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A Report On

The Administration of Criminal Justice in North Carolina

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THE ADMINISTRATION OF CRIMINAL JUSTICE IN NORTH CAROLINA

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To the Lawyers of North Carolina:

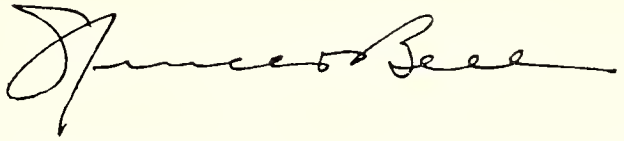
This issue of *Popular Government* makes available to you the third major research report prepared for the Committee on Improving and Expediting the Administration of Justice in North Carolina.

The Committee has had the benefit of this report, and many others which will be distributed to you as fast as the mechanics of printing and distribution permit. Th Committee has sought to act only upon facts, and not upon impressions drawn from individual limited experience. This report established the correctness of many generally-held opinions concerning our criminal courts, and no doubt discloses some facts which are not generally known.

We urge you to read this report carefully. If the Court Study Committee, the Bar, and the citizens of the State generally can start with a true picture of our court system as it is, we feel certain that we can arrive at conclusions and recommendations which will make a significant contribution toward improvement in the administration of justice in North Carolina.

Once again, I urge all of you to study the report and give us the benefit of your thinking. Especially do I request that, if you have not already done so, you send us your reactions to the tentative recommendations made in the subcommittee reports which you have received.

Sincerely yours,



J. Spencer Bell

Introduction

by Albert Coates, Director of the Institute of Government
University of North Carolina
Chapel Hill

For those who have not read previous reports it should be said:

1. That at the request of the Governor of North Carolina the North Carolina Bar Association appointed a Committee on Expediting and Improving the Administration of Justice in North Carolina;

2. That with the aid of funds procured by the Governor this Committee of lawyers and laymen started the Institute of Government on a series of studies of the structure and working of the courts in North Carolina from colonial beginnings to the present day;

3. That the first of these studies outlined the evolution of the structure and jurisdiction of the courts and was published in a Special issue of *Popular Government* in March 1958 under the heading of "The Courts of Yesterday, The Courts of Today, The Courts of Tomorrow";

4. That the second of these studies was a report on the developing and carrying out of the Civil Study Project, Congestion and delay in the Superior Courts, and Some Causes of Congestion and Delay, and was published in a Special Issue of *Popular Government* in April 1958 under the heading of "Civil Litigation in North Carolina";

5. That the civil litigation study will continue with reports on
   (1) The Costs of Litigation in the Superior Court
   (2) Civil Litigation in Courts Below the Superior Court
   (3) Analysis of Delay in the Superior Court

6. That the third of these studies is appearing in this issue of *Popular Government* under the heading of A Report on The Administration of Criminal Justice in the Courts of North Carolina;

   This report falls into four parts:

   (1) Developing and Carrying Out the Study of Criminal Justice in North Carolina,

   (2) The Prosecution of the Criminal Dockets in North Carolina,

   (3) The Effect of Inferior Criminal Courts, Mayors Courts, and Justice of the Peace Courts on the Superior Court Criminal Dockets,

   (4) The Criminal Business of the Justice of the Peace in North Carolina.

   It will be followed by reports of

   (1) Motor Vehicle Cases in the Superior and Inferior Courts of North Carolina,

   (2) Trial by Jury in the Inferior Courts in North Carolina,

   (3) Criminal Caseloads, Pleas, Dispositions, and Punishment in the Criminal Courts,

   (4) The Use of Bonds, Defense of Persons Accused of Crime, and Other Matters;

7. That the fourth of these studies will analyze in some detail the Juvenile and Domestic Relations Courts in North Carolina and a comparison of the structure and jurisdiction of these courts with similar courts in other states.

8. That other studies in related areas will follow those listed above.

The Administration of Criminal Justice in North Carolina

Individual acknowledgement cannot be made to the many persons whose advice, assistance, patience, and courtesy made both phases of this study possible. Much is owed the following groups: clerks of Superior Court in every county in the state and their personnel, but especially in the 35 full-study counties; clerks and personnel of the lower courts in these 35 counties; judges and solicitors; justices of the peace; attorneys; treasurers; personnel of the State Highway Patrol and other law enforcement officers; personnel of the statistics sections of the Department of Motor Vehicles, the SBI, the Employment Security Commission, and the Hospital Savings Association of Chapel Hill; personnel of the Law Enforcement Officers' Benefit and Retirement Fund, and the many practicing attorneys who served as field workers and put in such lengthy hours gathering the material.

PART I

DEVELOPING AND CARRYING OUT THE STUDY OF THE ADMINISTRATION OF CRIMINAL JUSTICE IN THE COURTS OF NORTH CAROLINA

By Roy G. Hall, Jr.
Assistant Director, Institute of Government

The Pilot Study

Introduction

The pilot phase of the criminal side of the court study got under way on January 1, 1957, with the abstracting of the case histories of the pending criminal cases in Durham County Superior Court. In early February, Bernard A. Harrell, William C. Palmer and James McN. Hollowell were added to the court study staff. The pilot study was conducted by these three plus the author of this report.

Scope of the Pilot Study

The Superior Court, inferior criminal courts, and every mayor or justice of the peace exercising criminal jurisdiction, in Durham, Orange and Chatham Counties comprised the courts studied. The docket study was based on all cases pending as of December 31, 1956 and undisposed of at the time of the study, along with all of the cases disposed of during the calendar year 1956 in the following courts: Durham County Superior Court, Chatham County Superior Court, Orange County Superior Court, Chatham County Criminal Court, Siler City Municipal Recorder's Court, Durham Recorder's Court, Orange County Recorder's Court, and Chapel Hill Municipal Recorder's Court. This phase of the study entailed abstracting over 5,000 cases. Most of these courts were also observed in action, and formal notes were made of at least one day's session. Judges, solicitors, clerks and other court personnel, attorneys and sheriffs were interviewed informally. Financial data respecting costs of operation and revenue were obtained from the courts involved or from treasurers and accountants of the appropriate governmental unit.

The interview technique was employed for studying the business of the justices of the peace, primarily because of the small annual caseloads before them. In addition, it soon became apparent that the history of cases tried by a given JP (type of offense, disposition and punishment imposed) tends to become standardized.

Problems Encountered and Solutions

(a) ***The unit of study.*** One of the first problems encountered was the determination of a statistical case unit for purposes of the study. Several alternatives presented themselves: (1) each crime or "count" charged against each defendant could constitute a unit:[1] (2) each defendant, with all of the charges against him could constitute a unit:[2]

[1] This is employed by the F.B.I. and other law enforcement agencies.

[2] This was employed by the Wickersham Committee in 1930. See *A Study of The Business of the Federal Courts: Part One: Criminal Cases*, page 27, American Law Institute, 1934.

(3) all of the charges, against one or more defendants, which arose out of one transaction could constitute a unit—for pending cases these charges probably would be taken up at the same time in the courtroom, and for disposed-of cases probably were taken up as one unit in court; and, (4) each "case" according to the clerk's numbering system could constitute a unit—each warrant or indictment with the attendant case papers (bonds, subpoenas, etc.) are placed in an envelope or "shuck" and given a case number.

The unit of study adopted for compiling full information concerning plea, disposition, punishment, bond information, dates, appeals, etc. was the last alternative enumerated—the clerk-numbered case—except that when this numbered case involved more than one defendant, a case-abstract sheet was filled out for each defendant named therein. This unit was adopted because (1) in most instances, this is the unit of business called and considered as a unit in the courtroom, (2) it is most similar to the concept of "case" used by judges, solicitors and other court personnel, (3) it is the only unit that will admit of statistical compilation by automatic data-processing equipment, since one IBM punched card could not contain all of the case-history information if a unit broader in scope were employed, and (4) a case-sampling technique (abstracting the case history of every third case, for example) could not be employed unless this unit were adopted.

If in the clerk's number designation of a "case", more than one offense is charged against a defendant, the abstract is counted as one case of the most serious offense charged: for example, an indictment charging housebreaking, larceny, and receiving stolen goods was counted as a case of housebreaking. In this type of situation the court records in the pilot-study counties, and usually in the 32 general study counties, showed only one plea, and in case of conviction, only one sentence. Whenever larceny is charged, almost always receiving stolen goods is charged as well; this was tabulated as a larceny case.

The accurate trial-unit or "courtroom-unit" can be determined best by using the minute docket, with entries showing which "cases" (regardless of the number of defendants or offenses charged) were called or heard together or separately. However, to consolidate all of the attendant information on one case sheet usually creates more difficulties from the standpoint of statistics than it solves. Moreover, the minute docket cannot be efficiently used by the worker in conjunction with the other records, even if there were no difficulties in tabulating the information gained. However, because of the quality of information offered by the minute docket it is the best source of information concerning the workload of the Superior Court solicitors.

(b) ***Sampling lower court cases.*** Because of the large numbers of cases disposed of during 1956 by the inferior courts, it was necessary to study them by a sampling process. For example, the Durham Recorder's Court disposed of 11,400 cases in 1956; time would not have permitted abstracting every one, so every tenth case was abstracted and the resulting figure (1140) was projected by multiplying by ten. Every second case of the 828 disposed of by the Siler City Municipal Recorder's Court was abstracted, every fifth case of 1663 in the Chapel Hill Recorder's Court, and every fourth case of the 1904 in the Orange County Recorder's Court; the results so obtained were projected in each instance. Every case in the Chatham County Criminal Court was abstracted. It is believed that a sample smaller than every tenth case would not be valid and also that around 450 or 500 cases is the optimum number that should be abstracted and that in no event should the number studied be lower than 350 cases, regardless of the rate of the sample. Sampling Superior Court cases at a rate higher than one case out of two is not recommended.

(c) ***Justices of the Peace—method of study.*** The 1956 caseload of the first JP studied was abstracted onto case-abstract forms. This proved to be costly in time and of slight value as well, since it became apparent, especially after further inquiry, that a given justice of the peace tries only one or two types of cases and that the punishment imposed in event of conviction is standardized. The interview technique, backed up by examination of records filed by the subject justice in the office of the clerk of Superior Court and conversations with court personnel who knew something of the JP's judicial business, proved to be satisfactory for determining the role played by the subject in the administration of justice on the criminal side in his county. Interview forms covering all phases of a JP's activity in criminal cases were devised. The justices interviewed in the 3 counties were very frank and courteous and most of them felt that they filled a need in their counties.

(d) ***Court records.*** The criminal records, over and above the minute dockets in use in the Superior Courts, varied from court to court, but speaking generally they can be decribed as follows: (a) Almost always there was a file of the papers in the case in some sort of numbered envelope (referred to as a "shuck"); these papers included the warrant or indictment, the looseleaf trial-docket sheets, appearance bonds, capiases, subpoenaes, cost bills, writs of *sci. fa.*, and sometimes copies of special

court orders; (b) In addition, there was some form of permanent file docket which included the defendant's name, the case file number, the plea, disposition and punishment. This was sometimes in the form of narrative entries and at other times appeared as less formal ledger-type entries employing abbreviations or "shorthand."

(e) ***Overlapping lower court and Superior Court records; date of docketing in the Superior Court.*** In the case of Superior Court records slight difficulty was presented whenever the case had been appealed or removed from an inferior court. First, if the lower court was a county court so that the Superior Court clerk served as lower court clerk as well, the lower court papers frequently were not "sent up," so that the lower court history could not be ascertained without checking the lower court's records; frequently, considerable effort was required to segregate the two courts' records.

Secondly, the date of docketing in the Superior Court was shown in only one of the three courts. To supply this information 14 days were added onto the date notice of appeal was given (which is almost always on the date of disposal in the lower court) or date of disposition if the case was one transferred to the Superior Court for purposes of jury trial. In every case, as a matter of custom and practice, ten days to two weeks elapse before the case papers are irrevocably in the hands of Superior Court personnel to the extent that it could be said the case is "in" the Superior Court. If the case was one originating with the grand jury, the date the true bill was returned was accepted as the date of docketing.

(f) ***Isolating the 1956 cases.*** Although all courts do not, for permanent file purposes, number the cases consecutively as they are disposed of, but retain instead the number assigned when the case was first docketed, separating 1956's cases from those disposed of at other times was not difficult. In the courts using the system first mentioned, the numbers of cases first and last disposed of during the year were noted and all inclusive cases studied; in the courts using the second system the case papers were always filed by year or term of disposition so that the absence of a consecutive numbering system was no barrier.

The State-Wide Study

Selection of Counties To Be Studied

North Carolina's hundred counties were arranged into groups according to population (over 100,000; 50,000 to 100,000; 25,000 to 50,000; and under 25,000); by location (Mountain, Piedmont, and Coastal Plains region); by the type of courts below the Superior Court (counties having no courts below the Superior Court other than JP-level courts, those having a county court but no city courts, those having city courts but no county courts, and those having both city and county courts); and, lastly by Superior Court solicitorial districts. A total of thirty-two counties was then selected, one county from each grouping, to the end that counties representative of North Carolina should be given full and comprehensive study with respect to the administration of criminal justice in the courts.

Personnel Conducting Study

Forty-two practicing attorneys from the counties selected were then brought to Chapel Hill for two days of intensive instruction on the manner in which the study was to be conducted, and were then sent back to conduct a top-to-bottom survey of the administration of justice on the criminal side. This group was supplemented by six members of the Institute of Government staff—Bernard A. Harrell, M. Alex Biggs, J. Albert House, Fred G. Crumpler, Robert Midgette and the author. Seven young attorneys just out of law school, and five law students made up the remainder of the working force.

Scope of Study—Information and Data Collected

Justices of the Peace. Each of the more active JP's in each county was interviewed to determine the degree to which he exercised his criminal jurisdiction; the number and kind of cases tried by him; the punishment imposed; the court costs; the number the amount of his fees in each case; and routing of appeals; whether the JP ever impaneled a jury when the defendant requested a jury trial or whether he transferred the case to a court having jury facilities; the frequency with which he held preliminary hearings for persons accused of a felony and the offenses usually involved; the court costs collected and the amount of his fee charged in holding preliminary hearings; the number and kinds of misdemeanor cases in which he issued the warrant but did not try the case (binding the defendant over to a court which did have jurisdiction or merely issuing the warrant to the officer who returned the defendant to some other court); and the amount of his fees for issuing warrants. He was also asked for comments on the Justice of the Peace system, and whether he held any other job or performed any other function related to law enforcement. The JP's records and reports filed with the Superior Court clerks were examined and court officials were questioned to supplement the answers given by the JP himself and to find out more about his exercise of criminal jurisdiction—to determine whether he "specialized" in any types of cases or tended to work only with a single type of law enforcement officer or on behalf of a particular state agency;

and to determine whether he served as agent for the local courts to accept waivers of appearance and pre-payment of fines and costs or cash bonds by out-of-town motorists brought in for violation of the State's motor vehicle laws. Comments by local officials pertaining to the justice of the peace business were recorded.

Lower criminal or recorder-type courts. At the next level above the JP courts are the lower criminal or recorder-type courts. The lawyers conducting the survey went into these courts and made a statistical study of the criminal cases tried during 1956, gathering from the court dockets and case papers the following information on every case or a specified sample of all the cases: the offense or offenses charged against the defendant; the class of official who issued the arrest warrant; the complaining witness who initiated the prosecution; the origin of the case; the preliminary disposition (before plea if any); the plea of the defendant; whether he was tried by judge alone or by judge plus a jury; the finding of the court or jury; the judgment (if convicted); the amount of fine; length and place of imprisonment; the amount of restitution ordered paid to the damaged party (if any); the amount of court costs taxed; who was required to pay the costs of court under the court's judgment; subsequent changes in the sentence; the length of probation; whether the defendant had a lawyer; the defendant's status when the case came into court (whether out on bond, in jail, no bond required, etc.); the amount of appearance bond required and what had been done to collect it if forfeited by failure of the defendant to appear; the number of times the case had been set for trial; the number of times the case had been continued; the process issued; the number of witnesses subpoenaed; the month and the year the case first came into the court and the month and year it was disposed of; and, whether the case was appealed and the amount of appearance bond if it was appealed to the Superior Court.

The cases pending before these courts, as of the time the study was conducted, were also abstracted on the same form used for the disposed-of cases; the same information was gathered to the extent applicable to a case which had not yet been disposed of by plea or trial.

All of this information was punched onto IBM data cards for facility and speed of tabulating and processing.

These lower courts were observed during sessions, and notes were made as to the time taken to try various kinds of cases, the time consumed by delays between cases, whether the judge took evidence when the defendant pleaded guilty (to guide him in imposing punishment), and how many defendants were represented by counsel. When information relative to collection of forfeited appearance bonds was kept separate from the dockets and case papers containing the history of the case, this information was tabulated on a form showing the amount of the bond, the date forfeited, and how far the court had gone toward completing the legal steps necessary for collection from the surety or bondsman, with the date each step was completed. The judges, solicitors and clerks of these courts were interviewed to get the benefit of their experience and knowledge generally, and specifically to discover, among other things: if the court had any rules of procedure, how the court's time was allotted, how the problem of the out-of-town motorist who had broken the State's motor vehicle laws was treated, whether juries were used in trying cases in their courts, whether any need for special courts (e.g., Domestic Relations Courts) was felt, how and in what manner and to what extent the business of the JP's in the locality affected the court's volume or kind of business, what kind of records were maintained and why, what the court's territorial and subject matter jurisdiction was, and what the court's policies were relative to sureties on forfeited appearance bonds. In addition, the officials were asked to comment upon any matters pertaining to the administration of criminal justice, upon any matter pertaining to the court's operation which they felt could be improved upon, upon any statutory provisions pertaining to crime and punishment, upon the activities of the various law enforcement officers and agencies as they affected the operation of the court, and upon a system of lower courts which would best serve the entire state.

Superior Courts. At the highest trial level, the Superior Courts, the workers conducting the study gathered case history information on every criminal case pending determination of the guilt or innocence of the accused. The data gathered included: the offense or offenses charged, the latest action by the grand jury if indictment were necessary before the case could be tried, the origin of the case (whether appealed or bound over from a lower court ,JP, mayor, or coroner, or whether the case originated with the grand jury), the year and month the indictment was found, the year and month the case first came into the Superior Court, the amount of appearance bond, the judge who set the bond, disallowed bond or did not require bond, the status of the defendant when the case came into court (whether out on bail, in prison, never arrested, etc.), the status of the defendant at the present time, if the defendant was imprisoned for another crime what had been done to insure his eventually being brought to trial, the number

of times the case had been set for trial, the number of witnesses subpoenaed each time, and the number of times the case had been continued. In addition, if the case came from a lower court, the following lower court history was obtained: the offense charged in the lower court, the plea, disposition and punishment (amount of fine, length and place of imprisonment, etc), the dates of incoming and outgoing, the amount of court costs, the type of trial (judge or jury), changes in the sentence, and the amount of restitution ordered paid to the aggrieved party, if any.

The following information was gathered from the docket entries and case papers for all of the cases called for plea or trial and so disposed of during 1956; the offense or offenses charged, the preliminary disposition (before plea if any), the plea of the defendant, the finding or disposition after plea, the judgment, the amount of fine, the length and place of imprisonment, the length of probation (if any), the total amount of court costs, who was required to pay the cost, the amount of costs required to be paid by the court's judgment, the origin of the case, the month and year the case came into the Superior Court, the month and year the defendant was indicted, the month and year the case was tried, the amount of the appearance bond, whether bond was allowed, denied, or required and by which judge, the latest action taken toward collecting a forfeited appearance bond, the defendant's status when the case came into the Superior Court, whether the defendant was represented by a lawyer, the number of times the case was set for trial, the number of witnesses subpoenaed, the number of continuances, whether the case was appealed to the State Supreme Court and if so the bond amounts involved, and, if the case came up from a lower court, the same information pertaining to the history of the case in that court as was obtained from the pending cases, discussed above.

Also, in the Superior Courts, when the information pertaining to forfeited appearance bonds and what had been done to collect them was kept separate from the case history information (the dockets and case paper files), as in the lower courts, information was gathered showing the amounts of the bonds involved, the steps taken to collect them and the dates thereof, and the date of forfeiture.

Notes were made while the courts were in session to show the use of the court's time in trying cases, in delays, and in the dispatching of business brought up for plea or other disposition.

Interviews

To draw upon the wealth of experience possessed by the Superior Court judges, solicitors, members of the bar, and clerks of court, these persons were interviewed and asked to comment upon, and to give suggestions and opinions pertaining to: the procedure for calling cases for plea, the operation of grand and trial juries, the selection of jurors and the qualifications of the jurors selected to serve, the frequency of representation by counsel of those accused of crime, the matter of cases piling up faster than they can be disposed of in the time allotted for terms of court, the method of selecting solicitors, whether the solicitors should be allowed to maintain a private practice, the operation of the lower courts, the rules of procedure as they serve the administration of justice, the cost of legal advice, the rotation system, the amount of work and the extent of responsibility of the solicitors, the matter of assistance for the solicitor provided by the counties, and many other areas of court activity.

In addition to the foregoing, which was done in each of the 32 selected counties, in every county in the state the entries in the Superior Court minute dockets (wherein is recorded every official act of the court during term time and out of term) for criminal and mixed criminal and civil terms of court held during 1956 were tabulated. These show the terms and days of court held, the judge holding court, the units of business brought up for disposition and whether each was disposed of by plea, partial jury trial, complete trial, dismissal, etc., the specific disposition of each felony and misdemeanor charged against each defendant (whether by plea of guilty, guilty to a lesser offense, or plea of nolo contendere, or by finding of guilty, not guilty, or by mistrial, nol pros, remand or dismissal), the number of trials carrying over from one day to the next while in progress, the number of defendants shown to be with or without counsel and whether they pleaded guilty or were tried in such cases, the total number of jurors summoned, the number excused or exempt and the number remaining, the number of true bills and of non-true bills returned by the grand jury, the number of grand jury reports heard, the number of motions heard, the number of cases called and failed, the number of cases continued, the number of oaths administered in open court, the number of probation officer reports, the number of actions against forfeited appearance bonds, the number of other criminal hearings, the number of criminal court orders; and, the number of civil cases tried or heard by judge alone on days when criminal business was also transacted. All of this was done for the purpose of showing the volume and kind of criminal business transacted and the use of the time allotted for holding terms of court.

Summary

With this mass of information gathered, the compiling and analyzing of it reveals facts hitherto unknown, or residing only in the realm of opinion, about the volume of criminal business transacted in the various courts. The reports being presented will throw light on many matters including: the flow of cases between various kinds of courts, the results of trials, quantitative information relative to punishment imposed for various offenses, the effect of representation by counsel, the quantity of work and the variances in the responsibilities of the various Superior Court solicitors, the variance in court costs, the number and types of cases in different courts, the extent to which jury trials in the lower courts are used, the work of the justices of the peace and their relationship to other courts, the procedural peculiarities from county to county due to the kinds of courts below the Superior Court, the extent of the non-resident motorist problem and how it is dealt with, the lapse of time between initiation and disposition of criminal cases, the efficient or inefficient use of the court's time, whether abuse exists in the setting of appearance bond amounts, and many other phases or aspects of the administration of criminal justice in North Carolina.

PART II

PROSECUTION OF THE CRIMINAL DOCKETS IN THE SUPERIOR COURTS OF NORTH CAROLINA

By Roy G. Hall, Jr.

Congestion on the Criminal Dockets of the Superior Courts

Number of Pending Cases

A tabulation of the pending criminal cases in the Superior Courts of 96 counties showed that there were 1,809 felony cases and 4,370 misdemeanor cases pending at the time the criminal docket study was conducted. These 6,179 cases (the clerk-numbered case was the unit of counting) all awaited disposition by plea or trial; *i.e.*, the guilt or innocence of the defendant had not yet been determined in the Superior Court. Cases pending because of some court order respecting continuing enforcement of the court's judgment against a convicted defendant (such as abandonment and non-support cases wherein the judgment ordered periodic payment of support) were not counted as pending because of the possibility that such cases might never again be before the Superior Court for any sort of judicial determination.

The state's 100 counties are divided into 21 solicitorial districts with one district solicitor for each district. The total number of pending cases, both felony and misdemeanor cases, in the 21 solicitorial districts of the state varied from a high of 877 in 1 district to a low of 121 in another; 5 districts had over 400 cases pending, whereas 5 had less than 200 cases pending; 12 of the districts had less than 300 cases pending. The figures for each district can be seen in Table II-A. Inasmuch as the raw number of pending cases is an indication of congestion, it can be said there is congestion in some of the state's 21 solicitorial districts.

The solicitors were asked: "Are the criminal dockets in your district congested?" Eight stated unequivocally that the criminal dockets in one or more counties in their districts were congested; two felt that they were in danger of becoming so; and seven stated that there was no congestion in their districts. The majority of the Superior Court judges interviewed felt there was some congestion of the criminal dockets.

Age of Pending Cases

The age of these cases pending determination of guilt or innocence of the defendant is significant. The age was computed by counting from the date the case was docketed in the Superior Court to the date the study was conducted in each county. If the case came up from a JP, mayor, inferior criminal court, domestic relations court, or a juvenile court, the day the case papers were irrevocably in the hands of the Superior Court clerk was considered as the date of docketing. If the case originated with the grand jury, the date the indictment was returned was considered as the date of docketing.

Although in some counties the cases were tabulated just before a term of criminal court was to begin and the number of pending cases was high, in other counties a term had just been completed and the number was low. It is believed that the two situations balanced themselves off so that the picture presented is sufficiently accurate for the entire state.

Also, in considering the ages of these cases, the frequency of terms of court at which criminal cases

were disposed of in the state's 100 counties during 1956 is pertinent. Fourteen counties had two terms of court a year, or a term at least every six months; 24 counties had three terms a year, or a term at least every four months; 27 counties had four terms a year, or approximately one every three months; 13 counties had five terms; 10 counties had six terms; one county had seven terms, or roughly a term every two months; one county had eight terms; two counties had nine terms; and two counties had 10 terms a year, or roughly one each month. Three counties had terms every month, and Durham, Mecklenburg and Guilford counties had almost continuous terms of criminal court in the Superior Courts. Therefore, every county in the state had a criminal or mixed criminal and civil term of Superior Court at least every six months, and most of them more often.

As shown by table II-B, 51% of the pending felony cases and 45% of the pending misdemeanor cases were three months old or less. Fifteen per cent of the felonies and 20% of the misdemeanor cases were from four to six months old. Seventy-eight per cent of the pending felony cases and 81% of the misdemeanor cases were one year old or less (down to less than one month old). Ten and one-half per cent of the pending felony cases and 10% of the misdemeanor cases were from one to two years old; 3.5% of the felony cases and 3.4% of the misdemeanor cases were from two to three years old; and, 7.6% of the felony cases and 5.4% of the misdemeanor cases were over three years old. Fifty-one felony cases and 85 misdemeanor caeses were from four to five years old; 10 felony caes and 16 misdemeanor cases were from five to six years old; and 13 felony cases and 12 misdemeanor cases were over six years old.

Age of Disposed of Cases

Only in the 32 full docket study counties were case histories of the disposed of cases (as distinguished from the *pending* cases) tabulated in full so that age could be computed. Every solicitorial district in the state is represented at least once in these 32 counties, nine are represented twice, and one is represented 3 times. The Superior Courts in these 32 counties disposed of 11,542 cases during 1956. The figures for ages of the disposed of cases in these counties can be found in table II-C. Eighty-seven per cent of the felonies and 69.5% of the misdemeanors were disposed of within 3 months after docketing (by comparison, 51% of the pending felony cases and 45% of the pending misdemeanor cases were of that age). Seven and two-tenths per cent of the felony cases and 15.2% of the misdemeanor cases disposed of during 1956 in the 32 counties were disposed of from four to six months after docketing (15% of the pending felony cases and 19.5% of the pending misdemeanor cases were this old). Four and one-half per cent of the felony cases and 11.3% of the misdemeanor cases disposed of during 1956 were from seven to nine months old (whereas 12.6% of the pending felony cases and 16.4% of the pending misdemeanor cases were this old). One per cent of the felony cases and 3.4% of the misdemeanor cases disposed of during 1956 were from one to two years old (whereas 10.5% of the pending felony cases and 10% of the pending misdemeanor cases were this old). Of the cases from two to three years old, 2/10 of 1% of the felonies disposed of in 1956 and ½ of 1% of the misdemeanors were this old (whereas 3½% of the pending felonies and 3.4% of the pending misdemeanors fell in this age bracket). Finally, 1/10 of 1% of the felonies disposed of during 1956 and 3/100 of 1% of the misdemeanors were over three years old (whereas 7.6% of the pending felonies and 5.4% of the pending misdemeanor cases were over three years old). Therefore, as far as the cases pending as of the time of the study are concerned, the Superior Courts are not getting criminal cases disposed of as quickly after they are docketed as they did during 1956; that is, they are disposing of the younger, fresher cases allowing the old ones to become older.

Some Suggestions Received Concerning Delay

The concomitants of delay are obvious. As cases get older, either because the solicitors have more cases on the dockets than terms of court to try them, or because of excessive continuances granted defense counsel (and only one Superior Court judge interviewed was of the opinion that congestion was due to continuances), memories of the witnesses become vague, their testimony can be more easily shaken upon cross-examination, and the likelihood of justice being done in the case decreases.

The Superior Court judges interviewed gave as suggestions to remedy congestion: more assistant solicitors; redistrict the solicitorial districts; limit the scope of appeal from lower courts; and other suggestions which indicated that the congestion is due primarily to the fact that some solicitors simply have more cases to try than it is possible for them to try with the present number of court terms.

Principal Offenses Charged in the Pending Cases in 32 Superior Courts

Eight hundred and twenty-one felony cases and 1,792 misdemeanor cases were pending as of the time of the study in the 32 Superior Courts which were given a full docket study. Table II-D lists the principal offenses charged in these pending felony cases, and Table II-E lists the principal offenses charged in the pending misdemeanor cases.

Burglary, breaking and entering, felonious larceny, and felonious assault are the offenses appearing most often among the pending felonies; whereas, drunk driving, other motor vehicle offenses, and non-support cases constitute 61.5% of the pending misdemeanors.

Present Status of Defendants in Pending Cases

Table II-F gives the status of the defendants involved in the cases pending at the time of the study in the Superior Courts of the 32 full docket study counties, as shown by the court records. Of the 821 felony cases, the defendants in only 55 were unavailable for trial because they had never been arrested or were in mental hospitals. These cases amounted to only 6.7% of all the felony cases. In 145 (or 17.7%) cases the status of the defendants could not be determined. In the remaining 621 cases, amounting to 75.6% of the total felony cases, the defendants were either out on bond (51.2%), in prison (3.0%), on the roads (1.2%), free because no bond was required (1.1%), free but no bond information shown (1.5%), in jail because of failure to post bond (7.9%), in jail with no bond being allowed (5.0%), in jail for another offense (2.4%), or some other status (2.3%). The presence of the defendants in these 621 cases could have been obtained for the purpose of deciding their guilt or innocence.

The defendants in 69 of the 1,792 pending misdemeanor cases were unavailable for trial because they had never been arrested or were in mental hospitals. This constituted only 3.9% of the total pending misdemeanor cases. The status of the defendants in 321, or 17.9%, of the cases was not shown by the records. In 1,402 (78.2%) of the cases the defendant's presence could have been obtained for plea or trial. The defendants' status in these cases were: in prison (.7%); on the roads (.7%); free on bond (67.6%); free, no bond required (2.9%); free but no bond information shown 1.2%); jailed because of failure to post bond (1.7%); in jail with no bond being allowed (.3%); in jail being punished for another offense (1%); and, some other status (2.1%).

Summary

1. There is some congestion on the criminal dockets of most of the state's 21 Superior Court solicitorial districts.

2. More of the cases pending in 96 counties as of the time of the study were older than the cases disposed of during 1956 by the Superior Courts of 32 counties.

3. Almost all of the Superior Court judges interviewed felt that congestion on the criminal dockets was due primarily to the fact that some solicitors have more cases to try than it is possible to dispose of in the court terms available or with the manpower available to assist them.

4. In an overwhelming majority of the pending criminal cases the defendants are available for trial.

Call of Criminal Cases for Plea or Trial —Lost Witness Manhours

Control Over the Calendar and Call of Cases For Plea or Trial

The legal authority for the system of calendaring and call of criminal cases for trial now in effect in the Superior Courts of North Carolina is found in G.S. 7-73.1 and Rules 21 and 28 of the Rules of Practice in the Superior Courts of North Carolina G.S. 7-73.1 provides:

Calendar for all terms for trial of criminal cases.

(1) Filing with Clerk: Fixing Day for Trial of Each Case.—At least one week before the beginning of any term of the superior court for the trial of criminal cases, the solicitor shall file with the Clerk of the Superior Court a calendar of the cases he intends to call for trial at that term. The calendar shall fix a day for the trial of each case included thereon.

(2) Grand Jury cases.—The solicitor may place on the calendar for the first day of the term all cases which require consideration by the grand jury without obligation to call such cases for trial on that day.

(3) Trial of Case Before Day Fixed.—No case on the calendar may be called for trial before the day fixed before the calendar except by consent or by order of the court.

(4) Cases Docketed after Calendar Completed.—All cases docketed after the calendar has been made and filed with the Clerk of Superior Court may be placed on the calendar at the discretion of the solicitor.

(5) Subpoenaing of Witnesses. — All witnesses shall be subpoenaed to appear on the date listed for the trial of the case in which they are witnesses.

(6) Proof of Attendance of Witnesses.—Witnesses shall not be entitled to prove their attendance for any days prior to the day on which the case in which they are witnesses is set for trial unless otherwise ordered by the presiding judge.

(7) Authority of Court Unaffected.—Nothing in this section shall be construed to affect the authority of the court in the call of cases for trial.

The Rules of Practice in the Superior Courts of North Carolina provide:

Rule 21. Cases Set for a Day Certain

Neither civil nor criminal actions will be set for trial on a day certain, or not to be called for trial before a day certain, unless by order of the court; and if the other business of the term shall have been disposed of before the day for which a civil action is set, the court will not be kept open for the trial of such action, except for some special reason apparent to the judge; but this rule will not apply when a calendar has been adopted by the court.

Rule 28. Criminal Dockets

Clerks of the courts will be required, upon the criminal dockets prepared for the court and solicitor, to state and number the criminal business of the court in the following order:

First. All criminal causes at issue

Second. All warrants upon which parties have been held to answer at that term.

Third. All presentments made at preceding terms, undisposed of.

Fourth. All cases wherein judgments nisi have been entered at the preceding term against defendants and their sureties, and against defaulting jurors or witnesses in behalf of the state.

The solicitors tend to set almost all of the criminal cases on the calendar for the first two or three days in the week. This is shown by Table II-G and is borne out by the statements of attorneys, and solicitors interviewed. Table 11-G was composed from Superior Court calendars from counties in various parts of the state.

Although under the rules and the prevailing practices a case may not be called before the day of the term on which it is set by the calendar for the term, it may be called at any time thereafter until the end of the term whenever the solicitor pleases; furthermore, in those counties or districts where the solicitor calls all of each day's cases for plea alone, in order to ascertain the guilty pleas and get them out of the way, the not guilty pleas are set aside until the guilty pleas are disposed of. The not guilty pleas may then be called in any order the solicitor desires.

Many of the practicing attorneys interviewed by the persons conducting the study or who responded to questionnaires, in response to a general question concerning the administration of criminal justice in North Carolina, complained of this system of calendaring and call of criminal cases for plea or trial because of the inconvenience, lost time, and delay incident to waiting for a case to be called during the term; some complained that a case may not be called initially for plea for several terms. Over half of the attorneys interviewed or who responded to questionnaires, when asked *"What is your understanding of the calendaring practices and the customs or procedures governing the call of criminal cases set for trial in the superior court in your county?"* stated that the solicitors call the cases as they please, keeping the defendants, attorneys, and witnesses waiting. One-fifth of the attorneys, however, indicated satisfaction with the methods employed by their solicitors. Some of the comments and responses by those attorneys who complained were:

> I practice very little criminal law because of the inconvenience resulting from not knowing when a case will be called in Superior Court.
>
> I have handled only 3 or 4 criminal cases in the Superior Court in 7 years of practice for these reasons: . . . (2) I find representation of one accused person at a term very time consuming because of the necessity of waiting for the case to be tried. . . .
>
> The solicitor sets all the cases. He calls them at pleasure. This keeps everybody in court without any system. It is a great inconvenience and a hardship to every person, including the witnesses and the defendants.
>
> The solicitor sets the cases for trial on Monday, Tuesday and Wednesday of each week. The defendant and his counsel must stand ready on the day set and for the rest of the week. Often this means a full week committed to waiting and then no trial will occur for several terms.
>
> The solicitor calls the cases when he wants to. This makes the defendants and their attorneys and all witnesses wait until he, at his will, calls the case.
>
> We now have a good many cases pending on the criminal docket which have been set on the calendar as many as 10 or 12 times. Most of these are minor offenses but the defendants have been required to attend court as many as 10 or 12 times and their case is not called for trial. I think this is due to the solicitor not calling his docket in the order in which it is set on the calendar and picking the cases at random for trial.
>
> Defendants should not be kept waiting all week for the case to be tried only to find that they [the solicitors] can't get to it. They should be informed on a day certain for trial so that they can prepare in advance, and the witnesses can arrange to be there at that time, knowing that they will not have to sit and waste their whole week, and then be told to return on the next term.
>
> I would like to practice some criminal law, but it is a luxury I cannot afford—your office practice would go to pot if you spent many days waiting down at the courthouse for your client's case to be called, without any assurance that it would ever be.

The criticism of 2 attorneys went further than to complain of inconvenience or lost time. They stated:

> The cases are called at the will of the solicitor. This is often used by the solicitor to coerce a plea of guilty.
>
> In this county an attorney does not know the approximate time that his case will be called. This could be improved, but I have no complaint. All guilty pleas are taken first. I *have* noticed some defendants change their pleas of not guilty to pleas of guilty after waiting some time for their case to be tried in court.

Two superior court judges, when asked whether there are any noticeable abuses engaged in by either the defense attorneys or the solicitors, responded with the following comments:

> Yes. Solicitors too often attempt to coerce pleas of guilty by refusing to let the defendants know when their cases will be called. . . .
>
> Some solicitors will not call a case for several terms while the defendant is ready for trial and then have him called out if he fails to appear in court.

Subsection (1) of G.S. 7-73.1, *supra*, imposes upon the solicitor the duty to prepare and file the calendar for the coming term of court with the clerk of superior court; no provision in this statute nor in either Rule 21 or Rule 28 specifies which case should be calendared for call on which days. The solicitors were asked—*"What is your practice pertaining to placing cases on the trial calendar; that is, what determines the day a given case or type of case will be set?"*

The answers concerning the cases which would be set for *Monday* alone show the following variations:

> Jail cases (6 solicitors)
> Jail and non-support cases (1 solicitor)
> Grand jury cases (1 solicitor)
> According to importance and age (2 solicitors)
> After conferring with bar (2 solicitors)
> All cases are set for Monday (1 solicitor)
> The cases to be tried (1 solicitor)
> Cases are spread so as to equalize the workload for each day (1 solicitor)
> Cases are set mainly for convenience of the witnesses—e.g., cases involving night policemen as witnesses are tried in the afternoons (1 solicitor)

Twenty superior court judges were asked—"*What do you think would be the best system or procedure for the call of criminal cases for disposition so that the defense counsel and witnesses would not be unduly inconvenienced by waiting?*" Their answers were:

The members of the bar and the solicitors should cooperate more fully so that the solicitor, being apprised of what the intended pleas are, could set a more realistic calendar, and call the cases in order set (8 judges).

Don't set too many cases for one day of court (2 judges).

The one-day rule should apply (2 judges)*

Guilty pleas called first, jail cases second, all others according to age (1 judge).

Calendar 30 cases Monday, 30 Tuesday, and 30 Wednesday. This is all that can be conveniently disposed of without the court breaking down (1 judge).

Place only as many cases for each day as can be reasonably disposed of (2 judges).

Four judges were either satisfied with the present system or offered no suggestions for improvement.

When asked a general question concerning improvements in the administration of justice on the criminal side, the following suggestions concerning the problem of calendaring and calling criminal cases were made by the judges:

> Our solicitor should have sufficient time and sufficient help to confer with attorneys before a calendar is made up, with the view of determining which defendants will probably plead guilty. The cases should be called in the order that they appear upon the trial calendar, except for good cause and with consent of court.
>
> There should be more attention given to calendar making and preparation for court. The solicitor should be required to make the calendar personally. Lawyers, the clerk of court, and a representative from the law enforcement agencies should be present. They should make the calendar together, but the solicitor should take the responsibility for it and reserve to himself the right to make final decisions. In this way there can be complete cooperation, and officers and witnesses can always be in attendance when needed.
>
> The calendars should always be prepared by the solicitor and made available to lawyers.
>
> The dockets should be kept more nearly current so that the witnesses would not have to attend so many terms of court.

Man-hours of Work Lost by Subpoenaed Witnesses

The case-abstract sheets used to abstract the case histories of the cases disposed of during 1956 by the Superior Courts in 32 counties included spaces for insertion of a figure representing the number of times a case had been set for trial, and a figure representing the number of witnesses subpoenaed. The subpoenaes filed in the case paper envelope or shuck were used to provide the information concerning the number of times the case was set for trial, since the clerks of court upon receipt of the next term's calendar from the solicitor issue subpoenas for all state and defense witnesses listed in the records. Law enforcement officers are usually not subpoenaed but are required to keep track of "their" cases slated for trial.

The records for 7,881 cases out of 11,542 disposed of during 1956 in these 32 counties were complete enough to show the number of witnesses subpoenaed and the number of terms each case was set for trial. The statistics gleaned therefrom show that 15,742 witnesses came to court only one term; 3,535 came to court for 2 terms; 1,630 came for three terms; 755 came for four terms; 389 came for five terms; 168 came for six terms; 133 came for seven terms; 119 came for eight terms; 45 came for nine terms; and, 74 witnesses were subpoenaed and came to court 10 or more times. (See Table II-H).

Assuming that 1 day in court results in the loss of one day's work (eight hours), (and excluding eight hours for each witness in each case as justifiable loss of time for the day on which the case was finally disposed of), if only one day's work was lost each term by each witness subpoenaed, 112,-904 man-hours were lost by witnesses in these 7,881 cases during 1956; if the witnesses waited for two days each term (excluding one day as justifiable) this was a loss of 406,528 man-hours; and, if each witness lost three days work each term the case was on the trial docket, a loss of 700,152 man-hours would have resulted in these 7,881 cases. The records failed to show how many days were actually lost each term since the printed calendars for past terms were not retained by the clerk's office and, therefore, it could not be determined on what day of the term the cases had been set.

One thousand six hundred and forty of the 2,613 pending cases in the 32 full docket study counties included information on the number of witnesses subpoenaed *and* the number of terms set for trial. (See Table II-J). The tabulations of these undisposed of cases with complete information reveal that: 2,196 witnesses (in 861 cases) had come to court one term; 902 witnesses (in 367 cases) had come two terms; 538 witnesses (in 209 cases) had come three terms; 234 witnesses (in 82 cases) had come four terms; 164 witnesses (in 60 cases) had come five terms; 103 witnesses (in 29 cases) had come six terms; 37 witnesses (in 14 cases) had come seven terms; 13 witnesses

* In civil cases, under local civil rules in various counties, if the case is not called on the day appointed or the next day, it is automatically continued until the next term of court. This is the so-called "one-day" rule; other counties have "two-day" rules, and so on.

(in five cases) had come eight terms; 32 witnesses (in seven cases) had come nine terms; and 32 witnesses (in six cases) had come to court 10 *or more* terms. If the witnesses subpoenaed for each case lost one day's work (eight hours) each term the case was placed on the calendar, 24,331 man-hours were lost and the cases had not yet been disposed of; if the witnesses lost two days each term, 48,662 man-hours were lost; and if three days were lost each term by each witness subpoenaed, 72,993 man-hours were lost and the cases were still pending as of the time of the study.

It should be noted that the above figures do not include the loss of: the time of law enforcement officers*; the time of other witnesses who were not subpoenaed because it was unnecessary to insure their presence with process of the court; the time of defense attorneys; nor the time of witnesses subpoenaed in the cases where the records lacked the necessary information respecting either the number of witnesses subpoenaed or the number of terms the cases were set for trial (3,661 disposed of cases and 973 pending cases).

Therefore, the loss of man-hours on the part of witnesses caused by their sitting and waiting term after term over the entire state each year must be enormous.

Subpoenaed witnesses are entitled to fees for each day in attendance from and after the day the case in which they are to appear is set on the calendar (G.S. 7-73.1).

However, these fees are only from $1.00 to $3.00 per day in attendance, plus five cents a mile for necessary travel to and from the home of the witness (G.S. 6-52). The county must bear the cost of the State's witnesses whenever the defendant is not required by the court's judgment or operation of law to pay them, or is insolvent, and whenever the prosecutor is not required to pay them (G.S. 6-58). The county is also required to pay the defendant's witnesses whenever the case is terminated in the defendant's favor (acquittal, nol-pros, etc.) or whenever they were necessary for the defense (G.S. 6-59).

Summary

(1) The statutes and rules of practice in the Superior Courts prevent cases from being called during a term of court before the day for which they have been calendared by the solicitor, but allow cases to be called at any time after the day for which they are calendared and prior to the end of the term. The defense attorney, witnesses, and law enforcement officer-witnesses must wait until the solicitor calls the case or until the end of the term, whichever is sooner.

(2) Many practicing attorneys indicated that the present method of calendaring and calling criminal cases makes it difficult to represent defendants in criminal cases, and that to require the defendants, defense counsel, and witnesses to wait all term or for several terms constitutes a hardship.

(3) Superior Court judges interviewed generally felt that changes in the methods of calendaring and calling criminal cases were necessary to improve the administration of justice.

(4) A small number of judges and attorneys indicated that some solicitors used the present method of calendaring and calling cases to force guilty pleas from anxious defendants.

(5) The calendaring practices of the various solicitors are not uniform—they grant varying priorities in deciding which cases to place on the docket for the first of the week, and they vary as to the portion of the total cases calendared for the first day or two of each term.

(6) Thousands of man-hours of work are lost by attorneys, witnesses subpoenaed, and witnesses not subpoenaed (including law enforcement officers) for cases that are not called for several days or several terms. Subpoenaed witnesses are paid $3.00 or less for each day lost.

Variances and Inequalities under the Present System of Solicitorial Districts

Introduction

Article IV, Section 23 of the Constitution of North Carolina establishes the office of Superior Court solicitor and charges him with responsibility for prosecuting all criminal actions in the Superior Court and advising "officers of justice" in his district. This provision also contemplates the division of the State into solicitorial districts: "the State shall be divided into twenty-one solicitorial districts . . . But the General Assembly may reduce or increase the number of solicitorial districts, which need not correspond to, or be the same as, the judicial districts of the State."

Since 1937, the State's 100 counties have been divided into the following solicitorial districts:

First: Currituck, Camden, Pasquotank, Perquimans, Chowan, Gates, Dare, Tyrrell and Hyde

Second: Washington, Martin, Edgecombe, Nash and Wilson

Third: Hertford, Bertie, Northampton, Halifax, Warren and Vance

* In a few city courts in session 5 days a week (inferior courts), each officer on the municipal police force is assigned a day in court each week—"his" cases are all set for plea, etc., on this 1 day, and if not reached, are continued for 1 week; therefore, no officer on the force spends over 1 day a week in court. This cannot be done in the Superior Courts since they are not in continuous session.

Fourth: Wayne, Johnston, Harnett, Lee and Chatham

Fifth: Pitt, Craven, Pamlico, Jones, Carteret and Greene

Sixth: Lenoir, Duplin, Onslow and Sampson

Seventh: Wake and Franklin

Eighth: New Hanover, Pender, Columbus and Brunswick

Ninth: Bladen, Cumberland, Hoke and Robeson

Tenth: Alamance, Durham, Granville, Orange and Person

Eleventh: Alleghany, Ashe and Forsyth

Twelfth: Guilford and Davidson

Thirteenth: Union, Anson, Scotland, Moore, Richmond and Stanly

Fourteenth: Gaston and Mecklenburg

Fifteenth: Iredell, Randolph, Rowan, Cabarrus, Montgomery and Alexander

Sixteenth: Cleveland, Lincoln, Burke, Caldwell, Catawba and Watauga

Seventeenth: Yadkin, Wilkes, Davie, Mitchell and Avery

Eighteenth: Henderson, McDowell, Polk, Rutherford, Transylvania and Yancey

Nineteenth: Buncombe and Madison

Twentieth: Cherokee, Graham, Swain, Haywood, Jackson, Macon and Clay

Twenty-first: Caswell, Rockingham, Stokes and Surry.

This division was provided by G.S. 7-70 until 1955, when the number of judicial districts was increased to 30 and the enumeration of counties in the 30 judicial districts and 21 solicitorial districts was placed under G.S. 7-68.

Although the solicitor may be assisted by assistant solicitors appointed and paid by the county commissioners when the county commissioners in their discretion decide to do so (G.S. 7-43.1, 7-43.2), and although the solicitor may appoint a substitute to act during his absence or disability (G.S. 7-43.3), the responsibility to attend every term of court and prosecute the criminal dockets remains with the district solicitor.

Under the present distribution of counties into solicitorial districts, there are several significant ways in which the workload and responsibilities vary.

Variance in the Number of Days Attendance Is Required in Court

Table II-K shows the number of days the solicitors were required to attend court in order to prosecute the criminal docket during 1956. This information was obtained from the Superior Court minute dockets in the 100 counties. As evidence of the varying workloads and responsibilities, these figures are significant. In one district, criminal matters were before the Superior Courts during criminal and mixed civil-criminal terms of court only 68 days during 1956; in another district, unquestionably the busiest district in the State from this standpoint, 214 days of court were used in transacting criminal business. Since court is never held on Saturdays and Sundays, this means that in the latter district the solicitor's responsibilities required his presence in court on 214 out of 262 weekdays during 1956. In 11 of the districts criminal business was transacted in the Superior Court on less than 100 days, whereas in two districts over 200 days of court required the solicitor's presence. To present these variations in another way: 2,482 days were spent in the Superior Courts throughout the State in treating with criminal matters during 1956. If the districts were equal in workload, each district would have spent 118 days on criminal business, or 4.76% of the total for the State; however, 14 districts had fewer days of court than the average and 7 districts had more than the average. This variation ranged from 1 district which had a low of 2.7% of the total to another district having a high of 8.6% of the total days spent on criminal business during 1956 by the Superior Courts. These variations would indicate that in the busier districts the solicitors have less time to prepare the cases and the calendar for the coming terms of court and are unable to represent the State as fully as the solicitors in the less active districts. Furthermore, in the districts with lighter workloads, the solicitors can devote more time to their civil practice if they maintain one, can devote more time and energy to investigating and preparing cases for trial, and can render more assistance and advice to law enforcement agencies (a duty imposed on them by Article IV, Section 23 of the North Carolina Constitution).

During the course of interviews with judges, solicitors, and members of the bar, the following comments were made:

> I feel that if the solicitor is on a full-time basis, with adequate compensation, then he will be able to be better prepared for trial. He will be able to handle other matters such as extradition proceedings and investigations with law enforcement officers in a more adequate manner . . .
>
> [Solicitor]

> The solicitor should be on "call" for investigation and trials . . .
>
> [Solicitor]

> A solicitor in a district the size of mine doesn't have the time to properly prepare his cases in too many instances . . .
>
> [Solicitor]

> . . . I feel that the solicitor should have more time to help officers and to research problems involved in the cases to be tried. I have found time and time again that research has made the difference in criminal cases tried in the superior court . . .
>
> [Solicitor]

> A full-time solicitorship would enable the solicitor to keep proper contacts with and direct the

officers in preparation and examination of every witness in a felony case . . .

[Solicitor]

An assistant would be invaluable in helping prepare cases for trial.

[Solicitor]

In some counties the solicitors do not have time to prepare their cases. In other words, many solicitors are overworked.

[Superior Court Judge]

Our solicitors should have sufficient time and sufficient help to confer with attorneys before a calendar is made up . . .

[Superior Court Judge]

. . . There should be more attention given to calendar making and preparation for court.

[Superior Court Judge]

If the solicitor had the time, aside from his general practice, to acquaint himself with the facts in each case, he could dispose of them more quickly and in regular order.

[Attorney]

Conflicting Terms of Court

In addition to the variances in the number of days spent in court during 1956, in nine solicitorial districts there was a total of 31 instances in which the solicitor's duties would require him to be in two counties on the same Monday attending opening terms of court to be one-week in duration. These conflicts were resolved, of course, by the appointment of a substitute solicitor, by the presence of an assistant solicitor, or by the solicitor hiring or procuring the services of an attorney to be present at one of the Superior Courts while the solicitor attended the other.

Table II-L shows the number of conflict one-week terms for each district. In one district, on eight Mondays during 1956 one-week terms of criminal court opened in two counties in the district; in another district this occurred six separate times; in another on five separate occasions; in another four times; in another three times; and in three districts there was one conflict term in each district during 1956.

When this occurs, already existent difficulties concerning preparation in advance of the term are aggravated; sometimes the solicitor must obtain the services of someone relatively inexperienced (when no assistant solicitor is holding office in the county concerned); sometimes the solicitor, by arrangement with the presiding judges, works Monday, Tuesday and Wednesday in one county and dashes to the other county to spend the rest of the court week prosecuting the criminal docket there.

Assistance in Prosecuting the Docket

Whenever the county commissioners decide to employ an assistant solicitor to help the district solicitor in their county, they must appoint the attorney nominated by the solicitor; nevertheless, there can be no assistant solicitor selected and paid by the public unless the county commissioners decide there should be one (G.S. 7-43.).

On the basis of questionnaires mailed to and returned from the 21 district solicitors, at the present time 21 counties have provided assistant solicitors. These are distributed among 10 solicitorial districts; 11 districts have no publicly paid regular assistant solicitors.* Of those districts having assistants, only one district has an assistant in every county; one district of five counties has an assistant in four ; each of three districts made up of two counties has an assistant solicitor in one of the two counties; one district of 10 counties has assistants in two of them; one district with four counties has assistant solicitors in two of them; one district with five counties has an assistant in two of them; one district with six counties has an assistant in one county; and, one district with four counties has an assistant in one of them. The size of the districts without any assistant solicitors ranges from two counties to seven counties.

That an assistant is not always provided by the governing body of the county according to need may be shown by the following comments made by the solicitors themselves in questionnaires and during interviews:

I do not have any part-time help. The only part-time help that I can procure is some young lawyer who helps me free of charge for the experience.

District solicitors should be provided with such assistance as they need in the preparation for trial of cases, . . . When the need exists the Chief Justice of the Supreme Court and the Attorney General of the State of North Carolina should use their influence to convince the appropriate governing body of the need of an assistant to the district solicitor in a given county and make suggestions as to adequate compensation for such assistance.

The solicitors need assistance in districts with heavy court loads.

Other solicitors replied that they presently needed help in prosecuting the dockets in a total of 17 counties. The number of assistant solicitors by district may be seen in Table II-M.

Unequal Districts in Population, Area, and Lower Court Structure

As now constituted, the solicitorial districts encompass areas with population which varies from a low of 113,000 people to a high of 351,000 people. Three districts have populations of less than 125,000; four have populations over 280,000. Twelve districts have populations of less than 200,000. whereas nine have over 200,000 population.

They vary in size from only two counties in four districts to a high of 10 counties in one district; one district is composed of three counties; four districts are four counties in size; four districts are five counties in size; six contain six counties and one is composed of seven counties.

* Those appointed and paid by the county commissioners are paid varying amounts: from $200 a month to $250, to $300, to $350, to $394, to $400 a month; at least one is paid according to the number of weeks he attends court.

In 1956 there were variations in lower court structure which affected the workload of the solicitors. The prosecution of the Superior Court dockets in districts which include counties without any courts below the Superior Court to try misdemeanor offenses above JP court jurisdiction is a more onerous task than if the counties had lower courts. This is due to the many misdemeanor cases before the Superior Courts in such counties for initial disposition. In 1956, there were at least eight districts embracing territory not covered by a lower court with jurisdiction to try all offenses below the grade of felony. Within these, the number of counties without county-wide lower courts to take care of the misdemeanor caseload varied from six counties in one district to one county in four others; another district had five such counties; another had three such counties; and one district had two such counties.

Conversely, the number of city and county courts trying misdemeanor cases in 1956 varied from a high of 12 such courts in each of two districts to a low of two courts in each of two districts. One district had 11 such courts; three districts had 10 such courts in each district; four districts had eight such courts in each district; two districts had seven such courts in each district; one district had six such courts; four districts had five such courts in each district; one district had four such courts; and one district had three courts with jurisdiction over all misdemeanor cases committed within their territorial jurisdiction.

Table II-M gives population, size, number of assistant solicitors, and lower court structure of the 21 districts.

Variations in Caseloads: Number of Cases and Charges Disposed of in 1956 and Jury Trials Conducted

Further evidence of unequal workloads in the districts can be seen in the number of units of business brought before the Superior Courts during 1956 (the unit of counting employed here is the segment of criminal business, regardless of the number of defendants or charges, that is called as a unit for disposition by the court). These vary from a low of 498 of these "cases" or "courtroom" units to a high of 1,666 "courtroom units." Nine districts had less than 900 such units of business during 1956, whereas 3 had over 1500 such units.

Evidence of the work required to dispose of these units of business is the number of jury trials and partial jury trials. One district had only 34 complete jury trials (to verdict) during 1956. This was the low for the year. The high for the year was 305 complete jury trials in another district. Both of these districts had only one assistant solicitor during 1956, according to the available information. Four districts had over 200 complete jury trials during 1956, whereas 4 had less than 100 such trials. The same district which had the greatest number of complete jury trials also had most of the partial jury trials, a total of 99. These partial jury trial figures represent the trials wherein the defendant or defendants changed pleas of not guilty to pleas of guilty, *nolo contendere*, or guilty to a lesser offense before the case went to the jury; or, wherein the case was dismissed or verdict was directed for the defendant at the end of the state's evidence. The low in the number of partial jury trials was 15 (this was not in the district having the least number of complete jury trials, but was one in the middle range in this respect). Seven districts had less than 30 partial jury trials during the year; four had 70 or more.

Converse to the number of trials or contested units (or "cases,") are the figures for the total number of units of business that went no further than a plea admitting the guilt of the defendant or defendants. These varied from a high of 79.1% in one district to a low of 40% in another. There was less variation here in terms of percentages, but just as much in terms of raw figures. A low of 262 units in one district went no further than a plea or pleas admitting guilt, to a high of 1,230 units in another district. These figures are shown in Table II-N.

The figures representing the number of "charge-units" disposed of also vary considerably from one district to another. These units of counting represent the total number of felony charges and misdemeanor charges. That is, each felony charge against each defendant is counted as a unit and each misdemeanor charge against each defendant is counted as a unit. The felony charges vary from a low of 119 to a high of 1,022. Only two districts disposed of over 900 such charges during 1956, whereas seven disposed of less than 300 felony charges. The percentage of the total felony charges disposed of at the outset by pleas of guilty, guilty of lesser offense, or *nolo contendere* varied from a low of 49.1% in one district to a high of 84.1% in another. See Table II-O.

The total number of misdemeanor charges disposed of during 1956 varied from a low of 411 in one district to a high of 1,796 in another. Three districts disposed of less than 500 misdemeanor charges during 1956; whereas three disposed of more than 1,500; nine districts disposed of over 1,000; six disposed of 651 or less. The percentage of the total misdemeanor charges disposed of at the outset by plea varied from a low of 37.8% in one district to a high of 70.4% in another. See table II-P.

Variations in the Number of Cases Pending at The Time of the Study

The number of cases pending as of the time the study was conducted in the various counties also is evidence of unequal workloads. Since these cases had not been disposed of, it could not be ascertained how they would be called as units of business ("courtroom" units) and therefore the clerk's case-numbered unit was adopted, each case according to the clerk's numbering system being counted as a unit. Whenever more than one defendant was charged by the warrant(s) or indictment(s), each defendant was tabulated as a case; however, this occurs only infrequently and most of the pending cases involved a charge or charges against only one named defendant. The total number of pending cases wherein the most serious offense charged was a felony varied from a high of 350 cases in one district to a low of 36 cases in another. Nineteen districts had 147 cases or less, and six districts had 60 or less pending felony cases. The pending misdemeanor cases (the most serious offense charged falling short of felonious conduct) varied from a high of 527 cases to a low of 62 cases. Five districts had over 300 pending misdemeanor cases and only two districts had less than 100 cases. The figures for the total number of pending cases, combining the felony and misdemeanor cases, varied from a high of 877 pending cases to a low of 121. The highs for felony cases, misdemeanor cases, and total cases pending were all in one district; the lows for felony cases and total of all cases were both in the same district. See Table II-A for these figures.

Summary

1. The state's 100 counties are divided into 21 Superior Court solicitorial districts which vary in size from two counties to ten counties, in population from 114 thousand to 350 thousand, and in the structure of lower courts which take some of the case burden from the Superior Court dockets.

2. The workload of the solicitorial districts varies widely: (a) in the number of days the solicitors are required to be in court; (b) in the number of case-units, felony charges, and misdemeanor charges disposed of in one year; (c) in the number of cases contested and requiring jury trial each year; and, (d) in the number of cases pending determination of guilt or innocence of the accused.

3. The districts also vary in the amount of assistance afforded the district solicitors in the prosecution of the dockets.

4. In several districts on several occasions during one year, terms of court (established two years in advance by the legislature) were held which required the solicitor to be in two counties holding court at the same time.

Disposition of Criminal Cases in the Superior Courts

Methods of Determining the Disposition of Criminal Business in the Superior Courts of 100 Counties

The minute docket abstract sheets were employed in two principal ways for counting and tabulating the information on entries contained in the minute dockets. The first unit of counting was the "courtroom unit," *i.e.* each piece of criminal business called for determination of guilt or innocence of the defendant or defendants involved. The unit counted may have included only one defendant charged with one offense or it may have included several defendants each charged with more than one offense. The borders of the unit were determined by how much was called at one time for disposition. Each unit was tabulated according to the most time consuming phase reached by the entire unit or any component part; if the entire unit was disposed of by pleas admitting guilt, this was counted as disposal by plea; if the entire unit or any part thereof went as far as, but no farther than, partial jury trial, the whole unit was counted as a partial jury trial; if the entire unit or any part thereof went as far as complete jury trial, the whole unit was tabulated as a complete jury trial; if the entire unit was disposed of by nol-pros at the outset (no guilty pleas being included), this was counted as a nol-prossed unit; if any part was disposed of by guilty pleas and went no further than such plea(s) or nol-pros, the whole unit was counted as being disposed of by plea; and, if the case was taken off the dockets (without plea or nol-pros) by dismissal, remand, abatement, etc., without any further action being taken, it was counted as remanded, abated, etc. Thus, the greatest use of the court machinery by each unit or case called as a separate piece of business could be shown.

(2) The second unit of counting was the "charge unit", *i.e.* each offense disposed of against each defendant. Only by breaking down the entries this way would it be possible to show the specific disposition of each offense, *i.e.*, whether found guilty, pleaded guilty to a lesser offense, and so on. The breakdown tabulation positions here used were: pleaded guilty; pleaded guilty to a lesser offense; pleaded *nolo contendere* (and accepted); changed plea of not guilty to guilty after trial had begun; changed plea of not guilty to guilty of lesser offense after trial had begun; directed verdict or dismissal; mistrial; verdict of guilty; verdict of not guilty; verdict of guilty to a lesser offense (one carrying less punishment); nol-prossed; and, abated, remanded, etc.

Disposition of "Courtroom Units"

Table II-N gives the most time consuming phase reached by the cases called before the court as one unit. During 1956 there were 21,667 such units called and disposed of in all the Superior Courts of the state.* Sixty and six tenths percent, or 13,119 such units, went no further than pleas admitting guilt or having that effect; 3,864, or 17.8%, units were nol-prossed; and, 777 units, or 3.6%, were remanded, abated, or dismissed without ever being heard. This leaves 4.4%, or 958 units, which went no further than partial jury trial, and 2949 units, or 13.6%, which went to complete jury trial. Thus, a total of only 18% of all the "cases" called before the Superior Courts brought the machinery of jury trial into play, with the balance of 82% requiring little more than either imposition of punishment or formal entries striking the cases from the pending dockets.

Table II-N gives disposition figures for individual districts as well as totals for the entire State. In one district only 3.7% of the total number of "cases" or "courtroom units" put the jury trial machinery into motion; whereas 30% of all the "cases" in another district required use of the jury machinery during 1956.

The nol-pros rate shown in the table seems excessively high for most of the western districts. This is primarily due to the method of disposing of non-resident motorist violator cases in those counties without lower courts with jurisdiction over all misdemeanors. The motorist posts a cash bond for appearance at the next term of Superior Court in an amount sufficient to cover what his fine would have been, and then goes on his way. When the solicitor calls the case and the motorist fails to appear, the judge enters judgment absolute on the bond and the amount is paid into the school fund. The solicitor then nol-prosses the case, since everyone understands it will never be prosecuted.

Specific Disposition of Each Felony and Misdemeanor Charge Recorded in the Minute Docket

During criminal and mixed criminal and civil terms held in the calendar year 1956, the state's 100 Superior Courts disposed of 8,958 felony charges, each felony charged against each defendant being counted a unit. Table II-O gives the totals for each solicitorial district and for the entire State and shows the specific disposition of each offense. The state-wide total felony dispositions are reproduced here for ease of presentation:

	Number of felony charges	Percent of total
Disposed of by pleas of guilty	4,553	50.8
Disposed of by pleas of guilty to a lesser offense	1,093	12.2
Disposed of by pleas of nolo-contendere	701	7.8
Pleaded guilty to lesser offense after trial had begun	148	1.7
Directed verdict for defendant (nonsuit, dismissal)	260	2.9
Ended in mistrial	81	.9
Verdict of "Guilty" as charged	681	7.6
Verdict of "not guilty"	318	3.6
Verdict of guilty of lesser offense	119	1.3
Nol-prossed	802	9.0
Abated, remanded, etc.	91	1.0
TOTAL	8,958	100.0

This table shows that as a whole the Superior Court solicitors obtained convictions in most of the cases. Adding together all of the pleas admitting guilt and the findings of guilt in various degree in order to obtain a figure representing the total number of convictions on felony charges during 1956, we find that 7,406 felony charges, or 82.62% of all the felony charges, resulted in convictions; whereas, the charges *contested* to final determination in favor of the defendants were only 659 or 7.35% of all of the charges. These 659 cases were terminated by a directed verdict, nonsuit, mistrial, or verdict of "not guilty." For individual districts, the percentage of *contested* felony charges terminated in favor of the accused during 1956 varied from a low of 3.3% to a high of 16.6%.

During this same period, 20,920 misdemeanor charges were disposed of in the state's 100 Superior Courts. Table II-P gives the figures for solicitorial districts and for the entire State. The statewide totals show almost the same rate of convictions in the misdemeanor cases as in the felony cases.

The statewide totals show:

	Number of Misdemeanor Charges	Percent to Total
Pleaded guilty and nolo-contendere	11,833	56.6
Pleaded guilty to a lesser offense	764	3.7
Changed plea to guilty after jury trial began	296	1.4
Changed plea to guilty to lesser offense after jury trial began	87	.4
Directed verdict; nonsuit; dismissal	574	2.7
Mistrial ordered	157	.8
Verdict of "guilty as charged"	1,597	2.7
Verdict of guilty to lesser offense	60	.3
Verdict of "not guilty"	848	4.1
Nol-prossed	3,962	18.9
Remanded, abated, dismissed	742	3.5
TOTAL	20,920	100.0

For the entire state, then, the Superior Court solicitors obtained convictions in 14,637, or 69.97%, of the misdemeanor charges. In addition, many of the nol-prosses recorded in the table occurred in western counties pursuant to an understanding that, having collected the non-resident motorists' cash appearance bonds, a satisfactory disposition of the charges (in effect a conviction) had been made and the cases should be nol-prossed to take them off the pending case dockets.

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* This one year's business involved 29,878 felony and misdemeanor charges; therefore, for every five "courtroom" units, a total of approximately 7 charges were involved.

The Disposition of 1956's Cases Abstracted in 32 Full-Docket Study Counties

The case histories of the criminal cases disposed of during 1956, and the pending cases as of the time of the study, were abstracted in full in the 32 full docket study counties. The case-unit employed, explained elsewhere in this report, was the clerk-numbered case or "shuck"; however, if more than one defendant was involved in a numbered case, an abstract sheet was filled out for each defendant because the resulting complexity of data, if this had not been done, would have precluded understandable tabulation. Each offense charged against the defendant by the indictment(s) or warrant(s) in the numbered case was entered on the form; however, few of the cases involved more than one charge against the named defendants.

The 32 Superior Courts disposed of 11,542 of these cases during 1956. Forty percent, or 4,613, of these cases were felony cases. One hundred and seventy-one (1.5%) were murder cases; 117 (1.0%) were manslaughter cases; 133 (1.2%) were cases of statutory or common law rape; 254 (2.2%) were robbery cases; 553 (4.8%) were felonious assault cases; 31 (.3%) were arson or felonious burning cases; 1188 (10.3%) were breaking and entering or burglary cases; 740 (6.4%) were felonious larceny cases; 99 (.9%) were embezzlement cases; 97 (.8%) were false pretenses cases; 657 (5.7%) were forgery cases; 92 (.8%) were crime against nature cases; and, 481 (4.2%) cases charged the commission of felonies other than those listed above (such as escape, second offense of manufacturing liquor, hit and run driving, and so forth).

The specific disposition of the most serious charge in the 4,613 felony cases was as follows:

	No. Cases		Per Cent
(1) *Disposed of before plea—*			
Nol-prossed	473		10.4
Remanded	14		.3
Dismissed	18		.4
No true bill found	45		1.0
Abated	5		.1
Other	8		.2
(2) *Disposed of by plea—*			
Plea of guilty	2,201		47.7
Plea of guilty to lesser offense	528		11.4
Plea of *nolo contendere*	(439)	362*	7.8
Other admissions of guilt	31		.7
(3) *Disposition of "not guilty" pleas—*			
Nol-prossed	54		1.2
Remanded	4		.1
Dismissed	17		.4
Found guilty	372		8.1
Found not guilty	118		2.6
Found guilty of a lesser offense	133		2.9
Changed plea to guilty of a lesser offense after trial began	35		.8
Changed plea to guilty after trial began	21		.5
Non-suit, directed verdict	75		1.6
Mistrial	6		.1
Other	14		.3

From these figures it can be seen that the solicitors obtained convictions (whether by plea on finding) in 3,683 of the 4,613 felony cases, or in about 80 out of every 100 cases. In 930, or 20% of the cases, no conviction was obtained on the principal charge.**

In 783 of the 4,613 felony cases, one or more additional charges against the defendants named therein were involved(charges in addition to the principal offense). In 277 (35.4%) of these 783 cases, convictions were obtained for the first additional charge and separate punishment was imposed, and in 52 (6.6%) of the 783 cases a conviction was obtained on the second additional charge. The abstract form did not provide for information beyond the second additional charges. It should be mentioned here that information as to disposition and punishment for the additional offenses charged was not entered on the form unless it was clear from the records that cognizance was taken of these additional charges for plea and punishment. Usually, where more than one offense was involved, the records showed only one plea and one punishment, without reference to which offense this related to. Upon the advice of a Superior Court judge, this one plea, one punishment, etc. was considered as relating to the most serious charge involved; *e.g.*, housebreaking where the indictment charged housebreaking, larceny, and receiving stolen goods.

During 1956 the 32 Superior Courts disposed of 6,929 misdemeanor cases, or 60% of the total cases disposed of during that year. These 6,929 cases were:

	No. of Cases	% of all Cases
Misdemeanor assault	613	5.3
Trespass, malicious injury to property	114	1.0
Abandonment and Non-support, Bastardy	465	4.0
Turlington Act and Chapter 18 violations	614	5.3
Public drunkenness	376	3.3
Speeding	775	6.7
Drunk Driving	1336	11.6
Reckless Driving	473	4.1
Other Chapter 20 violations	874	7.6
Municipal ordinance, vehicle	33	.3

* The large number of *nolo-contendere* pleas is due primarily to the prevailing practice in felony cases whereby the judge hears the facts upon such a plea and the defendant and the State agree to accept the judges' determination of what plea the defendant should tender. The figure in parenthesis represents the total *nolo-contendere* pleas. Since in 77 of the instances the judge ordered a dismissal or directed verdict entered, this number was subtracted from the total to show the number of "convictions" upon nolo-contendere plea. Not all of the nolo pleas were "tried" by the judge, but were accepted without further inquiry.

** This includes the 77 cases wherein the defendant pleaded *nolo contendere* and the judge after hearing the facts, ordered entry of directed verdict.

Municipal ordinance, other	57	.5
Issuing worthless check	203	1.8
Misdemeanor larceny	342	3.0
Other misdemeanors	642	5.5
Complaint and peace warrant	9	.08
Uniform Reciprocal Enforcement of Support Act	3	.03

The disposition of the principal charge in each misdemeanor case is show by the following table:

		No. Cases	Per Cent
(1)	*Disposed of before plea*		
	Nol prossed	1032	14.9
	Remanded	196	2.8
	Dismissed	37	.5
	No true bill found	44	.6
	Abated	70	1.0
	Other	20	.3
(2)	*Disposed of by plea*		
	Plea guilty	3167	45.7
	Plea guilty to lesser offense	287	4.1
	Plea nolo contendere	430	6.2
	Other admission of guilt	106	1.5
(3)	*Disposition of not guilty pleas*		
	Nol prossed	34	.5
	Remanded	17	.2
	Dismissed	23	.3
	Found guilty	846	12.2
	Found not guilty	321	4.6
	Found guilty of lesser offense	93	1.3
	Pleaded guilty after trial began	56	.8
	Pleaded guilty of lesser offense after trial began	32	.5
	Non-suit, directed verdict	95	1.4
	Mistrial	7	.2
	Other	16	.2

Therefore, convictions were obtained on the principal charges in 5,017, or 72.4%, cases. In 1,912 cases (or in 28 cases out of 100), there was no conviction on the principal charge.

In 823 of the total of 6,929 misdemeanor cases, one or more additional charges were involved. In 205 (24.9%) of these 823 cases, convictions were obtained, and separate punishment was recorded for the first additional charge; in 35 of the 823, or 4.3%, conviction was obtained and separate punishment was recorded for the second additional offense. To reiterate, unless the records showed that the additional offenses were pleaded to or punished apart from the single plea for the whole case, the portion of the abstract form relating to these additional charges was left blank.

The Use of the Plea of Guilty to a Lesser Offense

In abstracting the minute docket entries showing the disposition of each felony and misdemeanor charge and in abstracting the full case histories of the disposed-of cases in the Superior Courts of the 32 counties, the use of the plea of guilty to a lesser offense was always recorded. If the defendant pleaded guilty to an offense which carried less maximum possible punishment than that charged by the warrant or indictment, this was counted as a lesser offense whether or not the elements of the lesser offense were present in the language charging the greater. For example, if a defendant was charged with drunk driving only and pleaded guilty to reckless driving, this was considered a plea of guilty to a lesser offense; also, if the defendant was charged with speeding at a rate of 80 miles per hour and pleaded guilty to speeding at 65 mph, this was considered pleading guilty to a lesser offense (even though the same offense, that of speeding, was involved in both instances). This was done because the Commissioner of Motor Vehicles has the authority to suspend driver licenses upon conviction of the first offense of speeding at a rate of 75 mph or over, but he cannot do so for speeding at a slower rate unless this constitutes the commission of a second offense at a rate below 75 mph unless the motorist has been convicted of some additional offense. See G.S. 20-16.

It has been alleged that the plea of guilty to a lesser offense is sometimes used to the advantage of the defendant and sometimes to the advantage of the State. The allegation is that, by charging a more serious offense than has actually been committed, the prosecutor can frighten the defendant into submitting to a guilty plea of a lesser offense when he would not otherwise have done so. Also, it is said, an overworked prosecutor will accept a guilty plea to a lesser offense even when he knows the defendant is guilty of the greater offense because of the pressure of other cases on the docket, and because of lack of time to adequately prepare cases. Furthermore, it has been said that a plea to a lesser offense can be the basis for compromise against the better judgment of the prosecutor and the best interests of the State.

The study of the Superior Court minute dockets revealed that only 1,093 (12.2%) of the 8,958 felony charges disposed of in the 100 counties during 1956 were disposed of by plea of guilty to a lesser offense upon arraignment, and only 148 felony charges (1.7%) were disposed of by such a plea after trial had begun upon an initial plea of "not guilty." Of the 20,920 misdemeanor charges disposed of by the Superior Courts during 1956, only 764 (3.7%) were disposed of by plea of guilty to a lesser offense upon arraignment, and only 87 (.4%) misdemeanor charges were disposed of by such a plea after trial had begun upon an initial plea of "not guilty."

The Superior Court judges interviewed and who responded to questionnaires were asked "Have you ever noticed any abuses in the use of the plea of guilty to a lesser offense?" Eight judges stated unequivocally that they had not. Two judges stated that this occurs too much in the lower courts, and three judges gave no answer. However, six judges gave the following answers:

> Yes. Especially in drunken driving cases. However, the practice serves a practical purpose at times to insure that justice will be rendered.
>
> Yes. Driving intoxicated reduced to reckless driving is the major field of abuse. I do not blame the

solicitor in accepting such a plea in many instances as it is sometimes almost impossible to convict a defendant of drunken driving.

Only in the use of the plea of careless and reckless driving in place of drunken driving.

Yes. This is more prevalent in counties with congested dockets. The solicitor will unconsciously take a lesser plea sometimes in the interest of time. This does not occur too frequently.

There have been only one or two occasions when I was inclined to think that there may have been pleas to lesser offenses when not entirely justified.

While such pleas have no doubt been accepted, I have not seen it done when I considered it an abuse by the State.

Summary

1. Only a small percentage of the case units disposed of during 1956 in the Superior Courts were disposed of by jury trial. The great majority of the cases (82%) required little more than the imposition of punishment or formal entries striking the cases from the pending dockets.

2. Eighty-three out of 100 of the felony charges and 70 out of 100 of the misdemeanor charges disposed of in the Superior Courts of the State during 1956 resulted in convictions of the defendants. The case statistics from the 32 Superior Courts given full docket study indicate that convictions were obtained for the principal offenses charged in 80% of the felony cases and in 72% of the misdemeanor cases during the same year.

3. A small percentage of the cases disposed of in the Superior Courts of the State during 1956 were disposed of by way of a plea of guilty to a lesser offense than the offense charged; a few Superior Court judges interviewed felt this plea had been misused, but the majority were of the opinion that it had not.

Pay, Tenure, Workload, and Civil Practice of Superior Court Solicitors

Introduction

H. R. 1442 of the 1957 General Assembly requested the Bar Association Committee to study the tenure, pay, workload and advisability of placing solicitors of the Superior Courts on a full-time basis. Two bills which would have changed the existing solicitorial district lines and which would have created additional districts failed of passage in the legislature prior to the referral of the matter to the Bar Committee; one of these bills would have made the solicitors full-time prosecutors.

Solicitor Pay and Expenses

The solicitors are paid by the State. They receive an annual salary of $7,936.00 and $2,000 per annum for all expenses.* Both sums are paid in equal monthly installments out of the State treasury. G.S. 7-44, 7-45. It appeared from preliminary examination that some solicitors had to pay for their secretarial help and supplies themselves. In this connection, the solicitors were asked how much of their compensation they expended on secretarial help, supplies, and so forth. Every answer received herewith reproduced verbatim.

I would estimate $75.00 a month.

Approximately $3,000 yearly. This includes expenses for my position as solicitor as well as a private practicioner.

$1,500 per year.

About $100 per month.

One-fourth [of compensation as solicitor].

Approximately $175.00 a month.

One-sixth [of the compensation as solicitor].

I am now expending approximately $3,500 to $4,000 on secretarial help, supplies, travel, etc., from my compensation.

Approximately $2,750 per year.

In my district I don't have time for private practice. I've had to close my private practice, let my secretary go, as I am almost continuously in court. I now do my own typing in all criminal cases.

None. I devote full-time to my office and my county provides me with adequate help and supplies.

$2,340 for secretarial help, $800 for office rent, $500 for office supplies.

Practically none. The reason is that these expenses are paid by my private practice. If I had no practice I could not afford to have a secretary.

Our county supplies the secretary, office supplies, etc.

As for my secretarial, etc., expenses, I am fortunate enough to have my wife do my secretarial work, but if I had to have someone else to do the work it would take a good $300 a month for someone able to do it. My telephone calls are enormous. I call all over the district. You know that we have an expense allowance, but it is the same regardless of what our expense is. The expense allowance covers traveling expenses. They send me $716.00 a month—that's take home pay. If I had to take $300 out of that for my secretary it wouldn't be worthwhile to have the job!

My secretary is paid out of income received by my law firm from private practice. Her salary is $2400 a year. Our office rent . . . telephone . . . and office supplies are paid out of income from private practice.

. . . County furnishes a secretary and also part of the supplies used. I maintain an office, including a library, at a cost of over $2,000 a year annually . . .

My expenses are paid by the county.

From these answers it is obvious that (1) many solicitors would have no secretarial help if they did not maintain a private practice, where their secretarial help, office, etc., serves them in their function as prosecutor; (2) some solicitors are provided secretarial help and office space and supplies at public expense; (3) a few solicitors have neither a private practice nor publicly furnished secretarial help and must do their own secretarial work or do without; and, (4) a few spend a considerable portion of their income as solicitor on secretarial help and office supplies.

Tenure

The office of Superior Court solicitor is established by the Constitution of North Carolina, Article

* No effort was made to ascertain how much they derived from private practice.

IV, Sec. 23. G.S. 7-43 establishes his term of office as one of four years duration. He is elected by the qualified voters in his district. G.S. 7-49 provides that the judge of the Superior Court may relieve an intoxicated solicitor of his duties for the length of the term of court. There are no other statutes pertaining specifically to removal of the Superior Court solicitor for misconduct in office, but presumably such statutes as G.S. 153-207 (violation of election laws) or G.S. 14-228 (buying or selling public offices), among others scattered throughout the General Statutes, would apply to the Superior Court solicitor as well as to any other public officer.

In connection with their tenure, it should be pointed out that several of the solicitors, when asked if they favored making the office a full-time job, stated that this would require that they give up their civil practice; and, since they were elective officials, defeat at the polls would mean re-establishing their practice from scratch.

The 17 solicitors interviewed were asked if the tenure of office of the Superior Court solicitor was satisfactory. Eight stated that it was satisfactory; Seven felt the term of office should be for eight years or equal to that of a Superior Court judge; one felt it should be longer than four years if the solicitorship is made a full-time job; and one felt it should be longer than four years because of the expense of the recurring election campaign.

The 19 Superior Court judges interviewed were asked: "Should the solicitors be precluded from maintaining a civil practice?" Twelve of the 19 said "yes" with seven of these giving reasons or conditions as follows: (1) if they are adequately compensated (5 judges); (2) if their workload is redistributed or equalized (2 judges); and, (3) if the concept of their duties is changed (1 judge). Five judges gave "no" as an answer with two of these giving reasons; both stated that on their present salary the solicitors should be allowed to maintain a civil practice. One judge gave no definite answer and stated that while better law enforcement would result if the solicitors were full-time, better men would not be attracted to the job. One judge gave no answer.

The solicitors were asked for the arguments for and against the proposal that they be made full-time officials, and were asked what they personally favored in this respect. Eleven stated they were in favor of the office being full-time, and six were against the proposition.

The arguments advanced for and against were:

For:

(1) Law enforcement officers need a full-time adviser.

(2) The state's interests should not be represented part-time.

(3) The solicitor would be better prepared for trial, and would have more time to devote to his other duties.

(4) Public servants should not have to supplement income by outside activities (private practice of law)—The present inducement is to neglect criminal matters for increased income from civil practice.

(5) Conflicts of interests would be avoided if he were full-time.

(6) Compensation could then be uniform for all solicitors.

Against:

(1) Their compensation is insufficient—if made full-time, able men would not be attracted to the job.

(2) The civil practice keeps the solicitor a well-rounded attorney.

(3) Nothing would be gained in the administration of justice.

(4) If an elective official is defeated at the end of his term, he would have to start out afresh to build up a civil practice much as does an attorney right out of law school.

(5) There is no reason why he should not be allowed to maintain a private practice where no conflict of interests is involved.

(6) There is not enough work in some districts to justify a full-time official as prosecutor.

(7) As an elective official, if he had to give up his private practice, there would be too many inducements to show favoritism in order to insure re-election.

Summary

(1) Each Superior Court solicitor is elected for a term of 4 years by the qualified voters in his solicitorial district. Those solicitors interviewed were divided in their opinion concerning what the length of their term of office should be.

(2) Each solicitor is paid an annual salary by the state of $7,936.00 plus $2,000.00 for expenses. Many of them spend a portion of this on secretarial help and office supplies; others make use of the secretaries employed by their private law firms; others are furnished secretarial help and supplies by the county; a few have no secretarial help and since they have no private practice they do their own typing and other secretarial work, etc.

(3) A majority of the Superior Court judges and solicitors interviewed were of the opinion that Superior Court solicitors should be full-time officials.

TABLE II-A

AGE OF CRIMINAL CASES PENDING IN THE SOLICITORIAL DISTRICTS AS OF THE TIME OF THE CRIMINAL DOCKET STUDY

AGE	#1 District F.	#1 District M.	#2 District F.	#2 District M.	#3 District F.	#3 District M.	#4 District F.	#4 District M.	#5 District F.	#5 District M.	#6 District F.	#6 District M.	#7 District F.	#7 District M.	#8 District F.	#8 District M.	#9 District F.	#9 District M.	#10 District F.	#10 District M.	#11 District F.	#11 District M.
3 Mos. or Less	48	46	74	131	24	34	93	142	36	120	46	70	29	81	48	48	67	91	26	18	37	89
4 to 6 Mos.	5	61	16	63	4	15	41	66	32	66	9	34	1	21	8	4	32	38	1	5	9	48
7 to 9 Mos.	6	15	1	11	2	12	27	36	4	15	3	10	3	4	0	0	14	10	8	3	6	31
10 to 12 Mos.	7	6	4	5	0	6	18	60	5	18	1	7	0	2	1	4	5	2	0	0	2	4
13 through 24 Mos.	3	4	1	16	5	17	70	94	10	31	2	21	2	3	8	5	27	2	3	6	5	22
25 through 36 Mos.	2	3		2	0	1	29	43	3	5	1	0	0	10	1	1	1	1	6	4	1	3
Over 36 Mos.	6	1	2		0	1	62	56	7	15	13	19	1	7	0	0	1	0	0	2	2	0
TOTAL	77	136	98	228	35	86	340	497	97	270	75	161	36	128	66	62	147	144	44	38	62	197
	213		326		121		837*		367		236		164		128		291		82**		259	

TABLE II-A

Age of Criminal Cases Pending in the Solicitorial Districts as of the Time of the Criminal Docket Study

Pending Cases

Age	#12 District F.	#12 District M.	#13 District F.	#13 District M.	#14 District F.	#14 District M.	#15 District F.	#15 District M.	#16 District F.	#16 District M.	#17 District F.	#17 District M.	#18 District F.	#18 District M.	#19 District F.	#19 District M.	#20 District F.	#20 District M.	#21 District F.	#21 District M.	Total F.	Total M.
3 Mos. or Less	22	62	48	59	29	91	59	166	41	91	35	81	29	151	38	92	22	212	72	107	923	1982
4 to 6 Mos.	7	21	14	38	7	18	22	85	8	24	17	39	7	36	10	51		67	16	50	266	850
7 to 9 Mos.	11	19	4	20	0	9	9	43	3	16	8	31	5	39	10	40	6	51	8	27	138	442
10 to 12 Mos.	2	10	3	7	3	3	5	16	6	5	4	14	6	8	13	25	2	53	4	20	91	275
13 through 24 Mos.	13	13	0	22	5	1	8	29	2	7	3	15	8	45	0	24	6	44	9	18	190	439
25 through 36 Mos.	1	1	1	0	0	0	4	1	0	5	1	4	0	3	7	42	1	10	5	9	64	148
Over 36 Mos.	1	0	0	0	1	0	0	1	0	3	0	2	0	3	30	101	0	9	11	14	137	234
TOTAL	57	126	70	146	45	122	107	341	60	151	68	186	55	285	108	375	37	446	125	245	1809	4370
	183		216		167		448		211		254		340		483		483		370		6179	

*In addition, at time of Pilot Study Chatham County had 10 felonies and 30 misdemeanors pending.

**Figures for only 2 of 5 counties. In addition, the other 3 had, at time of Pilot Study, 89 felonies pending and 386 misdemeanors pending.

TABLE II-B

AGE OF CRIMINAL CASES PENDING IN 96 COUNTIES

	Felonies		*Misdemeanors*	
	No. Cases	%	No. Cases	%
TOTAL	1,809	100	4,370	100
Over 36 Months Old	137	7.6	234	5.4
25 to 36 Months Old	64	3.5	148	3.4
13 to 24 Months Old	190	10.5	439	10.0
10 to 12 Months Old	91	5.0	275	6.3
7 to 9 Months Old (From Date of Docketing)	138	7.6	442	10.1
4 to 6 Months old (From date of Docketing)	266	14.7	850	19.5
3 Months Old or Less (From Docket Date)	923	51.0	1,982	45.4

Felonies

Mode=over 1 to 2 months old
Mean=9.6 (over 9 to 19)
Median=over 3 to 4 months old
Oldest case=170 months old

Misdemeanors

Mode=over 2 to 3 months old
Mean=8.4 (over 8 to 9 months old
Median=over 4 to 5 months old
Oldest case=411 (34.2 years old)

TABLE II-C

Age of Criminal Cases Disposed of During 1956 in the Superior Courts of 32 Counties

	Felonies		Misdemeanors	
	No. Cases	%	No. Cases	%
	4,613	100	6,929	100
37 Months After Docketing, or older	5	.1	2	.03
25 Months to 36 Months after docketing	9	.2	36	.50
13 Months to 24 months after docketing	43	.9	237	3.40
From 10 months to 12 months after docketing	74	1.6	286	4.10
7 Months to 9 Months After Docketing	133	2.9	498	7.20
4 months to 6 months after docketing	322	7.2	1,051	15.20
Disposed of within 3 months or less after docketing	4,017	87.1	4,819	69.50

Felony Cases

Mode=1 month after docketing
Mean=1.87 months after docketing
Median=1 month after docketing
Oldest case=110 months after docketing

Misdemeanor Cases

Mode=1 month after docketing
Mean=3.37 months after docketing
Median=2 months after docketing
Oldest=46 months after docketing

TABLE II-D

Felonies Pending in 32 Court Study Counties

Felonies	No. of Cases	Per Cent of Total
Murder	40	4.9
Manslaughter	52	6.3
Common law and statutory rape	22	2.7
Robbery	29	3.5
Felonious Assault	128	15.6
Arson, felonious burnings	14	1.7
Burglary, Breaking & Entering	146	17.9
Felonious larceny	135	16.4
Embezzlement	46	5.6
False Pretenses	32	3.9
Forgery, uttering forged instrument	80	9.7
Crime against nature	20	2.4
Other felonies	77	9.4
TOTAL	821	100.0

TABLE II-E

Misdemeanors Pending in 32 Court Study Counties

Misdemeanors	No. of Cases	Per Cent of Total
Assault	155	8.6
Trespass, Malicious injury to property	19	1.1
Abandonment and Non-support; bastardy	256	14.3
Turlington Act and other Chap. 18 violations	189	10.5
Public drunkenness	63	3.5
Speeding	114	6.4
Drunk Driving	442	24.7
Reckless Driving	94	5.2
Other Chapter 20 (motor vehicle offenses	195	10.9
Municipal ordinance (vehicle)	5	.3
Municipal ordinance (other)	11	.6
Issuing worthless check	27	1.5
Misdemeanor larceny	47	2.6
Other misdemeanors	144	8.0
Complaint and Peace Warrant	1	.1
Uniform Reciprocal Enforcement of Support	30	1.7
TOTAL	1,792	100.0

TABLE II-F

Present Status of Defendants in the Pending Cases in 32 Counties

	Felony Cases	Per Cent	Misdemeanor Cases	Per Cent
In Prison	25	3.0	13	.7
On the Roads	10	1.2	12	.7
Free on Bond	420	51.2	1.212	67.6
Free, No Bond Required	9	1.1	51	2.9
Free, No Bond Shown	12	1.5	22	1.2
Jail, Failed To Post Bond	65	7.9	30	1.7
Never Arrested	46	5.6	68*	3.8
Mental Hospital	9	3.0	1	.1
Jail, No Bond Allowed	41	5.0	6	.3
Jail, Another Offense	20	2.4	18	1.0
Not Shown	145	17.7	321	17.9
Other	19	2.3	38	2.1
Total	821	100.0	1,792	100.0

*Fifty-four of these 68 cases are abandonment and non-support cases wherein the defendants have never been apprehended.

TABLE II-G

DAYS CRIMINAL CASES CALENDARED DURING CRIMINAL TERMS OF COURT: ONE TERM EACH IN SEVEN COUNTIES

	Set for Monday	Set for Tuesday	Set for Wednesday	Set for Thursday	Set for Friday
County A	85	11			
County B	37	34	39	0	0
County C	46	16	18	15	5
County D	32	11			
County E	15	9	8	4	2
County F	26	11	7	6	1
County G	22		9	8	

TABLE II-K

Solicitorial District: Number of Days Spent in Prosecuting Superior Court Criminal Dockets

District	Total Counties	Number Days Spent Prosecuting Criminal Docket	% of Total Whole State
10	5	214	8.6
12	2	205	8.3
9	4	193	7.8
5	6	156	6.3
4	5	156	6.3
2	5	148	6.0
14	2	134	5.4
11	3	115	4.6
7	2	114	4.6
15	6	112	4.5
16	6	99	4.0
6	4	97	3.9
19	2	89	3.6
1	10	88	3.6
13	6	87	3.5
17	5	87	3.5
18	6	85	3.4
8	4	80	3.2
21	4	78	3.1
3	6	77	3.1
20	7	68	2.7

TOTAL ALL DAYS: 2,482

Average per District—118 Days or 4.76% of the total.

TABLE II-L

Conflict Terms of Court in the Solicitorial Districts During 1956

District	Number one-week Court Terms—1956	Days of Criminal Business	Number of Conflict Terms
1	27	88	0
2	37	148	0
3	30	77	0
4	37	156	4
5	36	156	3
6	30	97	0
7	24	114	0
8	23	80	0
9	41	193	6
10	55	214	8
11	30	115	0
12	48	205	5
13	26	87	0
14	31	134	0
15	37	112	1
16	30	99	1
17	24	87	0
18	28	85	2
19	23	89	0
20	25	68	1
21	18	78	0
	660 Weeks	2,482	31 in 9 Districts

Average per week: 3.8 days

Table II-H on following page

TABLE II-H

Number of Terms 7,881 Cases Disposed of in 1956 in the Superior Courts of 32 Counties Had Been Set for Trial with the Number of Witnesses Subpoenaed in Each Case

Number of terms set for trial	1 Witness	2 Witnesses	3 Witnesses	4 Witnesses	5 Witnesses	6 Witnesses	7 Witnesses	8 Witnesses	9 Witnesses	10 or More* Witnesses	Total No. Cases	Total No. Witnesses
1	1324**	1328	1119	700	361	194	122	61	36	97	5,342	15,742
2	397	302	241	169	59	39	24	13	6	28	1,278	3,535
3	166	168	121	76	21	25	6	2	2	13	600	1,630
4	108	77	55	27	12	7	9	2	1	3	301	755
5	52	52	19	15	9	1	5			3	156	389
6	22	19	16	7	2	2				1	69	168
7	22	10	10	3	2	4	1	1			53	133
8	13	11	6		6			2		2	40	119
9	4	3	5							2	14	45
*10 or more	10	10	3	2			1			2	28	74

* The exact number of witnesses or terms set for trial when over 9 was lost because of the IBM code device used. The "x" punch position was used for the number 10 or more. Many of these "x" punches represented witnesses numbering over 20 and terms numbering up to 15 in some cases.

** Numbers on the grid are cases.

Table II-K and II-L will be found on page 26.

TABLE II-J

Number of Terms 1,640 Pending Cases (In 32 Superior Courts) had been Set for Trial with the Number of Witnesses Subpoenaed in Each Case

Number of Witnesses Subpoenaed

Number of Terms Cases Set for Trial	1 Witness	2 Witnesses	3 Witnesses	4 Witnesses	5 Witnesses	6 Witnesses	7 Witnesses	8 Witnesses	9 Witnesses	*10 or More Witnesses	Total Cases	Total Witnesses Involved
Once	276**	256	127	100	50	22	15	4	2	9	861	2,196
Twice	144	80	73	35	14	6	1	6	2	6	367	902
3	89	53	21	20	4	3	9		1	9	209	538
4	20	24	18	8	5	1	3	1		2	82	234
5	20	13	9	9	5	1	2			1	60	164
6	3	10	8	2	2			1		3	29	103
7	7	1	1	2	2		1				14	37
8		3	1	1							5	13
9	1	1	2	1					1	1	7	32
*10 or more	1	1		1	1					2	6	32

* The exact number of witnesses or terms set for trial when over 9 was lost because of the IBM code device used = the "x" punch position was used for the number 10 or more. Many of these "x" punches represented witnesses numbering over 20 and terms numbering up to 15 in some cases.

** Numbers on the grid are cases.

TABLE II-M

POPULATION, SIZE, NUMBER OF ASSISTANTS AND
LOWER COURT STRUCTURE IN THE STATE'S 21 SOLICITORIAL DISTRICTS

District	No. Co.'s	1956 Pop.	No. Ass't. Solicitors	No. Lower Courts - 1956	No. Counties without Co.-wide Courts (1956)
1	10	122,485	2	12 in 10 Co.'s	
2	5	215,777		7 in 5 Co.'s	
3.	6	194,628	1	6 in 6 Co.'s	
4	5	237,236	4	12 in 5 Co.'s	
5	6	190,129		11 in 5 Co.'s	1
6	4	199,178		5 in 4 Co.'s	
7	2	185,203	1	10 in 2 Co.'s	
8	4	166,005	1	5 in 4 Co.'s	
9	4	261,692	2	10 in 4 Co.'s	
10	5	293,648	2	10 in 5 Co.'s	
11	3	187,842		4 in 2 Co.'s	2
12	2	282,058	1	5 in 2 Co.'s	
13	6	213,528	6	8 in 6 Co.'s.	
14	2	350,724	1	8 in 2 Co.'s	
15	6	293,613		8 in 6 Co.'s	
16	6	282,321		7 in 5 Co.'s	1
17	5	113,279		2 in 1 Co.	5*
18	6	152,481		3 in 3 Co.'s	3
19	2	153,456		2 in 1 Co.	1
20	7	114,373		5 in 2 Co.'s	6**
21	4	159,317		8 in 4 Co.'s	1

*2 of these counties presently have county-wide courts

**1 of these counties now has a county-wide lower court.

District	No. Counties	By Plea		To Partial Jury Trial		To Complete Jury Trial		Nol-Prossed		Remanded, Dismissed, Abated, etc.		Total
		No.	Percent	No.	Percent	No.	Percent	No.	Percent	No.	Percent	(100%)
First	10	262	50.0	27	5.2	103	19.6	127	24.2	5	1.0	524
Second	5	732	50.4	77	5.3	223	15.3	358	24.6	63	4.3	1453
Third	6	364	67.3	29	5.4	34	6.3	96	17.7	18	3.3	541
Fourth	5	478	53.9	75	8.4	192	21.6	114	12.9	28	3.2	887
Fifth	6	552	49.0	68	6.1	158	14.0	331	29.4	17	1.5	1126
Sixth	4	447	59.8	37	4.9	134	17.9	110	14.7	20	2.7	748
Seventh	2	517	51.7	46	4.6	177	17.7	194	19.4	66	6.6	1000
Eighth	4	549	66.4	53	6.4	106	12.8	93	11.2	26	3.1	827
Ninth	4	434	40.0	70	6.4	245	22.6	292	26.9	44	4.1	1085
Tenth	5	912	54.7	99	5.9	305	18.3	282	16.9	68	4.1	1666
Eleventh	3	493	69.0	15	2.1	111	15.5	69	9.7	26	3.6	714
Twelfth	2	664	60.4	52	4.7	231	21.0	108	9.8	45	4.1	1100
Thirteenth	6	305	61.2	28	5.6	104	20.9	41	8.2	20	4.0	498
Fourteenth	2	733	63.3	34	2.9	186	16.1	106	9.2	98	8.5	1157
Fifteenth	6	618	57.7	22	2.1	164	15.3	211	19.7	55	5.1	1070
Sixteenth	6	956	79.1	57	4.7	110	9.1	51	4.2	34	2.8	1208
Seventeenth	5	1230	78.0	39	2.5	70	4.4	215	13.6	23	1.5	1577
Eighteenth	6	973	66.1	50	3.4	51	3.5	363	24.6	36	2.4	1473
Nineteenth	2	383	51.0	23	3.1	106	14.1	193	25.7	46	6.1	751
Twentieth	7	1075	67.0	24	1.5	35	2.2	445	27.7	26	1.6	1605
Twenty-first	4	442	67.3	33	5.0	104	15.8	65	9.9	13	2.0	657
All Districts		13,119	60.6	958	4.4	2,949	13.6	3,864	17.8	777	3.6	21,667

TABLE II-N

Disposition of "Courtroom Units"--
Most Time Consuming Phase Reached

TABLE II-O

Disposition of Felony Charges by the State's 100 Superior Courts—1956

	District #1	District #2	District #3	District #4	District #5	District #6	District #7	District #8	District #9	District #10	District #11
TOTAL FELONY CHARGES	209	631	258	330	316	296	471	582	556	506	545
PLEA:											
Guilty	106	311	134	164	153	114	259	268	183	278	314
Percent	50.7%	49.3%	51.9%	49.7%	48.4%	38.5%	55.0%	46.1%	32.9%	54.9%	57.6%
Guilty Less. Offense	24	51	58	39	41	42	56	95	69	42	33
Percent	11.5%	8.1%	22.5%	11.8%	13.0%	14.2%	11.9%	16.3%	12.4%	8.3%	6.1%
Nolo Contendere	1	25		23	18	28	13	99	21	33	91
Percent	.5%	4.0%		7.0%	5.7%	9.4%	2.8%	17.0%	3.8%	6.5%	16.7%
JURY TRIAL:											
Plea Guilty Later	4	20		5	4	10	2	3	3	12	4
Percent	1.9%	3.2%		1.5%	1.3%	3.4%	.4%	.5%	.5%	2.4%	.7%
Plea Guilty L.O. Later	2	7	7	10	18	4	6	4	17	6	3
Percent	.9%	1.1%	2.7%	3.0%	5.7%	1.3%	1.3%	.7%	3.1%	1.2%	.6%
Directed V; Dismissal	3	25	10	13	14	11	8	23	32	8	1
Percent	1.4%	4.0%	3.9%	3.9%	4.4%	3.7%	1.7%	4.0%	5.8%	1.6%	.2%
Mistrial		4		1		4	6		11	4	4
Percent		.6%		.3%		1.3%	1.3%		2.0%	.8%	.7%
Verdict Guilty	25	54	11	32	14	29	35	15	73	56	54
Percent	12.0%	8.5%	4.3%	9.7%	4.4%	9.8%	7.4%	2.6%	13.1%	11.1%	9.9%
Verdict Not Guilty	4	34	4	13	5	16	15	16	49	17	15
Percent	1.9%	5.4%	1.5%	3.9%	1.6%	5.4%	3.2%	2.7%	8.8%	3.4%	2.8%
Verdict Guilty L.O.	2	6	3	9	2	8	7	2	13	7	4
Percent	.9%	.9%	1.2%	2.7%	.6%	2.7%	1.5%	.3%	2.3%	1.4%	.7%
OTHER:											
Nol-Prossed	37	80	31	17	45	28	62	49	85	38	12
Percent	17.7%	12.7%	12.0%	5.1%	14.2%	9.5%	13.2%	8.4%	15.3%	7.5%	2.2%
Abated, Remanded, etc.	1	14		4	2	2	2	8		5	10
Percent	.5%	2.2%		1.2%	.6%	.7%	.4%	1.4%		1.0%	1.8%

TABLE II-O Continued

	District #12	District #13	District #14	District #15	District #16	District #17	District #18	District #19	District #20	District #21	Total all Districts
TOTAL FELONY CHARGES	927	274	1022	350	378	271	255	330	119	332	8958
PLEA:											
Guilty	551	154	581	153	202	137	117	148	69	157	4553
Percent	59.4%	56.2%	56.8%	43.7%	53.4%	50.6%	45.9%	44.8%	58.0%	47.3%	50.8%
Guilty Less. Offense	72	15	151	37	50	48	47	50	22	51	1093
Percent	7.8%	5.5%	14.8%	10.6%	13.2%	17.7%	18.4%	15.2%	18.5%	15.4%	12.2%
Nolo Contendere	88	1	91	41	39	12	11	27	9	30	701
Percent	9.5%	.4%	8.9%	11.7%	10.3%	4.4%	4.3%	8.2%	7.6%	9.0%	7.8%
JURY TRIAL:											
Plea Guilty Later	6	3	8		6	8	9	1	1	2	111
Percent	.6%	1.1%	.8%		1.6%	3.0%	3.5%	.3%	.8%	.6%	1.2%
Plea Guilty L.O. Later	19	2	10	1	8	13	5	4	1	1	148
Percent	2.1%	.7%	1.0%	.3%	2.1%	4.8%	2.0%	1.2%	.8%	.3%	1.7%
Directed V; Dismissal	18	8	35	7	13	6	6	9	1	9	260
Percent	1.9%	2.9%	3.4%	2.0%	3.4%	2.2%	2.4%	2.7%	.8%	2.7%	2.9%
Mistrial	12	4	7	4	7	2		3	2	6	81
Percent	1.3%	1.5%	.7%	1.1%	1.9%	.7%		1.0%	1.7%	1.8%	.9%
Verdict Guilty	62	43	56	29	24	9	12	17	3	28	681
Percent	6.7%	15.7%	5.5%	8.3%	6.3%	3.3%	4.7%	5.1%	2.5%	8.4%	7.6%
Verdict Not Guilty	16	16	24	30	5	10	4	12	3	10	318
Percent	1.7%	5.8%	2.3%	8.6%	1.3%	3.7%	1.6%	3.6%	2.5%	3.0%	3.6%
Verdict Guilty L.O.	14	3	10	4	9		1	1	1	13	119
Percent	1.5%	1.1%	1.0%	1.1%	2.4%		.4%	.3%	.8%	3.9%	1.3%
OTHER:											
Nol-Prossed	57	25	37	40	15	26	38	57	4	19	802
Percent	6.1%	9.1%	3.6%	11.4%	4.0%	9.6%	14.9%	17.3%	3.4%	5.7%	9.0%
Abated, Remanded, etc.	12		12	4			5	1	3	6	91
Percent	1.3%		1.2%	1.1%			2.0%	.3%	2.5%	1.8%	1.0%

TABLE II-P

Specific Disposition of Misdemeanor Charges by the State's 100 Superior Courts—1956

	District #1	District #2	District #3	District #4	District #5	District #6	District #7	District #8	District #9	District #10	District #11
TOTAL MISDE.CHARGES	475	1342	418	763	1094	782	978	616	872	1761	537
PLEA:											
Guilty & Nolo C.	196	519	229	339	497	453	467	283	287	922	371
Percent	41.3%	38.7%	54.8%	44.4%	45.4%	57.9%	47.8%	45.9%	32.9%	52.4%	69.1%
Guilty Less. Offense	27	148	47	28	19	7	29	34	43	54	7
Percent	5.7%	11.0%	11.2%	3.7%	1.7%	.9%	3.0%	5.5%	4.9%	3.1%	1.3%
JURY TRIAL:											
Plea Guilty Later	6	22	7	22	25	19	19	1	14	31	6
Percent	1.3%	1.6%	1.7%	2.9%	2.3%	2.4%	1.9%	.2%	1.6%	1.8%	1.1%
Plea Guilty L.O. Later	4	3	5	13	3	2	6	1	4	18	1
Percent	.8%	.2%	1.2%	1.7%	.3%	.3%	.6%	.2%	.5%	1.0%	.2%
Directed V; Dismissal	23	41	15	59	51	40	26	37	24	59	3
Percent	4.8%	3.0%	3.6%	7.7%	4.7%	5.1%	2.7%	6.0%	2.8%	3.4%	.6%
Mistrial	8	17	1	10	6	2	17	4	11	15	5
Percent	1.7%	1.3%	.2%	1.3%	.5%	.3%	1.7%	.6%	1.3%	.9%	.9%
Verdict Guilty	67	92	14	93	112	87	98	39	109	183	37
Percent	14.1%	6.8%	3.3%	12.2%	10.2%	11.1%	10.0%	6.3%	12.5%	10.4%	6.9%
Verdict Guilty L.O.	4	8	1	4	2	3	1	6	5	9	
Percent	.8%	.6%	.2%	.5%	.2%	.4%	.1%	1.0%	.6%	.5%	
Verdict Not Guilty	31	80	2	66	50	34	57	41	62	105	19
Percent	6.5%	6.0%	.5%	8.6%	4.6%	4.3%	5.8%	6.6%	7.1%	6.0%	3.5%
OTHER:											
Nol-Prossed	103	360	86	110	310	111	194	151	267	305	75
Percent	21.7%	26.8%	20.6%	14.4%	28.3%	14.2%	19.8%	24.5%	30.6%	17.3%	14.0%
Abated, Remanded, etc.	6	52	11	19	19	24	64	19	46	60	13
Percent	1.3%	3.9%	2.6%	2.5%	1.7%	3.1%	6.5%	3.1%	5.3%	3.4%	2.4%

TABLE II-P Continued

	District #12	District #13	District #14	District #15	District #16	District #17	District #18	District #19	District #20	District #21	Total all Districts
TOTAL MISDE.CHARGES	1095	411	1273	966	1171	1796	1470	651	1698	751	20,920
PLEA:											
Guilty & Nolo C.	620	237	764	504	937	1337	938	301	1133	499	11,833
Percent	56.6%	57.7%	60.0%	52.2%	80.0%	74.4%	63.8%	46.2%	66.7%	66.4%	56.6%
Guilty Less. Offense	38	14	68	56	7	33	21	22	23	39	764
Percent	3.5%	3.4%	5.3%	5.8%	.6%	1.8%	1.4%	3.4%	1.4%	5.2%	3.7%
JURY TRIAL:											
Plea Guilty Later	26	11	16		12	15	16	5	12	11	296
Percent	2.4%	2.7%	1.3%		1.0%	.8%	1.1%	.8%	.7%	1.5%	1.4%
Plea Guilty L.O. Later	7	1			1	3	11			4	87
Percent	.6%	.2%			.1%	.2%	.7%			.5%	.4%
Directed V; Dismissal	10	8	36	24	21	21	35	12	10	19	574
Percent	.9%	1.9%	2.8%	2.5%	1.8%	1.2%	2.4%	1.8%	.6%	2.5%	2.7%
Mistrial	21	4	4	3	6	3	8	11	1		157
Percent	1.9%	1.0%	.3%	.3%	.5%	.2%	.5%	1.7%	.1%		.8%
Verdict Guilty	141	60	67	84	78	64	28	52	26	66	1597
Percent	12.9%	14.6%	5.3%	8.7%	6.7%	3.6%	1.9%	8.0%	1.5%	8.8%	7.6%
Verdict Guilty L.O.	4	1	3	2	2	1	1	2		1	60
Percent	.4%	.2%	.2%	.2%	.2%	.05%	.1%	.3%		.1%	.3%
Verdict Not Guilty	64	19	43	36	22	29	16	28	13	31	848
Percent	5.8%	4.6%	3.4%	3.7%	1.9%	1.6%	1.1%	4.3%	.8%	4.1%	4.1%
OTHER:											
Nol-Prossed	119	35	144	210	46	261	374	183	458	60	3962
Percent	10.9%	8.5%	11.3%	21.7%	3.9%	14.5%	25.4%	28.1%	27.0%	8.0%	18.9%
Abated, Remanded, etc.	45	21	128	47	39	29	22	35	22	21	742
Percent	4.1%	5.1%	10.1%	4.9%	3.3%	1.6%	1.5%	5.4%	1.3%	2.8%	3.5%

PART III

THE EFFECT OF INFERIOR CRIMINAL COURTS, MAYORS' COURTS AND JP COURTS ON THE SUPERIOR COURT CRIMINAL DOCKETS IN NORTH CAROLINA

By Roy G. Hall, Jr.

This report is designed to show the flow of criminal cases from the lower courts to the Superior Courts, the origin of the cases before the Superior Courts, and the extra burden on Superior Court time and dockets in those counties which have no lower courts (other than JP and mayors' courts) or which have only city courts (other than JP and mayors' courts) with territorial jurisdiction less than the entire county.

The figures given throughout the report and the tables which follow are based upon case histories as shown by the court records in thirty-five counties covered by the criminal docket study.

Origin of Criminal Cases Disposed of in The Superior Courts of Thirty-Five Counties in 1956

In Counties Having Only JP's and Mayors' Courts Below the Superior Court

Through the hands of justices of the peace passed most of the cases disposed of in 1956 by the Superior Courts in the four sparsely populated counties which had no inferior criminal, or "recorder"-type, courts. Ninety-four out of 100 misdemeanors and 82 out of 100 felonies were bound over from JPs for the action of the grand jury and disposition by the Superior Court, and one out of 100 misdemeanor cases were appealed from JPs for trial *de novo* in the Superior Court (See Table III-A and III-B).

Mayors provided the next biggest share of the caseload. Twelve out of 100 felony cases and two out of 100 misdemeanor cases were bound over from these officials, with only a smattering of cases on appeal thereform.

The rest of the cases disposed of in one year by these four Superior Courts originated upon indictment by the grand jury. The indictment is usually the first step taken in a criminal case whenever the accused cannot be arrested and brought before a magistrate to fulfill the requirement of preliminary examination and admittance to bail in non-capital cases; frequently, also, cases originate with the Grand Jury whenever public officials wish to initiate prosecution against citizens failing to perform some statutory duty, the breach of which is an offense above the jurisdiction of mayors or JPs, and the officials are desirous that the district solicitor and the grand jury initiate the case rather than swear out an arrest warrant as complaining witnesses themselves.

Under the present law of North Carolina, trial of misdemeanors within the jurisdiction of a mayor's court, JP, or lower court may be had upon the arrest warrant. In the event of an appeal to the Superior Court from a conviction, no grand jury indictment is necessary and the trial *de novo* is based on the same arrest warrant. Therefore, in counties which have no courts below the Superior Court with broad jurisdiction over misdemeanors, the grand jury must act on many more bills than in those counties having inferior courts—courts which make possible trial on the arrest warrant in appealed misdemeanor cases—since the range of misdemeanors frequently prosecuted falls outside of JP jurisdiction and must be bound over by them to await the action of the grand jury.* Presumably, in such a situation the grand jury costs are somewhat increased, even though it may be said that the grand jury devotes less time in examining the petty misdemeanor cases before it when the number of bills submitted to it runs in the hundreds.

Counties with One or More City Courts Having Territorial Jurisdiction Which in the Aggregate Does Not Cover the Entire County

There are five counties in the state which have one or more city criminal courts (for example, special act mayors' courts) which do not have sufficient territorial jurisdiction so that every township in the county is covered; three of these counties were included in the 35 studied. In these three counties the JP still plays the most prominent part in transmitting cases to the Superior Court. During 1956, 75% of the felony cases in these three Superior Courts were bound over from JPs, and two out of 100 were appealed from JPs as misdemeanors which were tried by them, while only 16% of the felony cases were bound over from the city criminal courts. Except for a small percentage of felonies appealed from the city courts (either misdemeanor cases until the grand jury acted, or offenses erroneously considered misdemeanors within the jurisdiction of the court below), or which were remanded from the Supreme Court, the remainder of the felony cases originated

* For example, in 1956 the grand jury in Transylvania County acted on 244 bills submitted to it; the grand jury in Cherokee County acted on 11 during the same period. Both counties had approximately 15,000 population; Cherokee had a County Recorder's Court while Transylvania did not.

upon indictment by the grand jury. (See Tables III-A and III-B).

The mayors with General Statutes—i.e., JP—jurisdiction in these counties were shown by the statistics to have been out of the picture entirely, as to both felonies and misdemeanors, on the basis of the cases which were disposed of in the Superior Courts during the calendar year 1956. The more active mayors' courts had been supplanted by the specal act police courts or had been given expanded subject-matter jurisdiction and were considered, for the purposes of this study, as "municipal recorder's" courts.

Of the 802 misdemeanor cases in these three Superior Courts, only 8% were appealed from the city courts, while 8% were appealed, and 81% were bound over, from Justices of the Peace. The remainder were initiated before the grand jury.

Therefore, in spite of the fact that the city courts embraced the principal centers of population in these three counties, the JPs continued to transmit much more criminal business than did the city courts to the Superior Court. This is at least partly due to the fact that, while the mayors may have been granted exclusive trial jurisdiction as against the JP within the city limits, the JPs both in the city and in the county still had the authority to write arrest warrants; this means that, for crimes committed within the city limits, the law enforcement officers or other complaining witnesses could exercise an election to go either to the JP or the mayor for the arrest warrant in cases which were above mayor-JP trial (i.e., subject-matter) jurisdiction.

Counties with County Courts or City Courts with Aggregate Territorial Jurisdiction Covering the Entire County

In the 28 counties studied which have one or more lower courts with territorial jurisdiction over all misdemeanors committed anywhere within the county, these lower courts provided the Superior Courts with the bulk of their criminal cases. Most of these lower courts were county courts, *i.e.*, county recorder's courts, county criminal courts, general county courts, special county courts or municipal county courts, or special act courts with county-wide jurisdiction.

Of the felony cases disposed of by the Superior Courts during 1956 in these 28 counties, 72% (or 3389 cases) were bound over from the inferior courts, while only 15% (705) were bound over from JPs. Eight per cent originated upon indictment by the Grand Jury. The remainder were appealed from lower courts (1.8%); bound over from juvenile or domestic relations courts (1.6%) or coroners (.1%); originated upon information—indictment being waived—(.3%); or the origin could not be determined from the records.

Likewise, 77% (4,942 cases) of the misdemeanors disposed of in 1956 by these 28 Superior Courts were appealed from the inferior courts, and 12.4% (800 cases) were transferred from these inferior courts to the Superior Court for jury trial, making a total of 89.4% from these lower courts. Four and six-tenths per cent (294 cases) were transferred from JP's to the Superior Court for jury trial, 2.2% (144 cases) were bound over from JPs and only 1% of the misdemeanor cases (62 cases) were appealed from the JPs for trial *de novo*, making a total of 7.8% (or 500 cases) coming from the justices. The remaining 2.7% of the misdemeanor cases either: originated with the grand jury or upon information (indictment being waived); were appealed from juvenile or domestic relations courts; were bound over from lower courts (those with jurisdiction over specific misdemeanors rather than jurisdiction over all offenses below the grade of felony); or the origin could not be determined from the records. (See Tables III-A and III-B).

The mayors in these 28 counties contributed virtually nothing to the annual Superior Court caseload. Only three of the 6,437 misdemeanor cases came through the hands of mayors (two removed to the Superior Court for jury trial and one appealed), and only .1% of the felonies (7 out of 4,716 cases) were bound over from mayors' courts.

Domestic Relations and Juvenile Courts

Five of the populous counties included in the study had established domestic relations courts: Buncombe, Cabarrus, Guilford, Mecklenburg, and Wake. The Superior Court records in these counties showed that only a small percentage of the cases disposed of by the Superior Courts during 1956 came from the domestic relations courts. The percentages varied from a high of 7% of the felonies in Mecklenburg Superior Court—which were either bound over from or appealed from the Domestic Relations Court—to a low of 1.5% in Buncombe County; of the misdemeanor cases, from a high of 15% in Guilford—appealed for trial *de novo*—to a low of 8.4% in Mecklenburg. (See Tables III-A and III-B).

In only two of the 30 other counties studied did any cases come from the juvenile court (either the clerk of Superior Court or some specially designated juvenile court judge). In Johnston County Superior Court only 3% (three cases) of the felony cases came from the juvenile court, and in Rockingham County Superior Court only 1% (two cases) of the felony cases came from the

juvenile court. No misdemeanor cases came from the juvenile courts in any of the thirty counties.

Even in Forsyth County, which had an estimated population of 158,422 in 1956, none of the felony or misdemeanor cases disposed of by the Superior Court in 1956 came from the special City-County Juvenile Court in Winston-Salem.

Summary

1. In counties with lower courts with jurisdiction over non-felony cases committed anywhere in the county, 90% of the Superior Court misdemeanor caseload in 1956 (almost 6,000 cases) came from these courts, and 74% (approximately 3500) of the felony caseload.

2. In counties with no lower courts other than JP or mayors' courts, or with city courts only, from 75% to 95% of the cases, both felony and misdemeanor, were bound over from justices of the peace; in such a situation extended use of the Grand Jury machinery is necessary before the misdemeanor cases not within JP jurisdiction can be heard or otherwise disposed of by the Superior Courts.

3. Only in counties having no lower courts other than JP or mayors' courts do the mayors with General Statutes (*i.e.*, JP) jurisdiction constitute even the slightest source of Superior Court criminal business.

4. Only in the populous counties which have established domestic relations courts do the juvenile or domestic relations courts constitute to even the slightest degree a source of Superior Court criminal cases.

Percentage of the Inferior Court Annual Caseloads Going to the Superior Courts

There were 66 inferior criminal courts ("recorder" or "county" courts) in 31 of the 35 counties included in the study. These 66 courts disposed of 211,506 misdemeanor cases in 1956. Of the 7,239 misdemeanor cases disposed of by the Superior Courts in the same counties that year, 5,003 cases were appealed from these lower courts for trial *de novo* and 800 were transferred to the Superior Courts for jury trial. Assuming these quantities to remain constant (even though the same cases are not involved) year after year, and assuming no considerable congestion on the criminal dockets, these figures would mean that only approximately 3% of all the misdemeanor cases before the lower courts go to the Superior Court dockets.

From the lower court records in the 211,506 cases it appeared that 2.6% of this total went to the Superior Courts for either trial *de novo* or jury trial in the first instance. For specific courts, the percentage of appeals varied from a high of 7% to a low of less than 1%. In the courts which have no jury trials and which are required to transfer a case to the Superior Court when the defendant asks for a jury trial, the percentage of the total cases removed to the Superior Court for this purpose varied from a high of 4% to much less than 1%.

Although the General Statutes lower courts are required to provide jury trials, with the possible exception of the municipal-county court—see G.S. 7-204, 7-228, 7-287, 7-394, and 7-423—the study revealed that many of them do not, usually because of local modification by special act of the legislature. At least 18 of the 66 courts studied did not have jury trials, and upon the request of the defendant for such a trial, the case was transferred to the Superior Court from 17 of the courts, and from the other (King's Mountain Recorder's Court) it was transferred to the County Recorder's Court, which has jury trial facilities. In other courts without jury trial facilities, when the accused asks for a jury trial a plea of not guilty is entered and he is tried by the judge alone; to obtain trial by jury he must appeal to the Superior Court for trial *de novo*.

From the lower court records in at least two counties (three courts in Beaufort county and one in Cherokee) it could not be determined with accuracy exactly how many cases were appealed to the Superior Court. Except in a few other counties where the clerk of Superior Court was *ex officio* clerk of the county court and did not carefuly differentiate between Superior Court and County Court records, the records in most of the lower courts were sufficiently accurate to show that the rate of appeal to the Superior Court varies from 3% to 7% of all the misdemeanor cases disposed of in a year, but never higher, and that the number of transferrals for jury trial varies from 1% to 3% of the annual misdemeanor caseload, but rarely higher. This means that the inferior criminal courts above JP and ordinary mayor finally dispose of 92% to 95% of all the misdemeanor cases before them, thus relieving the Superior Courts of a tremendous caseload which, but for the existence of these lower courts, would become a part of the Superior Court criminal dockets. This general statement must be qualified by noting that the few misdemeanor cases within the trial jurisdiction of the justices of the peace and mayors' courts would constitute an exception.

In addition to finally disposing of 92% to 95% of the misdemeanor cases coming before them, the inferior criminal courts kept 33% of the

felony cases coming before them from going onto the Superior Court dockets. Of the cases before the inferior courts wherein the warrant charged the commission of a felony, only 67% were bound over to the Superior Court after a finding of probable cause or after a waiver of preliminary examination by the defendant. The remainder (1,675 felony cases during the year) were either nol-prossed, no probable cause was found, the defendants were found not guilty, the cases were dismissed, abated, or the disposition was not shown, or wound up with the defendant's being punished by the lower courts as if the offenses charged were within their jurisdiction. (See Table III-C).

With respect to this last group of felony cases, wherein the defendants were punished by the lower courts rather than being bound over to Superior Court or some other disposition being made, some of the special act courts in the state have jurisdiction to try false pretense cases—a felony by G.S. 14-100. The field workers reported that sometimes a warrant charging a felonious assault is treated as if a misdemeanor assault were charged instead. Whenever a warrant charging the commission of a felony is amended to charge an offense within the court's jurisdiction, this is tantamount to finding of no probable cause on the felony charge.

Summary

1. The inferior criminal or recorder-type courts relieve the Superior Courts of a tremendous caseload of misdemeanor cases which are not within JP or mayor jurisdiction in counties where such inferior courts have been established, since only 3% to 7% of the misdemeanors before these courts go to the Superior Court either on appeal for trial *de novo* or for purposes of jury trial.

2. The inferior criminal courts also reduce the felony cases going to the Superior Court by finding no probable cause or making other final dispositions.

3. If 17 lower courts in 11 counties had had jury trial facilities in 1956, at least 813 cases would not have been summarily transferred from these courts to the Superior Court dockets upon the request of the defendant for such a trial; likewise, 12.4% (800 cases) of the annual Superior Court caseload during that year would not have been on the Superior Court dockets for that reason.

Effect of Lower Courts with County-Wide Jurisdiction on Superior Court Criminal Dockets

This section should be read keeping in mind the information from Section II that from 92% to 95% of the misdemeanor cases before the lower courts do not go to the Superior Court, but are finally disposed in the lower courts.

North Carolina's only trial court of general jurisdiction is the Superior Court. In 1956 there were 16 counties in the State having no courts below the Superior Court other than JP courts or mayors' courts with jurisdiction the same as that of a JP.[1] There were 4 counties with 1 or more city courts (usually mayors with expanded subject-matter jurisdiction) which did not include within their aggregate territorial jurisdiction the entire county.[2] All but 1 of these 20 counties were in the western part of the State. Without any examination of the records in any of these Superior Courts, it is obvious that the lack of any inferior court with final jurisdiction over misdemeanors which are above JP-mayor jurisdiction must place a greater burden on the Superior Court machinery; an examination of the court records confirmed this.

A few illustrations of this confirmation follow. The Superior Court of Madison County (pop. 19,272), a county which has no lower courts, disposed of 193 misdemeanor charges (or 10 per 1,000 population), whereas the Superior Court of Stokes County (pop. 20,807), which has a county court, disposed of only 34 (or 1.6 misdemeanor charges per 1,000 population). On 14 court days in Madison Superior Court criminal business was transacted in 1956, while in Stokes only six days were so used.

In Haywood County (which had four city "police" courts but no inferior court of county-wide jurisdiction) the Superior Court disposed of almost twice as many misdemeanor cases in 1956 as in Buncombe, its next-door neighbor with 3½times the population of Haywood. Buncombe County has a general county court plus a police court for the City of Asheville.

Davie County Superior Court disposed of 451 misdemeanor charges in 1956; whereas Alexander disposed of only 40 in the same period. Davie (pop. 15,739) had no lower courts in 1956; Alexander (pop. 15,241) had a county court. Criminal business was transacted on 17 days in Davie Superior Court during the year while only 9 days were so used in Alexander.

Tables III-D and III-E compare each county which had no lower courts or which had only city courts with no county-wide jurisdiction with counties of nearly the same population, and when possible in the same part of the state, which do have a lower court or courts covering the entire

[1] These counties were: Madison, Yancey, Transylvania, Davie, Yadkin, Jones, Clay, Graham, Alleghany, Jackson, Watauga, Macon, Mitchell, Avery, Polk, and Swain.
[2] Wilkes, Ashe, Haywood, and Surry Counties.

county. This comparison shows that, although there was no significant difference in the number of felony charges disposed of during the year (the Superior Court almost without exception is the only court with jurisdiction over felonies), in comparison after comparison the total number of misdemeanors and the number of misdemeanor charges per thousand population disposed of annually in the Superior Courts is disproportionately high in counties without lower courts. For example: there were 16 misdemeanor charges in the Superior Court per 1,000 population in Transylvania County (pop. 17,038), and only two per 1,000 population in the Superior Court of Cherokee County (pop. 17,969). Cherokee had a county recorder's court in 1956, while Transylvania had no lower courts. In the light of the finding of the previous section that only a small percentage of misdemeanors get to the Superior Courts from these lower courts, it is not surprising that a Superior Court in a county without a county-wide lower court has many more misdemeanor cases than a Superior Court in a county with a county-wide lower court.

Furthermore, in 15 of the 20 counties without county-wide lower courts in 1956, more days were used in transacting criminal business in the Superior Courts in one year than in the comparison counties having county courts; in one county the number of days was the same as in the comparison county; and in four counties without lower courts fewer days were used in transacting criminal business in the Superior Courts than in the comparison counties. On the basis of these comparisons, if the 15 counties first mentioned had had lower courts during and before 1956, a saving of 100 days (or 20 one-week terms) of court would have been effected in one year—time which could have been used in other counties to relieve civil and criminal congestion. Taking all 20 counties into consideration with the gains or losses after comparison, a net saving of 92 days of court time (or 17 and 2/5 one-week terms of court) would have been effected had there been county-wide courts in every county in the state.

Since March, 1957, Davie, Haywood and Yadkin counties have established "county" courts—courts with jurisdiction over any misdemeanor committed anywhere in the county. The attorneys conducting the study reported that in Haywood county the immediate result of the creation of their new court was to transfer 152 cases from the Superior Court docket. In Davie county, an attorney reported that during the first term of Superior Court held since the creation of that county's new court only 13 criminal cases were up for plea and hearing, and that the next scheduled term had to be cancelled for lack of criminal business.

Summary

1. A saving of approximately 17 one-week terms of Superior Court time would have been effected in 1956 if every county in the State had had below the Superior Court a court with jurisdiction over all misdemeanors committed anywhere in the county. This 17 weeks (92 days) represents extra time used for criminal business in 1956 in the State's 20 counties which did not then have county-wide lower courts—time which was not required in similar counties having county-wide courts during the same period.

2. This saving of court time could have been spent holding terms of Superior Court in counties where civil and criminal dockets are becoming, or already are, congested.

Explanation of Tables

Tables III-A and III-B show the number of misdemeanors that were bound over from lower courts, and felonies that were appealed from lower courts. It should be remembered that a case is considered a felony case or a misdemeanor case according to the offense charged *in the Superior Court* if and after an indictment was returned, even though there may have been less serious or more serious offenses charged below; also in the case of misdemeanors bound over from lower courts, some of these came from courts with less than all-misdemeanor jurisdiction.

The unit of study, "case", employed in the principal part of the docket study and the unit used in these tables was each defendant in each numbered case or "shuck" of case papers, according to the clerk's number designation. Most of these clerk-numbered-cases dealt with only one defendant with the charge or charges against him; a few of them, however, dealt with two or more defendants: in this situation, each defendant became a case unit for the purpose of this study. Whether a case is considered a felony or misdemeanor case depends upon the most serious charge against the defendant or defendants involved if more than one charge is made. This unit of study, *i.e.* each case according to the clerk's numbering system, was adopted because this is what the courts, solicitors, and clerks refer to as a "case." Furthermore, in order to employ the technique of statistical analysis, it was necessary to fill out a case abstract sheet for each defendant in the numbered case if more than one was involved since too much data on the history of the case for statistical compilation would have resulted if this division had not been made.

TABLE III-A

ORIGIN OF SUPERIOR COURT CRIMINAL CASES DISPOSED OF IN 1956

		Total Cases	Appeal from Lower Court	Percent	Appeal from J P	Percent	Appeal from Mayor	Percent	Appeal from Juv. or Dom. Relations Court	Percent	Removed for Jury from Lower Court	Percent	Removed for Jury from J P	Percent	Removed for Jury from Mayor	Percent	Removed for Jury from Juv.or D.R. Ct.	Percent	Bound over from Lower Court	Percent	Bound over from J P	Percent	Bound over from Mayor	Percent	Bound over from Juv. or D.R. Court	Percent	Indictment / Information	Percent	Coroner	Percent	Remanded from Supreme Court	Percent	Other; Not Shown	Percent
4 Counties with No Lower Courts*	Fel.	101																			83	82.2	12	11.9			2/1	2.0/1.0					3	3.0
	Mis.	951			9	1.0	2	.2													891	93.7	22	2.3			23/2	2.4/.2			1	.1	1	.1
3 Counties with only City Courts**	Fel.	179	2	1.1	3	1.7													29	16.2	133	74.3					8	4.5	1	.6	2	1.1	1	.6
	Mis.	802	61	7.6	65	8.1													2	.2	653	81.4					16	2.0					5	.6
28 Counties with County-wide Lower Courts***	Fel.	4716	87	1.8	5	.1			22	.5									3389	71.9	705	14.9	7	.2	75	1.6	383/13	8.1/.3	4	.1			26	.6
	Mis.	6437	4942	76.8	60	1.0	1	.02	294	4.6	800	12.4	18	.3	2	.03	7	.1	70	1.1	145	2.2			3	.05	54/1	.8/.02			3	.05	37	.6
Total all Counties	Fel.	4996	89	1.8	8	.2			22	.4									3418	68.4	921	18.4	19	.4	75	1.5	393/14	7.9/.3	5	.1	2	.04	30	.6
	Mis.	8190	5003	61.1	134	1.7	3	.02	294	3.6	800	9.8	18	.2	2	.02	7	.1	72	.9	1689	20.6	22	.3	3	.04	93/3	1.1/.04			4	.05	43	.5

* Mitchell, Polk, Davie, and Jones

** Haywood, Ashe, and Wilkes. Haywood in 1956 had four cities and towns with "police" or special-act mayor's courts with jurisdiction to try all non-felony cases. Wilkes had 2 mayors' courts with jurisdiction enlarged by special act (one with jurisdiction over all offenses below the grade of felony and the other with jurisdiction over a long list of enumerated misdemeanors). Ashe had 2 mayors' courts with jurisdiction over all misdemeanors, but only one was active in 1956.

*** Beaufort, Buncombe, Burke, Cabarrus, Carteret, Cherokee, Cleveland, Columbus, Cumberland, Dare, Davidson, Duplin, Edgecombe, Forsyth, Granville, Guilford, Hertford, Johnston, Mecklenburg, New Hanover, Richmond, Rockingham, Stanly, Wake, Warren, and the three "pilot study" counties of Durham, Orange, and Chatham.

TABLE III-B

ORIGIN OF CRIMINAL CASES DISPOSED OF IN 1956 IN 35 SUPERIOR COURTS

		Total Cases	Appeal from Lower Court	Appeal from JP	Appeal from Mayor	Apl. from Juv. or Dom.Rel.Ct.	Rem. for Jury from Low. Ct.	Rem. for Jury from JP	Rem. for Jury from Mayor	Rem. for Jury fr. Juv.or Dom.Rel.Ct.	Bd. over from Lower Court	Bd. over from JP	Bd. over from Mayor	Bd. over fr. Juv. or Dom. Rel. Ct.	Indictment Information	Coroner	Remanded from Sup. Court	Other; Not Shown
ASHE	F	13										12				1		
	M	101	4								1	90			4			2
BEAUFORT	F	72	2								40	16			14			
	M	101	75	4			13	2			5	1			1			
BUNCOMBE	F	269	3			2					181	47		2	27|5			2
	M	266	194	6		29	1			1	4	26		1	1|1			2
BURKE	F	30									29	1						
	M	27	20	3							2	1						1
CABARRUS	F	119	13			2					89	1		3	4|2			5
	M	179	163			16												
CARTERET	F	13	3								7				3			
	M	53	44				3				5							1
CHEROKEE	F	19	1								6	12						
	M	30	27									3						
CLEVELAND	F	79									74				1			4
	M	78	62					7										9

Table III-B Continued

		Total Cases	Appeal from Lower Court	Appeal from JP	Appeal from Mayor	Apl. from Juv. or Dom.Rel.Ct.	Rem. for Jury from Low. Ct.	Rem. for Jury from JP	Rem. for Jury from Mayor	Rem. for Jury fr. Juv.or Dom.Rel.Ct.	Bd. over from Lower Court	Bd. over from JP	Bd. over from Mayor	Bd. over fr. Juv. or Dom. Rel. Ct.	Indictment Information	Coroner	Remanded from Sup. Court	Other; Not Shown
COLUMBUS	F	133	2								2	92			37			
	M	82	73	1								6			2			
CUMBERLAND	F	380	3								315	7			50|1	1		3
	M	310	300				2				1				7			
DARE	F	12									12							
	M	14	10				4											
DAVIDSON	F	109									103				5			1
	M	238	234	1							1							2
DAVIE	F	23										23						
	M	359		9								345			2|1		1	1
DUPLIN	F	45									4	40	1					
	M	121	100	1								18						2
EDGECOMBE	F	148	5								69	43			26			5
	M	302	148	5			141	1			2	1		1	3			
FORSYTH	F	427	3								419	1			4			
	M	321	310	2							9							
GRANVILLE	F	57	1								49	5			1	1		
	M	65	61				2				2							

Table III-B Continued

		Total Cases	Appeal from Lower Court	Appeal from JP	Appeal from Mayor	Apl. from Juv. or Dom.Rel.Ct.	Rem. for Jury from Low. Ct.	Rem. for Jury from JP	Rem. for Jury from Mayor	Rem. for Jury fr. Juv.or Dom.Rel.Ct.	Bd. over from Lower Court	Bd. over from JP	Bd. over from Mayor	Bd. over fr. Juv. or Dom. Rel. Ct.	Indictment / Information	Coroner	Remanded from Sup. Court	Other; Not Shown
GUILFORD	F	668	28	4		10					426	166	6	18	10			
	M	660	380	10		100	140	8	2	2	10	4		2			2	
HAYWOOD	F	64									5	55			3		1	
	M	482	27	4								439			10			2
HERTFORD	F	32									4	27		1				
	M	46	26	1			14				3	2						
JOHNSTON	F	89	2								42	16		3	23			3
	M	131	103		1	1	1				6	6			8			5
JONES	F	11										10			1			
	M	111										110			1			
MECKLENBURG	F	688	14			8					612			40	12	2		
	M	838	632	12		70	106			4	12							2
MITCHELL	F	10										8						2
	M	106										97			9			
NEW HANOVER	F	308	1								296	4			6	1		
	M	224	198	3			22				1							
POLK	F	57										42	12	2				1
	M	375			2							339	22		12			

Table III-B Continued

		Total Cases	Appeal from Lower Court	Appeal from JP	Appeal from Mayor	Apl. from Juv. or Dom.Rel.Ct.	Rem. for Jury from Low. Ct.	Rem. for Jury from JP	Rem. for Jury from Mayor	Rem. for Jury fr. Juv.or Dom.Rel.Ct.	Bd. over from Lower Court	Bd. over from JP	Bd. over from Mayor	Bd. over fr. Juv. or Dom. Rel. Ct.	Indictment / Information	Coroner	Remanded from Sup. Court	Other; Not Shown
RICHMOND	F	63	3								54				6			
	M	90	88								1							1
ROCKINGHAM	F	172	1								90	78		2				1
	M	288	153	10			77				2	45						1
STANLY	F	36	1								16			19				
	M	18	18															
WAKE	F	348									252	84		6	4	2		
	M	682	510	2		78	70				4	16						2
WARREN	F	16	1								4	11						
	M	23	19									3						1
WILKES	F	102	2	3							24	66			5		1	1
	M	219	30	61							1	124			2			1
DURHAM	F	260									139				121			
	M	978	811				146								21			
ORANGE	F	58									55				1	2		
	M	142	87				46								9			
CHATHAM	F	69										55			12			2
	M	131	96				12					12			2		1	8

TABLE III-C

ONE YEAR'S LOWER COURT CASES APPEALED OR TRANSFERRED FOR JURY TRIAL*

County	Court	Total No. Misde. Cases	No. Apl.	Percent	Trans. for Jury	Percent	Total Fel. Cases	No. Bound Over	Percent
ASHE	West Jefferson Mayor***	192	4	2.1			0	---	
BEAUFORT	Washington Recorder's Court	1,023					21	3	14.3
	Belhaven Recorder's Court	473					5	1	20.0
	Aurora Recorder's Court	138					1	1	100.0
BUNCOMBE	General County Court	4,330	40	.9			130	50	38.5
	Asheville Police Court	8,080	240	2.9			300	290	96.7
BURKE	County Criminal Court	2,466	18	.7			66	48	72.7
CABARRUS	County Recorder's Court	2,750	165	6.0			120	80	66.7
CARTERET	County Recorder's Court	904	6	.7	2	.2	16	10	62.5
	Morehead City Recorder's Court	886	20	2.3	10	1.1	28	10	35.7
CHEROKEE	County Recorder's Court	692	9	1.3			8	5	62.5
CLEVELAND	County Recorder's Court	3,850	120	3.1			140	80	57.1
	Kings Mountain Recorder's Ct.	768	6	.8	42**		22	14	63.6
COLUMBUS	County Recorder's Court	2,880	8	.3			24	16	66.7
	Fair Bluff Recorder's Court	71	1	1.4			5	5	100.0
CUMBERLAND	County Recorder's Court	11,470	80	.7			250	180	72.0
	Fayetteville Recorder's Court	5,470	100	1.8			160	100	62.5
DARE	County Recorder's Court	540	8	1.5			2		
DAVIDSON	County Recorder's Court	2,660	7	.3			7	0	0
	Denton Recorder's Court	232	2	.9			3	1	33.3
	Thomasville Recorder's Court	2,940	160	5.4			50	40	80.0

* These figures are based upon lower court records of cases tried, etc. during the calendar year 1956.

** These cases were transferred to the Cleveland County recorder's court, which has jury trial facilities, rather than to the Superior Court.

TABLE III-C cont.

County	Court	Total No. Misde. Cases	No. Apl.	Percent	Trans. for Jury	Percent	Total Fel. Cases	No. Bound Over	Percent
DAVIE									
DUPLIN	General County Court	1,595	85	5.3			5		0
EDGECOMBE	County Revorder's Court	3,828	60	1.5	90	2.4	42	36	61.9
	Rocky Mount Recorder's Court	1,410	102	7.2			48	36	75.0
FORSYTH	Winston-Salem City Court	19,300	160	.8	10	.1	570	420	73.7
	Kernersville Recorder's Court	1,448	12	.8			0		
GRANVILLL	County Recorder's Court	820	44	5.4	2	.2	52	40	76.9
	Creedmore Mayor	820	---				12	8	66.7
	Oxford Mayor	1,172	---				4	0	0
GUILFORD	Greensboro Mun-Co Court	16,730	270	1.6	110	.7	330	250	75.8
	High Point City Court	9,620	130	1.4			270	250	92.6
HAYWOOD	Canton Police Court	642	2	.3			2	0	0
	Hazelwood Police Court	49	---				0	0	
	Clyde Police Court	383	2	.5			0		
	Waynesville Police Court	1,107	33	3.0			12	12	100.0
HERTFORD	County Recorder's Court	578	35	6.1	22	3.8	7	6	85.7
JOHNSTON	County Recorder's Court	554	19	3.4			15	10	66.7
	Benson Recorder's Court	1,464	16	1.1			12	0	0
	Clayton Recorder's Court	363	8	2.2			6	3	50.0
	Kenley Recorder's Court	1,565	5	.3			5	5	100.0
	Selma Recorder's Court	1,263	48	3.8			12	6	50.0
	Smithfield Recorder's Court	1,452	27	1.9			30	18	60.0
JONES									
MECKLENBURG	County Recorder's Court	11,900	200	1.7	150	1.3	260	130	50.0
	Charlotte Recorder's Court	18,960	500	2.6			1030	530	51.5
MITCHELL									

*** These Mayor's courts listed under Ashe, Granville, and Wilkes Counties have subject-matter jurisdiction enlarged by special act of the legislature over and above that granted by the General Statutes to "ordinary" mayors, and were therefore considered equal to Municipal Recorder's Courts for the purpose of this study.

Table III-C Continued

County	Court	Total No. Misde. Cases	No. Apl.	Percent	Trans. for Jury	Percent	Total Fel. Cases	No. Bound Over	Percent
NEW HANOVER	County Recorder's Court	9,280	210	2.3			310	250	81.0
POLK									
RICHMOND	Special County Court	734	30	4.1			16	6	37.5
	Hamlet Recorder's Court	934	2	.2			16	0	0
ROCKINGHAM	Reidsville Recorder's Court	2,615	135	5.2	105	4.0	40	30	75.0
	Leaksville Recorder's Court	1,332	51	3.8			75	63	84.0
STANLY	County Recorder's Court	2,060	8	.4			32	8	25.0
WAKE	Raleigh City Court	15,000	200	1.3			190	100	53.0
	Garner Recorder's Court	1,900	56	3.0	4	.2	8	0	0
	Wendell	2,044	44	2.2	20	1.0	8	4	50.0
	Apex	1,428	51	3.6	6	.4	15	12	80.0
	Cary	1,137	39	3.4	27	2.4	15	15	100.0
	Fuquay	1,088	54	5.0			18	14	77.7
	Wake Forest	1,899	18	1.0	12	.6	30	18	60.0
	Zebulon	726	51	7.0			12	6	50.0
WARREN	County Recorder's Court	837	16	1.9			4	2	50.0
WILKES	N. Wilkesboro Mayor***	724	32	4.4			14	12	85.7
	Wilkesboro Mayor***	1,564	12	.8	4	.3	8	4	50.0
DURHAM	Durham Recorder's Court	11,270	800	7.1	170	1.5	130	120	92.3
ORANGE	County Recorder's Court	1,888	24	1.3	4	.2	16	16	100.0
	Chapel Hill Recorder's Court	1,650	75	4.6	65	4.0	25	15	60.0
CHATHAM	County Criminal Court	728	12	1.7			1	1	100.0
	Siler City M. Recorder Court	828	56	6.8			2	2	100.0
TOTAL		211,506	4,728	2.2	813	1.2****	5,067	3,392	67.0*****

**** This figure represents the % of all the cases in only those courts which transfer cases when a jury trial is requested.
***** 33%=1675 Felony Cases: 7% (354) nol prossed; 5.5% (281) found no probable cause; 1.8% (93) found not guilty; 12.8% (647) punished; .5% (26) abated; .9% (44) dismissed, remanded; .4% (22) "other"; 4.1% (208) disposition not shown.

TABLE III-D*

One year's criminal business in the Superior Courts of counties having no lower courts with county-wide jurisdiction compared with that in counties having such lower courts.**

County	1956 Population	Total Cases	Per 1000 Population	Felony Charges	Per 1000 Population	Misde. Charges	Per 1000 Population	Days of Court Used***
1. MADISON	19,272	192	10.00	34	1.79	193	10.00	14
1. Stokes	20,807	48	1.80	22	1.05	34	1.62	6
2. YANCEY	15,744	228	14.25	43	2.69	235	14.69	19
2. Alexander****	15,241	47	3.13	27	1.80	40	2.67	9
3. TRANSYLVANIA	17,038	251	14.18	14	.82	273	16.06	14
3. Cherokee****	17,969	56	3.11	15	.83	43	2.39	7
4. DAVIE	15,739	373	23.30	51	3.19	451	28.19	17
4. Alexander	15,241	47	3.13	27	1.80	40	2.67	9
5. YADKIN	23,058	512	22.26	50	2.17	637	27.70	15
5. Hertford	22,766	72	3.13	43	1.87	69	3.00	16
6. JONES	11,054	121	11.00	10	.91	147	13.36	11
6. Pamlico	10,174	43	4.30	9	.90	43	4.30	9
7. CLAY	5,756	94	15.67	15	2.50	85	14.17	5
7. Currituck	5,882	32	4.33	2	.33	39	6.50	3
8. GRAHAM	7,180	144	20.50	15	2.04	139	19.80	6
8. Currituck	5,882	32	4.33	2	.33	39	6.50	3
9. ALLEGHANY	8,036	91	11.40	19	2.40	96	12.00	7
9. Gates	9,248	46	5.11	21	2.33	37	4.11	7
10. JACKSON	19,205	250	13.20	4	.20	279	14.70	14
10. Cherokee	17,969	56	3.11	15	.83	43	2.39	7
11. WATAUGA	18,486	427	23.70	25	1.40	430	23.90	10
11. Pender	18,867	59	3.10	27	1.40	51	2.70	9
12. MACON	16,355	380	23.80	25	1.60	382	23.90	11
12. Hoke	16,268	68	4.30	49	3.10	33	2.10	14
13. MITCHELL	14,618	97	6.90	8	.60	114	8.10	7
13. Alexander	15,241	47	3.10	27	1.80	40	2.70	9
14. AVERY	13,221	229	17.60	8	.60	231	17.80	14
14. Chowan	13,146	47	3.60	45	3.50	47	3.60	7
15. POLK	11,471							11
15. Pamlico	10,174	43	4.30	9	.90	43	4.30	9
16. SWAIN	8,508	168	21.00	9	1.10	190	23.70	8
16. Perquimans	9,490	39	4.30	29	3.20	33	3.70	6

* The estimated 1956 population given is based upon figures provided by the Office of Vital Statistics, State Board of Health.

** Counties without county-wide courts are typed in capitals; grouped with each such county and in regular type is a county of comparable population, but which has a lower court or courts with county-wide jurisdiction.

*** Number of court days during 1956 on which criminal matters were taken up.

**** Cherokee and Alexander Counties were used more than once as comparison counties because it was felt that, where both eastern and western counties were available for comparison because of similarity in population, a western county should be used whenever the county without a county-wide lower court or courts was also a western county, even though this would mean using the same county more than once as a comparison county, (i.e., a county with a county-wide lower court).

TABLE III - E*

One Year's Criminal Business in The Superior Courts of Counties with City Criminal Courts Having Less Than County-wide Territorial Jurisdiction, Compared with That in Counties with County-Wide Lower Courts.**

County	1956 Population	Total Cases	Per 1000 Population	Felony Charges	Per 1000 Population	Misde. Charges	Per 1000 Population	Days of Court Used
1. WILKES	46,643	366	7.8	154	3.3	363	7.7	34
1. Rutherford	46,843	260	5.5	63	1.3	290	6.2	16
2. ASHE	21,384	135	6.4	21	1.0	144	6.9	6
2. Caswell	21,395	43	2.0	24	1.1	46	2.2	8
3. HAYWOOD	39,400	513	13.2	51	1.3	580	14.9	17
3. Stanly	39,817	54	1.4	36	.9	28	.7	4
4. SURRY***	47,974	261	5.4	69	1.4	281	5.8	27
4. Caldwell	48,077	158	3.3	59	1.2	155	3.2	20

* The estimated 1956 Population given is based upon figures provided by the OFFICE OF VITAL STATISTICS, STATE BOARD OF HEALTH.

** Counties without county-wide courts are typed in capitals; grouped with each such county and in regular type is a county of comparable population, but which has a lower court or courts with county-wide jurisdiction.

*** 8 of 15 townships not covered by lower courts.

TABLE III-F

CRIMINAL CASES DISPOSED OF IN 1956
IN THE SUPERIOR COURTS OF THIRTY-FIVE COUNTIES

County	Total All Cases	No. Cases Per 1,000 Pop.	Total Fel. Cases	No. Cases per 1,000 Pop.	Total Misde. Cases	No. Cases Per 1,000 Pop.	Total No. Lower Ct. Cases; 1956 (Excl.Mayors,J.P.)
**Ashe	114	5.4	13	.6	101	4.8	192
Beaufort	173	4.6	72	1.9	101	2.7	1,661
Buncombe	535	4.0	269	2.0	266	2.0	12,840
Burke	57	1.1	30	.6	27	.5	2,532
Cabarrus	298	4.5	119	1.8	179	2.7	2,070
Carteret	66	2.5	13	.5	53	2.0	1,834
Cherokee	49	2.7	19	1.1	30	1.7	700
Cleveland	157	2.3	79	1.2	78	1.1	4,780
Columbus	215	4.0	133	2.5	82	1.5	2,980
Cumberland	690	5.8	380	3.2	310	2.6	17,350
Dare	26	5.2	12	2.4	114	2.8	542
Davidson	347	5.1	109	1.6	238	3.5	5,892
*Davie	382	23.9	23	1.4	359	22.4	
Duplin	166	4.0	45	1.1	121	2.9	1,600
Edgecombe	450	8.5	148	2.8	302	5.7	5,298
Forsyth	748	4.7	427	2.7	321	2.0	21,318
Granville	122	3.7	57	1.7	65	2.0	2,880
Guilford	1328	6.2	668	3.1	660	3.1	26,950
**Haywood	546	14.0	64	1.6	482	12.4	2,195
Hertford	78	3.4	32	1.4	46	2.0	585
Johnston	220	3.3	89	1.3	131	2.0	6,743
*Jones	122	11.1	11	1.0	111	10.1	
Mecklenburg	1526	6.8	688	3.1	838	3.7	32,140
*Mitchell	116	7.7	10	.7	106	7.1	
New Hanover	532	7.3	308	4.2	224	3.1	9,590
*Polk	432	39.3	57	5.2	375	34.1	
Richmond	153	3.7	63	1.5	90	2.2	1,700
Rockingham	460	6.7	172	2.5	288	4.2	4,082
Stanly	54	1.4	36	.9	18	.5	2,092
Wake	1030	6.7	348	2.3	682	4.5	25,518
Warren	39	1.6	16	.7	23	1.0	841
**Wilkes	321	6.8	102	2.2	219	4.7	2,310
Durham	1238	10.8	260	2.3	978	8.5	11,400
Orange	200	4.8	58	1.4	142	3.4	3,538
Chatham	200	7.7	69	2.7	131	5.0	1,556
TOTAL	13,190		4,999		8,191		216,489
Mode		Over 4.0 and less than 5.0		Over 1.0 and less than 2.0		Over 2.0 and less than 3.0	
Mean, or Average		6.0		2.3		3.7	

*These 4 counties had no lower courts in 1956 other than JP or mayor.
**These 3 counties in 1956 had only "city" courts with combined territorial jurisdiction less than county-wide jurisdiction.

PART IV
THE CRIMINAL BUSINESS OF JUSTICES OF THE PEACE

By Bernard A. Harrell

Member of the Staff, Institute of Government

Introduction

The number of justices of the peace in North Carolina during 1957, as estimated by the North Carolina Association of Magistrates, was 1,500. Of these 1,500, there were 940 who were active in trying criminal cases during the fiscal year 1956-57 (according to the Law Enforcement Officers' peace active in trying criminal cases during 1956-57 was approximately one justice to each 4,700 people. From this ratio to total population, the number of justices per thousand persons varied greatly from county to county. For example, the Benefit and Retirement Fund Report). The lack of uniform records, either state or local, makes the actual number of justices of the peace a matter for estimation. Many justices of the peace have never performed the functions of their offices. Others have failed to qualify as required by statute, or have neglected to make the required reports to the clerk of Superior Court.

Justices of the peace who try criminal cases must report all convictions to the Law Enforcement Officers' Benefit and Retirement Fund, and must collect the sum of $2.00 from all convicted defendants for the benefit of this Fund (G.S. 143-166). During fiscal 1956-57, 940 justices of the peace reported convictions to the Retirement Fund. The ratio to total state population of justices of the number of justices reportedly active during 1956-57 in Buncombe County was four—a ratio of approximately one justice of the peace to every 31,000 people. In Johnston County, with a population of less than half that of Buncombe, 39 justices of

the peace were active in trying criminal cases during 1956-57—a ratio of one justice to every 1,700 people. Mecklenburg County with a population exceeding 200,000 had only 13 active justices of the peace—one for every 15,000 people. Sampson County, with less than one-fourth as many people as Mecklenburg County, had 44 active justices of the peace. Pasquotank County, with a population of approximately 24,000 people, had no justice of the peace active in trying criminal cases during 1956-57 (see table IV-A).

Justices of the peace perform many non-judicial functions in addition to their judicial functions. For example, they have authority to perform marriage ceremonies (G.S. 51-1), to make acknowledgment of deeds, contracts, etc. (G.S. 47-1); and to allot a widow's year's allowance and determine the value of personal property for such purposes (G.S. 30-19, 20).

This report is not concerned with the civil jurisdiction of justices of the peace or with their non-judicial functions. It is concerned only with criminal jurisdiction of justices of the peace and their exercise thereof.

Most of the justices of the peace who were asked to supply information for this study were very cooperative. Our appreciation for this cooperation is hereby acknowledged. Most of the information contained in these reports had to be obtained from the Superior Court records, the Law Enforcement Officers' Benefit and Retirement Fund Reports, and from interviews with the justices of the peace, as the justices did not have any uniform records—in some instances they had no records at all.

Criminal Trial Jurisdiction of Justices of the Peace

Introduction

Justices of the peace derive their judicial power from Article IV, §2, of the North Carolina Constitution. Article IV, §27 of the Constitution spells out, in general terms, the territorial and substantive criminal trial jurisdiction of justices of the peace—limiting territorial jurisdiction to criminal matters arising in the county, and the substantive jurisdiction to crimes where the punishment cannot exceed a fine of fifty dollars ($50.00) *or* imprisonment for 30 days.

The criminal trial jurisdiction of justices of the peace is further defined by G.S. 7-129, which gives justices of the peace *exclusive original* jurisdiction over all offenses where the punishment prescribed by law does not exceed a fine of $50.00 or imprisonment for 30 days.

The grant of exclusive original jurisdiction to justices of the peace must be interpreted in the light of other constitutional provisions authorizing the General Assembly to create inferior courts. In interpreting these provision our Supreme Court has held: (1) that the General Assembly may create a municipal court and grant to it exclusive original jurisdiction, within the corporate limits, over cases which would ordinarily be within the trial jurisdiction of justices of the peace; (2) that if the territorial jurisdiction of the municipal court extends beyond the corporate limits, the justice of the peace must have concurrent jurisdiction over crimes committed outside the corporate limits and which are not punishable by more than a fine of $50.00 or imprisonment for 30 days; and, (3) that the General Assembly may not create a county court and grant to it exclusive jurisdiction over offenses within the jurisdiction of justices of the peace, as they may not divest justices of the peace of concurrent jurisdiction where a county court is established. See *State v. Norman*, 237 N.C. 205 (1953); *State v. Brown*, 159 N.C. 467 (1912); *State v. Doster*, 157 N.C. 634 (1911). Thus, it can be seen that although the statute (G.S. 7-129) purports to grant justices of the peace exclusive jurisdiction over the fifty-dollar or 30-day offenses, their jurisdiction is concurrent with county courts and may be completely divested by municipal courts. Consequently, only a portion of the fifty-dollar or thirty-day offenses are tried by justices of the peace.

Although there are statutes limiting the trial jurisdiction of justices of the peace, numerous other statutes indirectly give justices of the peace trial jurisdiction over various crimes by specifying that the maximum punishment for violation shall not exceed the $50.00 or 30 days limitation. As a result, justices of the peace have within their trial jurisdiction a substantial number of minor crimes. Examples of such crimes are: simple assaults (G.S. 14-33); municipal ordinance violation (G.S. 14-4); public drunkenness (G.S. 14-335); vagrancy (G.S. 14-336); worthless checks (G.S. 14-107); peace warrants (G.S. 15-28); disturbing the peace (G.S. 15-273, 274, 275.1); game laws (various provisions of G.S. Ch. 113); motor vehicle violations (various provisions of G.S. Ch. 20); and health laws (various provisions of G.S. Ch. 130). In the area of motor vehicle violations alone, justices of the peace have jurisdiction over 90 different offenses. It is safe to say that they have jurisdiction of literally hundreds of minor criminal offenses.

Exercise of Jurisdiction by Justices of the Peace

During the fiscal year 1956-57, justices of the peace reported, for purposes of the Law Enforcement Officer's Benefit and Retirement Fund,[1] some 88,515 convictions. This figure does not purport to

be the total number of cases tried by justices of the peace for that period, since it includes only cases in which convictions were had, and since it is possible that some justices of the peace were unaware, or otherwise failed to comply with, the requirements of the statute.

In the 35 counties of the criminal court study, 378 justices of the peace reported 33,898 convictions during the fiscal year 1956-57. By way of comparison, the inferior courts (66 in number) of those counties disposed of 216,489 cases during the calendar year 1956 and the Superior Courts disposed of 13,151 cases. See Table IV-B.

Although justices of the peace disposed of a significant number of criminal cases, the effect of the exercise of their trial jurisdiction must be examined in the light of its effect upon the inferior and Superior Courts of the counties. In three of the 35 counties (Polk, Granville, and Jones), justices of the peace did not report a single conviction during fiscal 1956-57 (see Table IV-B). Assuming that all convictions in these three counties, were reported as required by statute, all misdemeanors within the trial jurisdiction of justices of the peace were tried either in inferior courts or the Superior Courts. In Jones and Polk counties the cases would have been tried in the Superior Courts as those counties have no inferior courts.

An additional factor to be considered in weighing the effect of the trial jurisdiction of justices of the peace on other courts in the county is the number of cases within justice of the peace jurisdiction which were tried by other courts. In the pilot study counties (Durham, Chatham and Orange) exact figures were tabulated as to this matter. In those counties, 5,839 (or 35.68%) of the 16,364 cases tried in the six inferior courts during 1956 were within the trial jurisdiction of justices of the peace. During the same year, the 19 active justices of the peace in those counties tried 2,132 cases.

Number of Justice of the Peace and Cases Disposed of

The number of justices of the peace reportedly "active" throughout the state in trying criminal cases during fiscal 1956-57 was 940. In the 35 counties of the court study 378 were reportedly "active." In those counties, justices of the peace disposed of 33,898 cases. The majority of these justices, although designated as "active," actually tried only a few criminal cases. The bulk of criminal cases tried by justices of the peace were tried by less than 20% of the number reportedly active. Table IV-C shows that 73 of the 378 justices of the peace active in the court study counties tried 82.91% of all the cases tried by justices in those counties. Stated in terms of numbers, these 73 justices tried 28,106 of the 33,898 cases reported to the Law Enforcement Officer's Benefit and Retirement Fund. The remaining 289 justices tried less than 20% of the cases reported to the Fund.

Type Cases Most Frequently Tried by Justices of the Peace

As was previously stated, justices of the peace have trial jurisdiction over hundreds of criminal offenses. However, as a matter of practice, only a few of these many types of offenses are heard and disposed of by justices of the peace in any significant numbers. Four types of offenses account for the bulk of cases tried by justices of the peace. They are: (1) minor motor vehicle cases; (2) public drunkenness; (3) worthless check cases; and (4) simple assaults. By far the most important of these in terms of numbers disposed of are the motor vehicle cases. Of the 90 justices interviewed, 32 stated that minor motor vehicle cases were the type most frequently disposed of by them; 17 listed public drunkenness as the most frequent type case; 13 heard worthless check cases most frequently; and 4 listed simple assaults as the type case most frequently tried (see Table IV-D).

Punishment Imposed

Justices of the peace are limited in the punishment which they may impose in cases tried by them to a fine of $50.00 or imprisonment for 30 days. Within the limits of the maximum punishment prescribed by law, justices of the peace vary widely in their application of punishment imposed in certain type cases. Many of the justices have a "pet" type punishment which they habitually impose in all cases of a similar nature (see Table IV-D). In the motor vehicle cases, fine and costs, with some variations, is the punishment usually imposed. This is probably due to the fact that many of the motor vehicle cases involve persons who are merely passing through a locality and the money-type judgment is most convenient to all concerned. A lesser number of justices habitually impose only costs of court as punishment in motor vehicle cases. A few impose imprisonment suspended on payment of costs and fine. Other punishments, which are rarely used, include "prayer for judgment continued" and "judgment suspended." Restitution as a part of punishment in motor vehicle cases is used only in rare instances. In the public drunkenness cases, imprisonment suspended on the payment of a fine and costs is used more often than in the motor vehicle cases. The suspended sentence is often used as a

[1]G.S. 143-166 requires that the sum of $2.00 be collected for each defendant convicted. The $2.00 is turned over to the State Treasurer and becomes a part of the retirement fund.

device to assure payment of fine and costs where the risk is considered a poor one. In the bad check cases restitution is almost always imposed with the use of differing punishment devices to assure payment of the amount of the check (see Table IV-D). The use of restitution in justice of the peace courts is treated separately in a later section of this report.

Fees Charged by Justices of the Peace in Cases Tried by Them

G.S. 7-134, and the many local modifications thereto, is the statute listing the fees of justices of the peace. These are the fees which the justice is entitled to receive and retain for the services he renders. If the defendant is acquitted or the proceedings are dismissed and the prosecution is not adjudged frivolous or malicious (if it is so adjudged the prosecutor may be required to pay the costs), no costs are taxable and therefore the justice receives no fees. *Merrimon v. Commissioners*, 106 N.C. 369 (1890). In practice, the provisions of the statute listing the fees, and the modifications thereto, are largely ignored by the justices in assessing their fees. Fees of justices of the peace charged in cases tried by them varied from a low of $1.70 in Davie County to a high of $5.75 in Edgecombe County. The average fee of those justices interviewed was $3.40 per case. If the average fee were collected in the 88,515 cases reported to the Law Enforcement Retirement Fund, the total would be over $300,000 in fees. In the 35 counties in which justices of the peace were interviewed the total amount of fees collected by the most active justices (73 in number) would be $95,560.

Even among justices of the same county there is no agreement as to what the fee ought to be in cases tried by them. Typical of the variances in fees among justices of the same county are those in Davie County, where the fee of six justices varied as follows: $2.80; $2.25; $3.65; $2.70; $2.80; $1.70. In the adjoining counties of Buncombe and Ashe, fees varied from $5.00 in Buncombe to $2.25 in Ashe (see Table IV-E). Many of the justices of the peace interviewed frankly admitted that they were uncertain as to what amount they should charge for their services. In only seven of the 35 counties in which interviews were conducted did justices of the peace list the same amounts as their fee for trying cases.

As Table H shows, the matter of fees of justices of the peace is an area of almost uniform inconsistency. To the public, the variance in fees and costs in justice of the peace courts means that the quantum of punishment a defendant may receive for committing an offense is dependent upon which justice in which county happens to be the justice before whom he is tried.

Other Costs in Justice of the Peace Courts

In a pattern very similar to that shown in fees, other costs of court in justice of the peace courts vary from county to county and from justice to justice. The typical bill of costs in justice of the peace courts includes such items as: officer's arrest fee; $2.00 to the Law Enforcement Officer's Benefit and Retirement Fund; fee for rendering judgment (the justice's fee); and, in some instances, a fee for the city or county law library. The costs of court, as tabulated among 72 justices in 35 counties, averaged $9.26. The lowest figure reported was in Perquimans County, $4.50 per case, and the highest was in Cherokee County, $15.00 per case (see Table IV-F). Among justices of the same county costs of court varied as much as $5.50 per case. In the neighboring counties of Wake and Orange, costs of court varied from $7.00 in Orange to $11.00 in Wake. In only seven counties did justices of the peace report uniform costs. From the 72 justices who gave information as to their costs, 30 differing amounts were reported. In short, like the fees of justices of the peace, other costs of court show little uniformity.

Summary

1. Although justices of the peace try a significant number of cases, many offenses within their trial jurisdiction are disposed of by inferior and Superior Courts. In some counties the entire burden of trying these offenses rests solely upon courts other than the justices of the peace.

2. The great bulk of criminal cases which are tried by justices of the peace are tried by the relatively few justices who are active in the true sense of the word. The remainder of the justices, who are the majority, try either very few or no cases.

3. Even though justices of the peace have trial jurisdiction over a multitude of minor crimes, their usual trial jurisdiction extends to only four offenses: minor motor vehicle cases, public drunkenness, worthless checks, and simple assaults. Of these, minor motor vehicle cases are by far the most important in terms of numbers.

4. Punishment imposed by justices of the peace in criminal cases varies widely from justice to justice. A justice frequently has a "pet" punishment which he habitually imposes in certain type cases. This "pet" punishment may differ for the same offense as among different justices of the peace.

5. Fees in justice of the peace courts vary from county to county and from justice to justice.

6. Other costs in justice of the peace courts vary from county to county and from justice to justice.

Appeals from Justices of the Peace

Introduction

The North Carolina Constitution in Article IV, §27, states that:

> In all cases of a criminal nature the party against whom the judgment is given may appeal to the Superior Court, where the matter shall be heard anew.

G.S. 15-177 provides that the accused may appeal from the sentence of a justice of the peace to the *Superior Court* and that such trial shall be anew. G.S. 7-243, in unequivocal language, provides that appeals from justices of the peace shall first be heard in the *recorder's court*. Presumably, this statute applies to all recorder type courts, since it is under an article (Art. 27) entitled: "Provisions Applicable to All Recorders' Courts." As to *special county courts*, it is provided in G.S. 7-430 that appeals from justices of the peace shall first be heard anew in such court (if one be established in the county). In counties having *general county courts*, appeals from justices of the peace may circumvent such court and be taken directly to the Superior Court. See, *McNeely v. Anderson*, 206 N.C. 481 (1934).

As may be seen from these constitutional and statutory provisions, and case law interpretations, the proper court for appeals from justices of the peace is a matter of some uncertainty.

Interviews with 88 justices of the peace disclosed that justices of the peace send appeals from their judgments to any or all types of courts established in their counties. In counties having a county recorder's court, appeals are taken both to the recorder's court and Superior Court. Where municipal courts exist, appeals are sent to these courts and to the Superior Courts. In counties having municipal and county recorders' courts, appeals go to both (see Table IV-G).

In the 35 Superior Courts, 28 county recorders' courts, 34 municipal recorders' courts, and four mayors' courts which were included in the criminal court study, only 306 (less than 1%) of all the cases disposed of by these courts were cases which had been appealed from justices of the peace (see Table IV-H).

Appeals to the Superior Court

Appeals from justices of the peace to the Superior Courts in criminal cases accounted for slightly more than 1% of the total criminal cases disposed of by the Superior Courts in the 35 counties in which the criminal court study was conducted. Of the 12,929 cases disposed of in 1956 by these Superior Courts, only 142 were cases which had been appealed from justices of the peace (see Table IV-H).

In 17 of the 35 counties, no cases disposed of by the Superior Courts had been appealed from justices of the peace. In 10 other counties percentage of cases which had been appealed from justices of the peace was less than 1%. In only eight counties was the percentage greater than 1%. In only one county (Wilkes) could it be said that appeals from justices of the peace accounted for a substantial portion of the criminal docket of the Superior Court. In that county 64 of the 157 cases, or 40.76%, had been appealed from justices of the peace (see Table IV-H). From interviews with 88 justices of the peace, it was determined that the average percentage of their cases which were appealed to the Superior Court was 1.6% (see Table IV-G).

Appeals to Inferior Courts

An even smaller percentage of the cases disposed of by the inferior courts were appealed from justices of the peace. Of the 102,564 cases disposed of by county recorders' courts (28 in number), only 102, or about .09% had been appealed from justices of the peace. Of the 91,236 cases disposed of by municipal recorders' courts, only 65, or .07%, had been appealed from justices of the peace. Of the 5529 cases disposed of by mayors' courts, only four, or .07%, had been appealed from justices of the peace (see Table IV-H).

Interviews with justices of the peace substantiated the finding that the frequency of appeals from justices of the peace to inferior courts is less than the frequency of appeals to the Superior Courts. Of the 88 justices interviewed, 33 stated that none of their criminal cases was appealed to inferior courts; 27 stated an appeal rate of 1% to inferior courts; five stated 2%; one stated 3%; two stated 10%; and twenty-three gave no information as to appeal (see Table IV-G).

Summary

1. Appeals from justices of the peace in criminal cases account for a small portion of the cases disposed of by the Superior and inferior courts.
2. Appealed cases from justices of the peace make up a larger portion of the docket of the Superior Courts than of the inferior courts.
3. Appeals from justices of the peace are taken to one of any of the courts existing in the counties without any uniform practice governing the choice of the court of appeal.

Preliminary Hearings in Felony Cases

Introduction

One of the more important functions of justices of the peace is the holding of preliminary hearings for persons accused of the commission of a felony. The purpose of the preliminary hearing is to determine, in the first instance, whether it is

likely that the crime charged has in fact been committed, and whether there is probable cause to believe that the accused committed it. It is the duty of the justice of the peace, where the matter is before him, to determine from the evidence presented each of these questions. Upon determining that there is, or is not probable cause, it becomes the duty of the justice to allow bail (if the offense be bailable) or discharge the accused, as the case may be.

Jurisdiction in Preliminary Hearings

The statutory authority of justices of the peace to conduct preliminary hearings is set out in G.S. 15-85 through 15-106. Authority to accept bail from any person, other than those accused of capital felonies, is set out in G.S. 15-107.

Generally speaking, justices of the peace have county-wide jurisdiction throughout their respective counties to conduct preliminary hearings for persons accused of a felony. This county-wide jurisdiction, however, is subject to the concurrent and, in some instances exclusive, jurisdiction of other courts existing in the county. Municipal courts have concurrent preliminary-hearing jurisdiction with justices of the peace over persons accused of committing a felony within the corporate limits or within five miles thereof (G.S. 7-190, par. 4). County recorder's courts and general county courts have county-wide concurrent jurisdiction with justices of the peace over preliminary hearings (G.S. 7-223; 7-278). County criminal courts have *exclusive* preliminary hearing jurisdiction in counties where they are established (G.S. 7-393). Special county courts and municipal-county courts have the same preliminary hearing jurisdiction as justices of the peace throughout their counties, as the statutes applicable to those courts state that they shall have the same power and authority as is conferred on municipal and county recorder's courts (G.S. 7-436; 7-240). Special acts of the legislature have divested justices of the peace of preliminary-hearing jurisdiction in a few localities.

Frequency of Preliminary Hearings by Justices of the Peace

In the 35 Superior Courts included in the criminal court study, 920 or 20 per cent of the 4,598 felony cases disposed of in 1956, were bound over to the Superior Courts by justices of the peace. Included in this figure were cases in which preliminary hearing before the justice of the peace was waived.

In at least one county, justices of the peace bound over to the Superior Court all of the felony cases tried during 1956. In other counties, none of the felony cases in the Superior Courts was bound over by a justice of the peace (see Table IV-I). To a great extent this contrast is due to the existing court structure of the particular county. Obviously, in those counties having no inferior courts, it is necessary that justices of the peace perform this function. In other counties, notably those with a county-wide lower court, this function can be, and for the most part is, performed by inferior courts. Twenty-eight of the 35 counties included in the criminal court study had a court or several courts whose jurisdiction embraced the entire county. Of these, there were 10 in which justices of the peace did not bind over to the Superior Courts any of the felony cases tried during 1956. In some instances, there were counties which had the largest criminal dockets, *i.e.*, Mecklenburg and Davidson. Also, in Cumberland, Forsyth and New Hanover, counties with large dockets, an insignificant number of felony cases were bound over by justices of the peace. In each of these counties an inferior court was available daily.

That the court structure of a particular county determines the prevalence of preliminary hearings before justices of the peace is clearly demonstrated by Table IV-I. In those counties having no inferior courts, justices of the peace bound over 82.17% of the felony cases in Superior Courts. In counties having inferior court(s) whose territorial jurisdiction does not embrace the entire county, the percentage of Superior Court felony cases bound over from justices of the peace fell to 73.18%. In counties having one or more inferior courts with county-wide jurisdiction, only one of six, 16.35% of the felony cases in Superior Courts were bound over from justices of the peace. The participation of justices of the peace in preliminary hearings ranged from a high of 100.00% in Davie County to a low of 0.00% in Cleveland, Dare, Durham, Davidson, Mecklenburg, Orange, Richmond, and Stanly counties.

Interviews with justices of the peace in the counties included in the criminal court study confirmed the statistical results pertaining to the degree of participation by justices of the peace in preliminary hearings. Ninety justices of the peace were interviewed in 35 counties (28 of which were counties included in the criminal court study) and, of these, 52 stated that they had conducted preliminary hearings during 1956. The remaining 37 stated that they had not. The 52 justices who did conduct preliminary hearings during 1956 indicated that they bound over a total of 535 felony cases to the Superior Courts of their counties (see Table IV-J). The majority of those who were active in this function conducted an average of less than 12 such hearings per year (see Table IV-J). Only four justices of the peace handled more

than 40 such hearings during the entire year; two justices handled between 20 and 40; and, six handled between 12 and 20 cases per year. As in the trial of cases within justice of the peace jurisdiction, a few justices of the peace handled most of the preliminary hearing cases within a particular county.

Fees of Justices of the Peace in Preliminary Hearings in Felony Cases

The matter of fees charged by justices of the peace for the exercise of their judicial functions is the subject of G.S. 7-134. The statute sets out a schedule of amounts to be charged and retained by the justice for each function performed. Local modifications have been enacted in some 22 counties, ten of which are counties included in the criminal court study.

The fees stated in Table IV-L are the amounts which justices of the peace stated that they charged in preliminary hearings. Fees ranged from a low of no fee charged to a high of $5.25. The average fee in such hearings was $3.50. Among justices of the same county, fees differed by as much as $1.60 per case (from $2.40 to $4.00). In only two counties, Orange and Burke, were fees found to be standardized (all justices reported a fee of $2.40 in Orange County and $3.55 in Burke County). The 34 justices of the peace who gave information on their fees listed 17 different amounts in preliminary hearing cases (see Table IV-L).

Summary

1. In those counties having inferior courts with county-wide jurisdiction, preliminary hearings in felony cases are conducted largely by the inferior courts rather than by justices of the peace.

2. In counties having larger populations and larger criminal dockets in Superior Court, justices of the peace, with some exceptions, bind over an insignificant number of the felony cases heard in the Superior Courts. This is due, to some extent, to the everyday availability of inferior courts to handle such hearings.

3. Although a majority of the justices of the peace do conduct some preliminary hearings, only a few justices conduct a significant number. The majority of the justices conduct only an occasional hearing.

4. Fees of justices of the peace in preliminary hearings are not uniform; on the contrary, they vary from county to county and from justice to justice.

Preliminary Hearings in Misdemeanor Cases

Introduction

Preliminary hearings in misdemeanor cases are conducted in much the same manner as preliminary hearings in felony cases. The statutory provisions applying to preliminary hearing, both in felony and misdemeanor cases, are set out in G.S. 15-85 through 15-101. The one significant difference in the statutory provisions relating to preliminary hearings in felony and misdemeanor cases is that a committing magistrate or justice of the peace is not required in misdemeanor cases to examine the prisoner, but may do so upon request or if he deems it necessary (G.S. 15-93). As a matter of practice, justices of the peace bind misdemeanor cases over to both the Superior and inferior courts. The legislature, in a series of provisions scattered throughout the statutes relating to inferior courts, has seemingly manifested its intention to reduce th number of misdemeanor cases being bound over to the Superior Courts in counties where an inferior court with trial jurisdiction over the offense is in existence. G.S. 7-299 provides that where a misdemeanor is within the final jurisdiction of a municipal recorder's court, a committing magistrate shall bind the case over to that court rather than to the Superior Court. G.S. 7-225, 7-279(4) and 7-438, applying to county recorders' courts, general county courts and special county courts respectively, provide that offenses within the *exclusive* jurisdiction of those courts shall be bound over to them rather than to the Superior Court. It is questionable whether justices of the peace may bind over misdemeanor cases to county criminal courts, as G.S. 7-399 provides that justices of the peace may issue arrest warrants for offenses within the final jurisdiction of county criminal courts, but provides further that such warrants shall be returnable to the county criminal court.

From the tenor of the statutes applying to preliminary hearings, it would appear that the legislative intent was to relieve the Superior Court of trying misdemeanors within the "exclusive" jurisdiction of inferior courts. G.S. 7-64[1] provides however, that in cases where a statute has given an inferior court exclusive jurisdiction, this exclusive jurisdiction is divested and the jurisdicton of the Superor Court is concurrent with that of such inferior court. This statute seemingly leaves open the question as to whether a justice of the peace is obliged to bind over misdemeanor cases (within the jurisdiction of inferior courts) to inferior courts, or whether he may bind them over to the Superior Courts.

Misdemeanor Cases Bound Over to the Superior Court by Justices of the Peace

Justices of the peace in the 35 counties included

[1] This status excludes 30 counties from its application, thereby leaving exclusive jurisdiction in the inferior courts of these counties.

in the criminal court study bound over 1,670, or 23.43% of the 8,191 misdemeanor cases tried in the Superior Courts of those counties during 1956. In the four counties having no lower courts, justices of the peace bound over 888 of the 951 misdemeanor cases tried in the Superior Court—a percentage of 93.3. In the three counties having inferior courts whose jurisdiction does not embrace the entire county, justices of the peace bound over 646 or 80.54% of the 802 misdemeanor cases tried in the Superior Courts. By contrast, in the 28 counties having inferior courts with county-wide jurisdiction, justices of the peace bound over only 136, or 2.11%, of the 6,438 misdemeanor cases tried in the Superior Courts. In 14 of the 28 counties having inferior courts with county-wide jurisdiction, none of the misdemeanor cases tried in Superior Courts during 1956 was bound over from a justice of the peace. In only five of the 28 counties having county-wide inferior courts did the percentage of misdemeanor cases bound over from justices of the peace exceed 10% of the total number of misdemeanor cases tried by the Superior Court (see Table IV-M).

Misdemeanor Cases Bound Over to Inferior Courts by Justices of the Peace

The percentage of misdemeanors bound over to inferior courts by the justices of the peace is less than half the percentage bound over to the Superior Courts by justices of the peace. Of the 216,137 cases disposed of in the inferior courts of the 35 counties of the court study, only 8.3% or 17,954, were bound over by justices of the peace. The percentage of Superior Court misdemeanor cases bound over by justices of the peace was 23.43%. This difference is probably explainable by the fact that many inferior courts issue their own warrants and make them returnable before the issuing court; thus, there is no necessity for a preliminary hearing before a justice of the peace.

In those counties having inferior courts with county-wide jurisdiction, justices of the peace bound over 18.61%, or 15,281, of 96,958 cases tried in county recorder-type courts. In the 33 municipal courts in these counties (counties having courts with county-wide jurisdiction) justices of the peace bound over 2,671, or 2.42%, of the 112,474 cases tried in 1956. In the one mayor's court of this group, none of the 2,008 cases tried in 1956 was bound over from a justice of the peace (see Table IV-M).

In the three counties having inferior courts whose jurisdiction does not extend throughout the entire county, justices of the peace bound over an infinitesimal percentage of the cases tried in the inferior courts. Of the 1,268 cases tried in the two municipal recorder's courts, located within these three counties, only two cases were bound over from justices of the peace—a percentage of .15—and in the two mayor's courts located within these three counties, none of the 3429 cases tried during 1956 was bound over from a justice of the peace (see Table IV-M). Justices of the peace in these three counties bound over a much greater percentage of the misemeanor cases tried in the Superior Courts than in the inferior courts. The overall percentage in the Superior Courts was 80.64%, as compared to .04% in the inferior courts.

Of the 90 justices interviewed in 35 counties, 51 stated that they acted as committing magistrates in misdemeanor cases—binding cases over to the Superior and inferior courts (see Table IV-N). The average number bound over per month by each of these 51 justices was 15. Six justices stated that they bound over misdemeanor cases to the Superior Court only; thirty-six bound over cases to inferior courts only; and, eight bound over misdemeanor cases to both the Superior and inferior courts (see Table IV-N).

Fees of Justice of the Peace in Preliminary Hearings in Misdemeanor Cases

The average fee of the 51 justices active in binding misdemeanor cases over to the Superior and inferior courts was $2.45. From this average, fees varied from a high of $5.25 in Edgecombe County to a low of $.50 in Chatham County. Among justices of the peace of the same county, fees in preliminary hearings in misdemeanor cases varied from $1.75 to $4.25. Three justices of the peace stated that they charged no fee for binding over misdemeanor cases to Superior and inferior courts. Two justices stated that they charged $5.00 or more for this function; five charged between $4.00 and $5.00; three between $3.00 and $4.00; three charged less than $1.00; and, the remainder charged between $1.00 and $3.00 (see Table IV-N). The average fee charged in binding over misdemeanors was lower by $1.00 than the average fee in binding over felony cases.

Summary

1. In counties having inferior courts with county-wide jurisdiction, only a small percentage of the misdemeanor cases in the Superior Courts are bound over from justices of the peace. Conversely, in counties having no inferior courts or having inferior courts with less than county-wide jurisdiction, justices of the peace bind over the great majority of misdemeanor cases tried in the Superior Courts.

2. Justices of the peace bind over a smaller percentage of the misdemeanor cases tried in in-

ferior courts than in the Superior Courts. This is partly due to the power of inferior courts to issue arrest warrants for cases within their trial jurisdiction, thereby eliminating the preliminary hearing before a justice of the peace.

3. Fees of justices of the peace in holding preliminary hearings in misdemeanor cases vary to about the same extent as do fees for other functions. With no explainable basis for the variance, fees in preliminary hearings in misdemeanor cases vary greatly from county to county and among justices of the same county.

Issuance of Arrest Warrants by Justices of the Peace

Introduction

Justices of the peace are one of the several judicial officers empowered to issue arrest warrants for the apprehension of persons charged with any criminal offense (See G.S. 15-18). Prior to 1953 a justice of the peace, with one or two rare exceptions, could issue only warrants returnable before himself. A 1953 amendment to G.S. 15-24 empowered justices of the peace to issue warrants returnable to any magistrate or to any courts *inferior* to the Superior Court having jurisdiction in the county. *State v. McGowan*, 234 N.C. 431 (1956).

When a justice of the peace issues a warrant returnable before another court, he is acting in a ministerial capacity to bring the accused before the courts, and has no further part in the proceedings. When he issues a warrant returnable before himself, the justice then enters the picture as a judicial officer who will either determine the guilt or innocence of the accused, or determine that the accused should or should not be bound over to be dealt with by a higher court.

Were the burden of issuing all arrest warrants placed solely on the justices of the peace and other judicial officers enumerated in G.S. 15-18, much of the time of these officials would be spent issuing arrest warrants. This burden does not, however, rest solely on these officials. In counties having county recorder's courts, the clerk of Superior Court is *ex officio* clerk of such court and, as such, is empowered to issue arrest warrants. Assistant or deputy clerks have the same power, subject to local modifications (G.S. 7-231). Clerks of court or deputy clerks of general county courts have authority to issue warrants made returnable before the judge of their particular court. The clerk of Superior Court is made *ex officio* clerk of the general county court in each county having such court (G.S. 7-274). The clerks of special county courts or any deputy thereof may issue warrants for cases to be tried in their court (G.S. 7-440). The recorder, vice recorder, presiding judge, clerk or deputy clerk of a municipal court may sign an arrest warrant (G.S. 7-198). Clerks of municipal-county courts have the same powers as to the issuance of arrest warrants as do clerks of county recorder's courts (G.S. 7-240).

In addition, some localities have police officers who are justices of the peace or deputy clerks for the sole purpose of issuing arrest warrants. These officials are often available day and night. In other localities, only justices of the peace are available for issuing warrants during hours when the local court is not open.

Issuance of Arrest Warrants in Cases Tried in the Superior Court

Justices of the peace do not issue warrants returnable to the Superior Courts. However, they do issue warrants returnable to themselves for preliminary disposition and binding over to the Superior Courts. The great majority of cases bound over to Superior Courts after preliminary disposition by justices of the peace are cases in which the warrant was issued by a justice of the peace.

During 1956, in the 35 counties included in the criminal court study, 920 felony cases and 1670 misdemeanor cases were bound over from justices of the peace. This represented 19.63% of all cases disposed of in those Superior Courts during 1956. Assuming that justices of the peace issued all warrants in cases which they bound over to the Superior Court, 19.63% of the cases in Superior Courts were cases in which the justices of the peace issued the warrant. In those counties without inferior courts, the percentage is much higher than in counties with inferior courts. In counties having no inferior courts (Davie, Jones, Mitchell and Polk), justices of the peace issued the arrest warrant in 82.17% of the felony cases and 93.37% of the misdemeanor cases disposed of in the four Superior Courts during 1956. Where inferior courts are established preliminary disposition and, hence, the issuance of warrants is a function performed, for the most part by such inferior courts.

Issuance of Arrest Warrants in Cases Tried in Inferior Courts

Justices of the peace may issue warrants returnable to an inferior court but not to the Superior Court. During 1956, justices of the peace issued arrest warrants in 19,276 cases which were tried in 59[1] of the 66 inferior courts included in the criminal court study. This number represented only slightly more than 10% of the 179,117 cases tried in those courts during 1956. Of the 19,276 arrest warrants issued by justices of the peace 7,984 or 41.4% were made returnable to an in-

ferior court. In the remaining 11,292, the warrant was made returnable before the justice of the peace who made some preliminary disposition of the case before it became an inferior court case (see Table IV-O). In only 14 of the 59 inferior courts did justices of the peace issue more than 25% of the total number of arrest warrants reaching those courts (see Table IV-O).

Clerks of court issued more than double the number of arrest warrants issued by justices of the peace. In 53 of the 59 courts, the clerk of the court or a deputy or assistant was performing the warrant-issuing function. They issued 42,204, or 23.56%, of the 179,117 arrest warrants issued in cases tried in these inferior courts.

An even larger percentage of the arrest warrants was issued by law enforcement officers specially designated as deputy clerks of court or justices of the peace for the sole purpose of issuing arrest warrants. Forty of the 59 courts had such specially designated law enforcement officers and they issued 44.79% of all arrest warrants issued by the 59 inferior courts (see Table IV-O). As in the case of court personnel, all arrest warrants issued by law enforcement officers were made returnable to the particular court which they were designated to serve. These law enforcement officers were usually available on a 24-hour basis. The remaining 29% of the warrants issued in the cases tried before these 59 courts was issued by mayors and other public officials.

Interviews with 90 justices of the peace showed that 34 were issuing warrants returnable to some inferior court, usually the county recorder's court. Five justices were issuing warrants returnable to municipal courts and six were issuing warrants returnable to domestic relations courts. The other 45 indicated that they did not exercise their authority to issue warrants (see Table IV-P).

Fees of Justices of the Peace for Issuing Warrants Returnable to Inferior Courts

The fees charged and retained by justices of the peace for issuing arrest warrants returnable to an inferior court vary from zero to $5.00. Five justices stated that they charged no fee for this function. Three justices assessed a fee as high as $4.00 or more. Five charged less than $.75, and the average fee was $1.85. Within the same county, the fees varied as much as $4.25 (from no fee to $4.25). In only four counties was a uniform amount charged (Bladen, Rockingham, Scotland and Burke). (See Table IV-Q).

[1] Statistics relating to arrest warrants were not available in two inferior courts covered by the general study; in the 5 inferior courts of the pilot study this information was not sought.

Summary

1. By virtue of their preliminary-hearing jurisdiction, justices of the peace issue a substantial percentage of the arrest warrants for cases tried by the Superior Court in those counties having no inferior courts with county-wide jurisdiction, and a lesser percentage in counties havng county-wide inferior courts.

2. Justices of the peace issue a relatively small proportion of the arrest warrants in cases tried in inferior courts. The great majority of warrants are issued either by court personnel or law enforcement officers specially designated as deputy clerks of court or justices of the peace for the purpose of issuing arrest warrants. In courts utilizing law enforcement officers to issue arrest warrants, availability for this function is not usually a problem since such officers are available on a 24-hour basis.

3. In a pattern consistent to other fees charged by justices of the peace, fees charged for issuing arrest warrants returnable before an inferior court vary from county to county and among justices of the same county.

Waivers of Appearance in Traffic Cases—the Part of Justices of the Peace

Introduction

As a matter of convenience to through-motorists who commit traffic offenses, and as an accommodation to local courts, justices of the peace in some localities play an integral part in the waiver-of-appearance systems now in widespread use throughout the state. Waivers of appearance in traffic cases usually take one of two basic forms: (1) the motorist is brought before the clerk of the local court or other designated official, or a justice of the peace, if court is closed; he signs a waiver of appearance and posts a certain amount for fine and costs; (2) the motorist is brought before the clerk of court, justice of the peace, or some designated official; he posts a cash bond with the official with the tacit understanding that he will not appear in court and the bond will be forfeited.

Depending on local custom, the method in use, and the "rules" set out by the courts, the part of the justice of the peace in waiver cases may be a mere ministerial act, or may involve the exercise of the justice's discretion. In instances where the court has designated the offenses for which waiver may be allowed, set the amounts of bond or fine and costs, and supplied a waiver form, the justice performs primarily a ministerial act. In other instances, the justice issues the warrants, decides whether the case may be waived, and sets the

amount to be deposited by the defendant-motorists. In these cases the justice is, in effect, substituting himself for the court and exercising a great deal of discretion. Although justices of the peace in a few localities arrange for a waiver of appearance during all hours of the day and night without regard to the availability of a court, most of them perform this function only during hours when the local court is closed.

Number of Justices Arranging for Waivers of Appearance

Ninety justices of the peace in 35 counties were interviewed concerning their practice with regard to arranging for a waiver of appearance in traffic cases. In 16 of these counties, 24 justices of the peace indicated that they were arranging for waivers of appearance for some local court. Twenty of the 24 justices active in arranging waivers did so as an arm of a county recorder's court; two stated that they arranged waivers of appearance in Superior Courts; and, two stated that they arranged waivers in behalf of a municipal recorder's court. The remaining sixty justices stated that they did not arrange waivers for any court.

No figures are available as to the number of waivers in traffic cases arranged by justices of the peace since the warrants in such cases become a part of inferior court records. From experience gathered in the field work, it appeared that a significant percentage of all waivers of appearance are arranged by justices of the peace.

A more comprehensive report on waivers of appearance in traffic cases and a discussion of the legality of the systems of waiver, will appear in "A Report on Motor Vehicle Cases in the Superior and Inferior Courts," a subsequent part of this *Report on the Administration of Criminal Justice in North Carolina.*

Summary

In addition to their ordinary criminal jurisdiction and criminal business, justices of the peace play an integral part in the systems of waiver of appearance in traffic cases. Their availability at all times is utilized for the convenience of the courts and the defendant-motorists.

Indemnity or Restitution in Criminal Cases Tried by Justices of the Peace

Introduction

The use of the criminal court processes to indemnify or restore to injured persons losses occasioned by the criminal act of another person is commonly referred to as indemnity or restitution. The practice of restoring to prosecuting witnesses the measure of their losses by use of the criminal court processes is a common occurrence in the Superior, inferior, and justice of the peace courts of this state. Generally speaking, there is little authority, in the absence of statute, for the granting of restitution in criminal courts (24 C.J.S. §2007). Very few of the criminal statutes of this state provide for restitution in criminal cases. One of the rare exceptions is G.S. 15-8, relating to restoration of stolen property in larceny cases. Nor has the Supreme Court of this state ruled directly on the legality of restitution in criminal cases. However, in cases where restitution has been granted, the court has said that this does not estop a civil suit for damages (*Jenkins v. Fields*, 240 N.C. 779; *Hester v. Motor Lines*, 219 N.C. 743). Furthermore, the court has said that a defendant in the civil suit may be entitled to mitigation of damages by reason of restitution ordered in a criminal case (*Hester v. Motor Lines*, 219 N.C. 743). It would seem, therefore, that the court has indirectly sanctioned restitution in criminal cases tried in the Superior Court. While the legality of restitution in criminal cases in justice of the peace courts may be open to question, the practice of granting restitution is well established and commonplace.

Number of Justices of the Peace Ordering Restitution in Criminal Cases; Types of Cases in Which Ordered, and Amounts

In the majority of worthless check cases, and to a lesser extent in assault cases, minor motor vehicle cases, cases of false statements to the Employment Security Commission, cases of disposing of mortgaged property and petit larceny cases (according to the J.P.s themselves) justices of the peace order restitution by defendants to prosecuting witnesses.

In the worthless check cases restitution amounted to compelling the defendant to make good the amount of a worthless check issued by him to the prosecuting witness. Oftentimes, to assure payment, restitution is ordered as a condition of a suspended sentence. Of all offenses tried by justices of the peace, worthless check cases were the third most frequent. Of the 90 justices interviewed, 25 stated that they usually ordered restitution in worthless check cases (see table IV-D). One justice of the peace, handling worthless check cases to the exclusion of all other offenses, disposed of 600 such cases in 1956, and ordered restitution in an amount exceeding $9,000.

Assault cases represent the second most frequent type case in which restitution was ordered. Restitution in these cases usually involved payment by the defendant of hospital and medical expense incurred by the injured prosecuting witness. Of the 90 justices interviewed, five stated that they usually granted restitution in assault cases.

Justices of the peace grant restitution to the state as well as to private parties. Three of the justices of the peace interviewed stated that they ordered restitution in cases of false statements made to the Employment Security Commission. One justice of the peace in Durham County handled only this type of case during 1956.

The use of restitution in minor motor vehicle cases, disposing of mortgaged property, and petit larceny cases, was very infrequent. Four of the 90 justices interviewed granted restitution in these cases. Two justices granted restitution in cases involving disposing of mortgaged property; one granted restitution in minor motor vehicle cases; and one in petit larceny cases.

In all, 32 of the 90 justices interviewed granted restitution in criminal cases. The great majority of these (25) granted restitution in worthless check cases (see table IV-D).

Summary

The criminal processes of the justice of the peace courts are often used to compel criminal defendants to make restitution to prosecuting witnesses. The great bulk of such cases are worthless check cases.

Table IV-A

Number of J.P.'s Reporting Convictions to the Law Enforcement Officers Benefit and Retirement Fund

(By County and Ratio to Population)

County	Population	No. Active Justices	Approx. Ratio to Population
Alamance	71,220	9	1— 8,000
Alexander	14,554	3	1— 5,000
Alleghany	8,155	2	1— 4,000
Anson	26,781	14	1— 2,000
Ashe	21,878	8	1— 2,500
Avery	13,352	12	1— 1,000
Beaufort	37,134	5	1— 7,000
Bertie	26,439	10	1— 9,000
Bladen	29,703	8	1— 3,500
Brunswick	19,238	10	1— 2,000
Buncombe	124,403	4	1—31,000
Burke	45,518	6	1— 9,000
Cabarrus	63,783	3	1—21,000
Caldwell	43,352	6	1— 7,200
Camden	5,223	3	1— 1,700
Carteret	23,059	6	1— 3,600
Caswell	20,870	14	1— 1,700
Catawba	61,794	16	1— 3,600
Chatham	25,392	10	1— 2,500
Cherokee	18,294	5	1— 3,650
Chowan	12,540	3	1— 4,150
Clay	6,201	2	1— 3,100
Cleveland	64,357	15	1— 4,300
Columbus	50,621	21	1— 2,400
Craven	48,823	8	1— 6,100
Cumberland	96,006	8	1—12,000
Currituck	6,201	4	1— 1,600
Dare	5,405	3	1— 1,800
Davidson	62,244	10	1— 6,244
Davie	15,420	7	1— 2,200
Duplin	41,074	20	1— 2,050
Durham	101,639	5	1—20,200
Edgecombe	51,634	8	1— 6,400
Forsyth	146,135	11	1—13,200
Franklin	31,341	16	1— 2,000
Gaston	110,836	11	1—10,000
Gates	9,555	3	1— 3,200
Graham	6,886	4	1— 1,700
Granville	31,793	7	1— 3,500
Greene	18,024	4	1— 4,500
Guilford	191,057	16	1—12,000
Halifax	58,377	19	1— 3,000
Harnett	47,605	28	1— 1,700
Haywood	37,631	8	1— 4,700
Henderson	30,921	7	1— 4,400
Hertford	21,453	9	1— 2,300
Hoke	15,756	1	1—15,756
Hyde	6,479	4	1— 1,600
Iredell	56,303	9	1— 6,200
Jackson	19,261	5	1— 4,000
Johnston	65,906	39	1— 1,700
Jones	11,004	3	1— 3,700
Lee	23,522	8	1— 3,000
Lenoir	45,953	6	1— 7,600
Lincoln	27,459	4	1— 7,000
McDowell	25,720	6	1— 4,000
Macon	16,174	6	1— 2,600
Madison	20,522	11	1— 2,000
Martin	27,938	5	1— 5,600
Mecklenburg	197,052	13	1—15,000
Mitchell	15,143	9	1— 1,600
Montgomery	17,260	5	1— 3,400
Moore	33,129	14	1— 2,400
Nash	59,919	6	1—10,000
New Hanover	63,272	6	1—10,000
Northampton	28,432	14	1— 2,000
Onslow	42,047	10	1— 4,200
Orange	34,435	4	1— 8,500
Pamlico	9,993	5	1— 1,900
Pasquotank	24,347	0	0—24,347
Pender	18,423	8	1— 2,300
Perquimans	9,602	1	1— 9,602
Person	24,361	2	1—12,150
Pitt	63,789	19	1— 3,400
Polk	11,627	7	1— 1,600
Randolph	50,804	10	1— 5,000
Richmond	39,597	27	1— 1,500
Robeson	87,769	3	1—29,000
Rockingham	64,816	28	1— 2,400
Rowan	75,410	11	1— 6,800
Rutherford	46,356	19	1— 2,400
Sampson	49,780	44	1— 1,200
Scotland	26,336	3	1— 8,500
Stanly	37,130	7	1— 5,500
Stokes	21,520	11	1— 2,000
Surry	45,593	11	1— 4,000
Swain	9,921	3	1— 3,300
Transylvania	15,194	10	1— 1,500
Tyrrell	5,084	3	1— 1,700
Union	42,034	7	1— 6,000
Vance	32,101	12	1— 2,600
Wake	136,450	22	1— 6,100
Warren	23,539	2	1—12,000
Washington	13,180	5	1— 2,500
Watauga	18,342	5	1— 3,500
Wayne	64,267	12	1— 5,400
Wilkes	45,243	16	1— 3,000
Wilson	54,506	9	1— 6,000
Yadkin	22,133	11	1— 2,000
Yancey	16,306	8	1— 2,000

Total active J.P.'s: 940

Table IV-B

Number of Cases Disposed of by Justices of the Peace, Inferior Courts and Superior Courts in One Year

(Figures as to Justices of the Peace are taken from the records of the Law Enforcement Officers' Benefit and Retirement Fund. Other figures are from the docket study results)

County	Cases Disposed of by All J.P.'s in County	Cases Disposed of by Inferior Courts in County	Cases Disposed of by Superior Court
Ashe	584 (8)*	192 (1)*	114
Beaufort	1,082 (5)	1,655 (3)	173

Buncombe	191 (4)	12,840 (2)	535
Burke	1,763 (4)	2,532 (1)	57
Cabarrus	2,350 (3)	2,870 (1)	298
Carteret	139 (6)	1,834 (2)	66
Chatham	766 (10)	1,556 (2)	200
Cherokee	685 (5)	700 (1)	49
Cleveland	552 (15)	4,780 (2)	157
Columbus	733 (21)	2,980 (2)	215
Cumberland	957 (8)	17,350 (2)	690
Dare	36 (3)	542 (1)	26
Davidson	1,309 (10)	5,892 (3)	349
Davie	948 (7)	No lower courts	382
Duplin	3,165 (20)	1,600 (1)	166
Durham	467 (5)	11,270 (1)	1,238
Edgecombe	1,141 (8)	5,228 (2)	450
Forsyth	199 (11)	21,318 (2)	749
Granville	0 (7)	2,008 (3)	122
Guilford	4,111 (16)	26,950 (2)	1,328
Haywood	1,366 (8)	2,195 (4)	546
Hertford	868 (9)	585 (1)	78
Johnston	499 (39)	6,743 (6)	220
Jones	0 (3)	No lower courts	122
Mecklenburg	1,765 (13)	32,150 (2)	1,526
Mitchell	403 (8)	No lower courts	116
New Hanover	42 (6)	9,590 (1)	532
Orange	210 (4)	3,538 (2)	200
Polk	0 (7)	No lower courts	432
Richmond	1,660 (27)	1,700 (2)	153
Rockingham	2,866 (28)	4,026 (2)	382
Stanly	186 (7)	2,092 (1)	54
Wake	2,087 (22)	25,518 (8)	1,030
Warren	511 (2)	841 (1)	39
Wilkes	257 (16)	2,310 (2)	157
TOTAL	33,898(363)	215,385 (66)	12,951

* Numbers in parentheses in Columns 1 and 2 indicate the number of J.P.'s and Inferior Courts, respectively, in the particular county.

Table IV-C

Exercise of Criminal Trial Jurisdiction for One Year

(Information taken from the records of the Law Enforcement Officers' Benefit and Retirement Fund)

County	No. of Convictions Reported	No. Active Justices	No. Justices Most Active	No. of Convictions Reported by Most Active	% of Total Convictions Reported by Most Active
Ashe	584	8	2	514	88.01
Beaufort	1,082	5	2	992	91.68
Buncombe	191	4	2	171	89.52
Burke	1,763	6	2	1,737	98.41
Cabarrus	2,350	3	2	2,262	96.25
Carteret	139	6	2	104	74.82
Chatham	766	10	3	663	86.55
Cherokee	685	5	2	516	72.32
Cleveland	552	15	3	500	90.57
Columbus	733	21	3	485	66.16
Cumberland	957	8	3	864	90.28
Dare	36	3	1	28	77.77
Davidson	1,309	10	2	1,176	89.83
Davie	948	7	2	862	90.92
Duplin	3,165	20	2	2,751	86.91
Durham	467	5	2	412	88.22
Edgecombe	1,141	8	3	971	85.10
Forsyth	199	11	2	125	62.81
Granville	0	7	—	—	—
Guilford	4,111	16	2	3,722	90.53
Haywood	1,366	8	3	1,366	100.00
Hertford	868	9	3	814	93.77
Johnston	499	39	2	420	84.16
Jones	0	3	—	—	—
Mecklenburg	1,765	13	3	1,327	75.18
Mitchell	403	9	2	363	90.07
New Hanover	42	6	1	42	100.00
Orange	210	4	1	195	94.28
Polk	0	7	—	—	—
Richmond	1,660	27	3	1,016	61.20
Rockingham	2,866	28	6	1,688	58.89
Stanly	186	7	2	171	91.93
Wake	2,087	22	2	1,353	64.82
Warren	511	2	1	306	59.88
Wilkes	257	16	2	190	73.92
TOTALS:	33,898	378	73	28,106	82.91

Table IV-D

Types of Cases Tried Before Justices of the Peace and Punishment Imposed

(Based on interviews with Justices of the peace)

County	Offense(s)	Punishment usually imposed
ASHE		
Justice #1	Drunk; M. Veh.; bad check	Fine & cost; same; .....
BEAUFORT		
Justice #1	Assault; bad check	Fine & cost; fine; cost & restit.
Justice #2	M. Veh.; assault; bad check	Fine & cost; same; fine & cost restit.
Justice #3	M. Veh.; assaults	Fine & cost; same
BLADEN		
Justice #1	Drunk; assaults; bad check	Fine & cost; same; same
Justice #2	Game-law; M. Veh.; drunk	Fine & cost; same; same
Justice #3	Drunk; M. Veh.	Fine & cost; same
Justice #4	Drunk; assaults; game-law	Fine & cost; same; cost
Justice #5	Drunk; game-law; M. Veh.	.....; .....; .....
BUNCOMBE		
Justice #1	Bad check; drunk; affray	Cost & restit.; imp. susp.; cost
BURKE		
Justice #1	M. Veh.; drunk; assault	Fine & restit.; cost; fine & restit.
Justice #2	M. Veh.; assault; drunk	Fine & restit.; fine; cost
Justice #3	Assault; trespass	Cost; fine & restit.; cost
CABARRUS		
Justice #1	M. Veh.; drunk	Cost; cost
Justice #2	M. Veh.; drunk; assault	J. cont'd on cost; same; .....
CARTERET		
Justice #1	Bad check	Restitution

CHEROKEE		
Justice #1	Drunk	Imp. susp.
Justice #2	Drunk; game-law; bad check	Imp., susp.; fine & cost; restit.
DAVIE		
Justice #1	Drunk	Prayer for j'ment cont'd
Justice #2	M. Veh.; drunk	;
Justice #3		
Justice #4	M. Veh.; drunk; assaults	Cost; same; cost & restit.
Justice #5	Game-law; assault	Fine & cost; same
Justice #6	Assaults	Fine & cost
DUPLIN		
Justice #1	M. Veh.; drunk; assault	Imp. susp. on fine & cost; same; same
Justice #2	M. Veh.; bad checks	Cost; imp. susp. on restit.
DURHAM		
Justice #1	Bad check	Sentence susp. on restit. & cost
Justice #2	False statement to Emp. Sec. Com.	Restitution and cost
EDGECOMBE		
Justice #1	Bad check; M. Veh.; false statement to Emp. Sec. Com.	Cost & restit.; f. & c.; cost & restit.
Justice #2	M. Veh.	Cost
Justice #3	Assaults; game-law; peace warrants; M. Veh.	Fine, cost & restit., fine & cost; cost; fine & cost
FORSYTH		
Justice #1	Drunk; bad check; peace warrants	Cost; cost & restit.
Justice #2		
GRANVILLE		
Justice #1	M. Veh.; bad check; assault	
Justice #2	Bad check; game-law; trespass	Imp. susp. on fine; cost and restit; imp. susp.; same
Justice #3	M. Veh.; drunk; bad check	Fine & cost; same; restitution
GUILFORD		
Justice #1	M. Veh.; disp. mtg. prop.; petty larceny	Cost; imp. susp. on restit.; same
Justice #2	M. Veh.; bad check	; restitution & cost
Justice #3	M. Veh.; bad check	; restitution & cost
Justice #4	Drunk; bad check; larceny	; restitution & cost
GATES		
Justice #1	Assaults	
Justice #2	Game-law	Fine & cost
HAYWOOD		
Justice #1	M. Veh.	Fine & cost
Justice #2	M. Veh.; drunk; assault	Fine & cost; same; same
HERTFORD		
Justice #1	Drunk; assault; M. Veh.	Fine & cost; fine; cost & restit., cost
Justice #2	M. Veh.; drunk	Fine & cost; imp. susp. on fine and cost
Justice #3	M. Veh.; drunk	Fine & cost; fine & cost
Justice #4	M. Veh.; drunk	Fine & cost; fine & cost
JOHNSTON		
Justice #1	M. Veh.; bad check	
Justice #2	M. Veh.; bad check; drunk	
JONES		
Justice #1		
Justice #2	M. Veh.; assault; drunk; bad check	Fine & cost; same; same; cost and restitution
LINCOLN		
Justice #1	Drunk; M. Veh.	Imp. susp. on fine & cost; same
MECKLENBURG		
Justice #1	Bad check; peace warrant	Imp. susp. on cost & restit.
Justice #2	Bad check; peace warrant	
NASH		
Justice #1	M. Veh.; bad check	
NEW HANOVER		
Justice #1	Game-law; false statement to Emp. Sec. Com.	Fine & cost; restitution
ORANGE		
Justice #1	Bad check	Imp. susp. on restit. & cost
Justice #2		
Justice #3	Game-law	Fine and cost
Justice #4	Bad check; assaults	Prayer j'ment cont'd on restit.; cost
Justice #5		
Justice #6	Drunk; M. Veh.; assault	Cost of court; all cases
PERQUIMANS		
Justice #1	Game-law	Fine & cost
ROCKINGHAM		
Justice #1	Drunk; bad check	
Justice #2	Drunk; trespass; bad check	Fine & cost; ; cost & restit.
Justice #3	Drunk; M. Veh.; bad check	; ; Cost & restit.
Justice #4	Drunk; bad check	Fine & cost;
POLK		
Justice #1	M. Veh.; drunk	Cost; fine and cost
SCOTLAND		
Justice #1	M. Veh.; game-law; bad check	Fine & cost; same; cost & restit.
Justice #2	Bad check	Cost and restitution
STANLY		
Justice #1	M. Veh.; drunk; mun. ordinance	Cost; same; same
Justice #2	Game-law; false statement to Emp. Sec. Com.	Fine & cost; same

WAKE			
	Justice #1	M. Veh.; bad check; affray	Fine and cost; fine; cost & restit.*
	Justice #2	Bad check; disp. mtg. prop.	Restitution; restitution
	Justice #3	M. Veh.; bad check	Fine & cost; cost & restitution
	Justice #4	Mun. ord.; false statements Emp. Sec. Com.; bad check	Cost; imp. susp. on fine; imp. susp. on restitution
WARREN			
	Justice #1	M. Veh.; assaults	.....
	Justice #2	M. Veh.; drunk	Cost; same

*Restitution is granted only if prosecuting witness asks for it by a complaint.

Table IV-E

Justice of the Peace Fees

(Based on interviews with justices of the peace)

County	No. Interviewed	#1	#2	#3	4#	#5	#6
Ashe	1	4.00					
Beaufort	3	2.00	2.00	3.10			
Bladen	4						
Buncombe	1	5.00					
Burke	3	3.55	3.55	3.55			
Cabarrus	2	3.35	3.35				
Carteret	1	3.40					
Chatham	5	2.75	3.40	3.40	3.25	3.40	
Cherokee	3	5.00	4.50				
Davie	6	2.80	2.25	3.65	2.70	2.80	1.70
Duplin	2	3.75	3.75				
Durham	2	2.00	2.00				
Edgecombe	3	5.50	5.00	5.75			
Forsyth	2	3.50	3.50				
Gates	2	2.50					
Guilford	4	3.75		4.25	4.25		
Granville	3	4.25	5.75	4.75			
Haywood	2	2.25	2.25				
Hertford	4	1.90	1.90	2.25	2.25		
Johnston	2	4.00	4.00				
Jones	2	3.40	3.40				
Mecklenburg	2	4.00	3.50				
New Hanover	1	2.50					
Orange	6	2.50	2.50	2.50	2.50	2.00	2.00
Perquimans	1						
Polk	1	4.00					
Rockingham	4	4.00			4.75		
Rutherford	2						
Stanly	3	4.40					
Wake	4	4.00	3.50				
Warren	2	3.75	3.75				

Table IV-F

Total Costs of Court—Justices of the Peace

(Based on interviews with justices of the peace)

County	Justices and cost assessed			
	#1	#2	#3	#4
Ashe	8.15			
Beaufort	7.00	7.00	8.10	
Bladen	8.00	8.00	8.00	8.50
Buncombe	10.00			
Burke	10.55	10.55	10.55	
Cabarrus	10.35	11.40		
Carteret	5.00			
Cherokee	15.00	9.50		
Davie	7.80	13.00	9.00	
Duplin	7.75	8.75		
Durham	10.00	10.00		
Edgecombe	11.50	11.25	13.50	
Forsyth	9.00	9.50		
Gates	12.00			
Granville	9.50	15.00	9.75	
Guilford	8.25	9.50	8.75	9.50
Haywood	7.75	7.75		
Hertford	6.90	6.90	7.25	7.10
Johnston	10.00	10.00		
Jones	8.00	8.00		
Lincoln	8.75			
Mecklenburg	9.00	9.00		
Nash	10.35			
New Hanover	7.50			
Orange			7.00	7.00
Perquimans	4.50			
Polk	9.00			
Rockingham	12.00	10.50	12.75	
Rutherford	10.00	11.00		
Scotland		6.75	6.75	
Stanly	14.00	10.00	7.00	
Wake	10.00	11.00	9.00	9.00
Warren	8.25	8.25		

Table IV-G

Appeals from Justices of the Peace

(Based on interviews with justices of the peace)

County	Estimated % of Appeals To Superior Court	Estimated % of Appeals To Recorder Type Courts	Lower Court or Rec. Type Court
ASHE			
Justice #1	1	None	
BEAUFORT			
Justice #1	10	1	Washington Rec. Ct.
Justice #2	10	1	Washington Rec. Ct.
Justice #3	10	2	Washington Rec. Ct.
Justice #4	20	2	Washington Rec. Ct.
BUNCOMBE			
Justice #1	1	None	
BURKE			
Justice #1	3	None	
Justice #2	3	None	
Justice #3	10	None	
CABARRUS			
Justice #1	1	1	Cabarrus Co. Rec. Ct.
Justice #2	1	1	Cabarrus Co. Rec. Ct.
CARTERET			
Justice #1	None	5	Carteret Co. Rec. Ct.
CHEROKEE			
Justice #1	1	1	Cherokee Co. Rec. Ct.
Justice #2	None	10	Cherokee Co. Rec. Ct.
Justice #3			
DAVIE			
Justice #1	None	None	
Justice #2	2		
Justice #3			
Justice #4	10		
Justice #5	10	10	Davie Co. Rec. Ct.
Justice #6	None	None	
DUPLIN			
Justice #1	2	2	Duplin Gen. Co. Ct.
Justice #2	1	1	Duplin Gen. Co. Ct.
EDGECOMBE			
Justice #1	2	None	
Justice #2	1	1	Edgecombe Co. Rec. Ct.
Justice #3	1	1	Edgecombe Co. Rec. Ct.
FORSYTH			
Justice #1			
Justice #2	None	None	
GRANVILLE			
Justice #1	None	None	
Justice #2	1	1	
Justice #3	None	None	
GUILFORD			
Justice #1	None	None	
Justice #2	2	1	Guilford Mun. Co. Ct.
Justice #3	1		
Justice #4	1	1	Guilford Mun. Co. Ct.

Table IV-G (Continued)

Appeals from Justices of the Peace

(Based on interviews with justices of the peace)

County	Estimated % of Appeals To Superior Court	Estimated % of Appeals To Recorder Type Courts	Lower Court or Rec. Type Court
HAYWOOD			
Justice #1	None	None	
Justice #2	1	1	Haywood Co. Rec. Ct.
HERTFORD			
Justice #1	1	1	Hertford Co. Rec. Ct.
Justice #2	None	3	Hertford Co. Rec. Ct.
Justice #3	None	None	
Justice #4	1	1	Hertford Co. Rec. Ct.
JOHNSTON			
Justice #1	None	1	Johnston Co. Rec. Ct.
Justice #2	None	None	
JONES			
Justice #1	None		
Justice #2	1		
MECKLENBURG			
Justice #1	1	1	Mecklenburg Co. Rec.,
Justice #2	10		Charlotte Mun. Ct.
NEW HANOVER			
Justice #1	None	None	
POLK			
Justice #1	1		
ROCKINGHAM			
Justice #1	1	1	Leaksville Rec. Ct.
Justice #2			
Justice #3	1	None	
Justice #4	None	1	Leaksville Rec. Ct.
Justice #5	1	None	
WAKE			
Justice #1	None	None	
Justice #2	None	None	
Justice #3	None	None	
Justice #4	None	None	
WARREN			
Justice #1	1	1	Warren Co. Rec. Ct.
Justice #2	1	1	Warren Co. Rec. Ct.
BLADEN			
Justice #1	None	1	Bladen Co. Rec. Ct.
Justice #2	None	2	Bladen Co. Rec. Ct.
Justice #3	None	1	Bladen Co. Rec. Ct.
Justice #4	None	2	Bladen Co. Rec. Ct.
Justice #5	None	None	

Table IV-G (Continued)

Appeals from Justices of the Peace

(Based on interviews with justices of the peace)

County	Estimated % of Appeals To Superior Court	Estimated % of Appeals To Recorder Type Courts	Lower Court or Rec. Type Court
GATES			
Justice #1	None	None	
Justice #2	None	None	
LINCOLN			
Justice #1	1	1	Lincoln Co. Rec. Ct.
NASH			
Justice #1	1	None	
PERQUIMANS			
Justice #1	1	1	Perquimans Co. Rec. Ct.
RUTHERFORD			
Justice #1	None	None	
Justice #2	None	None	
SCOTLAND			
Justice #1			
Justice #2	None	None	Scotland Co. Rec. Ct.
Justice #3	None	1	
CHATHAM			
Justice #1	None	None	
Justice #2	1	1	Siler City Mun. Rec.
Justice #3	None	None	
Justice #4	1	1	Chatham Co. Rec. Ct.
Justice #5	None	None	
DURHAM			
Justice #1	2.5		
Justice #2	None	None	
ORANGE			
Justice #1	1		Orange Co. Rec. Ct.
Justice #2	None		
Justice #3			
Justice #4	1		Orange Co. Rec. Ct.
Justice #5	1-10		Orange Co. Rec. Ct.
Justice #6	None		

TABLE IV-H

Appeals from Justices of the Peace

(Based on Docket Study Results; One Year's Business)

County	Total Criminal Cases in Superior Court	No. Cases Appealed from JP's	% of Total	Total Cases in County Courts	No. Cases Appealed from JP's	% of Total	Total Cases in Mun. Cts.	No. Cases Appealed from JP's	% of Total	Total Cases Mayor's Cts.	No. Cases Appealed from JP's	% of Total
Ashe	114	0	0.00	--	--	--	--	--	--	192(1)	0	0.00
Beaufort	173	4	2.31		21*	2.0	1655(2)	0	0.00	--	--	--
Buncombe	535	6	1.12	4460	0	0.00	8380(1)	10	.1	--	--	--
Burke	57	3	5.26	2532	0	0.00	--	--	--	--	--	--
Cabarrus	298	0	0.00	2870	10	.35	--	--	--	--	--	--
Carteret	66	0	0.00	920	2	.22	914(1)	0	0.00	--	--	--
Chatham	200	0	0.00	728			828(1)					
Cherokee	49	0	0.00	700	1	.1	--	--	--	--	--	--
Cleveland	157	0	0.00	3990	0	0.00	790(1)	0	0.00	--	--	--
Columbus	215	1	.46	2904	0	0.00	76(1)	1	1.31	--	--	--
Cumberland	690	0	0.00	11720	10	.08	5630(1)	0	0.00	--	--	--
Dare	26	0	0.00	542	0	0.00	--	--	--	--	--	--
Davidson	319	1	.28	2667	14	.52	3225(2)	0	0.00	--	--	--
Davie	382	9	2.35	--	--	--	--	--	--	--	--	--
Duplin	166	1	.60	1600	10	.62	--	--	--	--	--	--

County	Total Criminal Cases in Superior Court	No. Cases Appealed from JP's	% of Total	Total Cases in County Courts	No. Cases Appealed from JP's	% of Total	Total Cases in Mun. Cts.	No. Cases Appealed from JP's	% of Total	Total Cases Mayor's Cts.	No. Cases Appealed from JP's	% of Total
Durham	1238	0	0.00	11270	--	--	--	--	--	--	--	--
Edgecombe	450	5	1.11	3870	0	0.00	1458(1)	6	.41	--	--	--
Forsyth	749	2	.26	19870	0	0.00	1448(1)	0	0.00	--	--	--
Granville	122	0	0.00	872	8	.92	--	--	--	2008(2)	4	.21
Guilford	1328	14	1.05	17060	0	0.00	9890(1)	0	0.00	--	--	--
Haywood	546	4	.73	--	--	--	1076(3)	2	.18	1119(1)	0	0.00
Hertford	78	1	1.28	585	0	0.00	--	--	--	--	--	--
Johnston	220	0	0.00	569	0	0.00	6174(5)	--	.06	--	--	--
Jones	122	0	0.00	--	--	--	--	--	--	--	--	--
Mecklenburg	1526	12	.78	12160	0	0.00	19990(1)	20	.1	--	--	--
Mitchell	116	0	0.00	--	--	--	--	--	--	--	--	--
New Hanover	532	3	.56	9590	10	.1	--	--	--	--	--	--
Orange	200	0	0.00	1888	--	--	1650(1)	--	--	--	--	--
Polk	432	0	.46	--	--	--	--	--	--	--	--	--
Richmond	153	10	0.00	750	0	0.00	950(1)	2	.2	--	--	--
Rockingham	360	10	2.77	--	--	--	4062(2)	0	0.00	--	--	--
Stanly	54	0	0.00	2092	16	.76	--	--	--	--	--	--
Wake	1030	2	.19	--	--	--	25518(8)	24	.09	--	--	--
Warren	39	0	0.00	841	0	0.00	--	--	--	--	--	--
Wilkes	157	61	38.85	--	--	--	--	--	--	2310	0	0.00
TOTAL	12,929	142	1.09	116,450	102	.09	93,714	65	.07	5529	4	.07

* 6 cases were reportedly felony cases

NOTE: Totals include Orange, Chatham and Durham Counties
Precentages do not include these counties for the reason that information was not complete.
Numbers in parentheses indicate number of courts.

TABLE IV-I

Felony Cases Bound Over From Justices of the Peace
Counties With No Inferior Courts
(Figures are from docket study results; one year's business)

County	No. Superior Court Cases	Number Felonies	No. B/Over by J.P.'s	% of Total Felonies
Davie	382	23	23	100.00
Jones	122	11	10	90.90
Mitchell	116	10	8	80.00
Polk	432	57	42	73.68
	1,052	101	83	82.17 (Avg. %)

Counties Having One or More Municipal Courts Without Aggregate County-Wide Jurisdiction

	No. Superior Court Cases	Number Felonies	No. B/Over by J.P.'s	% of Total Felonies
Ashe	114	13	11	76.90
Haywood	545	64	55	85.90
Wilkes	321	102	65	63.70
	980	179	131	73.18 (Avg. %)

Counties Having A County-Wide Inferior Court or Municipal Courts With Aggregate County-Wide Jurisdiction

	No. Superior Court Cases	Number Felonies	No. B/Over by J.P.'s	% of Total Felonies
Beaufort	173	72	16	22.00
Buncombe	535	72	47	65.20
Burke	57	30	1	3.30
Cabarrus	298	119	1	.84
Carteret	66	13	0	0.00
Chatham	200	69	55	79.71
Cherokee	49	19	12	63.00
Cleveland	157	79	0	0.00
Columbus	215	133	92	69.10
Cumberland	690	380	7	1.80
Dare	26	12	0	0.00
Davidson	349	109	0	0.00
Duplin	166	45	40	88.80
Durham	1,238	257	0	0.00
Edgecombe	450	148	43	29.00
Forsyth	749	428	1	0.20
Granville	122	57	5	8.70
Guilford	1,328	668	166	24.80
Hertford	78	32	27	84.30
Johnston	220	89	16	17.97
Mecklenburg	1,526	688	0	0.00
New Hanover	532	308	4	1.30
Orange	200	58	0	0.00
Richmond	153	63	0	0.00
Rockingham	460	172	78	45.30
Stanly	54	36	0	0.00
Wake	1,030	348	84	24.10
Warren	39	16	11	68.70
Totals	11,160	4,318	706	16.35
Grand total	13,192	4,598	920	20.00

TABLE IV-J

Preliminary Hearings
Docket Study Counties
(Figures are derived from interviews with each justice of the Peace)

County	Justices Interviewed	Conducting Hearings	Estimated Per Year
Ashe	1	1	12
Buncombe	1	1	60
Beaufort	3	3	29
Burke	3	3	17
Cabarrus	2	2	40
Carteret	1	0	—
Chatham	5	4	36
Cherokee	3	2	24
Davie	7	5	76
Duplin	2	2	15
Durham	2	0	—
Edgecombe	3	3	45
Forsyth	2	0	—
Granville	3	0	—
Guilford	4	3	4
Haywood	2	2	25
Hertford	4	4	25
Johnston	2	1	12
Jones	2	1	2
Mecklenburg	2	0	—
Mitchell	2	2	13
New Hanover	1	0	—
Orange	6	3	6
Polk	1	1	1
Rockingham	4	2	10
Stanly	3	0	—
Wake	4	2	52
Warren	2	1	12
TOTALS:	77	47	471

NOTE: Of 77 Justices interviewed in these counties, 30 did not conduct any preliminary hearings.

Preliminary Hearings
Non-Docket Study Counties

County	No. Justices Interviewed	No. Conducting Hearings	Total Estimated Per Year
Bladen	4	3	54
Gates	1	0	—
Lincoln	1	1	10
Nash	1	1	—
Perquimans	1	0	—
Rutherford	2	0	—
Scotland	3	0	—
TOTALS:	13	5	64
GRAND TOTAL: (35 counties)	90	52	535

TABLE IV-K

Preliminary Hearings
(Frequency of Preliminary Hearings Based on interviews with justices of the peace)

County	No. Interviewed	less than 1 per year	1 to 5 per year	5 to 12 per year	12 to 20 per year	20 to 40 per year	40 to 80 per year
Ashe	1			1			
Buncombe	1						1
Beaufort	3		1	2			
Burke*	3						
Cabarrus	2				1	1	
Carteret*	1						
Chatham	5	1	2	1	1		
Cherokee*	3				2		
Davie*	7		3				1
Duplin*	2						
Durham*	2						
Edgecombe	3		1	1		1	
Forsyth*	2						
Guilford*	4		2				
Haywood	2		1		1		
Hertford	4		2	1	1		
Johnston*	2			1			
Jones*	2		1				
Mecklenburg*	2						
N. Hanover*	1						
Orange*	6	1	2				

County	No. Interviewed	less than 1 per year	1 to 5 per year	5 to 12 per year	12 to 20 per year	20 to 40 per year	40 to 80 per year
Polk	1			1			
Rockingham*	4		1	1			
Stanly*	3						
Wake *	4		1				1
Warren*	2			1			
TOTALS	77	2	17	10	6	2	3

*Asterisk indicates that no estimate was made by one or more of the justices.

County	No. Interviewed	less than 1 per year	1 to 5 per year	5 to 12 per year	12 to 20 per year	20 to 40 per year	40 to 80 per year
Bladen *	4		1	1			1
Gates *	1						
Lincoln	1			1			
Nash*	1						
Perquimans*	1						
Rutherford*	2				1		
Scotland*	3						
TOTALS	13		1	2	1		1
GRAND TOTAL	90	2	18	12	7	2	4

*Asterisk indicates that no estimate was made by one or more of the justices.

TABLE IV-L

Preliminary Hearing Fees
(Based on interviews with justices of the peace)

County	No. Justices	#1	#2	#3	#4	#5	#6
Ashe	1	4.00					
Beaufort	3	5.00	5.00	No Fee			
Bladen	5	----	----	----	----	----	----
Buncombe	1	No Fee					
Burke	3	3.55	3.55	3.55			
Cabarrus	2	3.35	----				
Carteret	1	----					
Chatham	5	2.75	2.40	4.00	3.25	3.40	
Cherokee	3	5.00	4.50	----			
Davie	6	----	2.25	----	4.00	2.50	2.00
Duplin	2	3.75	3.75				
Durham	2	----	----				
Edgecombe	3	5.25	No Fee	5.25			
Forsyth	2	----	----				
Gates	2	----	----				
Granville	3	----	----	----			
Guilford	4	----	3.75	----	----		
Haywood	2	4.25	4.25				
Hertford	4	2.40	2.40	2.50	2.00		
Johnston	2	4.00	----				
Jones	2	----	----				
Lincoln	1	----					
Mecklenburg	2	----	----				
Nash	1	5.10					
New Hanover	1	----					
Orange	6	2.40	----	2.40	2.40	2.40	2.40

County	No. Justices	#1	#2	#3	#4	#5	#6
Perquimans	1	----					
Polk	1	4.00					
Rockingham	4	----	----	----	----		
Rutherford	2	----	----				
Scotland	2	----	----				
Stanly	1	----					
Wake	4	3.50	----	----	----		
Warren	2	----	3.75				

TABLE IV-M

Preliminary Hearings in Misdemeanor Cases
(Figures are from docket study report; one year's business.)

Counties Having a County-Wide Court or Municipal Courts with Aggregate County-Wide Jurisdiction

County	No. Misdemeanors in Superior Court	No. Bound Over From JP's	% of Total	No. Cases County Recorder's Court	No. Bound Over From JP's	% of Total	No. Cases in Municipal Courts	No. Bound Over From JP's	% of Total	No. Cases in Mayor's Courts	No. Bound Over From JP's	% of Total
Beaufort	101	1	.99	--	--	--	1,661	5	.30	--	--	--
Buncombe	269	26	9.77	4,460	10	.22	8,380	20	.23	--	--	--
Burke	25	1	4.00	2,310	0	0.00	--	--	--	--	--	--
Cabarrus	179	0	0	2,870	0	0.00	--	--	--	--	--	-
Carteret	53	0	0.00	920	2	.21	914	0	0.00	--	--	-
Chatham	131	12	9.16	728	--	--	828	--	--	--	--	-
Cherokee	30	3	10.00	700	573[1]	81.85	--	--	--	--	--	--
Cleveland	74	0	0.00	3,990	1,040	26.06	790	0	0.00	--	--	--
Columbus	82	6	7.31	2,904	608[2]	20.93	76	1	1.31	--	--	-
Cumberland	310	0	0.00	11,720	9,210[3]	78.58	5,630	0	--	--	--	--
Dare	14	0	0.00	542	0	0.00	--	--	--	--	--	--
Davidson	238	0	0.00	2,667	0	0.00	3,225	0	0.00	--	--	--
Duplin	121	18	14.8	1,600	1,540[4]	96.25	--	--	--	--	--	--
Durham	981	0	0.00	11.270	--	--	--	--	--	--	--	--
Edgecombe	302	1	.33	3,870	680	17.57	1,428	0	0.00	--	--	--
Forsyth	321	0	0.00	--	--	--	21,318	0	0.00	--	--	--
Granville	65	0	0.00	872	14	1.60	--	--	--	2,008	0	0.00
Guilford	660	4	1.21	17,060	350[5]	2.05	9,890	20	.20	--	--	--
Hertford	46	2	4.30	585	350	59.82	--	--	--	--	--	--
Johnston	131	6	4.58	569	225[6]	39.54	6,174	46	.74	--	--	--
Mecklenburg	838	0	0.00	12,160	10	.08	19,980	10	.05	--	--	--
New Hanover	224	0	0.00	9,590	0	0.00	--	--	--	--	--	--
Orange	142	0	0.00	1,888	--	--	1,650	--	--	--	--	--
Richmond	90	0	0.00	750	0	0.00	950	0	0.00	--	--	--
Rockingham	288	45	15.6	--	--	--	4,062	2,013[7]	49.55	--	--	--
Stanly	18	0	0.00	2,092	0	0.00	--	--	--	--	--	--
Wake	662	16	2.34	--	--	--	25,518	556[8]	2.17	--	--	--
Warren	23	3	13.00	841	669[9]	83.11	--	--	--	--	--	
TOTAL:	6,138	136	2.21	96,958	15,281	18.61	112,474	2,671	2.42	2,008	0	0.00

NOTE: Total numbers include Durham, Orange and Chatham counties. However, totals in these counties were omitted in arriving at percentages.

Counties Having One or More Municipal Court but No County-Wide Court

County	No. Misdemeanors in Superior Court	No. Bound Over From JP's	% of Total	No. Cases County Recorder's Court	No. Bound Over From JP's	% of Total	No. Cases in Municipal Courts	No. Bound Over From JP's	% of Total	No. Cases in Mayor's Courts	No. Bound Over From JP's	% of Total
Ashe	101	90	89.10	--	--	--	192(1)	0	0.00	--	--	--
Haywood	482	439	91.78	--	--	--	1,076(3)	2	.18	1,119(1)	0	0.00
Wilkes	219	117	53.34	--	--	--	--	--	--	2,310(2)	0	0.00
	802	646	80.51	--	--	--	1,268	2	.15	3,429	0	0

Counties Having No Lower Courts

Davie	359	343	95.54	--	--	--	--	--	--	--	--	--
Jones	111	110	99.90	--	--	--	--	--	--	--	--	--
Mitchell	106	97	91.50	--	--	--	--	--	--	--	--	--
Polk	375	338	96.0	--	--	--	--	--	--	--	--	--
	951	888	93.37	--	--	--	--	--	--	--	--	--

1. Includes 5 felony cases.
2. Includes 8 felony cases.
3. Includes 30 felony cases.
4. Includes 2 felony cases
5. Includes 50 felony cases.
6. Includes 4 felony cases.
7. Includes 75 felony cases.
8. Includes 56 felony cases.
9. Includes 7 felony cases.

Total Felonies: 297

TABLE IV-N

Justices of the Peace as Committing Magistrates in Misdemeanor Cases
(Based on interviews with justices of the peace)

County	Acts as Committing Mag.	# per Mo.	Fee	Court
Ashe				
Justice #1	Yes	12	3.90	Superior
Beaufort				
Justice #1	Yes	5	--	Washington Rec.
#2	Yes	20	--	"
#3	Yes	10	--	"
Buncombe				
Justice #1	Yes	5	No Fee	Superior
Burke				
Justice #1	Yes	80	.75	Recorder & Sup.
#2	-			
#3	-			
Cabarrus				
Justice #1	No	--	--	--
#2	Yes	--	2.50	Recorder
Carteret				
Justice #1	No	--	--	--
Cherokee				
Justice #1	Yes	8	2.00	Recorder
#2	Yes	10	2.00	
Davie				
Justice #1	Yes	2 (yr.)	2.80	Recorder
#2	No	--	--	--
#3	No	--	--	--
#4	-	--	--	--
#5	-	--	--	--
#6	-	--	--	--
#7	-	--	--	--

County	Acts as Committing Mag.	# per Mo.	Fee	Court
Duplin				
Justice #1	Yes	40	3.75	Sup. & Gen. Co.
#2	Yes	50	--	Gen. Co.
Edgecombe				
Justice #1	Yes	--	5.25	Recorder
#2	No	--	--	
#3	Yes	2	--	
Forsyth				
Justice #1	Yes	2	No Fee	W-S Recorder
#2	-	--	--	--
Granville				
Justice #1	No	--	--	--
#2	No	--	--	--
#3	No	--	--	--
Guilford				
Justice #1	No	--	--	
#2	Yes	12	1.75	H. Point Mun. & Sup.
#3	Yes	5	3.75	"
#4	Yes	30	4.25	Co. Recorder
Haywood				
Justice #1	Yes	10	4.25	Sup. & Rec.
#2	Yes	15	4.25	"
Hertford				
Justice #1	Yes	75	.75	Recorder
#2	Yes	3	2.40	"
#3	Yes	6	2.50	Sup. & Rec.
#4	Yes	12	2.00	Recorder
Johnston				
Justice #1	No	--	--	--
Jones				
Justice #1	Yes	2 (yr.)	--	Superior
#2	Yes	10	4.00	"

County	Acts as Committing Mag.	# per Mo.	Fee	Court
Mecklenburg				
Justice #1	No	--	--	--
#2	No	--	--	--
New Hanover				
Justice #1	Yes	5 (yr.)	1.50	Recorder
Polk				
Justice #1	Yes	30	4.25	Superior
Rockingham				
Justice #1	Yes	40	2.00	Leaksville Rec.
#2	No	--	--	--
#3	No	--	--	--
#4	Yes	--	2.50	Reidsville Rec.
#5				
Stanly				
Justice #1	Yes	5	2.00	Recorder
#2	No	--	--	--
#3	No	--	--	--
Wake				
Justice #1	Yes	4 (yr.)	2.00	Superior
#2	No	--	--	--
#3	Yes	--	1.50	--
#4	Yes	20 (yr.)	2.50	City Rec.
Warren				
Justice #1	Yes	10	2.60	Recorder
#2	Yes	15	2.60	"
NON-DOCKET STUDY COUNTIES				
Bladen				
Justice #1	No	--	--	--
#2	Yes	6	1.75	Recorder
#3	-	--	--	--
#4	No	--	--	--
#5	-	--	--	--
Gates				
Justice #1	Yes	--	2.50	Recorder
#2	Yes	--	1.25	"

County	Acts as Committing Mag.	# per Mo.	Fee	Court
Lincoln				
Justice #1	Yes	majority of all issued in county	2.50	Recorder
Nash				
Justice #1	Yes	--	5.10	Recorder
Perquimans				
Justice #1	Yes	--	No Fee	Recorder
Rutherford				
Justice #1	-	--	--	--
#2	-	--	--	--
Scotland				
Justice #1	-	--	--	--
#2	-	--	--	--
#3	-	--	--	--
#4	-	--	--	--
PILOT STUDY COUNTIES				
Chatham				
Justice #1	Yes	6	3.40	Siler City Mun. Co. Crim., Sup.
#2	Yes	40	--	Co. Crim.
#3	Yes	1 (yr.)	1.50	Co. Crim.
#4	Yes	150	.50	Siler City Mun. Co. Crim., Sup.
#5	Yes	45	3.25	Siler City Mun., Superior
Durham				
Justice #1				
#2				
Orange				
Justice #1	Yes	1	--	Chapel Hill Rec
#2	Yes	5	--	Recorder
#3	Yes	15		"
#4	Yes	1	--	Chapel Hill Rec.
#5	-	--	--	--
#6	No	--	--	--

TABLE IV-O

Arrest Warrants Issued by Justices of the Peace
(Figures are from docket study results; one year's business.)

County and Court	Total No. Cases	Total Warrants Issued by JPs	% of Total	Warrants Made Returnable to Inferior Cts. by JPs	% of Total	Warrants Issued by Ct. Personnel	% of Total	Warrants Issued by Policemen as JP or Clerks	% of Total
Ashe									
W. Jefferson	192	3	1.56	0	0.00	187	97.39	2	1.04
Beaufort									
Washington Rec.	1044	24	2.29	0	0.00	666	63.79	--	--
Belhaven Rec.	478	2	.41	0	0.00	474	99.16	--	--
Aurora Rec.	139	1	.71	1	.71	127	91.36	3	--
Buncombe									
Gen. Co. Ct.	4460	0	0.00	0	0.00	4350	97.53	--	--
Asheville Police	8380	30	.35	0	0.00	50	.59	8260	98.56
Burke									
Co. Rec. Ct.	2532	2364	93.3	2364	93.36	0	0.00	--	--
Cabarrus									
Co. Rec. Ct.	2870	1580	55.00	1570	54.70	48	1.67	10	.34
Carteret									
Co. Rec. Ct.	920	2	.2	0	0.00	698	75.80	2	.2
Morehead Rec.	914	570	62.3	568	61.8	86	9.40	--	--
Cherokee									
Co. Rec. Ct.	700	561	80.1	0	0.00	123	17.57	--	--
Cleveland									
Co. Rec. Ct.	3990	1120	28.0	70	1.75	540	13.53	2220	55.63
Kings Mtn. Rec.	790	38	4.8	38	4.8	2	.25	340	43.03

County and Court	Total No. Cases	Total Warrants Issued by JPs	% of Total	Warrants Made Returnable to Inferior Cts. by JPs	% of Total	Warrants Issued by Ct. Personnel	% of Total	Warrants Issued by Policemen as JP or Clerks	% of Total
Columbus									
Co. Rec. Ct.	2904	648	22.3	30	1.03	239	8.23	--	--
Fairbluff Rec.	76	3	3.9	2	2.63	46	60.52	--	--
Cumberland									
Co. Rec. Ct.	11720	2890	24.65	0	0.00	1900	16.21	635	5.41
Fayetteville Rec.	5630	10	.17	0	0.00	11	.19	551	9.78
Dare									
Co. Rec. Ct.	542	2	.37	0	0.00	270	49.81	0	0.00
Davidson									
Co. Rec. Ct.	2667	0	0.00	0	0.00	1302	48.81	0	0.00
Denton Rec.	235	0	0.00	0	0.00	231	98.29	2	.85
Thomasville Rec.	2990	0	0.00	0	0.00	330	11.03	40	1.33
Duplin									
Gen. Co. Ct.	1600	1550	96.8	0	0.00	0	0.00	10	.62
Edgecombe									
Co. Rec. Ct.	3870	312	8.06	0	0.00	924	23.87	384	9.92
Rocky Mt. Rec.	1428	6	.42	0	0.00	372	26.05	972	68.67
Forsyth									
W-S Rec. Ct.	(19780)	--	--	--	--	--	--	--	--
Kernersville Rec.	1448	4	.27	4	.27	24	1.65	1424	98.34
Granville									
Co. Rec. Ct.	872	188	21.5	166	19.03	38	4.3	6	.68
Oxford Mayor	(1176)	--	--	--	--	--	--	--	--
Creedmore Mayor	(832)	--	--	--	--	--	--	--	--

County and Court	Total No. Cases	Total Warrants Issued by JPs	% of Total	Warrants Made Returnable to Inferior Cts. by JPs	% of Total	Warrants Issued by Ct. Personnel	% of Total	Warrants Issued by Policemen as JP or Clerks	% of Total
Guilford									
Mun. Co. Ct.	17060	360	2.	10	--	50	--	16580	--
High Point Rec. Ct.	9800	30	.3	10	--	20	--	10	--
Haywood									
Canton Police Ct.	644	2	.3	0	--	634	--	0	0.00
Clyde Police Ct.	383	380	99.2	380	99.2	1	--	1	--
Waynesville Mayor	1119	3	.26	3	.26	373*	--	--	--
Hazelwood Police Ct.	49	0	0.00	0	0.00	--	--	--	--
Hertford									
Co. Rec. Ct.	585	343	59.42	6	1.02	230	39.31	0	0.00
Johnston									
Co. Rec. Ct.	569	224	39.3	0	0.00	298	52.37	0	0.00
Clayton	368	1	.27	0	0.00	123	39.93	242	65.76
Kenly	1570	0	0.00	0	0.00	1570	100.00	0	0.00
Selma	1278	6	.46	0	0.00	1263	98.8	3	.23
Smithfield	1482	48	3.23	12	.80	1425	96.15	0	0.00
Benson	1476	20	1.3	16	1.08	1424	96.54	0	0.00
Mecklenburg									
Co. Rec. Ct.	12160	10	.08	0	0.00	0	0.00	12070	99.25
Charlotte City Ct.	19980	30	.15	0	0.00	10	.05	19910	99.64
New Hanover									
Co. Rec. Ct.	9590	130	1.35	120	1.25	1610	16.73	7540	78.62
Richmond									
Co. Rec. Ct.	750	684	91.2	684	91.2	50	6.60	12	1.60
Hamlet Rec.	950	916	96.4	914	96.2	14	1.47	8	.87

*Mayor of Waynesville

County and Court	Total No. Cases	Total Warrants Issued by JPs	% of Total	Warrants Made Returnable to Inferior Cts. by JPs	% of Total	Warrants Issued by Ct. Personnel	% of Total	Warrants Issued by Policemen as JP or Clerks	% of Total
Rockingham									
Reidsville Rec.	2655	655	24.6	40	1.50	0	0.00	1985	74.76
Leaksville Rec.	1407	1332	94.6	0	0.00	54	3.83	12	.85
Stanly									
Co. Rec. Ct.	2092	136	6.5	132	6.3	1920	91.7	18	.86
Wake									
Raleigh Rec.	15190	560	3.7	40	.26	13790	90.78	250	1.64
Garner	1908	8	.4	0	0.00	32	1.67	1864	97.69
Wendell	3052	8	.26	0	0.00	2036	66.71	4	.13
Apex	1443	0	0.00	0	0.00	615	42.61	471	32.64
Cary	1152	3	.2	0	0.00	1143	99.21	6	.52
Fuquay	1106	708	64.0	698	63.11	364	32.91	2	.18
W. Forest	1929	108	5.55	93	4.82	3	.15	1779	92.22
Zebulon	738	0	0.00	0	0.00	12	1.62	717	97.15
Warren									
Co. Rec. Ct.	841	680	80.8	1	.11	86	10.22	7	.83
Wilkes									
N. Wilkesboro Mayor	738	6	.8	4	.54	4	.54	724	96.79
Wilkesboro Mayor	1572	8	.5	8	.5	12	.76	1464	93.12
TOTALS	179,047	19,276	10.76	7,984	4.45	42,204	23.56	80,550	44.97

TABLE IV-P

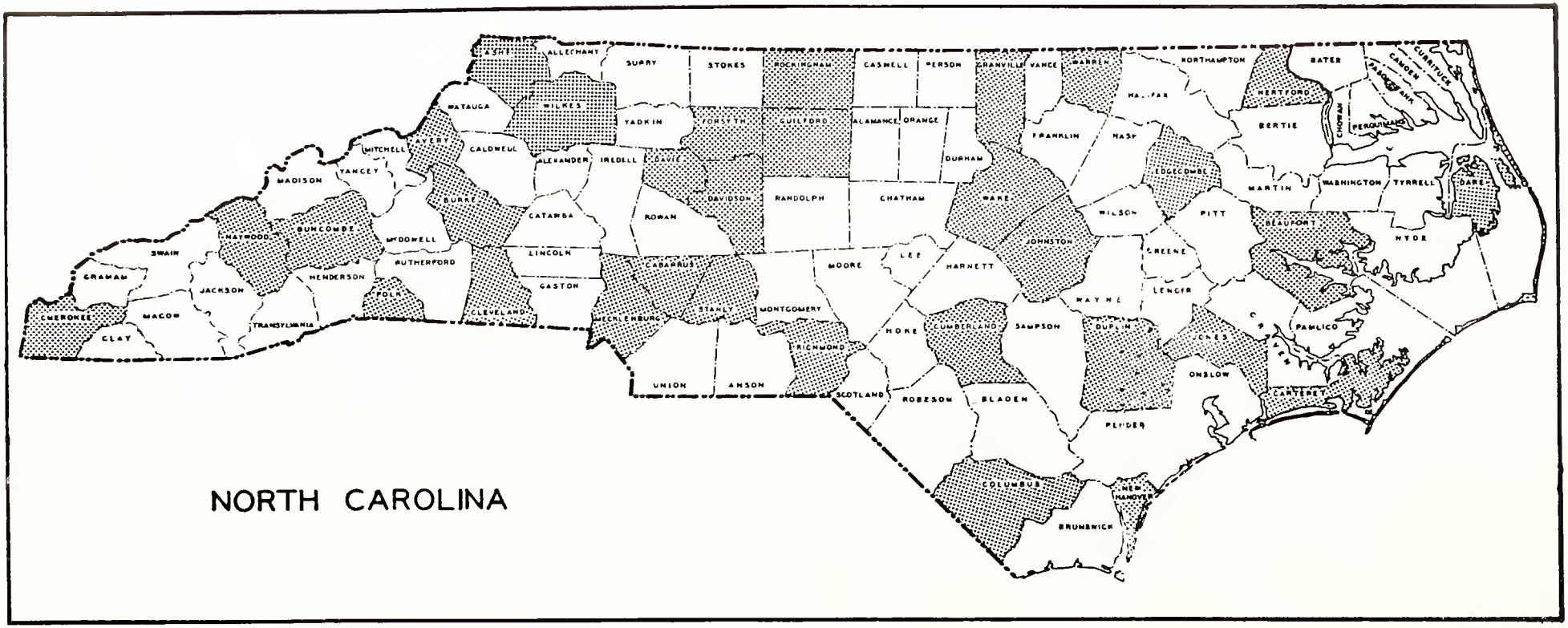
Issuance of Warrants Returnable to Inferior Courts

County	No. JP Interviews	No. Issuing Warrants Returnable to Inferior Cts.	Court to Which Returnable
Ashe	1	0	
Beaufort	3	2	Washington Recorder's
Buncombe	1	1	Domestic Relations Ct.
Burke	3	3	County Criminal Ct.
Cabarrus	2	2	County Recorder's Ct.
Carteret	1	0	
Cherokee	3	1	County Recorder's Ct.
Davie	7	0	(No inferior ct. in 1956)
Duplin	2	1	General County Ct.
Edgecombe	3	1	County Recorder's Ct.
Forsyth	2	1	Winston-Salem Mun. Ct.
Granville	3	2	
Guilford	4	4	High Point Municipal; Domestic Relations Ct.
Haywood	2	0	(No county ct. in 1956)
Hertford	4	0	
Johnston	2		
Jones	2	0	
Mecklenburg	2	0	
New Hanover	1	0	
Polk	1	0	
Rockingham	4	3	Reidsville Mun. Ct.
Stanly	3	3	County Recorder's Ct.
Wake	4	1	Domestic Relations Ct.
Warren	2	0	
Chatham	5	1	Siler City Recorder's; County Criminal Ct.
Durham	2		
Orange	6		
Bladen	5		
Gates	2	2	County Recorder's Ct.
Lincoln	1	1	County Recorder's Ct.
Nash	1		
Perquimans	1	1	Recorder's Court
Rutherford	2	2	County Recorder's Ct.
Scotland	4	2	County Criminal Ct.

TABLE IV-Q

Fees of Justices of the Peace for Issuing
Warrants Returnable to Inferior Courts
(Based on interviews with justices of the peace)

County	No. Justices	#1	#2	#3	#4	#5	#6
Ashe	1	——	——	——	——	——	——
Beaufort	3	5.00	3.10	——	——	——	——
Bladen	5	1.75	1.75	1.75	1.75	——	——
Buncombe	1	No fee					
Burke	3	.75	.75	.75	——	——	——
Cabarrus	2	3.45	2.50	——	——	——	——
Carteret	1	——	——	——	——	——	——
Chatham	5	3.25	——	——	——	——	——
Cherokee	3	2.00	——	——	——	——	——
Davie	6	2.00	——	——	——	——	——
Duplin	2	——	——	——	——	——	——
Durham	2	——	——	——	——	——	——
Edgecombe	3	——	No fee	——	——	——	——
Forsyth	2	No fee	——	——	——	——	——
Gates	2	2.50	1.25	——	——	——	——
Granville	3	2.50	2.25	——	——	——	——
Guilford	4	No fee	4.25	4.25	——	——	——
Haywood	2	——	——	——	——	——	——
Johnston	2	——	——	——	——	——	——
Jones	2	——	——	——	——	——	——
Lincoln	1	2.50	——	——	——	——	——
Mecklenburg	2	——	——	——	——	——	——
Nash	1	——	——	——	——	——	——
New Hanover	1	——	——	——	——	——	——
Orange	6	1.50	2.40	1.50	1.50	1.50	——
Perquimans	1	No fee	——	——	——	——	——
Polk	1	——	——	——	——	——	——
Rockingham	4	2.50	2.50	——	——	——	——
Rutherford	2	——	——	——	——	——	——
Scotland	2	.65	.65	——	——	——	——
Stanly	3	2.00	1.50	2.00	——	——	——
Wake	4	——	——	——	——	——	——
Warren	2	——	——	——	——	——	——



COUNTIES SELECTED FOR CRIMINAL COURT STUDY