consequences which flow to judges, lawyers, and law enforcement officials. Studies are underway at the present time trying to measure some previously neglected effects of court reorganization. Unfortunately, these studies (including this one) were after the fact and those inequities or perceived inequities that come with any reform movement were not known by the reformers.

The Justice of the Peace in Historical Perspective

People use institutions to achieve ends that they as individuals are unable to achieve. In this respect, institutions reflect the collective goals of powerful groups and the tools chosen as a subset of those goals. A demand for some form of criminal justice centuries ago, of the form not attainable by individual action, led to the formation of institutions to provide criminal justice. By examining the origins of the Justice of the Peace, we gain some insight on the trends that are taking place today among the justice courts in various states.

The origins of the Justice of the Peace are lost in the midst of early English constitutional history, and are closely associated with the centuries old conflict between kings and parliaments.¹¹ Because of the diffused organizational structure,

¹¹ Hon. Herbert S. MacDonald, "An Obituary Note on the Connecticut Justice of the Peace," Connecticut Bar Journal, 35 (December, 1961), p. 412.

attributable to the low level of transportation and communication, the sheriff was central in preserving law and order in his jurisdiction. To offset the power of the sheriffs, the king appointed knights in each county. In the year 1195, these knights received and reviewed those arrested persons before delivery to the sheriff.

This practice became formalized under King Edward, III when he assigned functionaries, including a lord and men well trained in law, to each county. Their duties were to apprehend, as well as to try these offenders. It is the contention among some historians that this was the origin of the Justice of the Peace.

The Justice of the Peace gained power during the years of the Black Death (1388). This was attributed to a loss in central control by the kings and their sheriffs. Eventually, the sheriffs lost control and were reduced to an arm of the justice courts. Given the changing political and economic forces of the 15th and 16th centuries, there was concern that institution of the justice court would be overburdened with cases that these laymen were incompetent to handle. There was evidence that these courts were overwhelmed with both the quantities of cases they handled, as well as with the quality of the case.¹² The institution with its level of legal training was in need of reorganization.

During the 16th and 17th centuries, the Justice of the Peace system became more highly centralized in an answer to

¹²Ibid.

needed reforms. These needed legal reforms came down from higher echelons of power. Local autonomy was soon to return, and along with it came a number of abuses. In the latter part of the 17th century, there was an increase in legal writing which led to limiting the Justices of the Peace office to minor criminal and civil cases, and the governing aspects of the Justices of the Peace were transferred to local governing boards. There arose a demand for more specialized local institutions both in the legal and political arenas. The Justice of the Peace evolved to a stage still found today in England.

With the settlement of the American Colonies came many English traditions and customs. The Justice of the Peace was kept as a local institution in the criminal justice system, but differed from England in two major aspects:

1. The Colonial Justice of the Peace had jurisdiction in civil disputes.
2. The Colonial Justice of the Peace operated on a fee system, while the British served without monetary compensation.

In England, the king retained the right to appoint the Justices of the Peace, while in the Colonies, they were elected officials comprising part of local government. The elective aspect of the Colonial Justice of the Peace reflected the political environment of the period.

The early Colonists placed considerable value on their newly acquired freedoms made possible by leaving England. Many of these new freedoms came in the ability to change the existing

institutions and in this case, an opportunity to change the performance of the legal system. England had a supply of legally trained individuals and these people were often appointed to the office of Justice of the Peace. This elite group also made up the upper socio-economic group of people in England at the time since formal education was a luxury of the rich. This educated elite was also the power elite and the administrator of justice was often biased in favor of this elite. The Colonists realized the perpetuating mechanisms taking place in the English system of appointing Justices of the Peace and therefore placed less emphasis on formal legal training. Those with education and wealth were less in a position to protect the existing distribution of wealth or to acquire disproportionate shares of newly discovered wealth.

The Colonists were concerned with a simple magistracy, one which local citizens could understand, as well as participate in its selection and operation. Emphasis was placed on an inexpensive system of justice. There was a desire to keep the office of the Justice of the Peace as decentralized as possible to ensure local control over the judiciary. This decentralization made possible a performance which kept the goals of the local area in mind.

The Justice of the Peace Defined

Ordinarily, the traditional Justice of the Peace may be defined as the administration of petty justice by lay officials

paid by fees.¹³ By petty justice, we usually mean only minor civil or criminal matters usually limited in the amount of punishment in criminal matters or the amount of monetary value in civil matters. By lay officials, we mean those individuals with little legal training, qualifying the majority of responsible individuals. The fee system of compensation means that the Justice of the Peace is paid according to the amount and kind of case he hears.

Tumey vs. Ohio

An initial step in any reform or reorganization movement is for the decision-makers to decide what issues merit the resources of the decision-making unit. This initial stage of problem identification can take on many forms. Decision-makers were alerted to alleged abuses in the courts of limited jurisdiction which came about as a result of the fee system of compensation. The problem is illustrated by a famous 1927 case in Ohio. Ed Tumey had violated a local ordinance by illegally possessing intoxicating liquor. He was subsequently arrested and tried in the mayor's court, pleaded not guilty, and seasonably moved that the mayor disqualify himself because the verdict may have been influenced by his pecuniary interests in the case. The mayor's court denied the motion and Tumey was imprisoned in lieu of payment of a 100-dollar fine. The conviction was reversed by the Court of Common

¹³ Kenneth E. Vanlandingham, "The Decline of the Justices of the Peace," Kansas Law Review, 12 (March, 1964), p. 389.

Pleas on appeal. The court found that the mayor should have disqualified himself on the grounds that he did in fact have a pecuniary interest in the verdict from his capacity as judge collecting his fee and because he was a financial officer of the municipality which stood to gain financially from a conviction. Further appeals to the Ohio Court of Appeals led to reversal of that decision on the grounds that no statutory support existed for the mayor's disqualification. Later the Supreme Court granted a writ of error and overturned the decision once again, disqualifying the mayor. Chief Justice Taft stated, "Officers acting in a judicial or quasi-judicial capacity are disqualified by their interest in the controversy to be decided."¹⁴

The facts and circumstances surrounding the Tumey vs. Ohio decision have proven to be somewhat extreme and narrow interpretations have resulted. There are two situations which must be examined here: (1) There are those Justices of the Peace who received compensation according to the amount of services they performed. Within these systems, alleged "judge shopping" can occur. Law enforcement officials seeking guilty verdicts will, when possible, bring the majority of violators before a harsh and perhaps partial Justice of the Peace. (2) In addition, there are those situations where the Justice of the Peace is compensated only when he hands down a verdict of guilty. Even though abuses existed under both situations,

¹⁴Ibid., p. 393.

the Tumey vs. Ohio decision was directed at the latter situation which to this author's knowledge has been eliminated in almost every state or is in the process of being eliminated.

The Justice of the Peace in Other States¹⁵

Virginia

Virginia was the first state responding to the Tumey vs. Ohio decision. Within six years, Virginia began experimenting with trial justices who were paid a fixed salary and appointed for each county. This experiment was deemed successful, but it is unclear in what terms this success was measured. The flow of benefits, as well as how this reform affected various groups and localities was not established. With the Trail Justice Act of 1936, a salaried trial judge was established in each county. These judges had jurisdiction in all misdemeanor cases, civil jurisdiction involving 200 dollars or less, and concurrent jurisdiction over matters involving 1,000 dollars with circuit courts.¹⁶ The Justice of the Peace was not totally abolished but retained some rather minor functions including the power to issue warrants, attachments, and subpoenas within the jurisdiction and returnable to the trial justices. They also retained the power to admit bail. One objective of these reforms was to obtain some type of direct supervision over the minor courts.

¹⁵ A summary of the various courts of limited jurisdiction in other states is provided in Appendix A.

¹⁶ "The Justice of the Peace in Virginia," Virginia Law Review, 52 (January, 1966), p. 163.

Prior to the 1936 Court Reorganization, these were some of the salient features of the Virginia Justice of the Peace of which the institution received the strongest criticism.¹⁷

1. Statutory provisions relating to the office of the Justice of the Peace were unclear, scattered, and inconsistent.
2. The method of selecting the Justice of the Peace was poor.
3. Formal supervision local or state-wide was inadequate.
4. Distribution of supplies, forms, information, and advice was decentralized and inadequate.
5. No satisfactory method of training was provided.
6. Fiscal control was inadequate.
7. The method of compensating Justices of the Peace encouraged abuse.

The desire to retain the Justices of the Peace in a rather limited capacity was the exception rather than the rule.

Some observers at the time realized that the Justice of the Peace was an asset to the local community. His ready accessibility made him beneficial to law enforcement officials and the accused. By allowing the Justice of the Peace to retain the power to issue warrants within the jurisdiction and returnable to the trial justices, the law enforcement officials were able to obtain a warrant conveniently and inexpensively. Because of his power to admit bail, the accused had a convenient and speedy means for placing bail.

Virginia code annotated 46.1-178 (1958) provides that

¹⁷ Ibid., p. 171.

a person may be tried for a traffic offense "within 24 hours." Because the Justice of the Peace lost his power to hold trial, this statute soon proved unrealistic and consequently was interpreted to mean that the accused had the right to be tried at the next available trial date. A consequence of the 1936 court reform was an increase in the amount of time from arrest to trial.¹⁸ This has been attributed to a centralized trials court being held in fewer locations on fewer occasions than its predecessors, the Justice of the Peace courts.

In 1956, further reform legislation involved redesignating all trial justices courts as municipal or county courts. All judicial positions in the county were made appointive. As a matter of informal procedure, those appointed were legally trained individuals, except in those areas where there was an inadequate supply of attorneys. Prior to this time, any court reorganization had to be made through amendments to the State Constitution since the offices of the Justice of the Peace were provided for in the original constitution. The need for court reform and the time necessary to bring about changes in the lower courts had long since outgrown the present institutions for making such changes. In the 1970 general election, the voters of Virginia adopted a new judicial article, making court reorganization possible through legislative inactment, instead of constitution amendment.

¹⁸Ibid., p. 186.

Tennessee

Tennessee followed Virginia in its attempts at minor court reform. The first step came in 1937 by special act of the Tennessee legislature which established the first general sessions court in Davidson which replaced many of the former duties of the Justice of the Peace.¹⁹ Because of local support, the Justice of the Peace remained as the major institution in the minor courts until 1959 when the Legislature established a uniform system of general sessions courts across the state. By 1959, all but six counties were staffed with salaried judges. In those six counties, compensation for the judges came from the convicted, ignoring the 1928 Tumey vs. Ohio decision which proclaimed such decisions as unconstitutional.

Overall, court reform in Tennessee did not go as far as in Virginia. The judges of these general session courts are elective officials, making them more responsive to local needs than to central court administrators. While the number of legally trained judges increased, there was no provision stating that these judges had to be legally trained. The institution of electing judges to the general sessions court was not sufficient in itself to establish a system of legally trained judges. Additional legislation (a rule change) making it mandatory that a judge be an attorney will be necessary to achieve the aforementioned goal. One could speculate that

¹⁹Vanlandingham, op. cit., p. 397.

the absence of such provisions stems from a strong local bureaucracy, an apparent lack of trained personnel to fill these positions, or inadequate compensation for the position, leading to an inadequate demand for the position.

The general sessions courts received all of the powers of the Justices of the Peace, reducing that office to performing menial duties of marriage ceremonies. Local control of the judiciary had been considerably weakened. Since the general sessions court was a county-wide entity, general accessibility enabling expedient processing of the accused may likewise have been mitigated.

Maryland

In 1939, the State of Maryland established a minor court system similar to that in Virginia. The essential differences involved the selection of justices. Only those justices appointed by the governor and designated to do so may try cases, upon approval of the Senate.²⁰ This in effect shifted the control of the judiciary from the local to the state level. With the new method of staffing the Maryland minor courts, came an increase in the number of legally trained justices. The fee system was replaced by salaries. Some critics have argued that the fee system acts as an incentive mechanism, which results in ready accessibility to the courts. When the justice receives compensation, regardless of whether or not he is engaged in the duties of his office, there may be a tendency

²⁰Ibid., p. 398.

for him to become lax in his position. Attempts to find research on this question have not proved successful. How various institutions affect the performance of judges in terms of availability remains just another unanswered question in the criminal justice process. These trial justices were often poorly housed and poorly equipped. Along with centralization, with respect to holding court, came the advent of the people's court with judges serving longer and with more formal legal training.

In November, 1970, Maryland voters approved a constitutional amendment completely reorganizing the lower court system.²¹ Experiencing some shortcomings with these people's courts, the further court reorganization, which became effective July 5, 1971, replaced the full- and part-time people's and municipal court and trial magistrates with a full-time district court system. This system consists of eighty judges, having a minimum of five years of law practice. These judges receive salaries paid by the State. The new system of district courts does not use juries. In the event a jury trial is demanded by the defendant, the case will be removed to circuit court. Such a scheme would serve as a mechanism for reducing the manpower required in the district court, and perhaps increase the number of cases the court can hear; but there exists an alternative for delays which often brings

²¹Judicial Council of California, 1972, Judicial Council Report, Annual Report of the Administrative Office of the California Courts (San Francisco, California, Judicial Council of California, 1972), p. A-136.

inconvenience to witnesses and law enforcement officials.

Missouri

Missouri was the first state to undertake major court reforms following World War II. In 1945, the Supreme Court was given responsibility for operation of the court system as a result of constitutional amendments and supplementary legislation.²² With this legislation, the fee-supported Justice of the Peace courts were abolished and replaced by magistrate courts. These courts were staffed by salaried judges to eliminate the alleged corruption of the fee system and to follow the precedent established in Tumey vs. Ohio. These magistrate courts were staffed with attorneys, except for those non-attorney Justices of the Peace in office prior to 1945. The number of available courts declined and the magistrate courts had county-wide territorial jurisdiction on civil cases with jurisdiction up to certain monetary limits. Criminal jurisdiction involved misdemeanor cases including traffic violations. The magistrate court had the right to hold preliminary examinations and to set bail in felony cases which had to be tried at the circuit court level.

In 1970 other changes were made, indirectly affecting the courts of limited jurisdiction. These changes required that judges retire at age seventy, a court administrator to take some of the administrative tasks away from the judges, and a

²²Advisory Commission on Intergovernmental Relations, State and Local Relations in the Criminal Justice System, (Washington, D. C.: U. S. Government Printing Office, 1971), p. 193.

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commission on judicial discipline to aid in uniforming judicial procedure across the State of Missouri.

New Jersey

Like the majority of states, New Jersey's Justice of the Peace was provided for in the State Constitution. Changes in the courts must come about by constitutional amendment. In 1947 the judicial article of the New Jersey Constitution was amended which eliminated the Justice of the Peace courts. Police magistrates and recorder's courts were consolidated and converted into municipal courts. A host of minor courts of limited jurisdiction, including courts of common pleas, orphans, oyer and terminer, quarter sessions and special sessions were absorbed by the district court at the county level.

As of 1972, there were in excess of 390 municipal courts throughout the State of New Jersey. Because of the difficulty encountered by court administrators in coordinating these units, a management study was undertaken to determine if these municipal courts would not prove more efficient if they were centralized and consolidated into 66 regional courts. Present court reformers in New Jersey should keep in mind that efficiency for one group may mean inconvenience and inefficiency for other groups and localities.

Connecticut

In the State of Connecticut the Justice of the Peace was at one time appointed by the General Assembly (1703).

With the adoption of a State Constitution, the Justice of the Peace office became a constitutional one and in 1851, the Justice of the Peace became an elected official for each town. In 1939, the fee system of compensation was removed, placing both Justices of the Peace and prosecuting attorneys on salaries. Many of the reformers tried to improve the image of local justice; as a result, standards for holding court were established. The 1939 legislation set up trial justice courts to improve the existing facilities of the Justice of the Peace.

There continued widespread criticism of the Connecticut courts of limited jurisdiction in spite of the 1939 reforms. The fee system with its alleged abuses had been eliminated, but other problems existed. In 1961, advocates of court reform were saying:²³

1. There remains a continuing lack of legally trained Justices of the Peace and prosecutors.
2. There remains a lack of uniform practices.
3. The political nature of court appointments is unsatisfactory.

As of January 1, 1961, the Connecticut Justice of the Peace was no longer a justice in the conventional sense of the word. He can still administer oaths, take acknowledgments, and perform other duties similar to a notary public in addition to performing marriages. The duties of the Justice of the Peace were taken over by a statewide system of circuit

²³MacDonald, op. cit., p. 427.

courts, replacing trial justices and city, town and police judges. These circuit courts are staffed by full-time salaried judges appointed by the chief court administrator by enactment of 1965 legislation. Circuit courts of Connecticut have statewide territorial jurisdiction in specific criminal cases of less than 1,000 dollars fine and/or less than one year imprisonment. Statewide territorial jurisdiction in civil matters involves 7,500 dollars or less.²⁴

California

Prior to 1950, a number of organization and management problems existed in California which led to lower court reorganization.²⁵ These problems can be summarized as follows:

1. Numerous lower courts under various provisions leading to overlapping jurisdictions, duplication of services, and a lack of administration.
2. The large number of part-time courts (767), restricted uniformity and flexibility in handling court workload.
3. An apparent lack of legal training among judges who devoted much of their time to other occupations.
4. Court facilities were poor, giving a bad image of justice to the people.

In 1950, lower court reorganization resulted in a uniform system of municipal and justice courts. The total number of lower courts was reduced from 7,676 in 1948 to 400 in 1953. Many of the part-time courts were eliminated. The number of judicial positions was reduced from 838 to 505. Minimum

²⁴Judicial Council of California, op. cit., p. A-127.

²⁵Ibid., p. A-91.

qualifications were established for most justice court judges. While part-time and lay judges were reduced, California deemed it necessary to retain these judges in rural areas. The gradual upgrading of the rural judiciary came about with the trading of the grandfather clause. County governments accepted the financial burden of the upgraded judiciary in return for local control over justice court staffing and retention of some revenues. The 1950 Reorganization established municipal courts in districts of 40,000 or more population and justice courts in districts of less than 40,000.

On January 3, 1972 the Judicial Council of California submitted its annual report to the Court Administrator. This rather in depth study of California's lower courts highlighted existing problems of the courts over the past three decades, explaining some of the reforms that have taken place during that time, and recommending areas that need further reforms. Existing problems yet to be resolved include inadequate court facilities and locations with justices of poor legal training in "learn as you go" situations. The report recognizes some problems involved with poorly located courts. Persons who must serve these poorly located courts including judges, prosecutors, defense counsel, and law enforcement personnel engage in unnecessary cost and unproductive travel time. Unfortunately there is no evidence that any attempt is being made to measure these costs and inconveniences to various persons and localities, so that this information could be

included in the decision-making process of future reform measures.

Louisiana

The State of Louisiana undertook major court reform measures in 1956 with the elimination of the office of Justice of the Peace in cities with populations in excess of 5,000. In these cities the Justices of the Peace, used here in the conventional sense, had to be attorneys. Such a strategy is perhaps less costly than one of requiring all justices to be attorneys but there remains the question of whether in this society, a lay individual can hold the position of judge. A main criticism of lay justices lies in the possibility that attorneys will take advantage of these situations. Presently a study is being made of the Louisiana Court System with emphasis on the justice courts. Since the office of Justice of the Peace is provided for in the Louisiana State Consitution, any changes made must be through constitutional amendment which often comes in packaged deals.

Minnesota

Minnesota's office of the Justice of the Peace was provided for in the State Constitution. In 1956 by constitutional amendment, the people of Minnesota removed all references to the office of Justice of the Peace. In 1963, legislation was enacted establishing a unified municipal court, staffed by 14 full-time salaried judges which replaced 36 part-time Justices of the Peace and 15 municipal court

judges.²⁶ Those Justices of the Peace remaining in 1964 still collected fees against the defendant. Much of the business was taken from Minnesota's Justice of the Peace when the probate courts were vested with misdemeanor powers. In those cases where the defendant feels that the verdict is partial to the judge receiving compensation, he has the right to move the case before a salaried judge.

New Hampshire

New Hampshire reduced their Justice of the Peace to a ministerial position. With the enactment of legislation, all civil and criminal jurisdiction of the Justice of the Peace were taken over by municipal courts. By 1963, only 37 of these municipal courts were converted to district courts and all other municipal courts were dismantled. Jurisdiction of these district courts in criminal matters was limited to offenses punishable by not more than 1,000 dollars or one year imprisonment or both. These district courts are staffed by attorneys which are compensated by salaries. Court reforms in New Hampshire have added a professional touch to the local judiciary; yet these reforms have been at the expense of consolidating and centralizing the existing facilities.

²⁶ Advisory Commission on Intergovernmental Relations, op. cit., p. 198.

Ohio

Lower court reform in Ohio began with the elimination of the office of Justice of the Peace from the State Constitution in 1912. It was over thirty years later until the office was abolished, being replaced with a system of county courts and a system of municipal courts with county-wide jurisdiction. The 1957 court reform via legislative enactment came about with a careful strategy of not threatening the incumbent Justices of the Peace. It is rather ironic that the State in which the landmark decision took place did not eliminate the fee system of compensation until the 1956 reforms.

One could only speculate why the fee system was allowed to continue for so many years. The facts and circumstances of the case were somewhat unique, leading to narrow interpretations. Within the mayors' courts in Ohio at the time there were no provisions for jury trials. The outcome of the trial was left up to the judge or mayor. Whether or not the judge should be disqualified from hearing a case depended upon the amount of compensation the judge expected from the case, as well as to the extent of his pecuniary involvement--direct or indirect. While the mayor's decision in 1927 was in violation of the Fourteenth Amendment to the United States Constitution depriving Tumey of due process of the law, later incidents of abuse may have involved different sets of facts and circumstances. The failure of citizens to voice their dissatisfactions may have added to the survival of the

fee system of compensation. As of 1957, all judges are to be attorneys and they are to be elected by the people of their respective counties.

Wisconsin

Though not entirely eliminating the office of the Justice of the Peace, the Wisconsin Legislature reduced his status in 1962. The Justice of the Peace was limited to cases involving battery and disorderly conduct.²⁷ In these cases, the Justice of the Peace was still compensated by a system of fees, but he remains largely inactive and thus alleged aberrations in the system were kept at a minimum. Court reforms of 1962 removed minor criminal and civil matters to the county courts in addition to their functions of probate, paternity and juvenile cases. By constitutional amendment, the people of Wisconsin abolished the remaining status of their Justice of the Peace. All judges are salaried, and while the number of judges with the qualifications of attorney have increased, as of 1966, they were not required to have these qualifications.

Illinois

The principle features which characterized the Illinois Justice of the Peace system in 1958 which gave rise to its alleged evils were:²⁸

²⁷Vanlandingham, op. cit., p. 399.

²⁸Mildred J. Giese, "Why Illinois Proposes to Abolish the Justices of the Peace," Illinois Bar Journal, 50 (February, 1962), p. 672.

1. Their lack of qualifications.
2. The vast oversupply of Justices of the Peace.
3. Their divorcement from the balance of the judicial system.
4. The fee basis of compensation.

In that same year, many reform proposals were initiated in the Illinois Legislature to reduce the number of Justices of the Peace from 3,000 to 433, to abolish the fee system, and to require minimum standards for holding court including minimum hours of availability.

At the time, many reformers saw substantial merits in the reformed Justice of the Peace system, especially in their traffic and small claims division which allowed local accessibility, low costs, and informal procedures. In 1963, the Justice of the Peace was replaced by the Illinois magistrates, who are appointed by circuit judges along with all police magistrates. Provisions were made for these former justices and magistrates to serve as the new magistrates. Except in those cases where there was a lack of qualified personnel, these new magistrates had to be attorneys.

North Dakota

Experiencing a number of abuses within its Justice of the Peace system, North Dakota enacted legislation replacing the local Justice of the Peace with salaried attorneys serving as county justices. In 1959, court reorganization gave civil jurisdiction not to exceed 200 dollars and criminal jurisdiction

of 500 dollars and/or one year or less imprisonment to these county justices. Little reform took place with the police magistrates which still suffers from problems of coordination.

Arizona

During a period when many states were abolishing or attempting to abolish the Justice of the Peace, Arizona in 1960 approved a constitutional amendment setting up an "integrated judicial department". There was a consensus among reformers in Arizona, that the apparent lack of coordination was the greatest ill of the courts and measures directed with this in mind would solve some of the abuses of the lower courts. The Amendment gave the Supreme Court Administrative supervision over all State courts. The 1960 Court Reform had specified provisions for a Justice of the Peace who at the time was compensated on a salary basis. Civil jurisdiction was limited to 2,500 dollars and criminal matters to misdemeanors in cases of 500 dollars or less. Another interesting feature of the Arizona lower courts are their specialized nature. The city ordinance violations are given adequate attention by employing police courts, which have concurrent jurisdiction with the Justice of the Peace in state law violations committed within the city limits. The Justices of the Peace have territorial jurisdiction in the aforementioned cases across the State.

Washington

The State of Washington replaced the Justice of the Peace in three of the most populated counties with a single system of "justice courts". While this reorganization was mandatory in these counties, the remaining communities across the State were faced with a local option. The 1961 Court Reform Measures abolished the fee system of compensation in those reorganized counties and gave the State Supreme Court the power to prescribe the method of compensation and selection for newly elected Justices of the Peace, along with standards for establishing justice districts. In 1971 the names of these "justice courts" were changed to "district courts" in an attempt to improve the image of justice by getting away from the bad connotations which that position seems to carry.

Maine

In 1961, by legislative enactment, Maine established a unified lower court system. The office of Justice of the Peace was abolished. Its successor was a new system of district courts, staffed by salaried judges and paid out of the state treasury. These district courts have been given concurrent jurisdiction with the superior court in civil matters of 10,000 dollars or less. District court judges are required to be attorneys, but no provisions are made to obtain those attorneys who have practiced law--an attribute some reformers find essential. The district courts of Maine

are managed by a Chief Judge appointed by the Chief Justice. Further reforms are being considered as a result of a 1971 management study which focused on organizational and administrative problems with the district courts.

Colorado

Through constitutional amendment, the State of Colorado completely revamped their judiciary. Effective January of 1965, all Justice of the Peace courts were done away with and replaced by a reorganized system of county courts.²⁹ The cities and towns were permitted by constitutional amendment to retain or create their own municipal and police courts-- a rather convenient scheme for local justice. It appears that the Colorado court reformers realized the value of local accessibility to the judiciary. It appears also that there is a considerable demand for these local courts because, given the option, Colorado now has 115 police magistrates and 35 municipal courts. Judges of the county courts are paid salaries and have a mandatory retirement age of 72. On January 1, 1970 legislation was enacted providing state financing to all district courts of general jurisdiction and county courts of limited jurisdiction.

North Carolina

The State of North Carolina abolished its Justice of the Peace courts and replaced them with a state-wide system of 17

²⁹Judicial Council of California, op. cit., p. A-129.

district courts with a 1962 amendment to the State Constitution. The new Judicial Article provided for the revamping of the entire court system with a completion data set for 1970. These courts of limited jurisdiction, known as General Courts of Justice, have jurisdictions in misdemeanor cases and civil cases where the amount in controversy does not exceed 5,000 dollars. A magistrate is assigned to each county to issue warrants, hear small claims, accept guilty pleas, conduct preliminary examinations in misdemeanor cases, set bail, and perform certain ministerial duties. Many of the services once available from the local Justice of the Peace are now conducted by centrally located magistrates of greatly reduced numbers. These Courts of Justice do not provide jury trials in criminal cases. If such a trial is demanded, the case must be moved to a higher court. It would be interesting to note the length of time it takes to get a jury trial completed, as well as the demand for jury trials after court reorganization. Operating expenses of these lower courts are paid out of the state treasury from fees assessed as part of the costs in each case processed. An attempt has been made to get away from the alleged corruption of the fee method of compensation but the fact remains that the total budget depends in part on the number of fees assessed as part of the costs. Since it is unconstitutional to assess costs on the innocent, we may have created another institution which generates biased decisions.

Idaho

The Justice of the Peace, along with all probate courts lost all provisions in the Idaho Constitution in the 1962 amendment to that Constitution. In an attempt to unify the judiciary, legislation was enacted to study the State's court system. Effective 1971, the Justice of the Peace, probate, and police courts were replaced by magistrate divisions within the district courts. The number of magistrates was to be determined with provisions made to have at least one per county. Provisions were made to allow former Justices of the Peace and other lower court judges to hold the position of magistrate. These magistrates were not required to be attorneys but law courses are required. They are appointed on a nonpartisan merit basis by newly created Magistrate Commissions, and are paid by salaries. Provisions were also made to maintain records in the magistrates court thereby eliminating the necessity of a trial de novo in matters of appeal to the district court.

Delaware

Another state finding some value in its system of justice courts is Delaware, which enacted legislation in 1965 to improve their lower courts. This legislation increased the supervisory powers of the Chief Justice over these justice courts. These reforms reduced the number of justice courts, made provisions for an annual salary of 8,000 dollars, abolished the fee system of compensation, and set standards for holding court with respect to time and location. Some

local control over the judiciary was lost with these reforms which gave power to the Governor to appoint all Justices of the Peace. The reformed justice courts have jurisdiction in minor criminal cases and in civil matters of 1,000 dollars or less. Remaining in the state are aldermen and municipal courts, coming under the category of minor courts. A 1969 study proposed the abolition of these uncoordinated courts with their functions integrated into the Justice of the Peace system.

Pennsylvania

Pennsylvania brought about lower court reforms with a constitutional amendment establishing a unified judicial system. These reforms gave the State Court Administrator administrative as well as supervisory powers over all courts and Justices of the Peace. Those Justices of the Peace in office during the rule change were allowed to finish their term of office. All new Justices of the Peace had to be attorneys or be able to pass a qualifying examination. Within the courts of limited jurisdiction, Pennsylvania has justice, magistrate, and municipal courts. The 1968 Court Reforms included measures to abolish the fee system of compensation for the magistrate but no such provisions were made for the justice courts. Providing salaries to the many magistrates may have proved a costly venture. Allowing the Justice of the Peace to remain on a fee system may be attributed to the high costs of salaried judges and the people were not willing to allocate such large sums to their judicial system. Further

reforms to consolidate the existing courts of limited jurisdiction into "community courts" have been proposed, but the first such scheme brought before the electorate was defeated.

New Mexico

In a state where the Justice of the Peace was quite active, reform measures were enacted by 1968 legislation. In 1965 New Mexico laid the groundwork for the abolition of the Justices of the Peace. These justice courts were to be replaced by a state-wide system of magistrate "districts" coextensive with each county. These magistrates were required to be high school graduates except in the district of the capitol city. The fee system of compensation was abolished and these magistrates were paid by salaries set by the State Legislature. Some essential features of the magistrate courts include: civil jurisdiction in controversies of 500 dollars or less, criminal jurisdiction in misdemeanors where punishable by 100 dollars, and/or 6 months imprisonment, and the power to hold preliminary examinations in criminal offenses where established by law. Juries of 6 are available upon request in these magistrate courts with a unanimous decision required.

Rhode Island

Court reforms in Rhode Island reduced the office of the Justice of the Peace to one of issuing warrants and setting bail when no other judge is available. No set provisions were made for compensating these Justices of the Peace for

their efforts. All powers once held by the Justice of the Peace have been taken over by a system of district courts receiving financial support from the State Treasury and headed by salaried judges appointed by the Governor for ten-year terms.

Harbingers of Lower Court Reorganization

By constitutional amendment, the people of Nebraska removed all reference to the Justice of the Peace from their Constitution and thereby making further court reorganization possible through legislative enactment (1970). Oregon, in 1965, reorganized the court system of a more populated county abolishing the Justice of the Peace and setting up their first district court. In 1966, the State of Wyoming removed all references to the Justice of the Peace from their State Constitution. Nevada began court reorganization measures in 1969 through amendments to the State Constitution. These measures if successful will abolish the Nevada Justice of the Peace. In 1970, Indiana voters approved a constitutional amendment removing constitutional status of the Justice of the Peace. Constitutional conventions have been organized in Montana and North Dakota with emphasis on studying existing judicial articles. Studies are underway in a number of states including: South Carolina, Texas, and Washington to to evaluate the state of the judiciary.

The Justice of the Peace in England

In the midst of all the reform taking place in the American system of lower courts, what had become of the original system of Justices of the Peace? It is remarkable, to say the least, to realize that a large proportion of the criminal prosecutions and a small, but not unimportant, number of civil matters have been dealt with in England by unpaid citizens with no legal qualifications.³⁰ Evolving in a parallel fashion to our system, the English Justice of the Peace is under careful evaluation. Some advantages of having an unpaid Justice of the Peace lies in its economical method of operation and its apparent absence of abuses alleged by some to be inherent with fee systems of compensation. If the Justice of the Peace handles only a certain category of cases, seldom will a controversial legal question arise. With selective powers, the English Justice of the Peace has fared remarkably well in his lay capacity, even though it is the contention of some reformers that "technical legal efficiency" can be obtained solely through professionals.

The English Justice of the Peace is often criticized for his inconsistent application of penalties within his court and between courts. It is believed by some reformers that those inconsistencies are attributable to the fact that the Justice of the Peace is not required to be professionally

³⁰ R. H. Maudsley and J. W. Davies, "The Justice of the Peace in England," University of Miami Law Review, 18 (Spring, 1964), p. 557.

trained. There are a number of issues that can be raised. It is not always clear what effect professional training has on the justice's decision in handling specific, somewhat minor cases. The decision to require professional qualifications for Justices of the Peace has disparate consequences to various groups. It is evident that professionalizing the local Justice of the Peace can be quite costly, and it is not unreasonable to assume that those groups supporting and utilizing the services of the local judiciary prefer to do so at least cost. Professionalizing could have unfavorable consequences to taxpayers and groups utilizing the services of the Justice of the Peace. On the other hand, the accused may receive some psychic satisfaction from knowing that regardless of where the crime was committed, he or she can expect professional treatment, even though the outcome of the case may be the same had there been a nonprofessional Justice of the Peace.

The English Justice of the Peace has jurisdiction limited to summary trial, with no jury. He must:

1. Apply the law, advised by his clerks.
2. Take special courses of instruction.
3. Select the appropriate penalty, except where the punishment is determined by law.

We must keep in mind that these Justices of the Peace are appointed; hence, some control exists over the quality of the Justice in office. Since there is no provision guaranteeing the appointment of lawyers, modern penologists severely criticize the system. It is not the practicing lawyer that

makes the qualified Justice of the Peace but those individuals who have been specially trained in sentencing which may prove to be a key variable in establishing some type of order in studying the types of decisions judges hand down.

Recently, provisions were made for a county or borough to acquire a paid professional magistrate who can preside in addition to or in place of the lay Justice of the Peace. The demand for these paid professionals has been extremely low. The English system may give us some insight on the kind of local judiciary the people demand if given the choice between alternative systems.

Unsuccessful Attempts at Lower Court Reorganization

Attempts to reorganize the lower courts in some states under the pretext of court reform have not been successful. Either the legislature or the people of certain states have voted down efforts to reorganize. In 1963, the Texas Legislature voted down a bill that would have abolished the Justice of the Peace in that State. An attempt to select Delaware Justices of the Peace by appointment via a constitutional amendment was defeated in 1965. Consolidation attempts in Los Angeles County municipal courts were turned down by the California Legislature in 1970. Arkansas voters turned down a new constitution with provisions for a unified judicial article in 1970. A new judicial article was voted down by the 1968 Georgia General Assembly. The Florida voters rejected a revised judicial article in 1970. The Iowa Legislature

rejected a proposed constitutional amendment to reorganize the lower court system in 1970. Why have these attempts at reorganization failed? Because of the apparent lack of data on these lower courts, one is forced to speculate.

One explanation may be that the voters were not given a simple choice between reorganization and no reorganization, but one of reorganizing the courts, plus a host of other measures. In these cases, it is impossible to determine whether the people wanted court reorganization or were willing to sacrifice an undesirable change for several desirable changes. With the lack of information on what to expect from these changes (what are the flow of consequences), there may have been a tendency to overestimate and overact to uncertainty. The people of the legislature may have favored less risky acts to more risky ones. The status quo tends to pull more than its proper weight and a conservative bias in behavior results.³¹

In an institution where the functionaries are closely aligned with law makers, reorganization may be extremely difficult, requiring major realignments of pressure groups and law makers. In some areas, officials in the lower courts comprise a large and sufficient number to exert strong pressures as a lobbying group.

Those groups that will be forced to make the greatest

³¹ Ruth Mack, Planning on Uncertainty (New York: John Wiley and Sons, 1970), p. 123

adjustment to the newly reorganized courts may see this as a threat to their professions. Lawyers and judges engaged in a system they find unsatisfactory may be reluctant to advocate reforms because of the resulting loss of clientele in the case of lawyers or votes and appointments in the case of judges.

In addition to these forces protecting the status quo we have a number of barriers which stem from the loss of local autonomy and local accessibility that come with some court reorganizations. The threat of an unmanageable judicial bureaucracy being created also exists. Others feel that the loss of accessibility will increase costs to the local communities, and a performance which some people deem undesirable.

This chapter has served a number of purposes. It familiarized the reader with the issues which have surrounded courts of limited jurisdiction in other states. Alleged deficiencies and strategies for correcting these deficiencies were also discussed. Within the context of structure, conduct, and performance, we can examine local judiciaries in a systematic fashion. The end product of the local judiciary is in its contribution to the criminal justice system in providing for the local communities' well-being. To understand the mechanisms which generate a particular performance, we examine the relationships between local citizens and the judiciary. We observe peoples' behavior and how they go about choosing the various inputs for the local judiciary. We

discovered that the existing relationships and choice of inputs surrounding the local judiciary are largely determined by the rules of the institution which have been defined as structure. The rule may be specific with respect to the input choice or simply bounded with respect to input choice, leaving some latitude to those associated with the court in deciding how the local judiciary will be conducted.

The reformers in other states spent a great deal of time discussing the behaviors of individuals which is required by law. These efforts tend to be more descriptive by nature and do not give sufficient information to make accurate predictions on what to expect from reorganizing the local judiciary. Two aspects of reorganization which are largely ignored or considered unimportant by some decision-makers involve: (1) the informal rules which do not require specific behavior, leaving some latitude to decision-makers involved with the local judiciary as to which inputs are to be used, and (2) the indirect impact of the choices which flow from both the formal and informal rules have an impact on other choices which stem from the other rights and rules of groups associated with the local judiciary. These aspects of structure are important to the understanding of why some reorganization efforts are more successful than others.

Before this analyst went into the community to evaluate local judiciaries, it was necessary for him to discover the rules leading to specific behavior and choice of inputs which were designed in other states. With this information, the

groundwork was laid for examining the Michigan experience. The following chapter highlights some key issues that surrounded the 1969 Reorganization and gives a description of some essential structural and conduct elements within the local judiciary which would be affected by the Reorganization.

CHAPTER III

THE JUSTICE OF THE PEACE IN MICHIGAN

Introduction

This chapter examines the basic structure within the Michigan courts of limited jurisdiction prior to 1969. Knowledge of this structure is essential to the understanding of the behavior of those groups and localities involved with the local judiciary and the performance of these institutions. All dimensions of structure receiving attention in other states will not be explored here. Only those aspects of structure which are thought to be of significance to the analysis of performance in selected dimensions will be explored. The concluding section of this chapter is devoted to the debates that were taking place at the time reorganization measures were being considered. The reader is reminded that the degree of criticism and praise towards the Justice of the Peace stems from the person's involvement in the local judiciary. This chapter is an attempt to examine those aspects of structure, conduct, and performance which are considered important to all groups and localities associated with the local judiciary.

Source of Power

Prior to 1963, the Michigan Justice of the Peace was essentially a constitutional officer. In 1963, the voters of

Michigan approved a new judicial article of the State Constitution which provided for the establishment of a unified court system, consisting of the Supreme Court, an intermediate appellate court, circuit courts, probate courts and courts of limited jurisdiction to be created by statute.³² These changes made it possible to abolish the Justice of the Peace system through legislative enactment which became effective January 1, 1969. In effect, the structure of representation was changed, establishing an alternative mechanism for administering and supervising the local judiciary, in addition to shifting the power of altering the local judiciary from the people to their elected representatives. During the interstices, the Justice's power and method of compensation was provided by the Legislature.³³ The Legislature was also empowered to make provisions for Justices of the Peace in cities and villages, not specifically maintained in the State Constitution. In those villages which had at least one full-time police officer, the township Justice of the Peace may have been employed for a salary in lieu of fees. This Justice of the Peace need not have been a resident of the village. This arrangement empowered the jointly employed Justice to hear and determine all cases involving violation of village ordinances.³⁴

³²For a general overview of what the 1969 Reorganization entailed, see Appendix B.

³³Joseph A. Parisi, Jr., Manual for Township Officials (Kalamazoo, Michigan: Doubleday Brothers and Company, January 18, 1963), p. 80.

³⁴Michigan Compiled Laws Annotated, 1967, pp. 78-22a.

Means of Securing Office

During Michigan's territorial period, the Justice of the Peace was appointed by the Governor. The first State Constitution of 1835 made provisions for the election in each organized township, not to exceed four Justices of the Peace each of whom shall hold office for four years and until his successor is elected and qualified.³⁵ Electing the Justice of the Peace at the local level gave the local community considerable autonomy in the local judiciary. This method of selection remained virtually unchanged through the Constitutions of 1850 and 1908 until the abolition of the Justice of the Peace by the 1963 Constitution, which became effective in 1969. During the interim period from 1963 to 1969, the Legislature modified the maximum number of Justices that could be elected in each organized township from four to two. This action stemmed from fragmented evidence that a smaller number of Justices and their services were being demanded per township than the number provided for by former constitutions. The number of judges available for service has important implications for these inputs affecting the availability of services and influencing the performance dimension dealing with the length of time required to hear a case.

Qualifications for Holding Office

Other than during his period of appointment, the Justice of the Peace in Michigan has not been required to meet any

³⁵James M. Hare, Secretary of State, Michigan Manual (Lansing, Michigan: State of Michigan, 1958). p. 151.

qualifications in terms of legal training or experience. All that was necessary for an individual to be elected to the office was that he or she be a qualified elector of the township in which he or she was seeking office. Once elected, Michigan added the extra function of making the Justice of the Peace a member of the township board, providing he qualified as an active Justice by filing a written oath of office and a 1,000 dollar bond.³⁶ Many of the Justices of the Peace had employment in addition to their efforts at the local judiciary. This additional employment primarily included practicing law as an attorney, or serving as the local real estate or insurance salesman. In many instances, these Justices of the Peace had some exposure to law.

Powers Granted to the Justice Courts

The powers granted to the Michigan Justice of the Peace were a function of his capabilities to handle the matter as well as the intensity of the crime or in civil cases, the amount of the dispute. A discrepancy between the qualifications of the Justice of the Peace and the type of case he is expected to handle may give an explanation of abuses within the local judiciary. During the territorial period with the Quebec Act of 1774, courts of limited jurisdiction had one judge and one other person by name of Assistant or Assessor to the Judge. In these nascent courts of the township, the Assessor was present at every court to sit with the judge and assist with advice

³⁶Willard J. Banyon, "Justice Courts on Trial," Michigan State Bar Journal, 37 (1958), p. 35.

and opinions in all civil and criminal matters, but had no voice in the actual decision.³⁷ Under the Original Judicature Ordinance of 1764, any one Justice of the Peace could try civil cases where the amount in controversy was 8 dollars or less. Civil cases involving from 8 to 20 dollars had to have the presence of two Justices of the Peace.³⁸ In 1805, by special act, the justice court was given cognizance of all claims or penalties not exceeding 20 dollars requiring the presence of only one Justice. By 1810, this court had been replaced by a reorganized Justice of the Peace system with jurisdiction to try by consent of parties, all cases of a civil nature wherein the amount in contention did not exceed 100 dollars.³⁹ Civil jurisdiction of these justice courts remained virtually unchanged from 1810 until their abolition in 1969 with the exception of a provision in 1958 allowing either the circuit court or the justice court jurisdiction in civil matters ranging from 100 to 300 dollars. At the time of abolition, the Justice of the Peace possessed jurisdiction to hear criminal cases in which the penalty did not exceed a fine of 100 dollars or imprisonment in the county jail for a term not longer than 90 days or both.

The justice courts were considered primary in the lives of the many local citizens. This was attributed to the type

³⁷ William Renwick Riddell, Michigan Under British Rule (Lansing, Michigan: Michigan Historical Commission, 1926), p. 43.

³⁸ Ibid., p. 45.

³⁹ Michigan Manual, 1951, 1952, op. cit., p. 163

of cases heard by these courts in addition to their locations in remote areas of the State. The type of case these courts were authorized to hear was known as the court's jurisdiction. The geographical area to which the courts were limited was known as the court's venue. Jurisdiction and venue of these local courts were bound by law. Venue is of significance to those groups utilizing the services of the local judiciary. Their capacity to utilize the services of the local judiciary may be affected by court location.

Having examined the jurisdiction of the justice courts, let us turn to the court's venue. Venue was largely a function of the type of case being heard. For civil matters, the Justice of the Peace elected in a township has venue in that township and any adjoining township, even though these townships adjoined only at the corner. All that was necessary for the Justice of the Peace to hear a civil dispute was for him to have jurisdiction in the matter and that either the plaintiff or the defendant have resided in that township or in a contiguous township.⁴⁰ For criminal matters of the aforementioned specifications the Justice of the Peace has county-wide venue and could hold court anywhere in the county with minor exceptions:

1. Court could not be held in a barroom.
2. Court could not be held on Sundays.

There was evidence that the Sunday exception may have been overridden by the accused right to a speedy trial. A village

⁴⁰For an illustration, see Legend for Justices in Jackson County Michigan, Venue Chart in Appendix C.

or city lying within a township is considered the same as the township in which it is contained with minor exceptions.

Method of Compensation

The method of compensation has been an alleged source of abuse within the local judiciary. To gain some insight on this issue, we now examine the compensating mechanisms. The Justice of the Peace in Michigan received compensation for his efforts in the form of fees. The Justice would send monthly reports of all collections, certificates of conviction, copies of all numbered receipts issued by the court for the month, and a check which includes the total of all fines and fees to the county clerk. Following cross checking by the clerk of all receipts and certificates, a copy of the monthly report was sent to the county board of supervisors for approval. The Justice's income for the month was the sum total of the bill of fees taken from dockets. After approval of the county board of supervisors, the county treasurer issued a check for fees to the Justice of the Peace. Below are a list of services the Justice of the Peace provided and the associated fees found on the court docket. The column at the right indicates those costs that were assessed for a sample case. The total amount assessed in this sample docket entry represents an amount charged for services rendered by the Justice of the Peace in a typical criminal case.⁴¹

⁴¹ Auditor General, State of Michigan and Michigan Justice of the Peace Association, "Criminal Law Procedures Manual," Auditor General, Lansing, Michigan, 1965, p. 13 (Mimeographed).

Table 1. Justice of the Peace Fee Schedule and
Typical Case Assessment

Services Provided in the Justice Court	Service Fee	Assessed Cost
Justice Fees: Complaint (.60), Warrant (.60)		
Docket Entry (.60) and Report to Prosecutor (.40)	\$2.20	\$2.20
Receiving Plea, waiving or demanding examination	\$1.50	\$1.50
Bond and Approval	\$.85	none
Trial or Examination: 1 day @ \$6.00/2 days	\$3.00	none
Adjournments and Subpoeas	\$.25	none
Certificate of Conviction	\$.60	\$.60
Commitment of Mittimus	\$.60	none
Return of binding over circuit or appeal	\$7.00	none
Statutory Fee	\$2.00	none
Officer's Fees	\$ --	none
Total		\$4.30

The allegation that guilty pleas were necessary for the Justice of the Peace to receive fees is a misnomer. They were reimbursed for those defendants found innocent from the county treasurer. Included in this reimbursement were costs and expenses to juries, witnesses, and constables.⁴²

Major Attributes

The Justice of the Peace in Michigan was not unlike other lay justices through history, sharing similar attributes and receiving similar criticisms. During their more active period, these lay justices had a number of reasons for existing:⁴³

(1) The most general reason was that the judicial process itself is so vital a part of community organization that the community has a right to share in the process--a theory that political democracy be applied to adjudication. (2) The privilege that all free men have a right to be judged by their peers expressed as *Judicium Parium* in the Magna Charta. A system of justice where the court is located in the community as well as allowing local participation would exemplify the notion of *Judicium Parium*. (3) Another possible reason for lay participation was that the persons involved in disputes may accept the results more readily if they are judged by their own kind. An enlightened justice in the local community

⁴² Leonard Rouse, Past President of Michigan Justice of the Peace Association, personal interview held at his home in Leslie, Michigan, March, 1973. See also: Michigan Compiled Laws Annotated, 775.2 and 775.6, 1967.

⁴³ John P. Dawson, A History of Lay Judges (Cambridge, Massachusetts: Harvard University Press, 1960), pp. 287-303.

would add a personal touch to each case. Having been a local citizen, and elected by the local community, the Justice of the Peace was more in tune with community objectives and was able to deliver the performance the community demanded from their judiciary. (4) From the standpoint of costs, some performance aspects of the judicial system could be enhanced if it could draw on local resources. In criminal matters, the costs of processing violators (in terms of law enforcement officials, jurors, witnesses, and the accused themselves) can be kept relatively low if there is a readily accessible judge and court in the local community. Civil disputes can be settled without unnecessary delay and costs to those parties involved.

Major Criticisms

One must not be misled by this panoply of attributes. As early as 1933, several strictures had been launched against the Michigan Justice of the Peace, many of which were to be used to bring about its demise some 30 years later.⁴⁴ (1) The rapacious Justice, dependent as he was on a volume trade, was portrayed as automatically grinding out a "guilty" verdict in criminal cases and "judgements for plaintiff" in civil matters. In a respectable minority of cases, it was cheaper to accept an adverse verdict than to spend the money to work around the system. The inextricable nature of computing fees shown in some records was so extreme as to indicate an inability

⁴⁴Edson R. Sunderland, Organization and Costs of Township Governments, ed. by Authur W. Bromage and Thomas H. Reed (Detroit: Detroit Bureau of Governmental Research, 1933), pp. 142-146.

to understand or apply the law regulating fees. (2) Suitable courtrooms for township Justices were almost nonexistent; usually in the home or place of business. These makeshift facilities were not considered conducive to a proper image of justice. In view of the large number of Justices throughout the State, the maintenance of suitable court facilities was practically impossible. (3) An investigation of the Justice's records showed that they were usually very inaccurate and entirely inadequate. There was no uniformity among the different Justices in the manner of keeping records and making entries, so that it was impossible to collect comparative statistical data relating to the operations of the justice court. (4) In those instances where the Justices handled low levels of judicial activity, it was difficult for them to obtain adequate experience for the proper performance of their duties. Because of their nescience in judicial procedure, many citizens could have been denied impartial justice. The lack of legal training may also have led to instances where the legally trained attorney took advantage of the Justice and his court.

This chapter has been largely a description of the formal aspects of structure within the Michigan Justice of the Peace including major strengths or attributes and criticisms on how this structure influences behavior and the choice of inputs. We cannot evaluate the performance of this institution in a void, but only in relation to other institutions which espouse comparable results. The 1969 Reorganization altered the structure of the local judiciary which in turn altered the input

norms within the local judiciary. The following chapter highlights the major structural changes that have taken place and provides the groundwork for comparing these alternative institutional designs within the Michigan courts of limited jurisdiction.

CHAPTER IV

THE DISTRICT COURT SYSTEM OF MICHIGAN

Introduction

The 1969 Reorganization was an attempt to generate improved outputs from the local judiciary. This was to be accomplished by rule changes which would alter people's behavior in their choice of inputs for the local judiciary. Prior to 1963, the local citizens exercised considerable autonomy in administering and supervising the courts of limited jurisdiction. Since the Michigan Justice of the Peace was a constitutional officer, reorganization attempts had to be approved by the people of Michigan.

The people were told to expect improved outputs from the Reorganization. These promises relied heavily on reorganization trends in other states. Since the Justice of the Peace courts were abolished in the face of limited knowledge as to how the reorganized courts would be structured and how this structure would affect performance to various groups, it may be useful to examine the key decisions which led to the formation of the new courts of limited jurisdiction. While this research deals primarily with the way institutions shape the citizen and his or her behavior, it is also important to know how the individual goes about shaping the institutions. In

this dynamic process, it is vital that we understand the structure of the local judiciary and the mechanisms involved in designing this structure. This chapter investigates the means whereby the people associated with the local judiciary went about changing the structure of the institution. Some basic structural changes are then explored in light of those rules and relationships which are thought deficient under the Justice of the Peace system. The reader is reminded of the fact that these elements of structure are rather formal and for the most part, result in a specific behavior and mandated choice of inputs. Where relevant, the informal rules which allow some latitude in the choice of inputs will be mentioned in passing.

Sources of Power, "Legitimacy"

The legitimacy of the Michigan District Court system lies in the State Legislature according to the revised Judicial Article of the 1963 State Constitution. The Legislature was empowered to establish a system of courts which would supersede all powers of the Justice of the Peace. Essentially, we observe one institution replacing another with the objective of improving the outputs from the local judiciary.

There are several approaches one could take to examine the decisions involved with the Reorganization. The conventional theories of economics and the maximizing models with the individual behaving in a rational manner are not efficacious in explaining or predicting the processes leading to the Reorganization. It is useless to speak of optimizing the

output of these courts of limited jurisdiction because:⁴⁵

1. The effects and performance of alternative institutions have not been quantified. Further, no convenient price mechanism is available to make benefits and costs comparable.
2. Optimizing the outputs of the judiciary requires that tastes and preferences for local justice remain constant. Developmental aspirations and changes in what the citizen considers optimum performance are not allowed.
3. Decision-makers are engaged in selective perception making the examination of all alternative institutions for delivering local justice impossible.

In the decision-making process for choosing among alternative institutions to enhance the performance of the local judiciary, we face three problems: (1) In the public sector, how do we recognize consumer preferences and which consumers count? (2) In the face of limited knowledge about the future, how do we reflect the probability that tastes and preferences will not remain constant? (3) How can we be sure that the newly designed institutions will deliver the improved outputs as claimed by the reformers? The thrust of this research attempts to shed some light on the third problem. The first section of this chapter will briefly address itself to questions (1) and (2). To answer these questions we concentrate on the process which goes into changing the structure of institutions to alter behavior and enhance performance. This process can be divided into sequences and examined by parts.

⁴⁵Ruth P. Mack, Planning on Uncertainty (New York: Wiley-Interscience, 1971), p. 165.

Stage one consists of problem identification. The problem "reared its ugly head" in the form of abuses within the justice courts. This led to public criticism which in turn led to research, experimentation, and reorganization in other states.

Stage two involves the formulation of alternatives and criteria for the selection. The decision-makers were faced with the option of improving the justice court or establishing a new system. The process was rather weak in this stage because of circumstances involved with the decision itself. The outcome of the decision may be enhanced if the majority affected could make the choice among known alternatives, but this was not the case.

Stage three: by examining the decision-making units and the actual decisions made, we explore this weakness. Essentially, we had three decision-making units:

1. Those who drafted the new State Constitution.
2. The people voting on the new State Constitution.
3. The Legislature in establishing the new system.

This first group, consisting of an appointed body to draft a new constitution, had to decide on what to include in that draft, keeping in mind the goal of acceptance. Decisions by this group could greatly affect the final system. One strategy was to present voters with a bundle of changes requiring trade offs within the bundle. The second decision unit, the people of Michigan, were not faced with a choice between a new system of minor courts or improvements of the old, but with

an unknown new system of courts and a number of other changes. Because the district courts have legitimacy in the Constitution does not necessarily mean that they reflect the preferences of the majority of citizens. Their preferences may have been for another change in the Constitution. The third decision-making unit, the Legislature, was not presented with the choice of improving the justice court system but to organize a new system. Each of these disjointed decision units was not faced with clear-cut alternative institutions to enhance the performance of the local judiciary. The task that remains is one of evaluating the implementation of the new district courts (stage four) in hopes of better informing any subsequent correcting and supplementing of the new system (stage five). It is the fifth stage of the deliberative process to which this paper addresses itself to.

We turn now to some structural aspects of the district courts. To facilitate comparisons among alternative institutions, we examine those structural dimensions common to existing institutions. These common denominators serve as input norms to evaluate the resulting behavior of individuals associated with the local judiciary in their relationship with that system. How the flow of consequences are evaluated will be determined by the local citizens who are served by these institutions.

Means of Securing Office

In establishing the system of district courts, the Legislature divided the State into 99 judicial districts with provisions for changing this number through implementation. The district court judge is an elective position within the judicial district. The effectuation of the new system was done in light of existing political boundaries to facilitate these elections. These local units which once elected local officials to their justice courts, now consolidate their efforts to elect a district court judge to serve many localities throughout the district. District judges are elected at the November election for terms of six years. They are nominated and elected at non-partisan elections of their districts.⁴⁶

Qualifications for Holding Office

To be a qualified candidate for holding office, the individual must:⁴⁷

1. Be a resident of the judicial district.
2. Qualify as an elector in that district.
3. Be a member of the Michigan State Bar Association.
4. Be under 70 years of age.
5. Shall not engage in practice of law other than as judge.

These qualifications differ from those of the Justice of the Peace in the amount of legal training required to hold office.

⁴⁶ Austin J. Doyle, "The Judicial System of Michigan," Michigan State Library, Law Division, Lansing, Michigan, January, 1971 (Mimeographed), p. 13.

⁴⁷ Ibid.

The assumptions made by the Legislature included one that asserts: legally trained individuals make different decisions than lay individuals. What seems obvious in some instances may deserve considerable research. We cannot examine the performance of these adroit judges solely in terms of the decisions they hand down. We must ascertain the costs of these decisions. The decision-makers should be able to determine what kinds of decisions flow from these various judges and their associated costs.

Powers of the District Courts

The district courts have taken over all services once performed by the Justice of the Peace. Other courts of limited jurisdiction being replaced were police courts, and municipal courts along with all circuit court commissioners. When the Reorganization is completed, these aforementioned courts will be abolished. Civil jurisdiction of the District courts has been augmented to include those disputes where the amount in controversy does not exceed 10,000 dollars. Criminal jurisdiction includes: (1) all misdemeanors including former circuit court misdemeanors where the punishment does not exceed one year imprisonment, (2) ordinance and charter violations punishable by a fine or imprisonment or both, (3) arraignments, setting and acceptance of bail, (4) conducting preliminary examinations in felony cases, and (5) garnishments, eviction proceedings, land contracts and mortgage foreclosures. District court judges are not given the jurisdiction to issue injunctions or process divorce cases. The former mechanism

can be an effective tool in the enforcement of local ordinances. The judge can only issue fines to the violator of local ordinances. The injunction must come on appeal to the circuit court which is often a complex and time consuming process.

To discuss the venue of the district courts, it becomes necessary to examine the types of judicial districts established by the Legislature:⁴⁸

1. A district of the first class consists of one or more counties... Venue in criminal actions for violations of state law and all city, village or township ordinances shall be in the county where the violation took place. In civil matters, venue shall be in the county in which the subject of the action is situated, in which the cause of action arose, or in which any defendant is established or resides.
2. Districts of the second class consist of a group of political subdivisions within a county... Venue in criminal matters for violation of state law and all city, village and township ordinances shall be in the district where the violation took place. Venue in civil matters shall be in the district in which the subject of the action is located, in which the cause of action arose, or in which any defendant is established or resides.⁴⁹
3. Districts of the third class consist of one or more political subdivisions within a county... Venue in criminal matters for the aforementioned violations shall be in the political subdivision thereof where the violation took place, except that when such violations are alleged to have taken place within a political subdivision where the court is not required to sit, the action may be tried in any political subdivision within the district where the court is required to sit. Venue in civil matters is the same as for second class districts.

⁴⁸ Michigan Compiled Laws Annotated, 1967, 600.8103.

⁴⁹ The Twelfth Judicial District including all of Jackson County with the exception of Jackson City is established as a second class district. See Michigan Compiled Laws Annotated, 1967, 600.8119.

A major aspect of court structure which forms the basis for the hypothesis of this research involves court location. The rules which determine where the court shall locate in some respects require specific locations but also leave to the judge's discretion any additional location which can be arranged. The rules directly regarding court location may not provide sufficient information for predicting the court's location, but knowledge of these rules provides the basis for discovering the other related rules (formal and informal) that affect the behaviors that follow.

We now turn to place of holding court.⁵⁰

1. In districts of the first class, the court shall sit at each county seat and at each city having a population of 3,250 or more except where that city is contiguous to the county seat. In that case, the court is required to sit at the city of greatest population. The court shall sit not less than once each week in each county of a multi-county district. The court shall also sit at such other places as the judges of the district determine.
2. In second class district, the court shall sit at any county seat within the district, at each city and incorporated village within the district having a population of 3,250 or more except that when two or more such cities or incorporated villages are contiguous the court need sit in the city having the greatest population. If the district does not contain a county seat and does not contain a city or incorporated village having a population of 3,250, the judges of the court determine where the court will sit. Provisions are also made for the court to sit outside the district. In addition to the place or places where the court is required to sit pursuant to the provisions of his subsection, the court may also sit at such other place or places within the district as the judges thereof determine.

⁵⁰Ibid., 600.8251.

3. In districts of the third class, the court shall sit at each city having a population of 3,250 or more and within each township having a population of 12,000 or more and at such places as the judges determine. A political subdivision reserves the right to not allow the court to sit therein.

The judges of these district courts have some latitude in deciding where the court will sit. His power is constrained by the political subdivision and the resources it can provide for a court.

Financing the District Court System

This section will concern itself with the resources required to operate courts. More specifically, we will examine some explicit costs of district courts. Court facilities shall be provided at those places where the court sits. In districts of the first class, they shall be provided by the county. In third class districts, the political subdivision must provide these facilities. In each county within a district of the first class, in each district of the second class and in each political subdivision where the court sits within the district of third class, the district judge or judges of the district shall appoint a clerk of the court who in turn shall appoint deputy clerks with the approval of the judges. These clerks shall receive compensation fixed by the judge within appropriations provided by the governing body of the district. In any county which elects itself less than two district judges, the board of supervisors shall provide one magistrate. In other counties in districts of the first and second class the board of supervisors shall provide for at least one

magistrate upon recommendation by the judges of the district court. These magistrates shall be paid by the county on a salary or per diem basis as determined by the board of supervisors. In no case, shall his salary be less than \$5,000 annually if paid a salary, or \$20 per day if on a per diem basis. There shall be one court recorder or stenographer for each judge of the district court who may also act as secretary to the judge. Salaries shall be \$7,500 per year plus any additional compensation for the district control unit.

District court judges shall receive an annual salary of \$19,500 payable by the State. The district control unit augments this salary with the total not to exceed \$32,000 annually. Witness fees and mileage allowances are the county's responsibility. Jurors in the district court shall be paid by the county in districts of the first and second class and by the political subdivision where the trial takes place in districts of the third class. Juries are limited to six with five able to render verdicts in civil cases and unanimity necessary in criminal case verdicts.

Major Attributes

Court reformers told the people of Michigan to expect improved outputs from their courts of limited jurisdiction. These improved outputs will stem from changes in the structure of the local judiciary which will in turn lead to a different set of inputs. These new sets of inputs involve:

- (1) Requiring all judges to be attorneys and members of the Michigan State Bar Association. Court reformers argued that

these judges are able to deliver a more desirable and efficient decision than the lay justice. (2) Improving court facilities and employing additional court personnel, thereby enhancing the image of justice. (3) Improving the means for keeping records. Reformers argued, this would allow better monitoring of the courts of limited jurisdiction with a more effective means of discovering problem areas. (4) Abolishing the fee system of compensating judges, thereby increasing the defendant's probability of getting an impartial trial. Court reformers assumed that a critical weakness of the Justice of the Peace system was that the judge's decision would be biased by his pecuniary interest in the case. By paying the judge a salary and removing his pecuniary interest from any one case, the defendant is more apt to get a fair trial. (5) In addition to the aforementioned aspects of court structure, the district court will provide a number of specialized departments to provide various services. A small claims division for civil cases is provided for those disputes where the amount in controversy does not exceed 300 dollars. Provisions are made for the appointment of magistrates which are empowered to set bail, accept bond, accept guilty pleas, and sentence on traffic violations. In addition, the magistrate can issue arrest warrants when approved by the prosecutor or municipal attorney and search warrants when authorized by a district court judge. District courts may also establish probation departments. Traffic bureaus may be set up and court clerks may be authorized to accept guilty pleas and

finances for minor traffic offenses. Whether these changed inputs have in fact led to improved outputs is a question that remains to be answered. We do know that this different mix of inputs costs more and also suspect that the Reorganization itself has had differential consequences to various groups and localities.

Major Criticisms

While the promises of court reformers appeared rather impressive to the Legislature, there were some groups that felt threatened by the Reorganization. Some of the major criticisms of the district court by these groups were:

(1) The court might be subject to more arbitrary budget limitations, (2) the performance delivered by the centralized court cannot approximate that desired by the individual localities because it must seek an average performance catering to no one group or locality, (3) the court alienates the local citizens resulting from the loss of control in the judicial process, (4) centralization and consolidation will result in an increase in the amount of resources required to process a case, and (5) this alienation and the increasing costs and inconvenience of using the district courts impair local law enforcement and exert a considerable burden on the locality's budget.

This chapter examined how the people of Michigan went about reshaping their local judiciary. Some critical aspects of the Reorganization were explored in a brief description of the structure of the district court system. The selected

dimensions of structure chosen will enable the researcher to test his hypothesis and to assess other impacts of the Reorganization. The debates taking place at the time reorganization measures were being considered were included to familiarize the reader with those aspects of court structure which various groups felt were important in achieving improved outputs from the local judiciary. It is also interesting to note some of the critical behavioral assumptions that were made by court reformers and their neglect for some informal and indirect aspects of court structure. These aspects of court structure play a vital role in determining the impact of the Reorganization to various groups and localities.

The following chapter will examine the courts of limited jurisdiction in Jackson County prior to 1969. An attempt will be made to explore some of the deficiencies of these courts with respect to the criticisms launched by court reformers in Chapter Three.

CHAPTER V

THE JUSTICE OF THE PEACE IN JACKSON COUNTY

Introduction

In the previous chapter we examined the way the people of Michigan went about redesigning their local judiciary. The criticisms of the Michigan Justice of the Peace were based on scattered instances of abuse within Michigan, abuses occurring in other states, and fragmented research done some 40 years earlier.⁵¹ The purpose of this chapter is to address itself to these criticisms using the Jackson County Justices of the Peace as an illustration. An attempt will be made to measure the validity of these criticisms and to compare the Jackson County Justices of the Peace to the stereotypes portrayed by the initiators of the court reorganization movement prior to 1963.

The Extent of the Study

This study was initiated at the request of local citizens of Jackson County who were concerned with their courts of limited jurisdiction. This provided the setting for this study. The thrust of this research involves the impact of the

⁵¹Edson R. Sunderland, op. cit.

Reorganization to various groups and localities located in the Twelfth Judicial District encompassing all of Jackson County with the exception of Jackson City and the Thirteenth Judicial District. To make a complete study of the selected impacts, it was necessary to contact all former Justices of the Peace in Jackson County. Prior to the Reorganization, Jackson City utilized the services of a municipal court, hence all of the Justices of the Peace contacted during the study were replaced by the Twelfth District Court.

The data from which this evaluation is being made was obtained through the use of questionnaires.⁵² An extensive investigation was made in locating the former Justices of the Peace in Jackson County. These efforts were facilitated by the procedure the former Justices of the Peace had to go through to qualify as an active justice. To qualify for active service, an oath had to be taken, a bond filed, and this information recorded by the Jackson County Clerk. Only those Justices of the Peace active during the most recent years of that office received questionnaires. Addresses were obtained from the Michigan Justice of the Peace Association, telephone directories and interviews with local officials.

There are certain advantages and disadvantages in obtaining data through questionnaires. They were used here because of limited resources of the researcher stemming from the scattered locations of the Justices of the Peace and the time

⁵² See Questionnaire to former Justices of the Peace, Appendix D.

necessary to interview each one separately. Those active Justices of the Peace which responded are displayed in Figure 1. Included in this figure are the terms of office these Justices of the Peace were active, along with the percentage of the complaints occurring in the township brought before this Justice of the Peace. The incompleteness of the study can be attributed to a number of reasons. The active Justice of the Peace in Parma Township was unable to respond because of illness. No response was received from Concord Township. The significance of this township may be low relative to the overall study with a population of only 3 percent of the total.⁵³ No response was heard from the resident Justices of the Peace in Spring Arbor Township. Law enforcement officials in this area took their judicial business to neighboring townships. The active Justice of the Peace in Norvell Township passed away in 1965 (one of the more embarrassing aspects of historical research) and the judicial business of this township was brought before the active Justices of the Peace in Napoleon and Colombia Townships. Only 25 percent of the violations were reported in Tompkins Township, but this is believed insignificant because that township comprises less than 2 percent of the population surveyed in the study. Only one Justice of the Peace responded in Summit Township and he was unable to specify what percentage of the complaints in that township were brought before him as compared to the other

⁵³ See Population Figures for Jackson County, including minor civil divisions, Appendix E.

Figure 1. Justices of the Peace in Jackson County, Michigan 1965-1969

Springport	Tompkins	Rives	Henrietta	Waterloo
Hammond 100% 1965-69	Stimson 25% 1965-69	Stringham 100% 1965-69	Purcell 100% 1967-69	Weinhold 1965-69
Parma	Sandstone	Blackman	Leoni	Grass Lake
	Hendershott 100% 1958-67	Parker 100% 1963-69	Thayer 100% 1961-69	Britten 75% 1963-67
Concord	Spring Arbor	City of Jackson Summit	Napoleon	Norvell
		Watkins 1962-69	Welch 100% 1968	
Pulaski	Hanover	Liberty	Colombia	
Hancock 100% 1961-69	Allen 90% 1955-69	Bowen 75% 1963-67	Brown 100% 1968	

Justices of the Peace in that township. The total number of responses is thought sufficient to adequately describe the Jackson County Justices of the Peace prior to the 1969 Reorganization.

The Demand for Justices of the Peace

The 1933 study spelled out some major criticisms of the Michigan Justices of the Peace.⁵⁴ These included one which argued that more Justices of the Peace were being elected than the local communities were demanding. Reaction to this criticism led to the reduction of elected township Justices from four to two. The data collected in Jackson County seems to support these earlier allegations. As far as township Justices are concerned, in the most recent years of the justice courts, it was found that the majority of the townships used only one of the two elected Justices of the Peace. While the less active judge was qualified to handle all complaints under his jurisdiction and venue, he was mostly involved in settling dog damages, fence line complaints, and performing marriages. These duties have been taken over by the small claims division of the Twelfth District Court in Jackson. Marriages may be performed by mayors.

Table 2, column (1) lists the percentage of complaints heard by the Justice of the Peace responding in each township. According to this data, approximately 90 percent of the judicial business reported by these Justices of the Peace for their

⁵⁴Edson R. Sunderland, op. cit.

Table 2. Selected Features of Litigation Heard by Justices of the Peace
in Jackson County, 1963-1969

Township	(1) Percent of township complaints heard by this Justice	(2) Percent of complaints heard occurring in township	(3) Location of court			(4) Law enforcement officials using court						
			Home	Place of business	Court room	City or village	Town- ship	Resident deputy sheriff	Non- resident deputy sheriff	State		
Blackman	100	50	0		10		X				X	X
Colombia	100	60	95		5	X					X	X
Grass Lake	75	75	100			X		X				X
Hanover	90	95	100					X			X	X
Henrietta	100	100	100					X				
Leoni	100	75	95		5			X			X	X
Liberty	75	100	100						(civil matters)			
Napoleon	100	80	95		5			X		X		
Pulaski	100	100	100							X		
Rives	100	100	100						(civil matters)			
Sandstone	100	50	98			X					X	X
Springport	100	100	100									
Summit	not available	10	1	79	20	X					X	X
Tompkins	25	100	place of dispute					X				
Waterloo	--	not available							(civil matters)			

respective townships were handled by fifteen Justices of the Peace. Provisions were made for thirty Justices of the Peace within those townships reporting and thirty-six Justices of the Peace within the entire county of Jackson.

Judge Shopping

Another criticism of the Justice of the Peace courts in Michigan in addition to their excessive numbers, involved the issue of judge shopping which came about through the law enforcement official's search for a guilty plea. Since the Justice of the Peace had criminal venue anywhere in the county, he was available to hear complaints occurring anywhere in the county. An ironic fact about this system was that the law enforcement officials often knew the type of verdicts one could expect from different justices and could choose the verdict by choosing the Justice of the Peace. Even though the Justice of the Peace received compensation for either a verdict of guilty or innocent, his volume of business may have depended upon his catering to the whims of the law enforcement officials. This logic seems impressive, but it implies an element of corruption within the local judiciary which may not have existed. The data gathered in this research may give us some insight on judge shopping in Jackson County.

One would expect the Justice of the Peace in a particular township to hear only those cases occurring in his township. When a large percentage of complaints brought before a Justice of the Peace did not occur in his township, one might suspect that judge shopping was taking place. The percentage of complaints

heard occurring in a township can be found in column (2) of Table 2. Approximately 80 percent of the complaints brought to the Justices of the Peace in Jackson County occurred in their respective townships. This leaves 20 percent of these complaints being taken to other township Justices of the Peace. The study does not have enough information to determine the incidence of judge shopping. With the data that was collected we can, however, explain why some complaints were brought before Justices of the Peace in other townships. From the second column of Table 2 we observe that only 50 percent of the complaints heard by the active Justice of the Peace in Blackman Township occurred in Blackman Township.

Column (1) of Table 3 shows us that the resident Justice of the Peace was available on weekdays, weekends and holidays. Justices of the Peace in neighboring townships were not always available during these times. These additional complaints may have occurred in neighboring townships and brought to this Justice of the Peace because of convenience and to expedite the processing of violators instead of detaining the accused until the township Justice of the Peace became available. Further evidence lends support to this hypothesis when we examine column (4) in Table 2. The Justices of the Peace were asked to list the law enforcement officials using their services. If judge shopping were to have taken place, it would have been done by nonresident deputy sheriffs and state law enforcement officials. There was no evidence of nonresident deputy sheriffs using the services of Blackman's active Justice

of the Peace. The fact that the Michigan State Police Post of Jackson County is located in Blackman Township may explain why they used the services. The active Justice of the Peace in the third largest township (Leoni Township) reports that 75 percent of the complaints brought before him occurred in Leoni Township. In this case we observe that he was available evenings when some neighboring Justices of the Peace were not. Some of this 25 percent could be explained by the availability of his services.

From talking with former Justices of the Peace and local law enforcement officials along with the data obtained from the questionnaires, no substantial evidence was found indicating judge shopping in Jackson County. More emphasis was placed on obtaining expedient justice. Interviews with law enforcement officials revealed that in some instances, they were in total disagreement with the Justice's verdict, but this at no time led to judge shopping.

The Image of the Local Judiciary

The Justice of the Peace Courts were criticized for the poor image of justice that surrounded them. This poor image can be attributed to:

1. The place of holding court lacked a professional atmosphere.
2. The lay Justice often handed down "poor" decisions because of his lack of legal training.

The questionnaire sent to the Jackson County Justices of the Peace included a question asking the location of court facilities. Of those Justices of the Peace that responded, approximately

83 percent of the judicial business transacted by them took place in their homes, 13 percent occurred at their place of business, and 4 percent took place in a building of a professional nature, i.e., county building or township hall [Table 2, column (3)].

Before one criticizes these unprofessional aspects of the justice courts, he must establish some relationship between the performance of these courts and the extent to which they adhere to certain professional standards. The image of court facilities are important if it detracts from law enforcement procedures. There was no indication that law enforcement officials were reluctant to use these justice courts because of substandard conditions. Another alleged shortcoming of these unprofessional facilities is the image created in the minds of those processed by these courts. This study did not relate specifically to this criticism but some insights can be made in conjunction with court location.

To offset, these criticisms of poor facilities and in support of these remote locations, the reader is asked to consider the aspects of court availability and convenience of accessibility. The individual may find the home court unprofessional in its appearance and location but this author questions how much of his time the violator is willing to forego to seek a court more professional in nature. Figure 1 and Table 3, column (1), show that these Justice of the Peace courts were located throughout Jackson County and were available evenings, weekends, holidays, in addition to the weekday hours

kept by the more professional courts which replaced the justice courts in 1969. In civil disputes, the availability of the Justice of the Peace facilitated quick settlements. According to statute, civil disputes occurring in one township could be heard by the Justice of that township or by a Justice in a contiguous township or in the township or contiguous township of one of the parties involved.⁵⁵ The Justice of the Peace in Tompkins Township settled the dispute at its location which usually meant going into the neighborhood or onto the farms personally. Somehow the image is not there, but the convenience has yet to be matched by the courts staffed with highly trained lawyers. An area of research and one that this author would have liked to examine is the cost to the accused in terms of time necessary to be processed under one system as compared to another.

Perhaps the strongest criticism against the Justice of the Peace in Michigan was in its staffing by lay officials; the allegation was that these lay individuals are not competent to hand down verdicts. The Justices of the Peace in Michigan realized this shortcoming and in the last years of that office organized the Michigan Justice of the Peace Association. The objective of this group was to improve the image of justice surrounding these local courts. Short courses were offered in an attempt to standardize and upgrade the policies of the justice courts. The courses included training in decision-making, record keeping, along with other procedures the Justice

⁵⁵See Appendix C.

might encounter. Some of the earlier criticisms that the keeping of records by these justice courts was poor and lacking in any kind of uniformity lost applicability in Jackson County. The Michigan Justice of the Peace Association in conjunction with the Auditor General for the State of Michigan published the Criminal Law Procedures Manual which laid down guidelines for keeping records and setting costs and fines. A uniform policy for setting fines and costs along with uniform policies for deciding cases made these justice courts quite competent in handling specific cases. It is not the standardization of verdicts which brings equity to the judicial process but the standardization of policy from which these verdicts are made. Since the majority of complaints were brought before Justices who were members of the Association, there are many indications that the justice courts in Jackson County were equitable. Many of the Association's efforts proved successful. An informal policy had been arranged with law enforcement officials to bring all violators before members of the Association whenever possible. This policy had the twofold effect of increasing the probability of the accused chances of being brought before a legally trained Justice and increasing the number of trained Justices if they wanted to retain their judicial business. In Jackson County, the more active Justices of the Peace in the larger township, handling the majority of the complaints occurring in these localities, were all members of the Association. If this informal policy was adhered to, then this may have explained some of the alleged judge shopping in addition to the aforementioned reasons.

Local Autonomy and Community Satisfaction

Another attribute of the Jackson County Justice of the Peace courts was in their ability to deliver the kind of justice the local community felt desirable. The role of the analyst is to highlight existing alternatives, display the flow of consequences from various alternatives, and to search out new alternatives wherever possible. The researcher may lose his objectivity as well as his credibility when he injects his own personal preferences under the guise of objectivity and scientific research. This researcher places a high value on credibility. The task now becomes how can we measure community satisfaction of the Jackson County Justice of the Peace courts and how can we measure the degree to which they perform to meet community objectives?

Albert Hirschman gives us some insight on how consumers of private and public goods and services express their dissatisfaction for the quality of the goods and services.⁵⁶ (1) In the economic arena, consumer dissatisfaction is expressed by the exit option. The consumer stops buying the firm's product or some members leave the organization. (2) In the political arena, citizens and organization members express their dissatisfaction directly to management or to some authority to which management is subordinate, or through general protest addressed to anyone who cares to listen; this is the voice option. There are many advantages to these mechanisms in combating the

⁵⁶ Albert O. Hirschman, Exit, Voice and Loyalty (Cambridge, Massachusetts: Harvard University Press, 1970), p. 4.

deteriorating performance of institutions within the local judiciary. The nature of the Justice of the Peace system via the fee system of compensation and the large numbers of Justices of the Peace made both of these options possible, giving this system both political and economic attributes. In civil matters, a local citizen could express his dissatisfaction with the township Justices of the Peace by obtaining the services of other Justices of the Peace in a contiguous township with the exit option. Since the Justices of the Peace had criminal venue anywhere in the county, law enforcement officials could express their dissatisfaction with the performance of a particular justice court by seeking the services of neighboring Justices of the Peace. This exit option for law enforcement officials encompasses much more the alleged notion of judge shopping which surrounded the fee system of compensation. Law enforcement officials had their own criteria for measuring the performance of the justice courts which included the availability of services in terms of: (1) court facilities and location, (2) the period of time the Justice of the Peace could be obtained, (3) the amount of time necessary to process the violator, in addition to, (4) whether the judge belonged to the Michigan Justice of the Peace Association. Alleged instances of judge shopping may have established a fifth criteria involving type of decision handed down by the Justice of the Peace. There is evidence that the law enforcement officials used some of these criteria in the option to exit. Justices of the Peace not belonging to the Association were avoided

whenever possible. Law enforcement officials were reluctant to detain violators until the local Justice of the Peace became available. In those instances, services from other Justices of the Peace were obtained. Even though we are unable to determine the variation in court facilities, there was no evidence suggesting that a law enforcement official was reluctant to bring the accused before a court because of poor facilities. Likewise the type of decisions handed down by the Justices of the Peace were not of such deteriorating quality as to induce law enforcement officials to use the exit option.

The voice option was used by the local citizens to express their dissatisfactions with the local Justice of the Peace. The data in Figure 1 gives us the terms of office held by the most recent Justices of the Peace. Of the three largest townships, Blackman, Summit, and Leoni, that may well have handled almost 75 percent of all judicial business in the county (excluding the city of Jackson), the Justices of the Peace served for two or more terms. This may be an indication of local satisfaction with the kinds of decisions the Justices of the Peace were handing down. Since the Justice of the Peace was a member of the local community, the voice option was encouraged since the Justice of the Peace needed community satisfaction and support, to get re-elected. Hirschman considers the ideal situation of regulating the performance of an institution to be one with just the right balance of exit and voice. The mechanisms of exit

and voice may complement or substitute for one another. To exit one's support for the local judiciary may have been convenient for the local citizen or law enforcement official but may not have improved the local judiciary because the local courts had no feedback from the local people and could not determine where they went wrong. Voice without the threat of exit may prove ineffective likewise. Improvements in the local judiciary came about through the voice option with the exit option being used for bargaining power. The combination of these options gave the local community considerable autonomy over their judiciary. A considerable advantage of the Justice of the Peace system was in the mechanisms by which the local judiciary could respond to local needs. At election time, the citizen could use the exit option to withdraw his support for the incumbent Justice of the Peace. During his term of office, the exit option was available to citizens and law enforcement officials and the voice option was encouraged for purposes of reelection. In addition, local autonomy facilitated a local judiciary with flexibility to adjust to the seasonal nature of violations. The institutional arrangement of the justice courts had a built-in mechanism for handling excess capacity. The number of available Justices of the Peace and the fee system of compensation worked as an incentive to absorb increasing numbers of violations as they occurred. Delays and case backlog in the justice courts of limited jurisdiction were rare phenomena.

This chapter has been an attempt to describe the operations of the Justice of the Peace in Jackson County. A number of criticisms had been launched at the Justice of the Peace which emphasized the potential for abuses from the method of compensation and lack of formal legal training. Court reformers generally argued that these deficiencies on the input side had led to deteriorating outputs due to the Justice of the Peace trying to make a fast buck and the increasing complexity of law. There was general agreement among court administrators that something had to be done to improve the "quality of justice" flowing from these courts of limited jurisdiction. Various institutional designs could have been chosen to remove the alleged deficiencies of the Justice of the Peace system. In light of these deficiencies, one cannot help but question why such an extensive overhauling of the courts of limited jurisdiction was necessary. Many unanswered questions remain as to what the Reorganization has accomplished. We do know that the new courts of limited jurisdiction cost more to operate. These costs and the source from which these costs will be paid are defined by law. In addition to these explicit costs, there are implicit costs incurred by some groups and localities using court services. It is also believed that the design (rules) chosen in the attempt to eliminate some alleged weaknesses of the justice court may have led to behavioral consequences which suggest that law enforcement officials may be reluctant to make certain arrests and citizens may be less likely to

pursue civil litigation. We now turn to the measuring of some of these implicit costs of using the courts of limited jurisdiction.

CHAPTER VI

SELECTED IMPACTS OF THE 1969 COURT REORGANIZATION

Introduction

The courts of limited jurisdiction play a vital role in the criminal justice process. We have observed a variety of institutions designed by court administrators in other states attempting to enhance the outputs of the local judiciary. The role of the analyst is to determine how these institutions affect people. A model allows us to sort these questions in light of structure or the rules of the institution; conduct, the behavior of individuals; and the performance, or the product which the local judiciary delivers. In taking a closer look at the structure of the local judiciary, we discover formal rules which require a specific behavior, and informal rules which do not require a specific behavior but merely bound the behavior (in the associated relationships or choice of inputs). Performance is used as an indicator of the effect the courts of limited jurisdiction have on people. More specifically, the performance aspects defined herein include:

1. The well-being of citizens from their association with and support for the local judiciary.
2. The amount of local community resources required to process a case.
3. The final product of the local judiciary's contribution to the criminal justice process in combating crime in the local community.

These performance indicators represent those aspects of the courts thought to be important to the citizens of the Twelfth Judicial District. Other groups associated with the courts of limited jurisdiction have their own performance indicators in addition to those aspects of the local judiciary having a direct or indirect impact on the local community. This research is selective in its choice of groups affected by the Reorganization and selective with respect to the performance indicators measured.

The groups that are of primary concern in this study are the bulk of rural citizens in Jackson County. These citizens were affected by the Reorganization in several ways: (1) They must contribute in supporting the explicit costs of the Twelfth District Court as taxpayers of Jackson County and the State of Michigan. (2) They bear the implicit costs directly in their attempt to utilize the services of the courts of limited jurisdiction in civil disputes. (3) As taxpayers employing law enforcement officials which utilize the courts to process cases, they bear the implicit costs when the amount of resources required to process a case increases. (4) As citizens living with the courts of limited jurisdiction and its indirect impact on policy behavior, the people

of Jackson County must live with the criminal justice process and its effectiveness in combating crime. This list of direct and indirect impacts of the Reorganization to rural people in no way exhausts all of the consequences which may have occurred.

Reorganizing the Michigan courts of limited jurisdiction was an attempt to enhance the performance of the local judiciary. Court reformers told people in Michigan that the reorganized courts would have a substantial impact on the quality of justice. This list of impacts included such things as greater uniformity in the application of the law, better quality decisions, and a general claim of increased efficiency. Whether these consequences have in fact occurred has not yet been ascertained and is beyond the scope of this study. What will be ascertained in this research is that the Reorganization has had consequences in addition to those suggested by the reformers. Institutional reorganization has distributive impacts either direct or indirect. Attempts to enhance the performance of the local judiciary from the standpoint of administrators of justice, by centralizing, consolidating, and professionalizing have had unfavorable consequences to other groups. The administrators of justice make up only one part of the local judiciary and we cannot ignore the consequences to the local people associated with the courts of limited jurisdiction.

The consequences thought to be of significance to the local citizens of Jackson County are so numerous that the

researcher must select those consequences which are felt to be important (particularly those which may have been previously unknown or ignored) and those which can be measured given the constraints of the researcher's resources.

The hypothesis can be restated as follows:

Centralization and consolidation of the local judiciary has led to higher implicit costs in utilizing the courts of limited jurisdiction, leading to an increase in resources required to process a case with a significant burden of these costs distributed to certain groups and localities.

We defined implicit costs as:

1. Law enforcement officials' resources spent traveling to and from court.
2. Law enforcement officials' resources used while in court.

Note that some of these implicit court costs will also be reflected as costs to local communities in the form of adding additional manpower to keep the same level of policy protection. To test the hypothesis in measuring the impact of the Reorganization on the implicit costs to local people in utilizing the courts of limited jurisdiction, we employ a with and without analysis. To facilitate the with and without analysis, this researcher chose a particular design. The scope of the study involves the justice courts of Jackson County, Michigan. The services once provided by the Justices of the Peace are now offered by the Twelfth District Court with the exception of Jackson City. Prior to the Reorganization, Jackson City used the services of a municipal

court which now comprises the territorial jurisdiction of the Thirteenth District Court. The assumptions made in measuring the impact of the Reorganization can be found in the sections devoted to the actual computations involved. In addition, certain assumptions underlying the validity of the impact can be found in the concluding remarks of this chapter.

The years of comparison were selected in light of various measurement problems. The year 1968 was chosen to measure the implicit costs of the justice courts in Jackson County because of the methods established for gathering data. Since some of the questions asked of the respondents required that they rely on memory or consult scattered records, it was thought necessary to choose the most recent time periods the Justices of the Peace were in operation. Likewise, the year 1972 was selected to measure the implicit costs of using the Twelfth District Court for the aforementioned reasons. When we consider the kinds of questions this research is attempting to answer in light of the data which had to be collected, the years of comparison should enhance the validity of the study.

Central to the analysis of implicit costs are the law enforcement officials employed by these rural areas. Presently there are thirteen separate law enforcement units being served by the Twelfth District Court.

This study is concerned with ten of the units. The remainder of the units could not be measured in such a manner

as to facilitate comparison, including the Michigan State Police, Jackson County deputy sheriffs of a nonresident status, and Henrietta Township police which has relinquished their court related activities to the sheriffs of Jackson County located in Jackson City. With those law enforcement units remaining, it was possible to measure some selected impacts of the 1969 court reorganization to local citizens.

To measure the implicit costs of the court reorganization to the various localities, it was necessary to locate law enforcement units with certain characteristics:

1. They must have their headquarters at home base of operation in the local community.
2. The unit must receive financing assistance from the local community.
3. The unit must use the services of the court and not relinquish these tasks to another law enforcement unit.

The law enforcement units selected for the study encompass approximately 85 percent of the population in Jackson County's Twelfth District Court.⁵⁷

The researcher had to decide whether to obtain the necessary data through questionnaires, telephone calls, or personal interviews. Interviews were chosen because of the number of units in the population and the complex nature of the questions being asked.⁵⁸ The interviews proved most successful and in addition to the specific information

⁵⁷Based on 1970 population figures, see Appendix E.

⁵⁸The interviews were facilitated with the use of a questionnaire which can be found in Appendix F.

requested, the researcher gained some useful insights into other problems which merit research. Essentially these police chiefs were asked to describe their law enforcement units in 1968 and 1972, or before and after the 1969 Court Reorganization. Primary concern was given to the resources required in utilizing the courts of limited jurisdiction. Some of the critical elements in this check sheet involve the police chief's length of time with the unit. In those instances where the chief joined the unit after 1969, it was necessary to locate the former chief during 1968. The relevant information is summarized in Table 4.

Explanation of Data

Table 4 represents the law enforcement units surveyed in the study. These units patrol within the boundaries of the areas paying their salaries. Some of these units serve under one village or township, while others are paid jointly and patrol a combination of villages and townships. Column (1) of Table 4 gives the hourly salary of these law enforcement units for the two time periods. The relatively low rates of pay in Springport Village and Brooklyn Village (Colombia Township) can be explained by the part-time status of the officials in the department. These part-time officials usually held a 40 hour per week job and were on duty in scattered intervals or when called on to do so. With the exception of Springport Village which had a town marshall,

Table 4. Resources Allocated to Court and Court Related Activities by Law Enforcement Units in Jackson County, Michigan, 1968 and 1972.

- Continued on next page -

Law enforcement unit	(1) Hourly salary	(2) Unit size	(3) Total hours worked per week	(4) Time spent in Court	(5) Monthly hours in court	(6) Monthly total trips to court	(7) Round trip miles to court	(9) Actual hourly rate of court compensation	(9) Unit paying compensation	(10) Percent enforcement under ordinance violation
BLACKMAN Township	1968 Chief \$3.46 Staff \$2.75	1 1	40 40	on on	2.0 2.0	2.0 2.0	6.1	\$3.46 \$2.75	Local Local	0
	1972 Chief \$5.05 Staff \$3.75	1 7	40 280	50% on 50% off	16.0 112.0	7.0 43.0	4.0	\$5.05 \$1.50 \$1.50	Local County County	75
BROOKLYN Village and COLOMBIA Township	1968 Chief \$3.12 Staff \$1.60	1 1	40 24	on on	1.6 1.6	6.0 12.0	1.5	\$3.12 \$1.60	Local Local	50
	1972 Chief \$4.52 Staff \$1.20	1 2	40 64	off off	16.0	12.0	30.0	\$1.50 \$1.50	County County	50
CONCORD Village and Township and PULASKI Township	1968 Chief \$2.64 Staff	1 0	40	on	10.0	30.0	0.0	\$2.64	Local	95
	1972 Chief \$4.33 Staff \$3.85	1 1	40 40	80% on 20% off 80% on 20% off	30.0 30.0	15.0 10.0	28.0	\$4.33 \$1.50 \$3.85 \$1.50	Local County Local County	5
GRASS LAKE Village	1968 Chief \$3.84 Staff	1 0	40	on	1.0	--b/	0.0	\$3.84	Local	
	1972 Chief \$4.33 Staff	0 0	40	75% on 25% off	12.0	4.5	18.0	\$4.33 \$1.50	Local County	10
LEONI Township	1968 Chief \$4.33 Staff \$2.25	1 6	40 120	on on	4.0 2.0	--c/	0.0	\$4.33 \$2.25	Local Local	
	1972 Chief \$5.63 Staff \$4.00	1 5	40 200	on off	24.0 40.0	4.0 20.0	10.0	\$5.63 \$1.50	Local County	50
PARMA Village and Township and SANDSTONE Township	1968 Chief Staff	0a/ 0								
	1972 Chief \$4.55 Staff	1 0	44	off	40.0	10.0	36.0	\$1.50	County	5

Table 4. Resources Allocated to Court and Court Related Activities by Law Enforcement Units In Jackson County, Michigan, 1968 and 1972

- Continued from previous page -

Law enforcement unit	(1) Hourly salary	(2) Unit size	(3) Total hours worked per week	(4) Time spent in court	(5) Monthly hours in court	(6) Monthly total trips to court	(7) Round trip miles to court	(8) Actual hourly rate of court compensation	(9) Unit paying compensation	(10) Percent enforcement under ordinance violation
SPRING ARBOR Township	1968 Chief \$2.88	1	40	95% on 5% off	10.0	10.0	24.0	\$2.88	Local	100
	Staff \$2.00	1	15	5% off	5.0	5.0		\$2.00	Local	
	1972 Chief \$5.01	1	40	95% on 5% off	10.0	10.0	18.0	\$5.01	Local	100
	Staff \$3.50	1	15	5% off	5.0	5.0		\$1.50 \$1.50	County County	
SPRINGPORT Village	1968 Chief \$1.43	1	35	on	15.0	30.0	0.0	\$1.43	Local	25
	Staff \$1.88 \$1.13	1 2	34 66	on off	15.0 15.0	8.0 14.0	48.0	\$1.88 \$1.50	Local County	25
SUMMIT Township	1968 Chief \$4.29	1	40	on	1.3	1.0	1.2	\$4.29	Local	5
	Staff \$3.77	7	252	33% on 66% off	23.1	21.0		\$3.77 \$1.50	Local Local	
	1972 Chief \$6.25	1	40	on	4.0	2.0	4.6	\$6.25	Local	5
	Staff \$4.81	7	252	33% on 66% off	70.0	42.0		\$4.81 \$1.50	Local County	

a/ This unit was created in the interim period, replacing state police and nonresident deputy sheriffs.

b/ Information not available.

c/ Information not available.

all of the other units were deputized by the Jackson County Sheriff. This entitled them to a number of benefits, including radio service from the sheriff's office. On occasions, the county sheriff would call for assistance from these local units outside of their territorial jurisdiction for which they would receive compensation from the county. This compensation or any unforeseen bonuses were not included in these rates.

Column (3) of Table 4 gives the total hours worked per week which included those hours for which the local unit paid compensation. In 1968, some officers spent time in court while off duty; these hours were added to the regular hours per week worked and the resulting wage rate computed. Column (4) indicates the time spent in court or court-related activities, whether the law enforcement official was on or off duty. Monthly hours in court, shown in column (5), include both the travel time and the actual time spent in court which included that time the officer had to wait for trial or for consultation with lawyers and judges. Monthly trips to court, shown in column (6), for the period 1972 include all trips taken to the Twelfth District Court in the City of Jackson that could have been avoided or taken care of by the local Justice of the Peace had there been one in the township. Monthly trips in 1968 include the actual number of trips made to the justice court or courts for judicial business only. Column (7) gives the number of round trip miles to court made in 1968 measured from the unit's headquarters or home base of

operation which may have been his home or the local fire station depending upon the location of the radios from which these law enforcement officials could be contacted. In 1972, round trip miles to court, given by column (7), were computed from the unit's headquarters or the home base of operation. While attending court off duty, these officials received compensation from the county on the round trip miles from their homes. This point was made clear when asking the respondent this question. The rate of compensation, shown in column (8), depended on whether the officer was on or off duty. The governmental unit paying the law enforcement official compensation for court related activities is shown in column (9). If he was on duty, then the local unit paid the allowances in the form of depreciation and operating expenses of the local unit's police car. While off duty, the officers received 6 dollars per half day and 10 cents per mile for appearing in court from the county.⁵⁹ Even though the Twelfth District Court is in session less than eight hours per day, the law enforcement officials must be present and available for the eight-hour day. In the event the trial is delayed and the officer must return the following afternoon, he does not receive additional mileage and it seems doubtful that he receives an additional allowance for the second half-day. The law enforcement officials

⁵⁹ This compensation is made possible by the law enforcement official appearing in court off duty as a witness and is set by statute. See Michigan Compiled Laws Annotated, 1970, 775.13.

surveyed in this study did not receive compensation from both the county and the local unit for the same appearance. Column (10) illustrates the percentage of enforcement which came under ordinance violations as compared to statute violations. This researcher suspects that the Reorganization may have affected the number of arrests made for ordinance violations. Because of changes in arrest policies occurring during the intermittant period this comparison could not be made with any degree of accuracy, given the lack of necessary data.

It was thought that some of the information given by these law enforcement officials was more reliable than others. Whenever possible, this information was cross checked with the information obtained from the Justice of the Peace, gauging the actual mileage with the use of maps or an automobile, or interviewing other persons with knowledge of these law enforcement units (township clerks, county clerks, and clerk for the Twelfth District Court). Remaining inaccuracies in the data can be primarily attributed to the limited resources of the researcher, rather than to the respondents themselves.

Computation of Selected Impacts

To accurately measure the selected impacts of the Reorganization it was necessary to employ with and without analysis--the objectives being to account for all variables in the comparison and to increase the probability that those

impacts attributable to the Reorganization were the direct result of Reorganization.

Increased Costs to the Local Unit

Increased costs to the local unit were computed on the basis of the additional time and travel allowances for which the local unit was responsible. The objective is to identify the increase in costs to the local unit that can be attributed to the Reorganization. We will locate the "with" situation, which can be taken from the data in Table 4 and the "without" situation which will include the increased costs which would have occurred in the absence of the Reorganization. The difference is the cost of the Reorganization and is shown in Table 5. To arrive at this situation, we assumed that the resources allocated to court activities by law enforcement officials would have increased as a result of increases in population in the intermittent period. This assumption was made for the following reasons: (1) There was no way of measuring the actual change in the number of violations occurring in the local unit or the law enforcement official's time allocated to that change in the number of violations. Records of the Justices of the Peace are scattered, making valid estimates of the number of violations occurring in 1968 difficult. Records within the Twelfth District Court reflect jurisdictional consolidations of justice courts and circuit courts. Changes in the number of violations from

Table 5. Selected Impacts of the 1969 Court Reorganization in Jackson County, Michigan
(Dollars per Month)

Law enforcement unit	Cost to LOCAL UNIT time (1)	Cost to COUNTY time (3)	Nominal increase in resources time (5)	Uncompensated foregone earnings of law enforcement officials (7)	LOCAL UNIT cost plus foregone earnings (8)	Actual increase in resources with compensation to law officials (9)
BLACKMAN Township	241.42 -10.51	92.94 9.77	334.36 -0.74	496.57	727.48	830.19
BROOKLYN Village and COLOMBIA Township	None reported ^{a/}	19.65 34.20	19.65 34.20	41.66	41.66	95.51
CONCORD Village and Township and PULASKI Township	160.98 56.00	14.94 14.00	175.92 70.00	45.48	262.46	291.40
GRASS LAKE Village	35.67 16.20	4.12 5.40	39.89 21.60	13.70	65.57	75.17
LEONI Township	111.24 4.00	56.82 20.00	168.06 24.00	170.46	285.70	362.52
NAPOLÉON Township	None reported	19.77 44.00	19.77 44.00	15.16	15.16	78.93
PASMA Village and Township and SANDSTONE Township	None reported	60.00 36.00	60.00 36.00	273.20	273.20	396.20
SPRING ARBOR ^{b/} Township	-4.73 -9.45	0.00 0.00	-4.73 -9.00	0.00	-14.18	-14.18
SPRINGPORT Village	0.00 57.34	22.05 45.41	22.05 102.75	-8.16	49.18	117.05
SUMMIT Township	88.04 5.44	45.31 9.52	133.35 14.96	142.59	236.07	290.90

^{a/} None reported: While the respondents reported that all court related activities were done off duty at the expense of the county, this researcher suspects that these law enforcement officials were engaged in court related activities while on duty at the expense of the local unit that would not have occurred in the absence of the Reorganization.

^{b/} The impact to Spring Arbor Township represents an unusual case. The negative results can be attributed to the fact that the law enforcement officials utilized a nonresident Justice of the Peace which required a greater travel distance prior to the Reorganization. For a better explanation of this behavior, see Chapter V, page 18.

the justice courts to the Twelfth District Court include violations previously heard in the circuit court prior to 1969. (2) Other studies have used the next highest court to provide estimates of the change in violations occurring during some time period.⁶⁰ In this case, we cannot use circuit court cases to estimate the change in the number of violations occurring because the jurisdiction of the circuit court has changed. (3) When we consider the nature of violations heard by the Justice of the Peace, those misdemeanors punishable by not more than 100 dollars fine and/or 90 days imprisonment, including minor traffic violations and public disorder violations which are committed by average citizens, we can expect a close correlation between changes in the number of violations and changes in population.

The compensation of the figures in columns (1) and (2) of Table 5 can be illustrated using data from Summit Township's law enforcement unit. This before and after observation must be adjusted for the increase in law enforcement official time that would have occurred even in the absence of the Reorganization. In the absence of necessary data, it was assumed that the increase in court time without the Reorganization would have been a function of population growth. Therefore, we had to find the rate of population increase occurring during the intermittent period. Due to the lack of yearly data, the population had to be estimated for the

⁶⁰Edson R. Sunderland, op. cit.

two periods: 1968 and 1972. These estimates were made from census data (Appendix E) in the following manner. The total increase in population was computed for the ten-year period:

(1)	Population in 1970	21,754	
	Population in 1960	18,101	
		3,653	Total increase for ten-year period

From the total increase in population occurring in the ten-year period, we estimated the average annual increase in population during the ten-year period:

$$(2) \quad \frac{3653 \text{ total increase}}{10 \text{ years}} = 365 \text{ annual increase in population}$$

With the annual increase occurring during the ten-year period, we estimated the population for 1968:

$$(3) \quad \begin{array}{rcl} \text{Population in 1970} & = & 21,754 \\ & - & 365 \text{ increase in 1968} \\ & - & 365 \text{ increase in 1969} \\ & \hline & & 21,024 \text{ 1968 population} \\ & & \text{estimate} \end{array}$$

To compute the population in 1972, the assumption was made that the annual increase in population for the period 1960 to 1970 continued until 1972:

$$(4) \quad \begin{array}{rcl} \text{Population in 1970} & = & 21,754 \\ & + & 365 \text{ increase in 1970} \\ & + & 365 \text{ increase in 1971} \\ & \hline & & 22,484 \text{ 1972 population} \\ & & \text{estimate} \end{array}$$

The estimates of 1972 and 1968 populations being served by these law enforcement units and used in measuring the implicit

costs for the remaining localities can be found in Appendix E. To compute the increase in the law enforcement unit's time spent in court activities that would have occurred in the intermittent period, the rate of population increase was computed:

$$\begin{array}{rcl}
 (5) & \begin{array}{l} \text{Population estimate for 1972} \\ \text{Population estimate for 1968} \end{array} & \begin{array}{r} 22,484 \\ -21,024 \\ \hline 1,460 \end{array} \text{ estimated} \\
 & & \text{population} \\
 & & \text{increase} \\
 \\
 (6) & \begin{array}{l} \text{Population in 1968} \\ \text{Population increase} \end{array} & \begin{array}{l} \frac{21,024}{1,460} = 0.07 \\ \text{population} \\ \text{rate} \\ \text{increase} \end{array}
 \end{array}$$

Since the chief of the law enforcement unit received a higher wage rate than members of his staff, the increase in the chief's time spent in court activities had to be computed separately from the increase in the staff's time. The survey revealed that the chief spent 1.33 hours in court activities during a typical month in 1968. Using the above assumption, in the absence of the Reorganization, the chief's time devoted to court activities would have increased according to the rate of population increase (7 percent):

$$\begin{array}{rcl}
 (7) & \begin{array}{l} 1.33 \text{ hours in 1968} \\ \times 0.07 \text{ expected rate of increase} \\ \hline 0.09 \end{array} & \begin{array}{l} \text{hours increase in chief's time due to} \\ \text{population increase} \end{array}
 \end{array}$$

The total time that the chief would have spent in 1972 court activities in the absence of the Reorganization is the sum of the time spent in 1968, plus the increased time due to population increase:

(8)	1.33	hours in 1968
	+ .09	hours increase due to population
	1.42	hours chief would have spent in court activities in 1972 <u>without</u> Reorganization

To compute the net increase in the chief's time spent in court due to the Reorganization, we subtract the without situation from the with situation. In other words, we subtract the estimated amount of time the chief would have spent in court from the amount of time actually spent in court as revealed by the survey:

(9)	4.00	hours in 1972 with Reorganization
	- 1.42	hours in 1972 without Reorganization
	2.58	hours increase due to Reorganization

This increase represents the impact of the Reorganization on the time the chief spends traveling to and in court. The value of this increase is computed by using the 1972 wage rate of the chief as revealed in the survey. It is assumed that this same rate would have existed in 1972 even in the absence of the Reorganization. Since all court time was spent while the chief was on duty, the township bore the expenses:

(10)	2.58	hours increase
	\$ 6.25	per hour (1972 wage)
	\$16.13	value of increased chief time due to the Reorganization

This figure represents the increased costs of the police chief's time spent in court per month.

To compute the increase in time required by the staff of the law enforcement unit, we use the same technique used

to compute the increase required by the police chief. The survey revealed that the staff spent 23.10 hours in court activities during a typical month in 1968 [Table 4, column (5)]. In the absence of the Reorganization according to the assumptions made earlier, the staff's time devoted to court activities would have increased according to the rate of population increase (population increased by 7 percent from 1968 to 1972 as estimated in computation 6).

(11)	23.10	hours in 1968
	x 0.07	expected rate of increase
	1.59	increase in staff's time due to population increase

The total time that the staff would have spent in court activities in the absence of the Reorganization is the sum of the time spent in 1968 and the increased time due to population increases:

(12)	23.10	hours in 1968
	1.59	hours increase due to population increase
	24.69	hours staff would have spent in court activities in 1972 <u>without</u> Reorganization

This number represents an estimate of the without situation. To compute the net increase in the staff's time spent in court due to the Reorganization, we subtract the without situation from the with situation [obtained in the survey and summarized in Table 4, column (5)]:

(13)	70.00	hours in 1972 <u>with</u> Reorganization
	24.69	hours in 1972 <u>without</u> Reorganization
	45.31	net increase in staff <u>hours</u> due to the Reorganization

Only 33 percent of these hours were spent while on duty, hence the local unit compensated for 14.95 of these hours at the normal wage rate paid to the staff. (The remaining time spent in court activities was spent off duty with the county compensating and is accounted for in the next section.)

(14)	45.31	total hours
	x .33	time on duty
	14.95	hours in court while on duty
	\$ 4.81	wage rate (1972)
	\$71.91	value of increased staff time due to Reorganization per month

The adjusted value of the increased court time for the law enforcement unit is obtained by adding the chief's and staff's increases due to the Reorganization:

(15)	\$16.13	increase in chief's time
	+ 71.91	increase in staff's time
	\$88.04	

This figure represents the total increased cost per month to Summit Township in law enforcement official's time spent in court activities and is shown in column (1) of Table 5.

To compute the increase in the travel expenses attributable to the Reorganization, we obtain the mileage differential. (A summary of mileage figures revealed in the questionnaire can be found in column (7) of Table 4.) Law enforcement officials traveled:

(16)	4.6 miles round trip to District Court
	1.2 miles round trip to Justice of the Peace
	3.4 mile increase per round trip

The total number of miles traveled is computed by multiplying the number of trips per month made in 1972, which were made while the officers were on duty and paid by the local unit at the 1972 rate of 10 cents per mile (the number of round trips to court was revealed in the survey, and reported in column (6) of Table 4):

(17)	3.4 miles
	16 trips
	54.4 miles
	.10 per mile

\$5.44 total increase to Summit Township in travel expenses per month

This figure represents the increase in travel expenses required of Summit law enforcement officials in using the reorganized court of limited jurisdiction. This figure is displayed in column (2) of Table 5. The measuring of this travel impact was done under the assumption that centralization affected only the distance traveled to court and not the actual number of trips made. It can be observed from column (7) of Table 4 that both the round trip distance to court and the number of trips to court have increased. For lack of data, we made no attempt to compute the increased travel costs resulting from additional trips made to court. While some of the increase in the number of trips made to court can be attributed to more violations as a result of population increases, it is believed that centralization and consolidation may have led to an increase in the number of trips necessary to process a case, as well as to an

increase in travel distance.⁶¹ If this hypothesis proves correct, then the estimated increases in travel resources required to process a case reported in columns (2) and (4) of Table 5 may be considerably less than the total impact in travel expenses due to the Reorganization.

Distribution of Total Cost to County Via Compensations

The following figures represent the share of the implicit costs borne by the county from compensations to law enforcement officials for their appearances in Twelfth District Court. Separate figures are provided for the costs in time spent in court and travel allowances. Mileage was computed on the basis of 10 cents per mile and court time was computed on the basis of 6 dollars per half day. Since the law enforcement officials do not receive compensation from both the county and the local unit, their rate of compensation was computed at \$1.50 per hour.⁶²

⁶¹The suspicion that the Reorganization may have led to an increase in the number of trips required to process the same number of cases stems from fragments of evidence obtained while talking to law enforcement officials.

⁶²The rate and requisites for any witness attending court is set by statute. Law enforcement officials are entitled to receive witness compensation from the court if they attend court off duty. Michigan Compiled Laws Annotated, 600.8323, 1967, states:

"Witnesses in the district court shall be entitled to receive the same fees and mileage allowances to which witnesses in circuit court are entitled, payable by the district control unit."

(Footnote is continued on next page.)

While the Twelfth District Court does not hold trial the entire day, the law enforcement officials are required to be present for the four-hour half day or the eight-hour day in the event of a delay. To compute the costs to the county, we are only concerned with the time and travel allowances paid to the law enforcement official while he was off duty. (The on-duty costs payed by local units were accounted for in the previous section.) The figures in columns (3) and (4) of Table 5 give an illustration: Summit Township's police chief attended court and court related activities while on duty; hence, all of the costs were incurred by the township. However, since two-thirds of the staff's time in court was spent in court while off duty, this became an expense to the county. Of the 45.31 adjusted, increased hours spent in court by the staff (from computation 13), only 30.21 hours, were compensated by the county.

The Michigan Compiled Laws Annotated, 775.13, 1970, states:

"Whenever any person shall attend any court as a witness in behalf of the people of this state upon the request of the public prosecutor, or upon a subpoena, or by virtue of any recognizance for that purpose, he shall be entitled to the following fees: For attending in a court of record (circuit court), 12.00 dollars each day and 6.00 dollars for each half day... and for traveling, at the rate of 10 cents per mile in going and returning from the place of attendance, to be from the residence of such witness if within the state... No peace officer shall receive any fee as a witness in behalf of this state if he is on duty at the time he shall attend court, nor shall he receive compensation in going to the place of attendance, unless he shall travel thereto at his own expense."

(18)	\$45.31	total hours
x	.67	time off duty
	30.21	hours in court off duty
x	\$ 1.50	rate of compensation
	\$45.31	value of court time compensated by county per month

This figure represents the total amount of compensation paid to law enforcement officials of Summit Township by the county for time spent in court during a typical month. This figure can be found in column (3) of Table 5.

Since two-thirds of staff travel to court was done while off duty, this was also an expense to the county. Of the forty-four trips made to court during a typical month in 1972, twenty-eight of them were made off duty. (This number was revealed by the survey and can be found in column (6) of Table 4.) The cost of travel to the county can be computed by multiplying the number of trips made while off duty times the differential times the 1972 rate of 10 cents per mile.

(19)	3.4 miles increase
x	28 trips made off duty
	95.20 additional miles
x	.10 per mile
	\$ 9.52 total travel expense compensated by county per month

This figure represents the total amount of travel expenses compensated by the county to law enforcement officials of Summit Township during a typical month. This figure can be found in column (4) of Table 5.

Nominal Increase in Resources

The figures in columns (5) and (6) in Table 5 represent the monthly increase in law enforcement official resources necessary to use the facilities of the Twelfth District Court over those resources required to use the local justice courts. Separate figures are provided for resources in law enforcement officials' time and mileage allowances. These figures were obtained by adding the total adjusted increase in costs to the local unit and county from columns (1) and (3) for time and the total increase in travel expenses from columns (2) and (4). This increase is considered nominal because this is the actual expense being paid out of the county and local budgets. This may not reflect the opportunity cost of the resources involved.

Uncompensated Foregone Earnings of Law Enforcement Officials

Since much of the law enforcement official time in court was spent while off duty, they received a rate of compensation below their normal salary. Prior to the Reorganization, law enforcement officials were in court while on duty, receiving their regular salary. The earnings foregone by these officials can be considered an impact of the Reorganization. To compute this impact, we determine how much of the adjusted increased time spent in court was compensated by the county at 1.50 dollars per hour. The opportunity cost of the officer was his regular salary when the total

time employed by the unit and his off-duty court time did not exceed 40 hours per week. When this total time exceeded 40 hours per week, his opportunity cost was computed at one and one-half times his regular wage rate. Reasons for using this overtime rate include: (1) state law enforcement officials are compensated at this overtime rate by the State law enforcement budget; (2) nonresident deputy sheriffs employed by Jackson County receive overtime pay for off-duty hours spent in court exceeding two hours; and (3) if the law enforcement official was to seek employment elsewhere, his overtime efforts may be compensated at overtime rates.⁶³

The uncompensated foregone earnings figures in column (7) of Table 5 were obtained (using Summit Township as an illustration) from the data revealed in the survey (Table 4) and the figures from computation 13. We found that 30.21 hours spent in court by the Summit Township staff was done off duty at the rate of 1.50 dollars per hour. Since these 30.21 hours were in addition to the staff's regular 40 hour work week, their opportunity cost was computed at 7.22 dollars per hour. This figure was derived by taking the regular

⁶³ During the period of research, the police chief of Leoni Township resigned from the force for financial reasons to take a job which he felt compensated him for his long hours of overtime. The police chief of the Parma-Sandstone unit was also contemplating resigning from the force because of insufficient compensation. This may not be too extreme of an assumption when we consider the fact that some of these law enforcement officials held jobs in addition to their job on the force.

wage rate revealed in the survey (column (1) of Table 4) and multiplying it by 1.5. The monthly foregone earnings of law enforcement officials was computed as follows:

(20)	\$ 7.22	per hour wage rate
	-1.50	compensation from county
	\$ 4.72	per hour foregone
	30.21	hours off duty
	\$142.59	total foregone earnings of law enforcement officials per month

The above figure may be found in column (7) of Table 5.

What this amounts to is an estimate of increased costs which are born by the law enforcement officials and not the taxpayers.⁶⁴

Increased Costs to the Local Unit Plus Foregone Earnings of Law Enforcement Officials

Column (8) of Table 5 represents the total impact to the locality of the 1969 Court Reorganization. These figures were obtained by adding the adjusted increase in time and

⁶⁴The opportunity cost chosen for hours spent in court in addition to the regular forty-hour week may not reflect cost minimization or the least cost of utilizing the Twelfth District Court. The local units could hire additional law enforcement personnel and shift the burden of implicit costs to the local taxpayer. Nevertheless, this figure is important in identifying the groups which are bearing the implicit costs. Since the present statute prohibits any additional compensation by the court while the law enforcement officials are off duty and since the local government has been reluctant to employ additional personnel to relieve these overtime court duties, this figure represents the valid opportunity cost from which to measure some impacts of the Reorganization to local law enforcement officials of Jackson County.

travel expenses [columns (1) and (2)] to the foregone earnings of law enforcement officials [column (7)]. While these totals cannot be accountable to one decision making unit, some observations can be made. If the local unit had to employ additional man hours in the local unit to offset the increase in court time by the existing force, and if these hours in court are compensated by the county, the foregone earnings of the officials may be reflected in the local unit's police budget through the employment of additional man hours at regular wage rates above those rates compensated for by the county. The validity of this particular impact rests on the assumption that if the patrol time is to be maintained in the local community, taxes must go up. If the local community does not add additional patrol time, the implicit cost impact of processing cases in the Twelfth District may be borne by the law enforcement officials themselves.

Actual Increase in Total Resources with Reorganization

Column (9) of Table 5 represents the total increase in law enforcement official resources in terms of time and travel expenses necessary to use the services of the Twelfth District Court [from columns (5) and (6) of Table 5] in addition to the foregone earnings of the law enforcement officials while attending court off duty [column (7) of Table 5.] This figure represents the impact of the 1969 Reorganization on the amount of law enforcement official resources required

to use the courts. These figures do not represent the total direct impact of the Reorganization to rural citizens of Jackson County in terms of implicit costs required to use the courts. Civil cases also require more travel time for local citizens, so the estimation of the direct impact estimates of column (9) of Table 5 may be too low.

Conclusions

There can be little doubt that the 1969 Court Reorganization has differentially affected various groups and localities in Jackson County, Michigan. Centralization and consolidating the courts of limited jurisdiction has led to higher implicit costs in utilizing the local judiciary, local law enforcement officials use more resources to process a case, and it appears that the rural citizens and in some cases the local law enforcement officials are bearing the burden of this direct impact. The selected impacts of the Reorganization to local communities found in column (8) of Table 5 can be illustrated for each locality of the study and computed on an annual basis. These figures are summarized in Table 6. These impacts are thought to be of significance when we examine the magnitude of local law enforcement budgets. The second row of Table 6 gives the annual law enforcement budget allocated to salaries in 1968 as revealed in the survey (displayed in Table 4). The third row of Table 6 gives the percentage increase in the local law enforcement budget

Table 6. Estimated Annual Impact of the 1969 Court Reorganization to Local Communities in Jackson County, Michigan

	BLACKMAN Township	BROOKLYN Village and COLOMBIA Township	BROOKLYN Village and Township and PULASKI Township	GRASS LAKE Village	LEONI Township	NAPOLEON Township	PARMA Village and Township and SANDSTONE Township	SPRING ARBOR Township	SPRINGSPORT Village	SUMMIT Township	Total
Annual impact in increased implicit costs from time and travel resources plus foregone earnings	8,729.76	499.92	3,149.52	786.84	3,428.40	181.92	3,278.40	-170.6	590.16	2,832.84	23,307.60
Annual law enforcement budget allocated to salaries in 1968	12,920.00	8,500.00	6,500.00	7,993.00	32,400.00	7,020.00	0 ^{a/}	7,560.00	7,200.00	64,500.00	154,593.00
Increase in law enforcement budgets allocated to salaries necessitated by the Reorganization	67.56	5.88	48.45	9.84	10.58	2.59	--	-2.25	8.20	4.40	12.96 ^{b/}

^{a/} The Parma-Sandstone unit was created in the interim period.

^{b/} This figure represents the increase total explicit costs as a percentage of the total law enforcement budget to all local units surveyed in the study with the exception of the Parma-Sandstone unit. This figure was computed as follows: 23,307.60-Parma-Sandstone Units 3278.40
154,593.00 total budget

allocated to salaries due to the Reorganization. These figures represent the increase in local law enforcement budgets necessary to utilize the services of the reorganized courts if the local community expects to keep the same level of police protection and provide adequate compensation to their law enforcement officials. The reader is reminded of the fact that the total impact of the Reorganization as shown in Table 6 falls on two groups within the local community: law enforcement officials and taxpayers. Since only part of the increase in the amount of time required in court related activities was computed at the normal wage rates, it was necessary to include the foregone earnings of law enforcement officials. These foregone earnings reflect the true increase in the amount of time required by local law enforcement officials. Other impacts of the Reorganization which are considered important but not measured in the study involve: (1) the increased travel costs to local citizens pursuing civil litigation, (2) the implicit costs to non-resident law enforcement officials patrolling the area who may also be using more resources in court related activities.

In light of these direct consequences of the Reorganization to rural citizens and the various institutional designs discovered in other states, one cannot help but ask why was such an elaborate reorganization effort necessary to accomplish the goals set down by reformers? Could not the legislature have designed a court system without these unfavorable consequences to these groups and localities? Or was it done

on purpose? To give some insight on this question of importance to rural citizens, we examine the various components of the impact due to the Reorganization. There are several aspects of the reorganization package thought to have varying degrees of consequences to the citizen of the Twelfth Judicial District. The increase in travel expenses required by local law enforcement officials to process cases as computed in the data can be attributed directly to centralization. This observation is straightforward. Law enforcement must drive greater distances to and from court.

The resources required of the law enforcement officer while attending court can be attributed to consolidation and centralization and perhaps indirectly to professionalization. The increased time required to process a case can be attributed directly to the time the officer has to wait before the trial or before consultation with judge or prosecutor. While some of this increase can be attributed to more violations, the net increase due to the Reorganization is substantial. Under the Justice of the Peace system, waiting time in court was a rare phenomenon. When asked how much of their time in the Twelfth District Court was productive in terms of attending trial or in consultation, it was found that on the average, 80 to 85 percent of the law enforcement official's time was spent waiting, while only 15 to 20 percent was actually productive. In addition to this unproductive time spent waiting in court, there is the increased time traveling to and from court.

Although cause and effect relationships are sometimes difficult to identify, we can gain some insight by examining some of the formal rule changes that have taken place in the courts of limited jurisdiction. Prior to the Reorganization, provisions were made for the election of as many as thirty-eight Justices of the Peace in the area that now constitutes the Twelfth Judicial District. We saw earlier in Chapter Five that less than half of the Justices of the Peace were active. A mechanism did exist, however, whereby the number of judges available could adjust to the demand for judge hours by citizens and law enforcement officials. Under the district court system, provisions are made for only two judges in the Twelfth District Court.⁶⁵ The decline in the number of judges under the reorganized courts may be an indirect consequence of professionalization. Professional judges can be quite expensive, requiring large portions of state and local judicial budgets. Because these budgets are often limited, this in turn becomes a constraining factor on the number of professional judges which can be employed.

While additional departments have been set up in the district court to expedite cases, these divisions still compete for the judge's time. The number of judges' hours available may have declined as a result of the Reorganization which can be attributed to both a consolidation in the

⁶⁵Michigan Compiled Laws Annotated, 600.8119, 1967.

numbers of judges and a consolidation of jurisdiction.⁶⁶

Judges in the district courts handle not only those cases once under the jurisdiction of the justice court, but cases once under the jurisdiction of the circuit court. If the number of available judge hours declines, and the number of violations remain constant or increase slightly with population, we might expect an increase in the amount of time it takes to process a case and perhaps an increase in the number of trips to court necessary to process a case. While this research does not address itself to the specific question of why have these implicit court costs increased, some explanation is necessary before policy proposals can be made.

Policy Implications

Problem Areas

We have attempted to measure some of the direct consequences of the Reorganization to rural citizens of Jackson County Michigan. Computing the impact of the Reorganization on implicit costs of using court facilities is only the first step in measuring some dimensions of performance within the local judiciary. We now turn to the implication of this impact and ask a more fundamental question, what do these

⁶⁶ It should be pointed out that the number of part-time justices and full-time judges are not comparable, but nevertheless the numbers do suggest a difference in judge hours available when we consider the amount of trial time held by the Justices of the Peace and the expanded jurisdiction of the Twelfth District Court.

consequences mean to rural citizens of Jackson County?

The implicit costs of using the court of limited jurisdiction has increased. This is considered a direct consequence of the Reorganization. The implicit costs manifest themselves in several forms. First, the costs may be borne by the local taxpayers. Realizing the decline in patrol time as law enforcement officials spend more time in court, they must employ additional officers to maintain the same level of police protection. The assumption has been made throughout this research that the demand for police protection via patrol time has remained constant in the with and without analysis. This is not an unrealistic assumption when we consider the law enforcement official's role in combating crime.⁶⁷

The complexity of the criminal motivation is such that whether a potential criminal is tempted to commit a criminal act or not depends on his or her perception of the alternatives... There is always a risk that the criminal may be caught, and the potential criminal may perceive such a risk... But he is not likely to be deterred from committing a criminal act by the perception that there is a small chance that he or she will be apprehended, prosecuted, and punished.

Because the rural citizens of Jackson County have a demand for a certain level of patrol time, the Reorganization has had a direct impact on the costs of providing local police protection. This impact could be reflected in: (1) increased taxes to support additional patrol hours, (2) a

⁶⁷ U. S. Department of Health, Education and Welfare, Toward a Social Report (Washington: U. S. Government Printing Office, 1969), p. 62.

shifting of funds from some other public service provided by the local government to the law enforcement budget, in which case the citizens may now be receiving less of some other public service. In either case the impact is primarily to rural citizens of Jackson County.

Second, some of the implicit costs have been borne by law enforcement officials. By attending court while off duty, they receive considerably less for their efforts than for court related activities under the Justice of the Peace system. These costs were computed as foregone earnings of law enforcement officials. Under the Justice of the Peace system, court related activities were accomplished while on duty. The patrolman attended court for relatively short periods of time while remaining in the local community as a deterrent to minor crimes handled by the justice court. Under the district court system, the law enforcement official must leave the local community. For the local community to retain comparable levels of police protection, the law enforcement official attends court while off duty. In those localities where this is taking place, the law enforcement official bears the implicit costs and not the local taxpayer. There is considerable evidence of this taking place in Jackson County.

Returning to the theme of this final section, we ask the question of utmost importance to local decision makers, what might be the indirect consequences to local citizens if their law enforcement officials bear the implicit costs of

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the reorganized courts? While this relationship was not measured in the research, we can make a few observations on how these direct consequences of the Reorganization may influence the behavior of law enforcement officials which may have indirect consequences to the local community.

If we assume that the local law enforcement official is dedicated to his profession and that he will make arrests regardless of whether or not he will be adequately compensated for appearing in court on his time off, then the primary factor influencing his effectiveness to deter crime in the community involves his actual presence in the community. When the officer spends time in court while on duty, he loses some of his effectiveness as a law enforcement official. In this case, the officer bears the full impact of the increase in implicit costs. He will make the same number of arrests and perhaps spend the same amount of time in the local community. The community shares in the burden only when he leaves the local area for long periods of time while on duty.

If we relax the assumption that law enforcement officials always perform out of total dedication to their profession, then his shouldering of the implicit court costs may have a considerable impact on his behavior and his willingness to make arrests. When talking to local law enforcement officials and former Justices of the Peace, it was indicated that the amount of time and other resources necessary (on the officer's behalf) to process the violator may discourage

arrests for certain types of violations and during certain time periods.⁶⁸ Public administrators involved with other law enforcement units realized the possible impact the foregone earnings issue would have on police behaviors and their attempt to offset some of these foregone earnings. The Michigan State Police receive overtime wages payable by the State Police budget for any time spent in court off duty and in addition to their regular forty hours. Nonresident deputy sheriffs employed by the county receive overtime wages, payable by the county Sheriff's budget, for time spent in court off duty which exceeds two hours. Any time we have individuals making decisions under informal rules which do not specify a specific behavior, we cannot assume that individual will always make the decision deemed desirable by the community. If the law enforcement official fails to make arrests at certain times for certain crimes, the question which becomes critical to policy makers involves those factors affecting police behavior. The indirect impact the Reorganization may have had on the performance of the local law enforcement unit in its contribution to the criminal justice system cannot be ignored.

⁶⁸ It was reported that in one of the more remote localities, the police chief was reluctant to make certain arrests which would lead to subpoenas for local citizens. Previous attempts to prosecute burglaries led to several trips to Jackson because of the increased waiting time and number of delays. In another locality, the law enforcement official reported that the amount of time necessary to process violators was not worth the arrest.

Some Additional Consequences

Another controversial issue surrounding the 1969 Reorganization involves the loss of local autonomy and the element of alienation which often result from efforts at centralization and consolidation. The loss of local autonomy may have resulted in a loss of the critical control mechanisms for regulating the performance of local courts. Under the Justice of the Peace system, deteriorating performance could be checked by the voice option, and the probability of those grievances being heard was relatively high considering the location and the number of Justices of the Peace. The voice mechanism is now several steps removed from the local citizen. The exit option, which could be used as a bargaining tool, no longer exists under the district court system. Attempts by local citizens to voice their dissatisfactions may be but a "cry in the wilderness," since the threat of exit is now impossible (unless you move to another district). Local citizens and law enforcement officials have no real choice but to take their judicial business to the Twelfth District Court. Local autonomy may not be a viable end in itself but much can be said for the bargaining and regulation mechanisms with the local judiciary. Checks and balances are vital to any organization in order for that organization to produce a quality performance. The remaining control mechanisms are found in the election of the district judges for six-year terms and in the supplementary salaries of judges and court personnel. Recent changes proposed for increasing

the State's portion of explicit court expenses might raise serious doubts on the responsiveness of the local judiciary to meet local needs.

Institutional Reorganization and Resource Allocation

The increase of the implicit costs necessary to utilize the services of the reorganized courts, the indirect consequences which may have resulted from the distribution of these costs, and the explicit costs necessary to operate the reorganized courts, constitute the price paid by rural citizens of Jackson for the new court system. At this point, the costs incurred by local citizens become quite evident. Some of these costs were known at the time of the Reorganization while others were either unknown or ignored.

The people of Michigan were told that the Reorganization was necessary, even at high costs, because of deficiencies inherent in the Justice of the Peace system. These deficiencies were generally summarized as poor justice flowing from the lack of legal training, the fee system of compensation, and poor court facilities. The survey of the justice courts of Jackson County in the final years of that office challenges the credibility of these criticisms. In addition to the observations in Jackson County, a Michigan court ruled in the 1963 People vs. Cheever decision that:⁶⁹

⁶⁹ Michigan Compiled Laws Annotated, 775.2, 1967.

The fee system by which Justices of the Peace are compensated for certain official acts does not create such a direct personal, substantial, or pecuniary interest of the justice in criminal proceeding before him that it can be said that in every case, defendant would be deprived of fair and impartial trial and of his rights under state and federal constitutions.

Nevertheless the Reorganization was accomplished. After five years of operating under the new system, it appears that the proposed benefits of the district court system are as illusive as the alleged criticisms of the Justice of the Peace system. If reformers cannot substantiate the benefits which would flow from reorganizing the courts of limited jurisdiction, then why should such efforts be attempted elsewhere? As a voter or representative of the people contemplating reorganization measures, one would ask, what is it going to cost and what is being bought? If the price appears rather expensive, then the next question would be, are there alternative designs which could achieve the desired ends?

The Reorganization in Michigan was quite extensive and one is forced to wonder why such an extensive rule change was necessary. We now examine the cost side of the Reorganization in searching for alternative rule changes that may have accomplished the improved outputs suggested by reformers. This discussion of a more selective rule change in the courts of limited jurisdiction may shed some light on the existing problems within the district court system.

In discussing the various costs associated with the local judiciary, it is useful to distinguish between explicit

and implicit costs. Although explicit costs were not specifically measured in this research, they have an impact on the local citizen's tax dollar. As a rational individual, it is not unrealistic for him or her to expect the proposed new outputs at least cost.

Enhancing the Efficiency of Judges. The most constraining factor within the district court system is the availability of judge time. Consolidating the number of courts, expanding the jurisdiction of the local court, and attempting to utilize only professional judges, has had a definite impact not only on explicit costs but implicit costs of utilizing the courts as well. To help alleviate this problem, it would be necessary to increase the number of judge hours available within the district court. Merely boosting the salaries of the existing judges may not accomplish this goal. The solution lies in enhancing the judge's efficiency. If the judge's purpose is to hand down better quality decisions, then most of his time should be allocated to that purpose. This can be accomplished by: delegating the judge's administrative responsibilities to a court administrator trained and employed specifically for those tasks. From speaking with district court judges on the problems of the district court, they suggest that much of their time is "wasted" in administrative tasks. More judge hours on the bench may mean less waiting time for law enforcement officials and a reduction in implicit court costs which may more than offset the cost

of a part-time or full-time court administrator. These implicit costs involve primarily those costs incurred by law enforcement officials or rural taxpayers from the length of time required to hear a case. The hiring of additional court personnel is largely at the discretion of the judges of the district court within the appropriations established by the district control unit.⁷⁰ These decision making units should explore the problems of judge efficiency and consider ways for enhancing that efficiency.

The lay versus professional judge issue has yet to be resolved. Lay judges have been used in the past. Their shortcomings may have been in thier lack of legal training. Local judiciaries in other areas and in Michigan prior to the Reorganization experimented with the para-professional judge. At a time when other professions are increasing the use of para-professionals, it is rather ironic that the judicial system pays so little attention to these possibilities. The Reorganization did not entirely do away with the non-professional judge, but retained this position in the form of a centrally located magistrate. Some performance dimensions within the district court may be enhanced by: experimenting and perhaps expanding the responsibilities of para-professional judges in making decisions limited in scope. In the context of this research and the problem setting for rural citizens in Jackson County, this measure has important

⁷⁰Michigan Compiled Laws Annotated, 600.8271, 1967.

policy implications. Employing the skills of para-professional judges could reduce the amount of time required to hear a case leading to a reduction in implicit court costs. Para-professional judges could hold court at various locations throughout the district, thereby reducing the implicit travel costs and perhaps increasing the effectiveness of law enforcement officials. The para-professional judge would be specially trained in decision-making and come under the supervision of the district court judges, receiving compensation in the form of a salary. An added benefit from such a program would be that the regular district judge would spend more time on those cases where he must bring all of his expertise to bear. At the present time, the duties of the district court magistrate are established by statute.⁷¹ An increase in the scope of his duties lies beyond the powers of the decision makers in any one district. The district court judges in Jackson County have the discretion to appoint additional magistrates and to decide when they shall hold court. However, since the magistrate is limited in his powers as a judge, regardless of his training, expanding the number of magistrates or requiring them to hold court in decentralized locations may not reduce implicit court costs significantly. Expanding his jurisdiction to include those cases which require the law enforcement official's presence would be much more effective in reducing implicit court costs.

⁷¹Michigan Compiled Laws Annotated, 600.8511, 1967.

This study along with others suggest that the resources required to use the courts of limited jurisdiction can be reduced if judge time is increased; hence, the waiting time by law enforcement officials, witnesses, and local citizens is reduced.⁷² Another way of enhancing the performance of the courts of limited jurisdiction is by: increasing the number of judges available in the district and consider the possibilities of staggered hours of holding court. Present problems of scheduling may simply be not enough judges for the number of violations. The use of additional judges may be justified if it leads to a substantial reduction in the implicit costs of using the district court. The number of judges in each judicial district is established by statute.⁷³ Efforts to increase the number of judges in any one district must be made through recommendations to the Legislature through the Supreme Court. Since the State pays the bulk of the district court judges' salaries, and the district control unit must provide the suitable court facilities, this measure could prove rather costly in terms of monetary and political resources.

Enhancing the Efficiency of Law Enforcement Officials.

In addition to those aspects of the Reorganization which

⁷² Institute of Judicial Administration, State and Local Financing of the Courts (New York: Institute of Judicial Administration, 1969), p. 15.

⁷³ Michigan Compiled Laws Annotated, 600.8119, 1967.

have affected rural citizens directly, there are those indirect impacts which may have occurred from the behavior of law enforcement officials bearing the burden of implicit court costs. To the extent that this phenomena is taking place, the effectiveness of both the courts of limited jurisdiction and the law enforcement official in combating crime will be seriously reduced. To insure that law enforcement officials do not become lax in duties of apprehending and processing the violators, adequate compensation should be paid for their efforts. State and county law enforcement officials realizing the implications of this problem have instigated measures to provide compensation for court related activities done off duty. Other law enforcement personnel in the Twelfth Judicial District continue to share an unequal burden of the implicit court costs growing out of the Reorganization. Their tolerance of these costs up until now has perpetuated the inefficiencies of the Twelfth District Court. The deteriorating relationship between the police, the courts and the community must be corrected if we expect these law enforcement officials to perform their duties. Solutions to this problem lie at alternative levels of government, depending upon which level of government is forced to bear the expense. Village and township governments can employ additional manpower to offset the reduction in patrol time as a result of the Reorganization or supplement the law enforcement official's salary while off duty and attending court in a manner similar to that being

done for nonresident deputy sheriffs employed by Jackson County. By either measure, the rural taxpayer bears the distributive impact of the Reorganization. The county can bear some of the implicit costs by increasing the amount of compensation to law enforcement officials. The problems involved with this measure lie in the fact that the schedule of compensation is set by statute.⁷⁴ An increase in the amount of compensation coming from the court itself could only come about through considerable political resources in the Legislature.

Recommendations for Proposed Future Changes. Further changes are being proposed in the Michigan courts of limited jurisdiction. Some of these changes would involve an increase in the amount of state supported funds flowing into the local judiciary. Any increase in state support of these courts of limited jurisdiction should be allocated to those areas which increase the judges, as well as the law enforcement officials' effectiveness as administrators of justice and to amend some of the adverse distributive impacts of the 1969 Reorganization to rural citizens. Pouring more money into the courts of limited jurisdiction will not automatically enhance the performance of that institution in its contribution to the criminal justice system. Unless that money is directed to constraining factors within those courts, the taxpayer will simply be out of another dollar. Additional

⁷⁴Michigan Compiled Laws Annotated, 600.8323, 1967.

funding of the district courts may prove effective in enhancing performance if additional judge hours are created by increasing the efficiency of existing judges or by employing additional judges. The possibilities of establishing training programs for para-professional judges at the state level should be explored. There is evidence that the rural citizen is bearing some of the adverse distributive impacts of the Reorganization. If Michigan's Chief Justice, Thomas M. Kavanagh, expects 1973 to "open a stellar period for Michigan's court system, a year to mark the beginning of great accomplishment and equitable court administration," we cannot ignore the rural citizen in his attempts to provide law and order in the community.

CHAPTER VII

NEEDED RESEARCH

This research has shown some of the consequences that reorganizing the courts of limited jurisdiction has had selected groups. These consequences involve primarily the input side of the local judiciary. Critical to this research was the magnitude and distribution of the implicit costs of utilizing the services of the courts of limited jurisdiction. We observed in the last chapter that the increased implicit costs accrued primarily to rural areas in their attempts to process their violators and at the same time provide police protection in the community.

Within the context of the structure conduct and performance model, we now have a framework for analyzing the impact of the Reorganization to local citizens. Employing this model in this research has forced this author to consider the relevance of his efforts in the broad context of the criminal justice system. In searching for this relevance, a host of unanswered questions were encountered. This final chapter attempts to put the findings of this research into their proper perspective in addition to discussing some of the largely unanswered questions about the Reorganization and its effects on various groups and localities.

In developing the model, the structure of the local judiciary which deals primarily with rules of the game was identified. A distinction was made between formal rules which require a specific relationship or behavior for the choice of inputs into the local judiciary and informal rules which do not require a specific relationship or behavior but merely bound the kinds of relationships or types of behavior that can exist within the local judiciary. A rule which required all courts of limited jurisdiction to be consolidated and centralized would be classified as formal while a rule which states that judges may determine where the court may sit in addition to those places specified by the formal rule is considered an informal rule bounded by the fact that the judge has to stand for election.

The distinction between formal and informal rules facilitates an understanding of conduct or behavior. Whenever the rule is quite formal we can expect the specified behavior will occur if complex administrative problems are not involved in enforcing these rules. Whenever the rule is informal, it becomes difficult to predict exactly what kinds of relationships or types of behavior will flow from the structure of the local judiciary. To be able to make accurate predictions as to how people will behave under informal rules, it is necessary to understand the written and unwritten aspects of these informal rules. We need to know the bounds on the actions of individuals as set by statute and any customs or traditions which may enter into the person's decision making

and influence his behavior.

The end product of the analysis is people. Within the context of the model, the impact an institution has on those people associated with the institution is defined as performance. Since the content of performance is rather vague, it is more useful to speak in terms of performance dimensions. Relevant performance dimensions are largely determined by the people associated with the institution and it is not unreasonable to expect disagreement among various interests on what constitutes desirable performance. Since tastes and preferences of various groups associated with the courts of limited jurisdiction vary, there may be a number of conflicting opinions on how to design the local judiciary. We identified the various groups associated with the local judiciary. We distinguished between the administrators of justice including judges, attorneys, and law enforcement officials and the people who use the courts. A further distinction can be made within the groups which use the courts between the accused and the consumer of court services or the citizens which rely upon the courts to play an integral part of the criminal justice system. The purpose of this research was to measure the impact of the 1969 Court Reorganization to those consumers of court services supporting the explicit and implicit court costs, living in the rural areas of Jackson County. Having identified the group associated with much of these research efforts, we displayed performance dimensions of importance to that group. Primary

attention was given to the input side of the Reorganization and the impacts that certain formal rule changes had on the cost of the local judiciary to rural citizens was measured.

At this point, it should become obvious to the reader that this research sheds light on how one aspect of the 1969 Reorganization has affected a particular group associated with the courts of limited jurisdiction. With a better understanding of where this research fits into the broad context of the Reorganization in its contribution to the criminal justice process, we begin an inquiry into the host of unanswered questions with suggestions for needed research.

The critical unanswered questions at this stage of the analysis involve the impact of the Reorganization on the output of the local judiciary. A performance indicator thought relevant to the output of the local judiciary is in its contribution to the criminal justice system via the judge's decision. The formal rule changes of the reorganization package constituted more than the consolidation and centralization of the courts of limited jurisdiction. One aspect of this package required that all judges must be attorneys and members of the Michigan State Bar Association and only these judges are authorized to hear cases in the courts of limited jurisdiction. What was not clear at the time the Reorganization decision was made and what remains largely an unanswered question today is what impact did the formal rule change requiring that all judges receive professional training have on the types of decisions the judge hands down?

Recent court reformers seem to concentrate on the notion of uniformity of justice. The underlying motives of creating a uniform court system are not always clear. This author suspects that in addition to "bureaucratic streamlining," court reformers are trying to design a court system which insures some uniformity in the kinds of decisions the judge hands down. Requiring all judges to receive formal legal training may not accomplish these ends.⁷⁵ At the present time, little effort has been made at measuring the effect the Reorganization has had on the uniformity of decisions handed down by judges. Before a state adopts a court system staffed with professional judges, the residents should ask, what are they getting for their money?

Another rule change stemming from the Reorganization involved upgrading court facilities. Strong criticism of the existing court facilities arose from some rather infamous events within the local judiciary. In one instance, it was alleged that the local Justice of the Peace passed sentence on a defendant while milking a cow and in another case, the Justice, also a farmer, was known to pass sentence from the

⁷⁵A report financed by the Saul R. Levin Memorial Foundation revealed that defendants in Detroit's Records Courts convicted of the same or similar crimes often get markedly different sentences. The study claims that the differences reflect the attitudes of the judges, all of which are attorneys. See "Sentences Vary Widely, Bar Claims," Detroit Free Press, October 20, 1972, p. 3-A.

seat of a tractor. On hearing these tales, some court reformers found such behavior disgusting. There is a consensus among court reformers that upgrading court facilities enhances the performance of local judiciaries. High standards in court facilities may be quite impressive to various groups associated with the court but have little if any effect on the kinds of decisions the judge hands down. Upgrading court facilities has a cost associated with it and the performance of the local judiciary's input side in terms of who pays for these facilities may have been known at the time of the Reorganization. What may not have been known at that time and what remains largely an unanswered question of the Reorganization involves the impact that improved court facilities has had on the judge's decisions. Has the upgrading of court facilities within Michigan's courts of limited jurisdiction led to greater uniformity in the application of the law and to generally better quality decisions? Before Reorganizational packages are designed for other local judiciaries, considerable research is needed on the impact of court facilities on the performance of local judiciaries.

Another aspect of the reorganization which was claimed to have an impact on the performance of the local judiciaries involved a better system of monitoring the courts. The reorganized courts have a more intensive system of administration and supervision. What effect have these administrative changes had on the judge's decisions? These administrative and supervisory changes have led to an increase in

the court's ability to collect data. This should prove useful to research efforts attempting to disclose what factors influence the judge's decisions.

The impact of these rule changes would be considered a direct impact on the performance of the courts of limited jurisdiction. The rule changes which have taken place within the local judiciary constitutes the structure of that system. Structure affects behavior which in turn influences performance. This research suggests that the overall performance of the courts of limited jurisdiction must be measured in terms of its contribution to the criminal justice system in its ability to provide some semblance of law and order. Analyzing the structure, conduct, and performance of the courts alone may not be adequate for determining the overall impact of the Reorganization on the criminal justice process. Rule changes within the local judiciary have impacts on other groups associated with the criminal justice process and it is critical that we identify these relationships if we are to understand the impact the Reorganization has had on the local communities' capacity to utilize the courts and to provide police protection. The choices made within the courts of limited jurisdiction affect the rules and the associated choices made by law enforcement officials. This relationship can be considered an indirect impact of the Reorganization.

In measuring the impact of consolidation and centralization on the implicit costs to rural areas, this research

discovered that some of these costs are not being borne by the local citizens but by the law enforcement officials themselves. Fragmented evidence obtained through interviews with local law enforcement officials show a reluctance on the part of some officers to make arrests for certain types of crimes at certain time periods. What advantage is there to any court system if law enforcement officials do not support their end of the criminal justice process. These indirect impacts are critical to analysis of the Reorganization. The overall effect of this implicit cost distribution on law enforcement officials' decisions must be understood if the evaluation of the Reorganization is to be complete.

A final issue which deserves considerably more attention than it has received in the past involves the methods of selecting judges and the effect this has on the kinds of decisions handed down. The 1969 Reorganization changed the voting boundaries from which these judges were elected. It is not unreasonable to assume that judges may cater to the tastes and preferences of their constituency in order to get reelected. One implication this has for measuring the impact of the Reorganization on the judge's decision is that the judge may now cater to a cross section of tastes and preferences of the voters in the judicial district. A consequence of such an institutional design is that the courts of limited jurisdiction may be less responsive to unique local needs. Uniformity in the application of the law within counties was one objective of the Reorganization.

The whole uniformity issue may be desirable from the point of view of the accused and the attempts to design a court system with uniformity as a desirable objective may reflect the desires of a particular interest group.

Designing court systems which cater to unique tastes largely ignores other groups associated with and dependent upon the courts of limited jurisdiction. Research is needed in this area to determine the impact of the voting boundary on the performance of the courts of limited jurisdiction and whose tastes will predominate. This issue is largely an empirical problem. The issue on whose tastes and preferences are to be reflected in the institutional design of the courts of limited jurisdiction becomes a normative question which must be answered by each person.

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APPENDICES

APPENDIX A

SUMMARY OF COURTS OF LIMITED
JURISDICTION IN OTHER STATES

Table A.1. State Courts of Limited Jurisdiction and Number of Justices, 1970

- Continued on next page -

State	Courts	No. of Judges	State	Courts	No. of Judges
Alabama	County Justice	NA	Kansas	Common Pleas	NA
	Recorders	NA		City	NA
		NA		County	NA
Alaska	District	16		Justice	NA
	Magistrate	45	Louisiana	Special Legislative	NA
Arkansas	County	73		Mayors	NA
	Municipal	60		Justice	NA
	Justice	300		Traffic	NA
				Municipal	4
California	Municipal	289	Maine	District	18
	Justice	262			
Colorado	County	83	Maryland	People's	11
	Municipal	35		Municipal	1
	Police Magistrate	115		Trial Magistrate	92
				Committing Magistrate	NA
Connecticut	Common Pleas	16	Massachusetts	Municipal	9
	Circuit	45		District	61
Delaware	Common Pleas	4		Juvenile	1
	Municipal	3	Michigan ^{a/}	Municipal	43
	Justice	52		District	166
				Magistrate	NA
Florida	Criminal Courts of Record	18	Minnesota	Municipal	112
	Courts of Record	14		Justice	474
	County	20			
	Justice	68	Mississippi	County	16
	Magistrate	2		City Police	NA
	Municipal	NA		Justice	500
	Metro Court of Dade County	NA	Missouri	Court of Criminal	
	Felony Court of Record	1		Correction	NA
Georgia	Courts of Ordinary	NA		Magistrate	NA
	City	NA		Municipal	NA
	Special Civil Criminal	NA	Montana	Municipal	NA
	Municipal	NA		Justice	107
	Justice	NA		Police Magistrate	184
	Magistrate	NA			
Hawaii	District Magistrate	26	Nebraska	Municipal	10
Idaho	Justice	96		Juvenile	2
	Police	NA		Justice	NA
				Police Magistrate	NA
Illinois	Magistrate	200	Nevada	Municipal	20
				Justice	56
Indiana	Municipal	8	New Hampshire	District	37
	City	60			
	Magistrate	4	New Jersey	County District	32
	Town	NA		Municipal Courts	393
	Justice	402			
Iowa	Superior	NA	New Mexico	Municipal	2
	Municipal	23		Magistrate	60
	Police	30			
	Justice	530			
	Mayors	900			

Table A.1. State Courts of Limited Jurisdiction and Number of Justices, 1970

- Continued from previous page -

State	Courts	No. of Judges	State	Courts	No. of Judges	
New York	County	33	Tennessee	County	NA	
	Criminal Court	78		General Sessions	NA	
	District	87		Municipal	NA	
	City, Town and Villages	2320		Juvenile	NA	
North Carolina	District	17	Texas	Criminal District	NA	
				Juvenile	NA	
North Dakota	County	12		County	NA	
	County Justice	41		County Criminal	NA	
	Police Magistrate	NA	Utah	Juvenile	6	
Ohio	Municipal	156		City	19	
				Justice	NA	
Oklahoma	Municipal Criminal	NA	Vermont	District	10	
			Virginia	County	96	
Oregon	District	29		Municipal	35	
Pennsylvania	Justice	71	Washington	Justice	187	
	County	17		Municipal	3	
	County	26		Police	232	
	Juvenile	2	West Virginia	Juvenile	1	
Magistrate	28	Justice		119		
Rhode Island	City	NA	Wisconsin	Municipal	NA	
	District	13		Wyoming	Justice	NA
South Carolina	County	NA	Municipal		NA	
	City Recorder	NA	South Dakota		District County	22
	Juvenile and Domestic Relations	NA			Municipal	NA
Justice	NA	Justice		NA		
	Police Magistrate	NA		Police Magistrate	NA	

^{a/} Source: Supreme Court of Michigan, 1971 Annual Report (Lansing, Michigan: Supreme Court of Michigan, William R. Hart, Administrator, 1972), pp. 132-140.

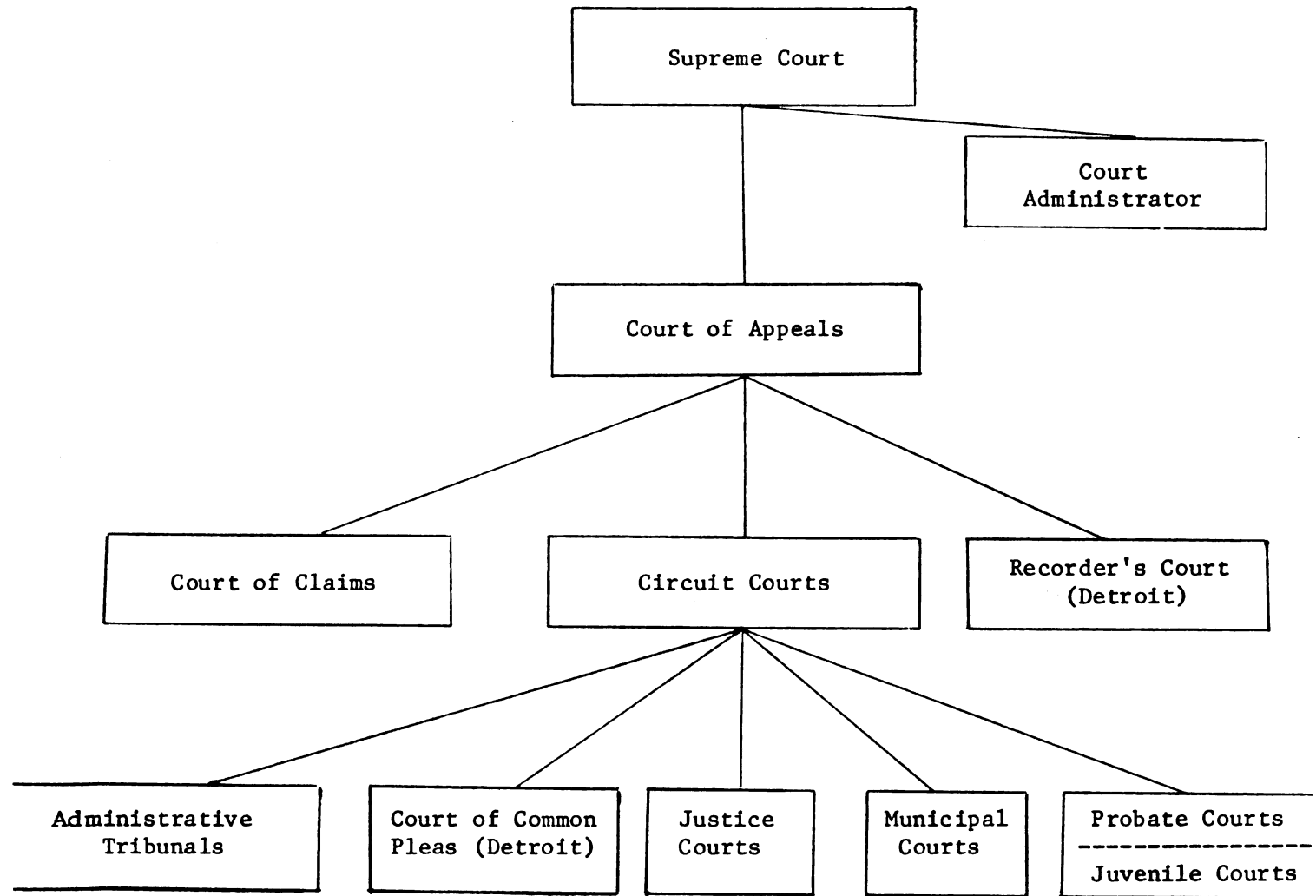
NA - Not Available.

Source: Advisory Commission on Intergovernmental Relations, State and Local Relations in the Criminal Justice System (Washington, D. C.: U. S. Government Printing Office, 1971), pp. 92-94.

APPENDIX B

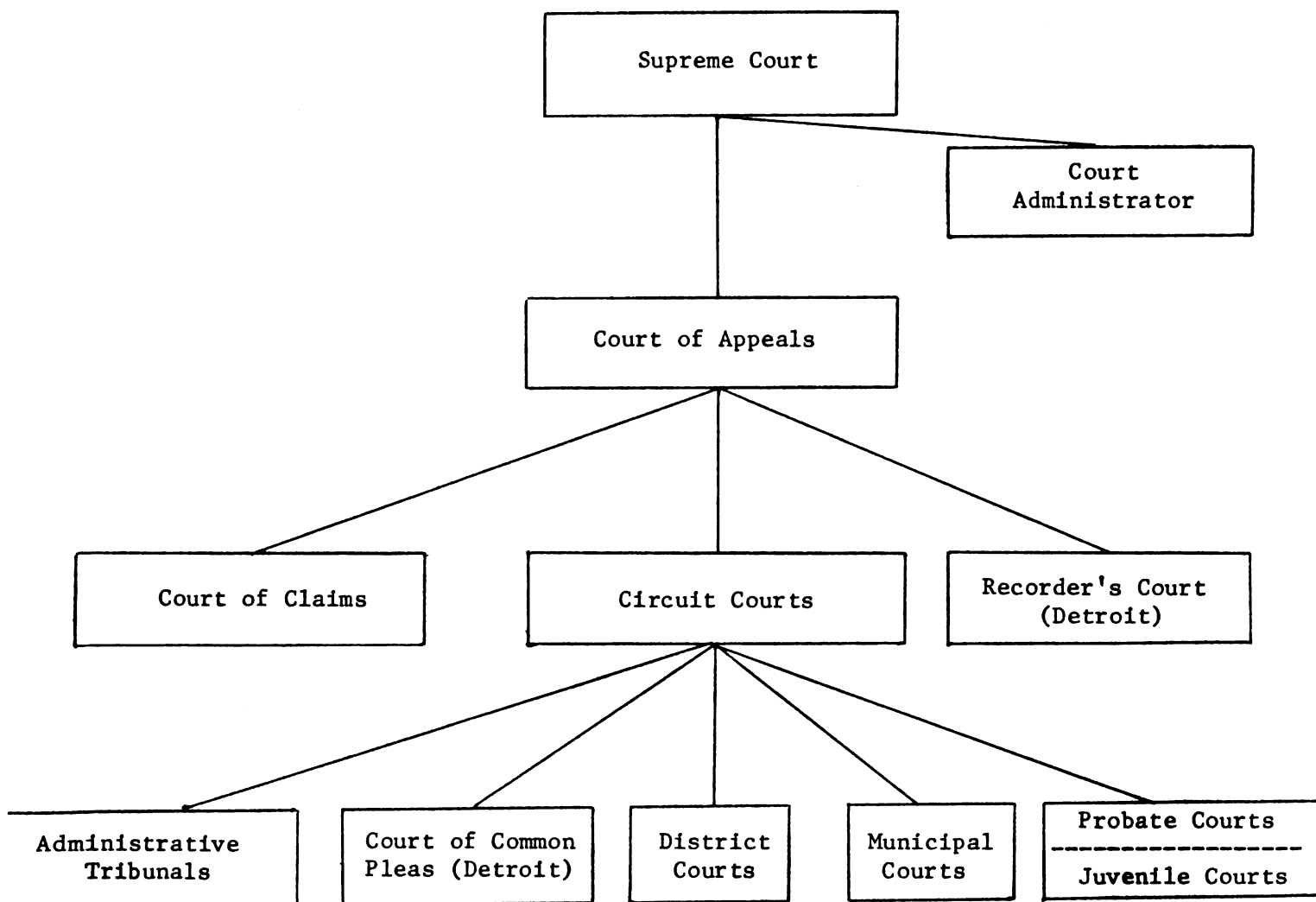
GENERAL OVERVIEW OF THE 1969
COURT REORGANIZATION

Figure B.1. The Judicial System of Michigan, 1968



Source: "The Judicial System of Michigan," Michigan State Library, Law Division (Lansing, Michigan: State of Michigan, 1965), Mimeographed.

Figure B.2. The Judicial System of Michigan, 1972



Source: Austin J. Doyle, "The Judicial System of Michigan," Michigan State Library, Law Division, Lansing, Michigan, 1973 (Mimeographed).

APPENDIX C

LEGEND FOR JUSTICES OF THE
PEACE IN JACKSON COUNTY

Table C.1. Legend for Justices of the Peace in
Jackson County, Venue Chart
for Civil Disputes

- Continued on next page -

Justice of the Peace elected in:	Had jurisdiction if either plaintiff or defendant resides in:
Blackman Township	Blackman, Tompkins, Rives, Henrietta Leoni, Sandstone, Spring Arbor, or Summit Townships
Colombia Township	Colombia, Liberty, Napoleon, or Norvell Townships
Concord Township	Concord, Parma, Sandstone, Spring Arbor, Hanover, or Pulaski Townships
Grass Lake Township	Grass Lake, Leoni, Waterloo, Norvel, or Napoleon Townships
Hanover Township	Hanover, Pulaski, Concord, Spring Arbor, Summit, or Liberty Townships
Henrietta Township	Henrietta, Rives, Blackman, Leoni, or Waterloo Townships
Leoni Township	Leoni, Blackman, Henrietta, Waterloo, Summit, Napoleon, or Grass Lake Townships
Liberty Township	Liberty, Spring Arbor, Summit, Napoleon, Hanover, or Liberty Townships
Napoleon Township	Napoleon, Summit, Leoni, Grass Lake, Norvell, Colombia, or Liberty Townships
Norvell Township	Norvell, Colombia, Napoleon, or Grass Lake Townships
Parma Township	Parma, Springport, Tompkins, Sandstone, Spring Arbor, or Concord Townships
Pulaski Township	Pulaski, Concord, Spring Arbor, or Hanover Townships

Table C.1. Legend for Justices of the Peace in
Jackson County, Venue Chart
for Civil Disputes

- Continued from previous page -

Justice of the Peace elected in:	Had jurisdiction if either plaintiff or defendant resides in:
Rives Township	Rives, Tompkins, Henrietta, Blackman or Sandstone Townships
Sandstone Township	Sandstone, Tompkins, Springport, Rives, Blackman, Parma, Concord, Spring Arbor, or Summit Townships
Spring Arbor Township	Spring Arbor, Parma, Sandstone, Blackman, Concord, Summit, Pulaski, Hanover, or Liberty Townships
Springport Township	Springport, Tompkins, Parma, or Sandstone Townships
Summit Township	Summit, Sandstone, Blackman, Leoni, Spring Arbor, Napoleon, Hanover, or Liberty Townships
Tompkins Township	Tompkins, Springport, Rives, Parma, Sandstone, or Blackman Townships
Waterloo Township	Waterloo, Henrietta, Leoni, or Grass Lake Townships

Source: Adrian H. Jaffe, Civil Procedure Manual for Michigan Justices of the Peace, East Lansing, Michigan, 1960.

APPENDIX D

QUESTIONNAIRE TO FORMER
JUSTICES OF THE PEACE

- CENTER FOR RURAL MANPOWER & PUBLIC AFFAIRS -

March 14, 1973

Dear Former Justice of the Peace:

In 1969 the Justice Courts were replaced by centrally located District Courts. Further centralization is under public discussion. Enclosed is a questionnaire designed to gain knowledge on how the 1969 Reorganization has affected various groups and localities. The information from this questionnaire might give some basis of predicting the effects of any possible future changes.

The research of Jackson County Court Systems was chosen at the request of local officials and decision makers. Your cooperation will be greatly appreciated. Please answer these questions to the best of your knowledge and feel free to add any comments on the back of the questionnaire.

Sincerely yours,

Josef M. Broder
Graduate Assistant
Public Affairs Management
Michigan State University

Enclosure

1. WHEN did you SERVE as an ACTIVE Justice of the Peace?
from _____ to _____
2. What PERCENTAGE of your Justice of the Peace services took place in:
your HOME _____ % ADDRESS _____
your PLACE OF BUSINESS _____ % ADDRESS _____
your courtroom if OTHER than home or place of business _____ % ADDRESS _____
100 %
3. What TYPE of Law Enforcement Officials used your Justice of the Peace facilities?
☐ CITY or VILLAGE police ☐ TOWNSHIP police
☐ RESIDENT DEPUTY sheriff ☐ NONRESIDENT DEPUTY sheriff
☐ STATE law enforcement agencies
4. How much TRIAL time did you TYPICALLY hold PER WEEK?
_____ hours or _____ days
5. What PERCENTAGE of TRIAL TIME did you devote to:
ORDINANCE Violations _____ % STATUTE Violations _____ %
6. On NON-TRIAL days, how much TIME did these Law Enforcement Officials spend at your OFFICE during a TYPICAL day?
_____ hour(s)
7. What was the AVERAGE number of COMPLAINTS heard during a typical MONTH at your Justice of the Peace office during your last year of operation?
_____ ORDINANCE Violations _____ STATUTE Violations
8. What HOURS were you AVAILABLE to RENDER SERVICES as Justice of the Peace?
☐ WEEKDAYS (8 to 5) ☐ EVENINGS ☐ WEEKENDS
☐ HOLIDAYS ☐ ANYTIME for emergencies
9. To the best of your knowledge, what PERCENTAGE of the COMPLAINTS brought before you occurred in YOUR township?
_____ %
10. What PERCENTAGE of the COMPLAINTS heard in your township were brought before you as COMPARED to OTHER Justices in your township?
_____ %
11. OTHER COMMENTS:

APPENDIX E

POPULATION FIGURES FOR
JACKSON COUNTY

Table E.1. Population Figures for Jackson County,
Michigan Including Minor Civil
Divisions: 1970 and 1960

Location	1970	1960	Percent change
Jackson	143,274	131,994	8.5
Blackman Township	16,997	16,060	5.8
Colombia Township	4,523	3,388	33.5
Brooklyn Village	1,112	986	12.8
Cement City Village	42	42	--
Concord Township	2,204	1,983	11.1
Concord Village	983	990	0.7
Grass Lake Township	2,970	2,698	10.1
Grass Lake Village	1,061	1,037	2.3
Hanover Township	2,533	1,917	32.1
Hanover Village	513	449	14.3
Henrietta Township	3,594	3,248	10.7
Jackson City	45,484	50,720	-10.3
Leoni Township	13,953	11,430	22.1
Liberty Township	1,840	1,424	29.2
Napoleon Township	5,500	4,350	26.4
Norvell Township	1,788	1,176	52.0
Parma Township	2,138	1,702	25.6
Parma Village (Part)	374	361	3.6
Pulaski Township	1,396	1,214	15.0
Rives Township	2,708	2,017	34.3
Sandstone Township	2,743	2,132	28.7
Parma Village (Part)	506	409	23.7
Spring Arbor Township	5,650	3,631	55.6
Spring Arbor (U)	1,832	--	--
Springport Township	1,879	1,777	5.7
Springport Village	723	693	4.3
Summit Township	21,754	18,101	20.2
Tompkins Township	1,832	1,388	32.0
Waterloo Township	1,788	1,638	9.2

Source: Office of Economic Expansion, et. al., County Regional Factbook for Region Including Jackson County (Lansing, Michigan: Office of Economic Expansion, 1973), p. 3.

Table E.2. Population Estimates for Local Units Served
by Various Law Enforcement Units

Local Unit	Census Figures		Estimated Figures	
	1970	1960	1972	1968
BLACKMAN Township	16,997	16,060	17,185	16,809
BROOKLYN Village and COLOMBIA Township	5,677	4,416	5,927	5,425
CONCORD Village and Township and PULASKI Township	4,583	4,187	4,683	4,503
GRASS LAKE Village	1,061	1,037	1,066	1,056
LEONI Township	13,953	11,430	14,457	13,449
NAPOLEON Township	5,500	4,350	5,730	5,270
PARMA Village and Township and SANDSTONE Township	5,761	4,604	5,992	5,530
SPRING ARBOR Township	7,482	3,631	8,252	6,712
SPRINGPORT Village	723	693	729	717
SUMMIT Township	21,754	18,101	22,484	21,024

APPENDIX F

**QUESTIONNAIRE USED IN INTERVIEWING
LAW ENFORCEMENT OFFICIALS**

1. How LONG have you been with THIS law enforcement unit? _____ years.
2. How LONG have you been CHIEF of THIS law enforcement unit? _____ years.
3. What was the TOTAL size of THIS unit in 1972?
 _____ FULL-time policemen working 40 or more hours per week.
 _____ PART-time policemen working _____ hours per week.
4. What was the TOTAL size of THIS unit in the last year of the JUSTICE COURTS (1968)?
 _____ FULL-time policemen working 40 or more hours per week.
 _____ PART-time policemen working _____ hours per week.
5. What UNIT of GOVERNMENT paid the salaries of the law enforcement officials in 1972?
 VILLAGE TOWNSHIP COUNTY
 JOINTLY PAID by Village _____ %
 Township _____ %
 County _____ %
6. What UNIT of GOVERNMENT paid the salaries of the law enforcement officials in 1968?
 VILLAGE TOWNSHIP COUNTY
 JOINTLY PAID by Village _____ %
 Township _____ %
 County _____ %
7. What were the SALARIES paid to the law enforcement unit in 1972?
 POLICE CHIEF _____ per _____. STAFF _____ per _____.
8. What were the SALARIES paid to the law enforcement unit in 1968?
 POLICE CHIEF _____ per _____. STAFF _____ per _____.

9. How much TIME did you AND your staff spend traveling to and spending in COURT and COURT RELATED activities during a TYPICAL MONTH?

1972 CHIEF ___ hours per month, ___ % on duty ___ % off duty.
 STAFF ___ hours per month, ___ % on duty ___ % off duty.

1968 CHIEF ___ hours per month, ___ % on duty ___ % off duty.
 STAFF ___ hours per month, ___ % on duty ___ % off duty.

10. In 1972 who paid for EXPENSES while you and your staff were in COURT?

Trips made while ON DUTY	VILLAGE	TOWNSHIP	COUNTY
rate of compensation ___/day	___¢/mile	regular	
overtime ___/hour		salary	

Trips made while OFF DUTY			
rate of compensation ___/day	___¢/mile	regular	
overtime ___/hour		salary	

11. How many TRIPS did the law enforcement unit make to COURT during a TYPICAL MONTH?

1972 CHIEF OF POLICE ___ trips per month
 STAFF ___ trips per month

1968 CHIEF OF POLICE ___ trips per month
 STAFF ___ trips per month

12. What is the DISTANCE from police HEADQUARTERS or HOME BASE of OPERATION to the COURTHOUSE in Jackson?

___ miles to the Twelfth District Courthouse

13. What was the DISTANCE to the LOCAL justice courts to which you brought your complaints?

___ miles to JUSTICE ___

___ miles to JUSTICE ___

14. What PERCENTAGE OF COMPLAINTS did you bring before the JUSTICES?

___ % before JUSTICE _____

___ % before JUSTICE _____

15. When COULD you obtain the SERVICES of the LOCAL justice court:

WEEKDAYS	EVENINGS	WEEKENDS	HOLIDAYS	ANYTIME in case of emergencies
----------	----------	----------	----------	--------------------------------------

16. What PERCENTAGE of the law enforcement unit's time was spent enforcing ORDINANCE violations as compared with STATUTE violations:
- 1972 _____ % ORDINANCE Violations
 _____ % STATUTE Violations
- 1968 _____ % ORDINANCE Violations
 _____ % STATUTE Violations
17. For those violations that could be prosecuted under ORDINANCE OR STATUTE violations, what percent of these cases were prosecuted as ORDINANCE violations:
- 1972 _____ %
1968 _____ %
18. Of the TOTAL TIME spent in court, what percentage of that time was spent waiting and what percentage was spent in actual trial or in consultation with lawyers and judges?
- 1972 _____ % waiting _____ % trial and consultation
1968 _____ % waiting _____ % trial and consultation
19. Additional Comments:

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