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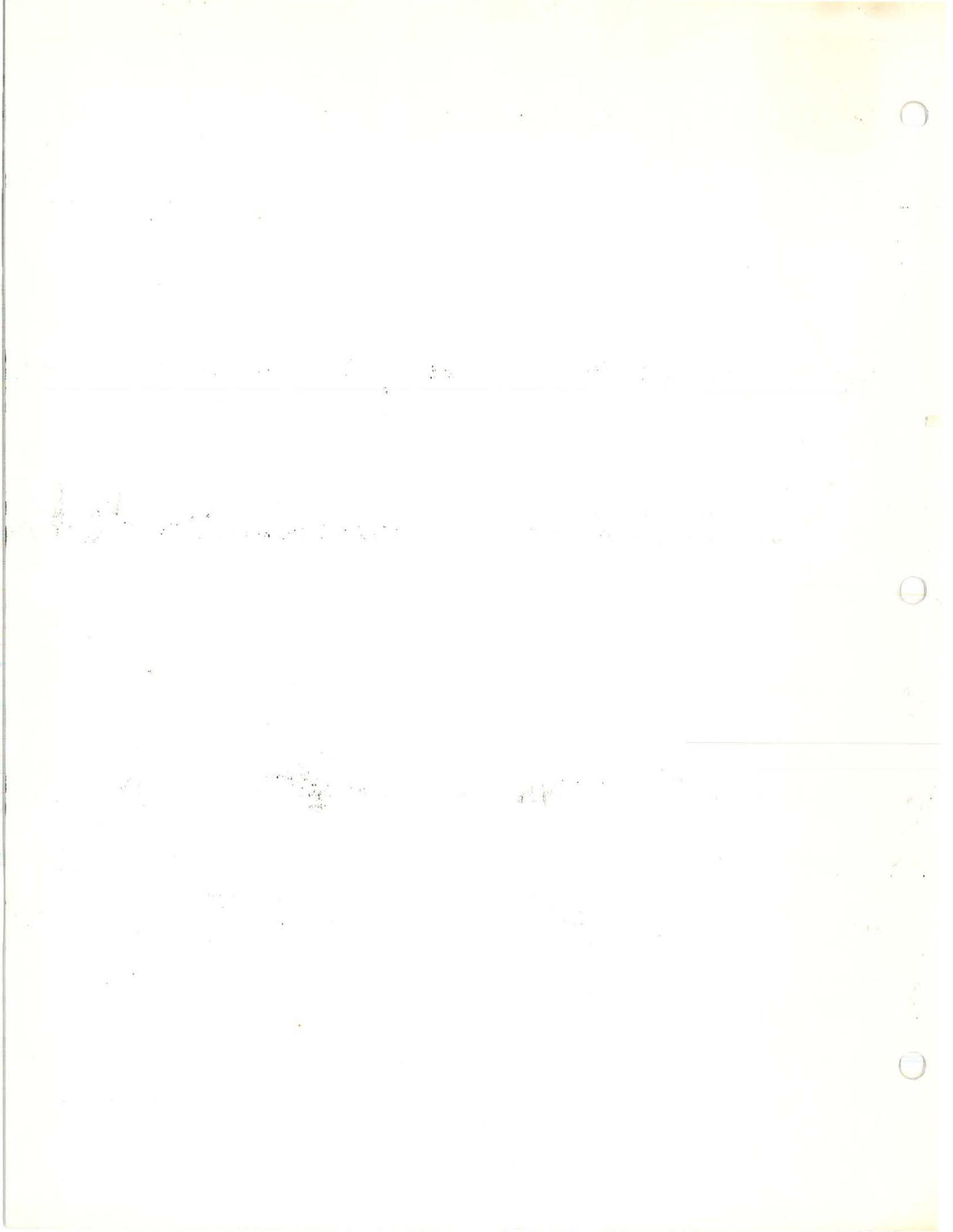
A MANUAL FOR  
CLERKS OF THE IOWA  
DISTRICT COURTS



Institute of Public Affairs  
The University of Iowa  
*in cooperation with the*  
Iowa Association of Clerks of Court

1979

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## FOREWORD

The *Iowa Clerk of Court Manual* is the result of a joint project by the Clerks' Manual Advisory Committee, appointed by the Court Administrator of the Judicial Department, and the Institute of Public Affairs at The University of Iowa. The members of the Advisory Committee include: Jerry K. Beatty, Deputy Supreme Court Administrator; Edward L. Block, Clerk of Court (Fayette County); Joan M. Glaza, Clerk of Court (Black Hawk County); Honorable Paul E. Hellwege, District Court Judge (Second Judicial District); Alfred J. Klocke, Clerk of Court (Carroll County); C. K. Wise, District Court Administrator (Eighth Judicial District); and E. Jack Wombacher, Clerk of Court (Johnson County). Rosalyn Bates, Research Assistant for the Institute of Public Affairs, and Harry Smith, Chief of Research at the Institute, were responsible for organizing, editing, and indexing the manuscript. Special recognition and appreciation is extended to Charlene Giegerich and Peg Brown of the Institute of Public Affairs, and Pamela Cave of the Supreme Court Administrator's Office for typing the drafts, revisions, and final copy of this volume.

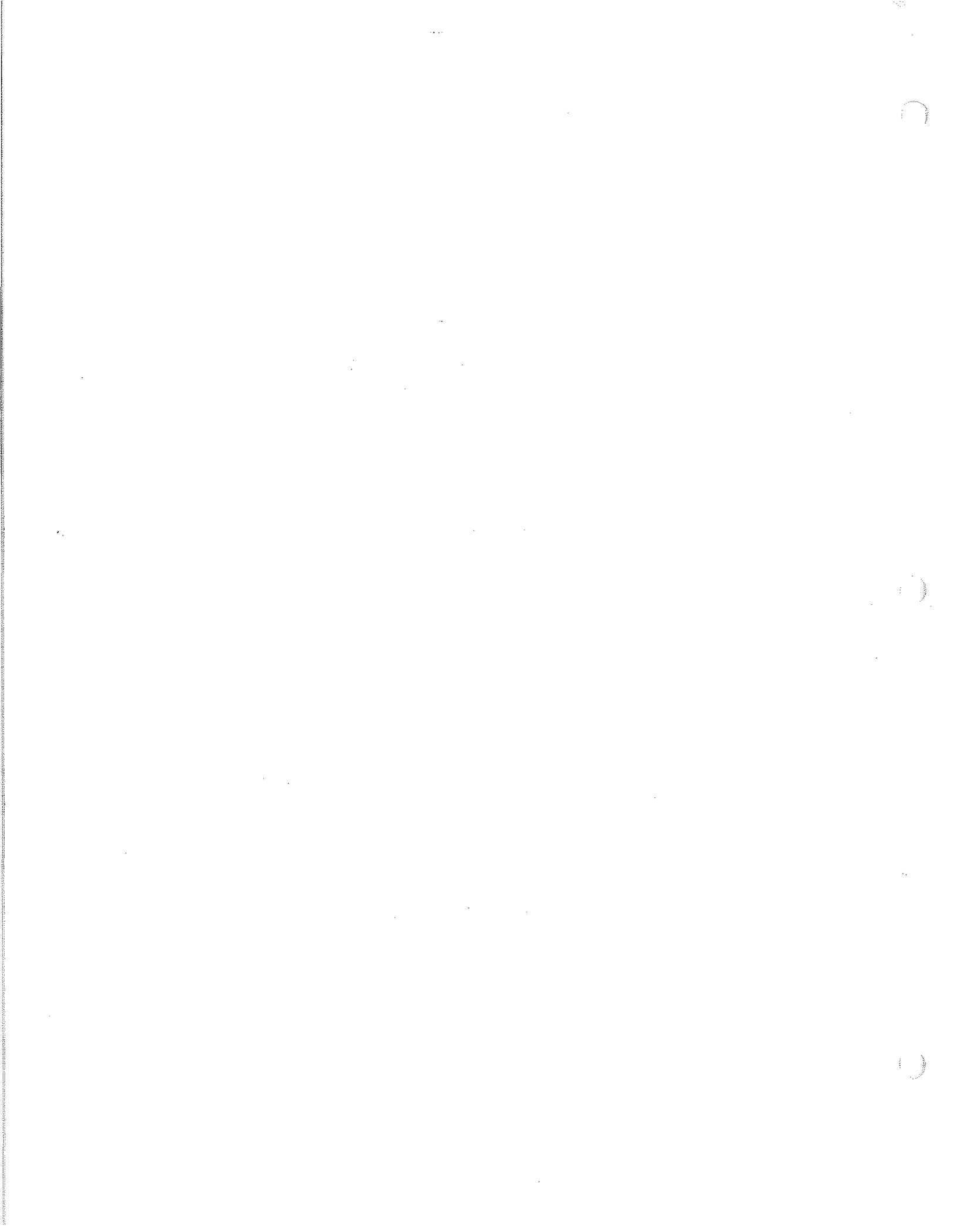
The project is also indebted to the clerks of court in Iowa whose input contributed to the development of this *Manual*. The Committee is grateful for the constructive comments of Sue Dosal, Senior Staff Attorney, North Central Regional Office, National Center for State Courts, and to the Office of Continuing Education for State Court Personnel, Minnesota Supreme Court, for permission to incorporate information from the *Minnesota Clerk of Court Manual*.

The result of this collective effort is a comprehensive manual designed to provide guidance and assistance to the Clerks of the Iowa District Courts in fulfilling their responsibilities to the judiciary and to the public. We hope the *Manual* accomplishes that purpose.

William J. O'Brien  
Court Administrator  
Judicial Department  
Iowa Supreme Court

Clayton L. Ringgenberg  
Director  
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December, 1979



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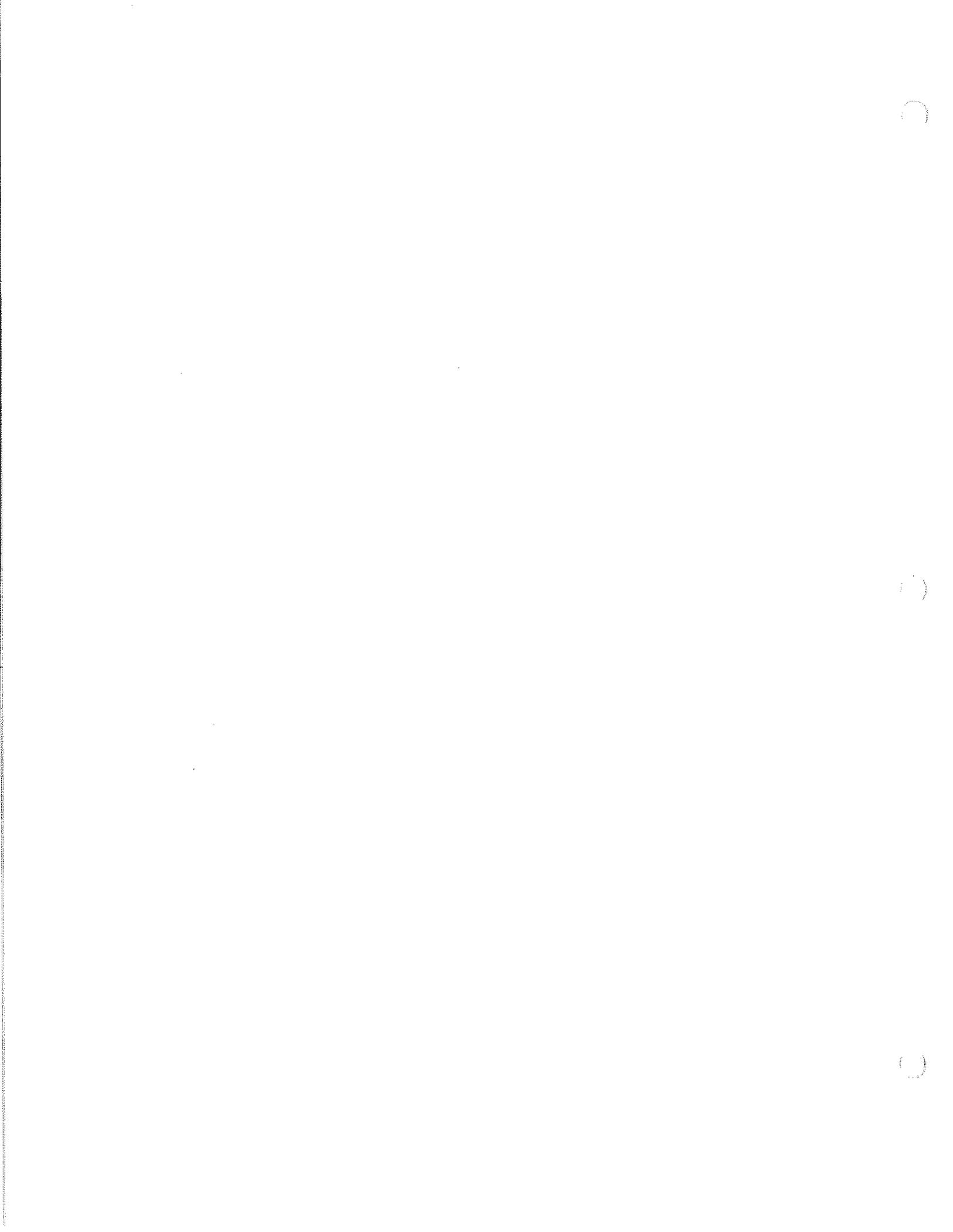
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## Chapter 1

### STATE OF IOWA COURT ORGANIZATION

The Iowa Judicial Department is comprised of a Supreme Court, a Court of Appeals, and a unified trial court known as the "Iowa District Court." As of July 1, 1979, there were 10 Supreme Court justices, 5 judges of the Court of Appeals, 92 District Court judges of general jurisdiction, 13 District associate judges (formerly municipal court judges), 17 regular full-time magistrates, 9 substitute full-time magistrates (each taking the place of 3 part-time magistrates), and 164 part-time magistrate positions.

The purpose of this chapter is to describe the structure, jurisdiction, and personnel of the Iowa Court organization.

#### Supreme Court

The Supreme Court stands at the apex of the Iowa judicial system. The court has general appellate jurisdiction in both civil and criminal cases. The court also has original jurisdiction in such cases as reapportionment, bar discipline, and the issuance of temporary injunctions. The Supreme Court has jurisdiction over all appeals from final judgments and from interlocutory orders. It also has the authority to grant writs of certiorari in cases where a district court is alleged to have exceeded its jurisdiction or otherwise acted illegally. A majority of cases handled by the Supreme Court are appeals from adverse final judgments in the district court, the Iowa trial court. Except where the action involves an interest in real estate, no appeal shall be taken in any case where the amount in controversy, as shown by the pleadings, is less than \$3,000 unless the trial judge certifies that the cause is one in which appeal should be allowed. In small claims actions, where the amount in controversy is \$1,000 or less, the Supreme Court may exercise discretionary review. In criminal cases where the state is the appellant or applicant, the Supreme Court may exercise discretionary review in the following cases: (1) an order dismissing an arrest or search warrant, (2) an order suppressing or admitting evidence, (3) an order granting or denying a change of venue, and (4) a final judgment or order raising a question of law important to the judiciary and the profession. In cases where the defendant is the appellant or applicant, the Supreme Court may exercise discretionary review in the following cases: (1) an order suppressing or admitting evidence, (2) an order granting or denying a change of venue, (3) an order denying probation, (4) simple misdemeanor or ordinance violation convictions, and (5) an order raising a question of law important to the judiciary and the profession. All other final judgments may be appealed to the Supreme Court as a matter of right.

Although all cases are appealed directly to the Supreme Court, the court

transfers certain cases each month to the Court of Appeals. Supreme Court justices in rotating three-member panels determine which cases to retain and which matters to route to the court of appeals. Pursuant to Rule 401, Rules of Appellate Procedure, the Supreme Court ordinarily shall hear (not transfer) cases involving:

1. Substantial constitutional questions as to the validity of a statute, ordinance, or court or administrative rule.
2. Substantial issues in which there is or is claimed to be a conflict with a published decision of the Court of Appeals or Supreme Court.
3. Substantial issues of first impression.
4. Fundamental and urgent issues of broad public importance requiring prompt or ultimate determination.
5. Cases in which life imprisonment has been imposed.
6. Lawyer discipline.
7. Substantial questions of enunciating or changing legal principles.

The Rule also suggests summary disposition of certain cases by the Supreme Court and transfer to the Court of Appeals of cases involving the application of existing legal principles.

In addition to deciding cases, the Supreme Court is authorized to adopt rules of procedure and administration for and supervise the lower courts, determine the rules for admission and discipline of the bar, regulate a client security fund and program of mandatory continuing education for lawyers and judges, and adopt rules regulating appellate practice and procedure.

Among the boards and commissions appointed in whole or in part by the Supreme Court are:

1. Board of Law Examiners (Court Rule 100)
2. Board of Examiners of Shorthand Reporters (Code, Chapter 115)
3. Client Security and Attorney Disciplinary Commission (Court Rule 121)
4. Commission on Continuing Legal Education (Court Rule 123)
5. Juvenile Probation Officers Training Committee (Sec. 231.8)<sup>1</sup>
6. Judicial Qualifications Commission (Sec. 605.26)
7. Supreme Court Committee on Rules of Civil Procedure
8. Advisory Committee on the Rules of Criminal Procedure
9. Probate Rules Committee
10. Judicial Planning Committee
11. District Court Benchbook Committee
12. Supreme Court Advisory Committee on Rules of Juvenile Procedure

Members of the Clerks Manual Advisory Committee and the Judicial Magistrate Manual Advisory Committee are appointed by the Supreme Court administrator. The Supreme Court also promulgates rules of procedure for the Professional Ethics and Conduct Committee of the Iowa State Bar Association and the Grievance Commission of the Supreme Court. (Court Rule 118)

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<sup>1</sup>Unless otherwise indicated, chapter and section references are to the Code of Iowa 1979.

County Judicial Magistrate  
Appointing Commission

The clerk of the district court shall maintain a permanent record of the name, address, and term of each member of the county judicial magistrate appointing commission. (Sec. 602.42) Three magistrate appointing commissioners are chosen by the county board of supervisors; two are elected by the registered members of the county bar and the sixth member is a district court judge designed by the chief judge of the judicial district. To be eligible to vote for attorney commissioners, a person must have registered as a member of the county bar during May of the previous odd numbered year. The clerk is responsible for posting in the office and publishing in the official county newspaper a notice of bar registration. (Sec. 46.8) Judicial magistrate commissioners appointed by the board of supervisors are certified to the clerk by the auditor. (Sec. 602.43) Commission members are reimbursed for actual and necessary expenses reasonably incurred in the performance of official duties. Upon certification by the clerk, the auditor pays the claims from the court expense fund. (Sec. 602.42(3))

Judicial Magistrates

Full-time and substitute full-time magistrates are nominated by judicial magistrate appointing commissions; part-time magistrates are appointed by said commissions. (Sec. 602.50, .51, .59) In the former case, the district court judges in the judicial election district appoint the new magistrate after receiving a list of three nominees from the commission. Part-time magistrates appointed are certified by the commission to the clerk and the chief judge. The clerk shall immediately certify to the Supreme Court administrator the names and addresses of magistrates so appointed. Certification of appointment to the Supreme Court administrator shall be authority for the judicial department to pay the salaries and travel expenses of magistrates. Before assuming office, a judicial magistrate shall subscribe and file in the clerk's office an oath of office. (Sec. 602.50)

The number of regular full-time magistrates and district associate judges is determined by the population of the county. (Sec. 602.51) Counties in the 35,00 - 80,000 population bracket and entitled to one full-time magistrate or associate judge may appoint an alternate magistrate who shall serve and be compensated on a per diem basis in the temporary absence of the full-time judge or magistrate. (Sec. 602.71) Full-time and alternate magistrates have four-year terms and must be admitted to the Iowa bar.

The number of part-time magistrates per county is determined by the Supreme Court administrator in accordance with criteria set forth in Sec. 602.57. However, the total number of part-time magistrates may not exceed 191. During March of every odd-numbered year, the clerk of the district court and the chief judge of the judicial district are notified by the Supreme Court administrator of the number of part-time magistrates to

which the county is entitled. The clerk shall forward a copy of the notification to the chairperson of the county judicial magistrate appointing commission. All counties are entitled to at least one part-time magistrate; in one-magistrate counties the appointing commission may, by majority vote, decide to appoint one additional judicial magistrate and split the salary. (Sec. 602.58) A part-time magistrate serves a two-year term commencing July 1, in odd-numbered years. If a county is allotted three or more part-time judicial magistrates, the district judges of the judicial election district may decide to replace three part-time magistrates with one full-time magistrate. The substitute full-time magistrate has a four-year term and must be a member of the bar. (Sec. 602.59)

#### Retirement, Removal, Death

Judicial magistrates may be removed by majority vote of a three-judge tribunal appointed by the chief judge, following a removal petition filed by a district court judge or signed by 2 percent of the electorate. (Sec. 602.56) A petition to remove a magistrate shall be filed in the clerk's office. The clerk shall notify the magistrate by restricted certified mail of the time, date, and place of the removal hearing. Other interested parties shall be notified by publication. Notification shall be made at least 15 days prior to the time set for hearing. (Sec. 602.56) The Commission on Judicial Qualifications may apply to the Supreme Court to retire, discipline, or remove Supreme Court justices, Court of Appeals judges, district court judges, and district associate judges. (Sec. 605.27) District court judges and justices of the Supreme Court may also be removed by impeachment. Justices, judges, magistrates appointed prior to July 1, 1965 may serve until their 75th birthday; those appointed after the date must retire at age 72. A person may not be appointed or reappointed as magistrate unless he/she can serve the entire two or four-year term prior to reaching the age of 72. (Sec. 602.52) In the event of the death of a judicial officer, the clerk shall notify the Supreme Court administrator, State House, Des Moines 50319. The same procedure should apply in case of the removal or disability of a judicial officer. (Sec. 606.2)

#### Jurisdiction

As indicated above, there are five different names for judicial officers in the trial court - part-time magistrates, substitute full-time magistrates, full-time magistrates, district associate judges, and district court judges. Part-time judicial magistrates have jurisdiction of the following:

1. Preliminary hearings (cases in which they act as committing magistrates on felonies and serious and aggravated misdemeanors).
2. Simple misdemeanors.
3. Search warrant proceedings.
4. Small claims. (Action for money judgment where the amount in controversy is \$1,000 or less, exclusive of interest and costs, and actions for forcible entry and detainer where no question of title to property is involved.)

Substitute magistrates, full-time magistrates, and district associate judges have jurisdiction over civil actions for money judgments of \$3,000 or less, serious and aggravated misdemeanors, and juvenile cases if designated

by the chief judge. In case of temporary incapacity of a district judge, the chief judge may designate a district associate judge to exercise the jurisdiction of a district court judge.

District judges possess the full jurisdiction of the trial court, including the jurisdiction of judicial magistrates. Under the Iowa probate code, they are the only judges sitting in probate.

#### Dockets

The clerk shall furnish magistrates and judges of limited jurisdiction a docket in which shall be entered all proceedings (excluding small claims), i.e., simple misdemeanors, preliminary hearings, and search warrant applications. Such docket shall be indexed and shall contain in each case the: (1) title, (2) nature of the action, (3) place of hearing, (4) appearances, (5) notations of documents filed, (6) proceedings in the case and orders made, (7) verdict and judgment including costs, (8) satisfaction of the judgment, if any, (9) certification of the judgment to the clerk, (10) whether appeal was taken and the amount of the appeal bond. (Sec. 602.63) Whenever possible, the clerk shall assist judicial officers perform record keeping responsibilities. Handling and collecting fines and court costs are not proper judicial functions.

The chief judge of a district may order that criminal proceedings in simple misdemeanor cases be combined into a centralized docket for the judges and magistrates of limited jurisdiction within the county. (Sec. 602.63) For statistical purposes, however, the workload of part-time magistrates and substitute full-time magistrates must be separated from the judicial business of regular full-time magistrates and district associate judges. (See explanation of the Statistical Reports of Judicial Business.)

#### Financial Reports and Clerical Assistance for Magistrates

Each month judicial magistrates shall file with the clerk an itemized statement of all cases disposed of and all funds received and disbursed per case. The magistrate shall remit to the clerk all funds received during the month.

The magistrate shall establish in his/her name, for official business only, two bank accounts under the designation: "Judicial Magistrate, \_\_\_\_\_ County." One account should be subtitled "Fines and Costs" and the other "Bond Trust." All cash and cash items should be receipted by the magistrate when received. Prenumbered cash receipts in triplicate are recommended with receipt copies distributed as follows:

- First copy - Payer
- Second copy - Clerk
- Third copy - Magistrate

The clerk shall provide "adequate clerical assistance" to the magistrate in completing the monthly financial reports to the clerk. Because handling money is not a proper judicial function, it is recommended that clerical assistance be provided to magistrates in docketing cases, issuing receipts, completing the monthly financial reports, and computing the statistics for

the quarterly reports of judicial business. Judicial time should be reserved for adjudication rather than clerical chores. (Sec. 602.55)

### Statistical Reports

Each judicial magistrate, district associate judge, and district judge, acting as a judicial magistrate shall report all judicial business to the clerk of the district court who shall consolidate the magistrate reports and complete the reporting forms forwarded by the Supreme Court administrator. (Secs. 602.64, 685.8) See Chapter 11 for the forms and instructions for completing the judicial statistical reports.

### Court Administration

The Supreme Court administrator serves at the pleasure of the Iowa Supreme Court. Among the duties and responsibilities of the Supreme Court administrator are the following:

1. Screening cases for oral argument and case routing, writing case statements.
2. Gathering statistical data on the judicial business at all levels.
3. Apportioning part-time judicial magistrates among the counties.
4. Computing the district court judgeship formula.
5. Conducting judicial education programs.
6. Administering the judicial retirement system.
7. Handling payroll and travel expenses for the judicial department.
8. Planning and budgeting for the Supreme Court and its administrative office.
9. Providing administrative assistance to various court appointed committees.
10. Examining the administrative methods employed in the offices of clerks of court, probation offices, and sheriffs, and recommending improvements.
11. Recommending improvements in the judicial system with reference to the structure, organization, and operation of the courts.
12. Attending to such other matters as may be assigned by the chief justice and the Supreme Court. (Sec. 685.8)

The Supreme Court administrator serves as the executive secretary for the Judicial Qualifications Commission and is a member of the Iowa Crime Commission, State Library Commission, and the State Records Commission.

District court administrators are appointed by the chief judge of the judicial district of which they serve, usually with the advice and approval of the other judges. The district court administrator office is funded at the local level. (Sec. 605.35) Among the duties assigned to district court administrators are the following: caseload management, assigning and scheduling trial and nontrial matters, jury management, budgeting, monitoring judicial workload, serving as court liaison with the bar, the media, and other groups, working with clerks of the district court, and performing numerous administrative tasks for judges and magistrates of the district court.

## Clerk of the Supreme Court

The clerk of the Supreme Court is appointed by the Supreme Court for a term of four years and serves both the Supreme Court and the Court of Appeals. The clerk docket all cases appealed to the Supreme Court, collects court fees, gathers and assembles legal briefs, records, and transcripts, and files and records every opinion and order of the court. The clerk is empowered to enforce court rules regarding the submission of briefs and records and may dismiss delinquent or defective appeals or recommend such action to the Supreme Court. For just cause, the clerk may also grant an extension of time for the submission of briefs. Unless directed otherwise, the clerk must wait 15 days following the filing of a Supreme Court opinion or 21 days after an opinion of the Court of Appeals to issue the procedendo returning jurisdiction to the district court. (RAP 29) The procedendo indicates the winning and losing parties and includes a complete bill of costs which shall be filed in the office of the clerk of the trial court. (Sec. 625.18) When the costs accrued in the appellate courts and the district court are paid to the trial court clerk, the clerk shall pay them to the persons entitled thereto. (Sec. 625.19) (For a more detailed description of the district court clerk's duties in cases appealed to the Supreme Court see Chapters 3 and 4 in this volume and Rules 10-11, Rules of Appellate Procedure.) The clerk of the Supreme Court is also charged with administering the biannual Iowa bar examination, maintaining a register of bar members and a list of members of the 13 judicial district nomination commissions and the State Judicial Nominating Commission, and filing the certifications of shorthand reporters.

## Chief Judges and the Judicial Council

In exercising its administrative and supervisory control over the trial courts, the Iowa Supreme Court appoints a chief judge in each of the eight judicial districts. The chief judges are responsible for overseeing all judges and magistrates within their jurisdictions. Together with the chief justice of the Supreme Court or his designee, the chief judges of the district court and the chief judge of the Court of Appeals comprise the Judicial Council. The Council is authorized to consider all court administrative rules, directives, and regulations necessary to provide for an efficient, orderly, and effective administration of justice in Iowa. (RCP 377)

## Judicial Districts

Iowa is divided into eight judicial districts and 13 judicial election districts. As illustrated by the map on page 1-9, five judicial districts - First, Second, Third, Fifth, and Eighth - are divided into two subdistricts each for purposes of nomination, appointment, and election of district judges, the application of the judgeship formula, the removal of judicial magistrates, and the appointment of substitute and regular full-time judicial magistrates. For administrative purposes, however, the judges and magistrates in the subdistricts are supervised by the chief judge and district court administrator as a single unit. In some districts the assistant chief judge and the assistant court administrator are located in a different subdistrict than the central administration.

Judicial districts vary in population from 197,200 (Fourth) to 526,900 (Fifth); they range in size from 5 counties (Seventh) to 22 counties (Second). The number of district court judges in each judicial election district is determined by computing a statutory formula based upon a three-year average of combined civil (over \$1,000) and indictable criminal filings (including small claims and simple misdemeanors on appeal) or one judge for each 40,000 population, whichever results in the largest number of judges. (Sec. 602.18) The number of filings per judgeship varies from 475 in the rural election districts to 725 in the most urban judicial election districts. Civil and criminal cases assigned to associate judges and full-time magistrates are deducted from the total case filings used to compute the judgeship formula.

#### Shorthand Reporter

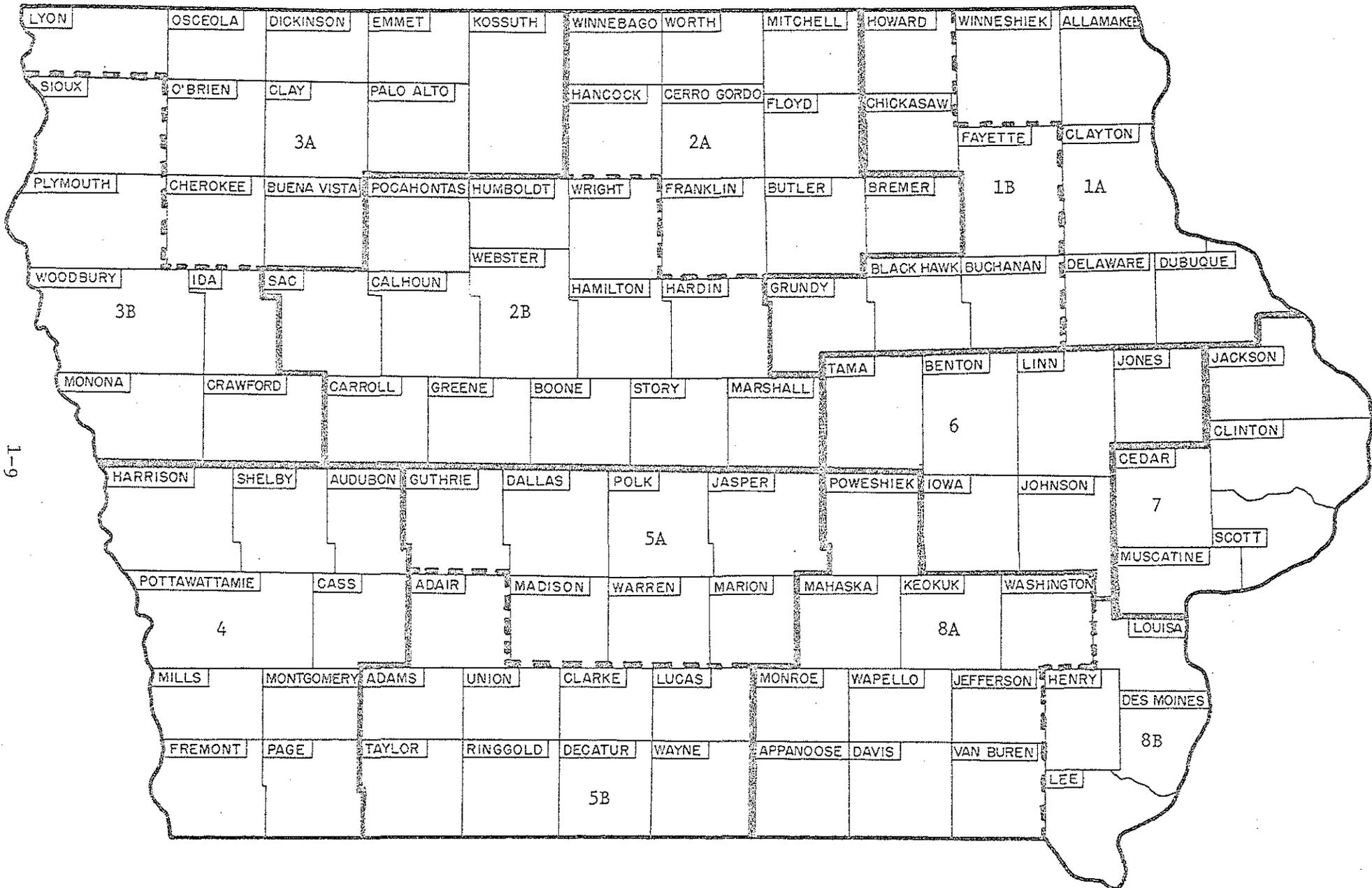
Each district court judge must appoint a shorthand reporter; (Sec. 605.6) each district associate judge and full-time magistrate may appoint a shorthand reporter, if authorized by the chief judge of the district. (Sec. 602.33) Court reporter must take an oath which shall be filed in the clerk's office. (Sec. 605.7) Provisions regarding compensation, expenses, and transcript fee for court reporters are set forth in Chapter 605.

#### Juvenile Court Referee

The chief judge of the district may appoint a referee in juvenile court proceedings. As directed by the judge, the referee may hear any case or class of cases under Chapter 232 or Chapter 600A. Upon the conclusion of a hearing, the juvenile court referee shall transmit to the judge findings of fact. (Sec. 231.3)

The judge designated as the judge of the juvenile court in a county may appoint such probation officers as necessary. Probation officers may be appointed to serve two or more counties in which case their salaries are prorated among the counties served. The salary of juvenile probation officers is determined by a committee of three judicial officers appointed by the chief judge of the district. For further details concerning the powers, duties, and training of juvenile court referees, see Sections 231.8, .10, .12, and .13.

# JUDICIAL ELECTION DISTRICTS



6-1

COURT OF APPEALS

1. Same qualifications and selection process as Supreme Court. Stand for retention every six years.
  - A. One Chief Judge and four Associate Judges:
    - a. Hear appeals.
    - b. Write opinions.
2. Jurisdiction:
  - A. Hear cases transferred to the Court of Appeals by the Supreme Court.

SUPREME COURT

1. Shall be members of the bar of the state. Vacancies filled by gubernatorial appointment from a list of three nominees selected by the State Judicial Nominating Commission. Stand for retention every eight years.
  - A. One Chief Justice and eight Associate Justices:
    - a. Hear appeals.
    - b. Write opinions.
    - c. Grant or deny motions and orders.
    - d. Supervise and coordinate the operation of the district courts.
    - e. Prescribe rules of court procedure.
    - f. Admit persons to the practice of law; regulate and discipline members of the bar.
2. Jurisdiction:
  - A. Appellate jurisdiction over decisions and orders of the district courts.
  - B. Original jurisdiction in such cases as reapportionment, bar discipline, and issuance of temporary injunctions.
  - C. Discretion to grant an application for further review from a ruling of the Court of Appeals.

JUDICIAL COUNCIL

1. Nine members including Chief Justice of the Supreme Court and eight Chief Judges of the judicial districts. Chief Judges are appointed by the Chief Justice, with the approval of the Supreme Court, for two-year terms.
2. Administrators and supervisors Iowa district courts.

DISTRICT COURTS

1. Four types of judicial officers: district judges, district associate judges, judicial magistrates, and part-time judicial magistrates.
2. State is divided into eight judicial districts, each district headed by a Chief Judge. The Chief Judges exercise continuing administrative supervision within their respective districts over all district courts, judges, officials, and employees.

DISTRICT JUDGES

1. Six-year term, appointed by the governor from a list of two nominees submitted by the District Nominating Commission. Retained in office by vote of the people.
2. General trial court jurisdiction.

DISTRICT ASSOCIATE JUDGES

1. Stand for retention election every four years, vacancy filled by full-time magistrate.
2. Concurrent jurisdiction with full-time judicial magistrates.

FULL-TIME MAGISTRATES

1. Four-year term, law-trained, selected by district court judges within the judicial election district, from a list of three nominees submitted by the County Judicial Magistrate Appointing Commission.
2. Same jurisdiction as part-time magistrates plus:
  - a. Civil actions for money judgements where amount in controversy does not exceed \$3,000.
  - b. All misdemeanors.
  - c. Juvenile cases when designated as a judge of the juvenile court.

PART-TIME MAGISTRATES

1. Two-year term, selected by County Judicial Magistrate Appointing Commission.
2. Jurisdiction:
  - a. Initial appearance
  - b. Preliminary hearings
  - c. Search and arrest warrants.
  - d. Simple misdemeanors.
  - e. Small claims-money judgements of \$1,000 or less; forcible entry and detainer actions.
  - f. Emergency hospitalization proceedings.
  - g. Marriage ceremonies.

1-10

## Chapter 2

### THE OFFICE OF THE CLERK OF DISTRICT COURT

#### Basics of the Office

##### Election

There shall be elected in each county at the general election to be held in 1976 and every four years thereafter, a clerk of the district court. . . who will hold office for a term of four years. (Sec. 30.17) The clerk of the district court shall keep his/her office at the county seat, attend the sessions of the district court personally or by deputy, keep the records, papers and seal, and record the proceedings of the court as required by law. (Sec. 606.1)

##### Vacancy

A vacancy shall be deemed to exist upon the occurrence of any one of the conditions set forth in Section 69.2. When a vacancy occurs in the office of clerk of district court, possession shall be taken of the office room, the books, the papers, and all things pertaining thereto, by the county auditor as provided in Section 69.3, to be held until the qualification of a successor. Resignations in writing by the clerk of district court may be made to the county auditor. (Sec. 69.4) Vacancies in the office of clerk of district court shall be filled temporarily by the court or by a judge thereof, as provided in Section 69.8(6), Code of Iowa, subject to the conditions set forth in Sections 69.8(4), 69.10, 69.11, 69.12, and 69.13(2).

##### Removal

A person holding the office of clerk of the district court may be removed from said office by the district court for reasons and by procedures set forth in Chapter 66. No person can be appointed to fill a vacancy who has been removed from office within one year next preceeding.

##### Qualifying for Office

Each officer, elective or appointive, before entering upon his/her duties as such, shall qualify by taking the prescribed oath and by giving a bond which qualification shall be perfected, unless otherwise specified, before noon of the second secular day in January of the first year of the term for which the clerk of the district court was elected. (Sec. 63.1)

##### Compensation

The annual salary of the clerk of the district court shall be determined

by the county compensation board as provided in Section 340A.6. (Sec. 340.1) The compensation for deputy clerks of court is limited as prescribed by Section 340.4.

#### Deputies

Each clerk of the district court may, with the approval of the board of supervisors, appoint one or more deputies, as provided in Chapter 341. Generally, deputy clerks serve at the pleasure of the county clerk. A newly-elected clerk may replace any or all such deputies. (Op. Atty. Gen., #76-11-10, November 15, 1976) Because the deputy clerk's salary is limited by statute to a percentage of the clerk's, he/she is not entitled to overtime pay benefits available to other county employees under a collective bargaining agreement. (Op. Atty. Gen., #77-9-16, September 26, 1977)

#### Office and Supplies

The board of supervisors shall furnish the clerk of the district court with offices at the county seat as provided in Section 332.9. The board of supervisors shall furnish the clerk of the district court with fuel, lights, blanks, books, and stationery necessary and proper to enable him/her to discharge the duties of the office. (Sec. 332.10)

#### Bond

Each clerk of the district court shall give bond with the conditions specified in Section 64.2. The cost of such bond shall be paid by the county where the bond is filed as provided in Section 64.11.

#### Jurisdiction

The Iowa District Court shall have exclusive, general, and original jurisdiction of all action, proceedings, and remedies, civil, criminal, probate, and juvenile, and except in cases where exclusive or concurrent jurisdiction is conferred upon some other court, tribunal, or administrative body, and it shall have and exercise all the power usually possessed and exercised by trial courts of general jurisdiction and shall be a court of record. (Sec. 602.1)

The clerk of the district court exercises jurisdiction outside the county but within the State of Iowa with respect to the following:

1. to issue a warrant
2. to issue an execution of a judgment
3. to issue a subpoena
4. to issue a mittimus
5. for the execution of writs

#### General County Employee Information

Except as limited by collective bargaining agreements under Chapter 20, each county officer has sole determination of vacation;

sick leave, and working hours of employees under his/her jurisdiction. (Op. Atty. Gen., #78-4-2, April 3, 1978) However, there is no express or implied statutory authority for paying county employees for unused sick leave upon retirement or termination of employment. (Op. Atty. Gen., #78-2-14, February 14, 1978)

A county employee absent from work due to his/her attending the annual National Guard training encampment is entitled to the benefits provided by Section 29A.28. (Op. Atty. Gen., #78-8-16, August 17, 1978)

### Custodian of All Records of Court

#### General Index

Each clerk of the district court shall maintain a general index for every type of action in the district court. This record is kept in two forms. One index is kept by plaintiff's name and the other is referenced by defendant's name. Docket page numbers are entered along with the names in this index.

#### General Lien Index

The clerk of the district court is required to maintain an index of all liens as provided in Section 606.10. All liens, regardless of the type of case from which they arise, are recorded in this index. This index is an alphabetical listing of individuals against whom judgments have been entered.

#### District Court Records

The District Court Record contains true copies of all court orders issued by the district court and is considered the official record of court proceedings. The records of the district court include, but are not limited to the following:

1. Appearance or Combination Docket, Section 606.7(6), 606.8
2. Bond Record, Section 633.30
3. Encumbrance Book, Section 606.7(5)<sup>1</sup>
4. Lis Pendens, Section 606.7, 617.10<sup>1</sup>
5. Lien Book, Section 606.7(7), 606.10

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<sup>1</sup>The clerk of the district court does not have a duty to index actions for dissolution of marriage in Lis Pendens Book. Moreover, in light of the purpose of Section 598.26, (to fulfill the need for secrecy as to factual details of dissolution actions) the clerk of court is in fact precluded from indexing dissolution actions in such book. (Op. Atty. Gen., #75-4-8, April 2, 1975) However, this section, providing for confidentiality of record and evidence in dissolution of marriage cases, does not apply to proceedings in Supreme Court. (Winegard v. Larsen, 260 N.W. 2d 816 (1977))

6. Marriage License Book 595.6
7. Probate Docket 633.27
8. Probate Record 633.29
9. Record Book, Court Proceedings 606.7(1)
10. Sale Book 606.7(4)
11. Surety Company Certificates 682.13
12. Trust Fund Deposit Record 682.33
13. Small Claims 631
14. Civil Commitment
15. Substance Abuse
16. Adoption
17. Change of Name
18. Registry of Foreign Decrees
19. District Court Transcript Docket
20. Mechanics Liens
21. Juvenile

The record of any court proceedings is under the control of the court and, except as provided in Section 789A.6, may not be amended or any entry therein expunged before it has been signed by the judge or within 60 days thereafter. (Sec. 602.15) No record shall be amended or impaired by the clerk or other officer of the court, or by any other person without the order of such court, or of some court of competent authority. (Sec. 602.16) Entries made and signed, unless amended or expunged as provided by law, may be altered only to correct an evident mistake. (Sec. 602.17) Upon discharge from probation, if judgment has been deferred under Section 789A.1, the court's criminal record with reference to the deferred judgment shall be expunged. The court's record shall never be expunged in any other circumstances except as provided in Section 602.15. (Sec. 789A.6) The clerk of the district court may reproduce original records of the court as provided in Section 606.20.

#### Preservation and Destruction of Court Records

After the clerk has reproduced the original records, as authorized in Section 606.20, and upon application of the clerk, a majority of the judges of the district court may order the clerk to destroy the original records. Original court files cannot be destroyed until the passage of ten years after a decree or judgment entry is signed and entered of record and after the contents have been reproduced as authorized in Section 606.20; however, if the matter is dismissed with prejudice before judgment or decree the file may be destroyed one year from the date of the dismissal and after reproduction as authorized in Section 606.20. (Sec. 606.21)

With the exception of judgments, decrees, stipulations, records in criminal proceedings, probate records, and orders of court, all other records may be destroyed without prior court order or reproduction forty years after final disposition of the case. The excepted items may be reproduced as provided in Section 606.20 before originals can be destroyed.

All records, dockets, and court files of civil and criminal actions heard in the municipal court which were transferred to the district court

under Section 602.36, other than juvenile and adoption proceedings may be destroyed at any time after a period of 20 years from the date of filing of such actions. All administrative records may be destroyed without prior court order or reproduction 5 years after final disposition of the case. Original court files on dissolutions of marriage may be destroyed one year after dismissal by the parties or under RCP 215. Small claims files may be destroyed one year after dismissal with or without prejudice. Uniform traffic citations in the magistrate court or traffic and scheduled violations office may be destroyed one year after final disposition. (Sec. 606.22)

The term "destruction" as used in preceding paragraphs shall include the transmission of court records which are of general historical interest to any recognized historical society or association.

#### District Court Calendar

A calendar sheet shall be prepared for each case regardless of type, except small claim. Notes on this sheet made by the judge will serve as the basis for docket entries regarding the status of the case.

The clerk shall maintain a current list of pending actions wherein a trial certificate has been filed as provided in RCP 181. The list shall be known as the Trial Certificate List and be available for public examination. It shall be arranged in columnar form to show: (1) caption of cause; (2) docket, page, and cause number; (3) date of filing of a trial certificate; (4) jury or nonjury case; and (5) if removed from list, date of such removal. If removed by order of the court, the clerk may relist it only upon the filing of a new trial certificate. If not so removed, actions will remain on list until final disposition. (RCP 181.1)<sup>2</sup>

The clerk of court shall keep a court calendar for matters relating to probate proceedings and enter thereon such matters as the court may prescribe. (Sec. 633.31)

1. Civil cases. On each motion day, the clerk of court shall present to the court the file in each civil case in which a trial certificate has been on file, without objection, for more than 20 days. The case shall then be scheduled for pretrial conference, if requested by a party or ordered by the court. At the pretrial conference the court shall determine whether the case is ready for trial. If it is ready, the case shall be assigned for trial. If it is not ready, the court shall fix the date by which the case will be ready. On the first motion day after that date, unless it is extended for good cause, the clerk shall return the file to the court and the case shall be assigned for trial. If there is no pretrial conference, the court shall, nevertheless, obtain the information

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<sup>2</sup>The court may assign a case for trial even though a trial certificate has not been filed. (RCP 181.1)

necessary to make the same determinations and the same assignment procedure shall be followed.

Any civil case may be assigned for trial even though a trial certificate has not been served and filed.

2. Small claims appeals. On each motion day, the clerk of court shall present to the presiding judge the file and any transcript or exhibits in each small claims case in which appeal was taken more than 20 days previously. The judge will decide the appeal upon the record without oral argument unless, within 20 days after the appeal was taken, a party filed with the clerk of court a written request for oral argument specifying the issues to be argued, in which event the judge shall schedule oral argument. Additional evidence shall not be received except as authorized by statute. (RCP 181.2)

#### Investment of Nonpublic Funds.

The clerk of the district court may invest any money, received by the clerk to be paid to any other person, in a savings account of any financial organization defined in Section 537.1301(42), except a credit union. Invested funds shall be available upon demand. Interest earnings shall be credited to the county general fund. (Sec. 606.24)

#### Annual Budget

On or before January 1 of each year,<sup>3</sup> the clerk must prepare and submit to the county auditor the following:

1. an estimate of the actual expenditures of such office or department during the current fiscal year;
2. a statement of the requested expenditures to be budgeted for such office for the next fiscal year;
3. an estimate of the revenues, except property tax, to be collected for the county by such office during the current fiscal year;
4. an estimate of the revenues, except property tax, to be collected for the county by each office during the next fiscal year.

Such estimates and statements shall be itemized in the same manner as the various expenditures and revenues are itemized in the records of the auditor. (Sec. 24.25)

On or before June 30 of each year, the clerk of the district court may, if necessary, prepare and submit to the board of supervisors a detailed estimate itemized in the same manner that the various expenditures of such office or department are itemized on the records of the county auditor, showing the proposed expenditures of his/her office or department for the following fiscal year. If the estimated expenditures show an increase

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<sup>3</sup>In practice, the clerk should check with the county auditor for precise deadlines.

over those for the current year, a statement in writing of the reason for such estimated increase must also be submitted. (Sec. 344.1)<sup>4</sup>

Sources of Assistance (Informational)

1. Code of Iowa
  - a. Chapter 4 - Construction of Statutes
  - b. Chapter 606 - General Provisions: clerk of the district court
  - c. Index - County Officers
2. Iowa Code Annotated - In addition to the full text of all Iowa statutes (laws) this reference source includes decisions from Iowa state courts that deal with the particular statute in question. Case authorities immediately follow the text of the statute. Also included are references to law review articles, and other reference sources which provide further assistance in interpreting a statute.
3. Acts, Session Laws of the General Assembly - Published yearly at the end of the year. (December)
4. Reports of the Attorney General - Provides legal history of Iowa statutes and interpretations; a summary of all the opinions rendered in each month is also available. The bound volume, containing the full text of the opinions is published once every two years. The opinions are arranged chronologically and each volume is indexed according to subject matter.
5. Iowa Digest - Includes Iowa state court decisions categorized according to specific topics. Updated yearly in a pocket insert located in the back of the book.
6. Iowa Reports - Includes decisions of Iowa Supreme Court through 1967; - Iowa Reports are now a part of the North Western Reporter.
7. North Western Reporter - Includes decisions of the state supreme courts of Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin.
8. North Western Digest - Includes brief summaries of state supreme courts organized by topic.
9. Iowa Administrative Code - Includes the departmental rules of state agencies.
10. Black's Law Dictionary

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<sup>4</sup>The estimate due on January 1 of each year is the initial budgetary request. The estimate due on June 30 of each year is the statement of proposed expenditures in light of the allocation made to the department by the board of supervisors based on the initial budget request.

11. District Court Rules
12. County Attorney - Attorney for all elected officials
13. Attorney General - The county attorney is the only county officer authorized by law to request written opinions from the attorney general.
14. Presiding Judge

Most of these reference materials can be found in every courthouse of the state. Each courthouse has a law library that is used primarily by the judges and attorneys who are practicing before the court. The clerk of the district court has an obligation to familiarize himself/herself with the materials and their location within the county law library.

## Chapter 3

### CIVIL PROCEDURE

#### Commencing an Action

##### Filing the Petition

A civil action is commenced by the filing of a petition with the clerk of district court. The petition must state whether it is law or equity. (RCP 48, RCP 70) The party or parties who cause the case to be filed is known as the plaintiff(s) or petitioner(s). The petition must be accompanied by a sufficient number of original notices with copies of the petition attached for service upon the defendant or respondent and copies for the person serving the notices to make a return of service to the court.

##### Notice and Service

The original notices must be signed by the clerk or deputy clerk and the seal of the court must be affixed to the notice. The clerk must immediately deliver the notices to the sheriff or person specifically appointed to serve such notices. (RCP 49) In certain cases the service may be made by publication. (RCP 60)

##### Docketing

The clerk must keep an appearance or combination docket in which civil actions must be entered. The names of the parties must be set out in full and numbered consecutively. The docket must also be indexed under the names of the plaintiffs or petitioners and the defendant or respondent. (Secs. 606.7, .8) The clerk should also keep a general index to all cases.

When the sheriff or process server makes the return of service on a notice, the clerk must enter the return on the appearance docket showing the service and the time and manner of service.

In cases where personal service is made on a defendant or respondent, the defendant or respondent is directed by the original notice to file a written special appearance, motion, or answer in the district court within 20 days of the serving of the notice. If this is not done, a default judgment against the defendant will be entered. If the amount of the claim is for the sum certain and supported by affidavit, then the clerk may enter a money judgment against the default party for the amount of the claim and the court costs. (See RCP 232(a)) When the clerk enters a default judgment against the parties, he/she is required to send the defaulting parties a notice of the entry. (See RCP 233)

If the defendant or respondent appear, the appearance and answer must be filed by the clerk and entered on the page where the case was first

docketed. All instruments filed in the case must be docketed by the end of the next working day from the time of filing. (Sec. 606.11)

There may be numerous instruments filed in said case, all of which require the clerk to file-stamp and enter in the docket; however, some instruments require further duties of the clerk, such as copies of court orders or court rulings that the clerk must mail to all parties to the action or their attorneys. (RCP 82(f))

When depositions are filed with the clerk, the clerk must give notice to all parties appearing in the action. (RCP 142(b)) When the petition and other pleadings are filed with the clerk, the clerk must tax a copy fee in favor of the attorney filing the instrument in the amount of ten cents per hundred words for each copy. (RCP 84) After all motions have been ruled on, if any, and the interrogatories answered, if any, and discovery completed, the case is "at issue."

If a demand for a jury trial has been filed by either party, the case will be tried to a jury. If such demand is not made, then the case will be tried to the court. After a verdict has been rendered by the jury or the court, the clerk must enter judgment on the verdict unless it is a special verdict or the court has reserved the case for further arguments. (RCP 223) The date, hour, and minute of the entry must be shown on the entry of the judgment.

#### Court Costs

Section 606.15 sets out most of the court costs (see Appendix B) that may be taxed by the clerk of district court in certain court cases. There are some exceptions such as copy fees heretofore mentioned set out in RCP 84. The clerk must also tax ten dollars for the use of the jury as set out in Section 625.8 and five dollars for trial to the jury as set out in Section 606.15. Witness fees of five dollars for less than a full day's service or ten dollars for a full day's service plus statutory mileage as set out in Section 622.69. Postage may also be taxed, see Section 625.7. Change of name fees are outlined in Sections 674.10 and 674.11. The clerk must also tax the fees for the service of a sheriff or process server for serving subpoenas, original notices, and any other instruments that require personal service by the sheriff or process server. Deposition fees shall also be taxed as costs when filed with the clerk.

Generally, filing fees and other court costs in state proceedings of a civil nature must be paid by incarcerated persons and other indigents unless such fees are waived by the court. (Op. Atty. Gen., #78-4-14, April 18, 1978)

Unless ordered by the court, a filing fee on civil matters must be collected in advance, except in matters involving paternity determination and post-conviction relief. Other fees collectable in advance of the disposition of the case are sheriff fees, when demanded, or witness fees, when demanded,

After a verdict has been rendered and judgment entered the recovering party may request, in writing, that an execution be issued by the clerk to

the sheriff of a certain county for the collection of the judgment. Not more than one execution may be outstanding on any judgment.

The recovering party may also request that the clerk make a transcript of this judgment for the purpose of filing the judgment in another county. The clerk may charge two dollars for making the transcript. The party requesting the transcript must pay the clerk in the county where the transcript is filed for execution a filing fee of one dollar. (Sec. 606.15(4)) The clerk may not impose an annual charge upon recipients of support payments under Section 598.22 to cover postage and handling fees. (Op. Atty. Gen., #78-9-14, September 11, 1974)

#### Sales Tax

The sales tax is not applicable in the clerk's office for any matters.

### Common Civil Actions

#### Dissolution of Marriage

An action for dissolution of marriage is commenced in the same manner as any other civil action except the clerk's duties will differ somewhat.

Pursuant to Section 598.26, the record and evidence in each case of marriage dissolution shall be maintained as follows:

1. Until a decree of dissolution has been entered, the record and evidence shall be closed to all but the court and its officers. No officer or other person shall permit a copy of any of the testimony, or pleading, or the substance thereof, to be made available to any person other than a party to the action or a party's attorney. Nothing in this subsection shall be construed to prohibit publication of the original notice as provided by RCP 62.

2. The court shall, in the absence of objection by another party, grant a motion by a party to require the sealing of an answer to an interrogatory or of a financial statement filed pursuant to Section 598.13. The court may in its discretion grant a motion by a party to require the sealing of any other information which is part of the record of the case except for court orders, decrees and any judgments. If the court grants a motion to require the sealing of information in the case, the sealed information shall not thereafter be made available to any person other than a party to the action or a party's attorney except upon order of the court for good cause shown.

3. If the action is dismissed, judgment for costs shall be entered in the judgment docket and lien index. The clerk shall maintain a separate docket for dissolution of marriage actions.

#### Child Support and Alimony Payments

All orders or judgments providing for temporary or permanent child support and/or alimony payments shall direct the payment of such sums to the clerk of the district court. The clerk shall maintain a record of such payments and transmit all moneys to the person entitled to the payments by

virtue of the court order. To avoid the risk of having checks returned due to insufficient funds, the clerk may endorse support checks "without recourse" to the party entitled thereto rather than putting the checks through his/her office account or trust fund. Support orders have the same force and effect as judgments when entered in the judgment docket and lien index; they are also considered public records. If the sums ordered paid are not received by the clerk at the time provided in the order or judgment, the clerk shall certify a default and contempt proceedings may be initiated. (Sec. 598.22)

Persons entitled to support payments, who are also welfare recipients, shall assign their rights to such payments to the department of social services. The clerk of court shall forward support payments to the department of social services upon filing by the department of an assignment of support payments. (Sec. 598.34)

#### Paternity Actions

The clerk may not collect the filing fee in advance in paternity actions. If a judgment is entered by the court establishing the paternity and ordering support, the clerk must accept and disburse support payments in the same manner as though it were a dissolution of marriage and must also send a certified abstract of the court's finding to the Records and Statistics Division of the State Department of Health. (Sec. 675.36)

#### Uniform Support of Dependents

The purpose of this statute is to secure support in civil proceedings for dependent spouses, children, and poor relatives from persons legally responsible for their support. (Sec. 252A.1)

Iowa adopted the Uniform Support of Dependents Law to provide for the reciprocal enforcement of duties of financial support of spouses or former spouses and children. Currently all states, the District of Columbia, Puerto Rico, and the Virgin Islands have enacted similar laws and make use of this method of procuring support payments for dependents.

The clerk's duties involved in processing these actions will vary depending on whether the court is an initiating court (where the original petition for uniform support is filed) or as a responding court (where the petition is received from an initiating court).

If the court is an initiating court, the petition for uniform support is processed similar to any petition in equity except that three copies of: (a) the petition, (b) its certificate, and (c) Chapter 252A shall be transmitted to the court in the state of the respondent's last-known residence. (Sec. 252A.6(3)) Where the action is brought by an agency of the state or county, there is no filing fee. (Sec. 252A.10)

If the court is a responding court and the respondent has been ordered to make support payments to the clerk of the district court, the clerk, upon receipt of a payment by respondent, shall transmit such payment to the court of the issuing state. (Sec. 252A.6(14))

Persons entitled to support payments pursuant to an order or judgment entered in a uniform support action, who are also welfare recipients, shall assign their rights to the payments to the department of social services. Upon the filing of an assignment of support payments, the clerk shall forward support payments received to the department of social services unless the court has ordered the payments made directly to the department. (Sec. 252A.13)

#### Domestic Abuse

Effective January 1, 1980, a person may seek relief from domestic abuse, as defined in Section 708.1 by filing a verified petition in the district court. Within 10 days after commencing a proceeding and upon notice to the other party, a hearing shall be held at which the plaintiff must prove the allegation of domestic abuse by a preponderance of the evidence.

Upon a finding that the defendant has engaged in domestic abuse, the court has several options including an order requiring the defendant to pay the clerk a sum of money for the separate support and maintenance of the plaintiff and children under 18 years of age. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant, and law enforcement agencies having jurisdiction to enforce the order or agreement. The clerk shall also forward to the same parties any amendments or revocation of an order or consent agreement.

When the clerk's office is closed, a petition may be filed before a district judge or a district associate judge (not a magistrate) designated by the chief judge to grant emergency relief. After the expiration of the emergency order (72 hours) the plaintiff may seek a temporary order.

The file in a domestic abuse case shall be sealed by the clerk of court when it is complete and after the time for appeal has expired. However, the clerk shall open the file upon application to and order of the court. (Ch. 147, Acts, 68th G.A., 1979)

#### Change of Name

Original notices do not have to be served for change of name proceedings. The clerk upon receiving a petition for a change of name and a ten dollar filing fee, must send a certified copy of the petition to the Records and Statistics Division of the State Department of Health. The State Department of Health will acknowledge receipt of service of this petition and this acknowledgement should be placed in the file. The petitioner or their attorney may present this petition to the court 30 days after the filing of the petition and the court may grant a change of name. If the court grants a change of name, the clerk is required to send the certified abstract of the decree to the Records and Statistics Division of the State Department of Health and must also furnish the petitioner with a certified copy of the decree. (Secs. 674.7-.8) If the petitioner owns real estate, the clerk is required to send copies of the decree to the county recorder where the property is located and must charge an additional two dollars for each certified copy and should collect and send one dollar for each parcel of land for the county recorder and county auditor where the property is located. (Sec. 674.14)

#### Postconviction Procedure, Chapter 663A

The clerk may not demand a filing fee in advance for the filing of a

petition for postconviction relief under Chapter 663A. Upon receipt of an application for postconviction relief, the clerk must docket the application and promptly bring it to the attention of the court. A copy of this application must be sent to the county attorney and to the attorney general. (Sec. 663A.3) All Rules of Civil Procedure apply in postconviction cases. (Sec. 663A.7)

#### Voluntary Admission to Mental Health Institutes

A voluntary application may be made to any public or private hospital by an adult or by the parent or guardian of a minor.

If the persons are unable to pay, the application must be made to the clerk of district court for admission to a state hospital established under Chapter 226 of the Iowa Code. The clerk is required to send the original copy of the application to the institution; one copy should be filed in the clerk's office and one must be furnished to the county board of supervisors. If the person does not have legal settlement in the state of Iowa, then the clerk must obtain consent from the Bureau of Mental Health Services in Des Moines prior to allowing the person to go to the hospital voluntarily. Where the application is made on behalf of a juvenile and the juvenile will not consent, the consent of the juvenile court is required prior to placing the minor in an institution. (Sec. 229.2)

#### Involuntary Hospitalization of Mentally Ill Persons

In an action to involuntarily hospitalize someone to a facility, a person must file a verified application with the clerk of district court to commence the proceedings. The clerk or clerk's designee shall assist the applicant in completing the application. (Sec. 229.6) The application must be accompanied by (1) a written statement of a physician alleging that the person is seriously mentally impaired and is likely to injure himself, herself, or others; (2) an affidavit from another interested party alleging that the person is seriously mentally impaired and is likely to injure himself, herself, or others; and (3) corroborative information obtained and reduced to writing by the clerk or the clerk's designee, if the clerk considers it appropriate to supplement the information already supplied. (Sec. 229.6, paragraph 3(a,b,c))

After the application has been completed, the clerk shall docket the matter giving it a number in the mental health docket and immediately notify a district court judge, if available, or the judicial hospitalization referee, to hear the matter. The application and supporting documents together with notices informing the respondent of the procedure and hearing are then given to the sheriff or sheriff's designee for immediate service upon the respondent. The hearing shall not be set for a time less than 48 hours after service. The sheriff is required to serve the respondent and make a return of service to the court. (Sec. 229.7)

If the applicant requests that the person alleged to be seriously mentally impaired be taken into immediate custody, pursuant to Section 229.11 of the Code and the application and supporting documents support this request, the judge or referee may order immediate custody of the person and the order for immediate custody will be served upon the respondent when the notice fixing the time and place of hearing is served.

If the respondent cannot afford an attorney, one will be appointed to represent him/her. The clerk shall furnish copies of the application and supporting documents and any other instruments filed in the matter to the respondent's attorney. (Secs. 229.8-.9) The clerk must also furnish copies of all instruments filed to the county attorney who must represent the applicant at the hearing. (Sec. 229.12)

The judge or referee, after hearing the matter, will decide if the person should be sent to a facility for further evaluation or will dismiss the matter. The clerk is not required to attend the hearing. The clerk is required to furnish a complete set of the instruments filed to the county attorney and the attorney representing the respondent. If the respondent is ordered to be placed in a facility after the initial hearing the clerk will receive a report within 15 days of which a copy must be given to the respondent's attorney and county attorney and the court or referee must be notified of this report. If the respondent is ordered to be retained in custody by the facility, the next report will come within 30 days and copies must be made available to the attorney of record, county attorney, and the court or referee notified. Such reports and orders will continue until the matter is terminated.

Section 229.22 of the Code provides for emergency admission. This action is commenced during the hours that the office of the clerk of district court is not open. If a person appears to be seriously mentally impaired and likely to injure himself, herself, or others a peace officer may without a warrant; if he/she feels the person should be immediately detained, take the person to the nearest available facility that is suitably equipped for this purpose. Persons other than peace officers may deliver the person to the nearest available facility only if they reasonably believe that the person should be immediately detained. The chief medical officer, if circumstances show that the person is in such a condition that he/she should be detained, will notify a magistrate that such person is there. The magistrate must immediately proceed to the facility and determine whether the person should be detained. If the magistrate decides that the person should be detained, he/she should call an attorney to represent the respondent as soon as is practicable. The magistrate will then issue an order leaving a copy with the facility and file the original in the office of the clerk where involuntary commitment procedures will be commenced pursuant to Section 229.6. If the magistrate finds that the person is not in such a state that he/she should be detained, then the magistrate will order the person released. A clerk should stock all the forms used in the foregoing procedures.

Costs and expenses of the foregoing proceedings will be paid from the mental health and institution fund. (Sec. 230.23) If the person is a non-resident, the court must certify the costs to the county of residence unless the person is a state patient; then the costs must be certified to the Bureau of Mental Health Resources.

The attorney for the respondent, after a time, may withdraw from the matter and the court may enter an order approving withdrawal. The clerk is then directed to send a copy of the order approving the withdrawal to the advocate appointed, pursuant to Section 229.19, and any further periodic reports will then be mailed to the advocate.

#### Legal Settlement

In all of the involuntary proceedings, Section 230.2 places the duties

upon the court to decide the legal settlement of the person. In practice, however, the clerk is usually the person that decides the legal settlement.

If the respondent does not have legal settlement in the county where the action is filed but does have legal settlement in the state of Iowa, the clerk should verify the settlement with the other county. If legal settlement is not in the state of Iowa then consent must be obtained from the Bureau of Mental Health Resources prior to sending the respondent to the facility for observation.

#### Committed Public Patient - University of Iowa Psychiatric Hospital

When a court finds, upon application and hearing, that a respondent is seriously mentally impaired and that it would be appropriate to refer the respondent to the state psychiatric hospital at The University of Iowa, he/she may order that a financial investigation be made by the county attorney in the county of residence of the respondent pursuant to Section 225.13. Upon filing of the report of a financial investigation, and upon finding that the respondent and those legally responsible for him/her are unable to pay the expenses, the judge shall enter an order directing that the respondent be admitted to The University of Iowa Psychiatric Hospital as a committed public patient. (Secs. 225.11 and 225.14)

#### Voluntary Public Patient - University of Iowa Psychiatric Hospital

If the judge of the district court or the clerk of the court, finds from the physicians information filed under the provision of Section 225.10, that it would be appropriate for a person to enter the state psychiatric hospital as a voluntary public patient, and the report of the county attorney show that neither the person nor those legally responsible for him/her, are able to pay the expenses, the judge or clerk shall enter an order directing that the person be sent to The University of Iowa Psychiatric Hospital as a voluntary public patient. (Sec. 225.10, 225.16) The proper forms to be used for admissions of both voluntary and committed public patient may be obtained by the clerk of court from The University of Iowa, Psychiatric Hospital Business Office, Iowa City, Iowa 52242 (319/353-5643).

#### Confessions of Judgment

A person may file with the clerk a confession of judgment. This instrument sets out a certain sum of money to another person and asks that the clerk enter that amount of money plus costs against the person filing the instrument, probably shown as the defendant. The costs of filing a confession of judgment is two dollars. (Sec. 606.14(19)) This is the total costs collectable in a confession of judgment action and the action is treated as a law action and upon receipt of the instrument and two dollars, the clerk must enter said amounts in judgment the same as in any other judgment. (Ch. 676) The clerk may issue an execution on a judgment when ordered by the party entitled thereto and costs of issuing execution is two dollars. (Sec. 606.14(11))

#### Satisfaction of Judgment

When a judgment is set aside or satisfied by execution or otherwise, the clerk must enter a memorandum on the judgment docket. (Sec. 624.20) A judgment is not satisfied until acknowledged by the claimant on the record of such judgment at which time the clerk shall at once enter a memo thereof in the judgment docket. (Op. Atty. Gen., #77-11-14, November 30, 1977)

The clerk shall charge one dollar for the satisfaction of said judgment. (Sec. 606.15(20)) Also, when a judgment is paid in full, the party entitled thereto is required to satisfy the judgment on the docket or file an instrument in writing satisfying said judgment. If a party fails to satisfy the judgment within 30 days after written request, the party may be subjected to a \$50 penalty to be received by the aggrieved party. (Sec. 624.37)

### Executions

There are different types of executions that may be issued depending on the type of action that the judgment has been entered in. The most commonly used is the general execution. This execution is issued when a person has recovered a money judgment such as judgment for damages, judgment on an unpaid account or note, and is also used for collection of child support or alimony.

A special execution is an execution that is usually ordered in an action for a party who has sued to foreclose a mortgage or to foreclose an unpaid mechanics lien. When the decree is filed, the court, in the decree, usually orders the clerk to issue a special execution to satisfy the claim. This execution is issued to the sheriff of the county where the property is located and the sheriff will proceed to sell the property and make his/her return thereon to the clerk showing the sale, to whom it was sold, and also showing if there is a deficiency judgment. The clerk must then enter the report of the sale in the book known as the "Sale Book" showing to whom the property was sold, when, for how much, and show any deficiency judgment remaining on the debt.

A fee bill execution is an execution issued for the collection of unpaid costs on an action where judgment was recovered for same. A fee bill execution cannot be issued until 60 days after judgment is rendered. (Sec. 626.108)

All executions expire 70 days after issuance.

### Transcript of Judgment and Executions

A clerk may receive an application from a party recovering judgment for a transcript of said judgment to another county in the state. Should a transcript be requested from the clerk, they should direct their transcript of judgment to the clerk of court of the county to which the judgment is being transcribed. The fee for making a transcript of judgment is two dollars.

The clerk may also receive from a person or the clerk of another county a transcript of judgment from that county. This should be entered in the transcript of judgments docket and the judgment entered in the general lien index showing the year, day, hour, and minutes on the entry of the judgment. The fee for entering a transcript of judgment is one dollar. (Sec. 606.15) The clerk should not issue an execution on a judgment that has been transcribed from another county. An execution must be issued by the clerk of the court from the county in which the original judgment was rendered. (Mudge v. Livermore, 148 Iowa, 472, (1910))

An execution may be issued on any judgment that is taken in your court upon receiving a praecipe requesting execution and the sum of two dollars for issuance of an execution. However, only one execution may be outstanding on any one judgment at any time. If an execution is lost by the sheriff

or the party who is processing the execution, then an affidavit of a lost execution must be executed and filed in that case before another execution can be issued.

### Uniform Enforcement of Foreign Judgments

A copy of a foreign judgment may be filed in the office of the clerk of the district court in the county which would have venue if the original action was commenced in Iowa. A foreign judgment shall be treated in the same manner as a judgment of the Iowa district court.

Upon receiving an affidavit setting forth the name and mailing address of the judgment debtor and creditor, the clerk shall promptly mail notice of the filing of the foreign judgment, including the name and address of the judgment creditor and creditor's attorney, to the judgment debtor.

No execution or other process for enforcement of a foreign judgment shall issue until the expiration of 20 days after the date the judgment is filed.

The person filing a foreign judgment shall pay a filing fee of five dollars to the clerk of court. Fees for docketing, transcription or other enforcement proceedings shall be as provided for judgments of the district court.

The right of a judgment creditor to bring an action to enforce his/her judgment instead of proceeding under the Uniform Enforcement of Foreign Judgments Act shall remain unimpaired. (Ch. 138, Acts, 68th G.A., 1979)

### Dismissal

A cause of action may be dismissed in several ways.

Between July 15th and August 15th of each year, the clerk must send notices to the parties or their attorneys, if an action has been on file at least one year prior to that July 15th, informing them that the case has been on file for one year or more and will be dismissed if not tried or settled before January 1st of the following year. (RCP 215.1) If a case is not tried, settled, or continued pursuant to said rule, it is dismissed by operation of law as of January 1st and the clerk shall enter judgment against the plaintiff for costs. (RCP 227.1)

An action may also be dismissed by the party commencing the action or by their attorney. If a counter claim has been filed by defendant, then the dismissal should be signed by the plaintiff and defendant or their attorneys. In a dissolution of marriage action, if the respondent enters an appearance in the action, the respondent must also join in the dismissal of the matter if it is to be a voluntary dismissal. The judge may also dismiss an action during a trial under certain circumstances or upon a motion filed for dismissal if circumstances warrant.

### Injunctions

An injunction action is brought to restrain a person or persons from committing a certain act or acts and is an action in equity. The party bringing the action is asking for an injunction or a temporary injunction.

If the court grants an injunction, it will enter an order stating what the defendant is restrained from doing and usually requires bond to be posted in a certain amount. If the court orders the injunction and sets bond, the clerk must then issue an injunction under the seal of the court. Care must be taken to use the exact language on the writ as is used in the order directing it. The clerk may charge five dollars for the issuance of the injunction.

The court may also order a temporary injunction in a dissolution action restraining either the respondent or petitioner from doing certain things. This injunction may be issued upon order of court without bond. (RCP 327)

#### Landlords Attachment

A landlord may satisfy a lien for unpaid rent by filing a verified petition with the clerk requesting a landlord's attachment. The clerk must issue the writ upon the filing of the verified petition. Bond is not required. (Ch. 570)

#### Writs of Attachment

A writ of attachment may also be used in an action pursuant to Chapter 639 of the Code. If the petition for the writ is granted, the judge will issue an order and fix the amount of bond. The clerk must then issue a writ of attachment. This type of action is a law action and costs of writ is two dollars. (Sec. 606.15(16))

A writ of attachment may also be issued in a dissolution of marriage action without bond upon order of the court. (Sec. 598.15) Any moneys paid into the clerk's office as a result of an attachment must be held until the court determines who is entitled to the funds.

#### Writ of Replevin

An action to recover personal property may be brought in the district court by the filing of a verified petition with the clerk. Notice must be given to the defendant and, after hearing, the court may order the writ issued. If the plaintiff desires the immediate possession of the property, the plaintiff must execute a bond in favor of the defendant of a sum of twice the value of the property. After receiving the bond and the order directing the issuance of the writ, the clerk then may issue the writ to the sheriff for the immediate recovery and possession of the property. Cost of the writ is two dollars. (Sec. 606.15(16)) The defendant may stay the execution of the writ of replevin by posting delivery bond with the clerk with sureties approved by the clerk until the case is heard on its merits. (Sec. 643.12)

#### Writ of Habeas Corpus

A person may bring an action for a writ of habeas corpus. The petition must be presented to the court by the petitioner or their attorney and the court may or may not allow it. If the writ is allowed, then the court will direct by order that the clerk issue said writ. (Form of Writ, Sec. 663.8) The cost of a writ is two dollars. Most writs are issued only upon order of court.

#### Subpoenas

A subpoena is a writ directed to a person requiring his/her attendance

at a particular time and place to testify as a witness. A subpoena duces tecum is a writ directed to a person requiring that the person appear at a particular time and place bringing with him/her certain documents stated on the writ to testify as a witness regarding the instruments he/she is required to bring. Upon application, the clerk shall issue subpoenas for persons named in the application. (RCP 155, also Sec. 622.63) A subpoena must be served by an officer, process server, or a disinterested person. The costs of service of a subpoena will be noted on the return and must be taxed as costs in said action. The clerk may not charge a fee for issuing a subpoena.

In a civil action, if a witness makes demand for his/her fee in advance, then the witness fee must be deposited with the clerk prior to the time he/she testifies. A witness shall be paid five dollars plus mileage expenses set forth in Section 622.69 for less than a full day service or ten dollars per day plus mileage for a full day's service as a witness.

### Mechanics Liens

Every person who furnishes material or labor for or performs any labor upon any building or land for improvement or repair is entitled to a mechanics lien if not paid. The person may file an instrument known as a mechanics lien in the office of the clerk of district court to insure payment for their material or labor. The lien must name the person owing the money, the person entitled thereto, and must reflect the legal description of the property on which they are making the claim.

Upon receipt of the instrument, the clerk shall endorse upon the instrument the date and hour of filing and must enter the lien in the mechanics lien record and enter the amount of the lien in the general lien index. The clerk shall enter in the mechanics lien record the name of the person who filed the claim, the date and hour of filing, the amount thereof, the name of the person against whom the lien is filed, and must also enter the legal description of the property to be charged with the lien. The cost of filing this action is three dollars. A petition to foreclose a mechanics lien may be brought within two years, and is handled as a regular civil suit. (Ch. 572)

### Notice of the Cases Pending

Between the date of July 15 and August 15 of each year the clerk must send notice to counsel of record that any civil action they have filed or caused to be filed is over one year of age at the time of this notice. (RCP 215.1) *This procedure is mandatory for all civil cases.*

If notice, pursuant to Rule 215.1, has been sent by the clerk at the proper time and the case has not been continued or disposed of prior to January 1st of the following year, it is dismissed by operation of law. Costs of this action shall be entered against the plaintiff. (RCP 227.1)

### Confidentiality

Most civil actions are public records; however, there are a few exceptions that include dissolutions of marriage prior to decree, mental health commitments, and adoptions. (Ch. 68A)

If a decree dissolving a marriage is entered by the court, the matter becomes a public record except those things ordered by the court to remain confidential. (Sec. 598.26)

All records pertaining to the seriously mentally impaired are confidential. Persons hospitalized prior to December 31, 1975 and who remain so hospitalized or on transfer to another facility or convalescent leave shall be considered to have been hospitalized under this Chapter that became effective on January 1, 1976, thereby making those records confidential also. (Sec. 229.39)

#### Appeals to the Supreme Court in Civil Cases

When a civil action is appealed to the Supreme Court, it is commenced by the filing of a notice of appeal with the clerk of district court in the county where the judgment was rendered. The person filing notice of appeal, not the clerk, is responsible for serving notice of appeal to the opposing parties. The notices of appeal must have proof of service endorsed thereon, as prescribed in Rule 82(g) of the Rules of Civil Procedure. (RAP 6)

The filing of the notices of appeal with proof of service, alone, does not stay the execution on the judgment. If the execution is to be stayed, a supersedeas bond must be posted in the amount set out or pursuant to Rule 7, Rules of Appellate Procedure.

Within 14 days after the filing of the notice of appeal in proper form the clerk must transmit to the Supreme Court certified copies of the docket and calendar entries in the case. At the request of the appellant, after all briefs and the appendix have been filed in the Supreme Court, the clerk shall number, list, and transmit the remainder of the record including the original court file, exhibits, and court reporter's transcript to the Supreme Court. (RAP 11)

#### Forcible Entry or Detention Actions

A forcible entry or detention action is brought for the possession of real property. Of the six grounds for bringing a forcible entry and detention action, four may be tried in small claims. (Sec. 631.1(2)) The forcible entry or detention actions excluded from the small claims procedure involve matters where:

1. the defendant continues in possession of real property after a sale by foreclosure of a mortgage or on execution unless he/she claims by a title paramount to the lien by virtue of which the sale was made, or by title derived from the purchaser at the sale. (Sec. 648.1(4)); and

2. the defendant or defendants remain in possession of the property after the issuance of a valid tax deed. (Sec. 648.1(6))

To bring an action on either of the above subsections, the action must be filed in district court and tried by a district court judge as an action in equity. The action is processed as an ordinary civil action in district court. If the plaintiff recovers judgment for the possession of the property and the defendant refuses to vacate, a writ of possession or execution may be issued directing the sheriff remove the parties from the premises. This order for removal can only be executed in the daytime. (Sec. 648.20)

#### Small Claims

Small claims procedures are designed to enable an individual to collect

a debt or settle a small legal controversy of \$1,000 or less, exclusive of interest and costs, without incurring a large expense or lengthy legal process. (Sec. 631.1) Small claims procedures also apply to forcible entry or detention actions where:

1. the defendant has by force, intimidation, fraud, or stealth entered upon the prior actual possession of another in real property, and detains the same;
2. the lessee holds over after the termination of his lease;
3. the lessee holds contrary to the terms of his lease; and
4. rent is due. (Sec. 648.1)

The clerk shall maintain a separate docket for Small Claims, which shall be known as the Small Claims Docket, and shall contain all matters relating to small claims and forcible entry and detainer actions, which are required to be contained in a combination docket (Law & Equity). Statutes and rules relating to venue and jurisdiction in regular civil actions shall also apply to small claims.

All legal forms for small claims as prescribed by the Supreme Court are provided by the clerk of court. The plaintiff must file:

1. verification of amount due,
2. affidavit of identity of judgment debtor,
3. affidavit of nonmilitary service, and
4. the original copy of the written instrument such as a note or contract, if the case is based on a written instrument.

All actions shall be commenced by the filing of an Original Notice with the clerk. At the time of filing, the clerk shall enter on the original notice the case number, date, and time of filing (file-stamp); the clerk shall also collect the filing fee and postage, if original notice is served by certified mail. The clerk shall then docket the original notice. If service is by certified mail return receipt requested, the clerk shall mail a copy of the original notice together with an answer form to each defendant. The clerk will enter the date that the defendant is to appear on the original notice (not less than ten nor more than 20 days from date of filing, taking into account holidays and weekends.) (Sec. 631.4) If the plaintiff so desires, the original notice may be served by the sheriff. It is the plaintiff's responsibility to pay the service charges to the sheriff. If the defendant is a nonresident of the State of Iowa, service shall be made pursuant to Section 617.3 and the appearance date shall be 60 days from the date of filing with the Secretary of State.

The defendant may appear in writing, by attorney, or in person in the clerk's office on or before the appearance date on the original notice. If he/she does not appear, the plaintiff may take a judgment by default. If the defendant does appear, the clerk will set a date for hearing not less than five nor more than 20 days from the date the defendant appeared. The clerk shall notify all parties of the date of hearing.

Small claims hearing may be heard by a judicial magistrate, associate judge, or district court judge. Hearings will be simple and informal. Written pleadings and/or motions may be used only if the judge permits them in the interest of justice. If allowed, the pleadings and/or motions must be similar in form to the original notice. All motions will be heard at the time set for the hearing. Parties have no right to a jury trial. The hearing will be conducted without regard to the technicalities of procedure, but the magistrate's or judge's decision must be based on substantial evidence. The magistrate will swear the parties and witnesses. The hearing will not be reported unless the party provides a court reporter at his/her own expense. The court may continue the hearing from time to time if justice requires. Once the magistrate decides the case he/she enters judgment for plaintiff or defendant and assesses court costs. The magistrate may allow the judgment to be paid in installments. Installment payments shall be made directly to the plaintiff not through the clerk's office. The judgment will not be enforceable unless or until the defendant fails to make the payments as ordered. If the defendant fails to make payments as ordered, the plaintiff must file an Affidavit of Default showing the unpaid balance with the clerk of district court. If the defendant refuses to pay, the plaintiff may request the clerk to issue an execution. The clerk will handle this in the same manner as any execution. (See pages 3-9 and 3-10).

If the plaintiff does not appear at the hearing, his/her claim will be dismissed with prejudice (i.e., the plaintiff will not be able to start another action on the same debt) and a judgment for court costs will be entered against the plaintiff. Instead of appearing personally, the plaintiff may file a copy of the account with a notarized statement that the amount is justly due and wholly unpaid, or a copy of the instrument in writing (note, contract, etc.) with a notarized statement that the same is genuine. If there is no action in the case within 90 days after the last filing or continuance, the clerk shall dismiss the case and tax the costs to the plaintiff. (Sec. 631.8).

If the defendant has not appeared by the appearance date, the clerk shall enter default judgment against the defendant for the amount of claim and court costs. However, the amount must be readily ascertainable and the plaintiff must have filed the four affidavits the same as for the magistrate to enter a default judgment when the defendant does not appear at the trial. All judgments for amounts due and court costs shall be entered on the Index of Liens in the clerk's office and remain as a lien against the defendant until paid.

An appeal from a judgment may be taken by any party by giving oral notice to the court at the conclusion of the hearing or by filing a written notice or appeal with the clerk within ten days after judgment is rendered. The court has no authority to extend time for perfecting an appeal (Barnes Beauty College v. McCoy, 279 NW2d 258, (1979)). The appeal shall be heard by a district judge without further evidence unless the presentment of additional evidence is ordered by the judge. (Sec. 631.13).

All fees and cost collected in small claims actions shall be remitted to the county treasurer as provided in Section 606.16. Fees for service on nonresidents shall be reimbursed to the Secretary of State.

In actions for forcible entry or detention, the clerk shall set a date, time, and place for hearing and shall have the original notice served personally upon each defendant as provided in Rule 56, Rules of Civil Procedure, which service shall be made at least five days prior to the date set for hearing. The original notice shall be delivered to a peace officer or other person for service upon each defendant. All other matters are handled the same as for other actions in small claims court.

A civil action originally tried as a small claim shall not be appealed to the Iowa Supreme Court except by discretionary review. When an application for discretionary review is filed, the clerk of the court in which the judgment or order was rendered shall:

1. Immediately prepare and mail by certified mail, return receipt requested, to the appellees and their attorneys or record, true copies of the application, together with the date of filing; and

2. Immediately prepare and transmit to the clerk of the Supreme Court a transcript of all record entries relevant to the application, together with copies of all papers in the case on file with the court, and a transcript of the official report, if any, all duly certified under seal of the court. However, failure of the clerk of the district court to transmit all the papers shall not prejudice the rights of the parties.

The decision of the appellate court with any opinion filed or judgment rendered must be recorded by the Supreme Court clerk. A certified copy of the decision and opinion shall be transmitted to the clerk of the trial court and filed and entered of record in the district court.

The jurisdiction of the appellate court shall cease after the certified copy of the decision and opinion is transmitted to the clerk of the trial court. All proceedings for executing the judgment shall be had in the trial court or by its clerk. (Sec. 631.16).

## Chapter 4

### CRIMINAL PROCEDURE

#### Commencement of the Criminal Process

The term "criminal process" means the formal accusation, trial, and sentence of a person. The criminal process begins when one of several things happen:

1. A criminal complaint is filed. A complaint is a sworn statement charging a person with a public offense. Complaints may be made by any person, and often are made by peace officers. When an arrest warrant is desired, a complaint must be filed. (Sec. 804.1)

2. An arrest is made without a warrant. Warrantless arrests are usually made by peace officers, but in a limited number of cases, such arrests may be made by other persons. (Secs. 804.7, .10)

3. A police citation is issued. Whenever a peace officer is authorized to make an arrest, the officer may issue a citation instead. The person to whom the citation is issued is not taken into custody. It is the accused's responsibility to be in court at the time specified on the citation. Failure to appear is a misdemeanor. (Secs. 805.1, .5)

4. A grand jury indictment is returned. If the grand jury returns an indictment against a person, the court will order that either a summons or an arrest warrant be issued for the defendant. If a person is indicted, the case is filed directly in the district court and the court appearances in the magistrate division are eliminated.

5. An arrest is made with a warrant. The complaint must be filed with a magistrate who must examine the complaint and supporting affidavits. If the magistrate finds probable cause to believe that a public offense has been committed by an identified person, the magistrate will issue an arrest warrant, or, if the public offense is a misdemeanor, a citation may be issued. (Sec. 804.1) The warrant is an order to any peace officer directing the officer to take the accused into custody and to bring the accused before the magistrate. A warrant is usually "served" on a person at the time of arrest. Only a peace officer may serve a warrant. (Secs. 804.2, .4) The peace officer need not have the warrant in possession. It is enough that the officer has received an official communication that a warrant has been issued for the arrest of the accused on a named charge. (Sec. 804.15) The arresting officer must take the accused before the nearest and most accessible magistrate, without unnecessary delay. The accused is then given opportunity to make bond. If the accused does not post a bond, he/she remains in custody until taken before the magistrate who issued the warrant. (Sec. 804.22)

6. Confidentiality. All information filed with the court for the purpose of securing a warrant for an arrest, including but not limited to a citation and affidavits, shall be a confidential record until such time as a peace officer has made the arrest and has made his or her return on the warrant. During the period of time that information is confidential, it shall be sealed by the court and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate, or another court employee, in the course of official duties. (Sec. 804.29)

## Public Offenses

### Public Offense Defined

The Code uses the term "public offense" to identify an act which is commonly referred to as a "crime." Any act which is punishable by fine or imprisonment is a public offense. In Iowa, there are no common law crimes. An act is a public offense only when a statute declares it to be a public offense.

### Felony

The most serious public offenses are called felonies. Felonies are categorized as either class A, class B, class C, or class D felonies. A class A felony is punishable by a sentence of life imprisonment. A class B felony is punishable by a maximum sentence of 25 years imprisonment. A class C felony is punishable by a maximum sentence of ten years imprisonment and a maximum fine of \$5,000. A class D felony is punishable by a sentence of five years imprisonment and a maximum fine of \$1,000.

The statute which defines the felony will state its classification. If a statute declares an act to be a felony, but does not state which class, the offense is a class D felony. (Secs. 701.1, 902.9)

### Habitual Offender

An habitual offender is a person who has been convicted of a class C or a class D felony and has two prior felony convictions in Iowa, some other state, or as the result of federal prosecution. A person convicted as an habitual offender will be sentenced to an indeterminate term with a maximum of 15 years imprisonment. Moreover, the habitual offender must serve at least three years of that term before he/she is eligible for parole.

### Misdemeanor

Less serious offenses are labeled misdemeanors. Misdemeanors are categorized as either aggravated, serious, or simple misdemeanors. An aggravated misdemeanor is punishable by a maximum sentence of two years imprisonment, or a fine of \$5,000 or both. A serious misdemeanor is punishable by a maximum sentence of one year imprisonment or a fine of \$1,000 or both. A simple misdemeanor is punishable by a maximum sentence of 30 days imprisonment or a fine of \$100. A person convicted of a simple misdemeanor may not be both fined and imprisoned.

The statute which defines the misdemeanor will state its classification. If a statute declares an act to be a public offense but does not classify

it as a felony nor provide a misdemeanor classification, the offense is a simple misdemeanor. (Secs. 701.8, 903.1)

### Indictable and Nonindictable Offenses

An indictable offense is any offense for which the penalty is more than a \$100 fine or 30 days imprisonment. All felonies, aggravated misdemeanors, and serious misdemeanors are indictable. A simple misdemeanor is a public offense punishable by a fine of not more than \$100 or 30 days imprisonment and is classified as a nonindictable offense. The procedures resulting in the accused being brought before a magistrate, are the same for indictable and nonindictable misdemeanors. However, after the initial appearance before the magistrate, the procedures differ for indictable and nonindictable misdemeanors.

#### Indictable Offense, Prior to Trial

**Initial Appearance before the Magistrate.** Unless a complaint has already been filed, one will be filed at this time. If the defendant was not arrested pursuant to a warrant, the magistrate shall determine whether there is probable cause to believe that a public offense was committed and that the defendant committed it. This determination is made either from the sworn statement accompanying the complaint, or the oral statement of the arresting officer, or both. Defendant is given an opportunity to obtain counsel, and may have one appointed at this time if the defendant is eligible. Bail will be fixed or defendant will be released without bail.

**Preliminary Hearing.** The prosecution's evidence is examined to determine if there is probable cause to proceed further. If not, defendant is released. If so, the case is bound over to district court and the status of the accused (regarding bail, release, or custody) remains the same as prior to the preliminary hearing.

**Indictment or Information.** This is the formal charge. The indictment is presented by the grand jury, after hearing the evidence against the accused. An information may be used instead of the indictment, and is filed by the county attorney, without grand jury action.

**Arraignment.** In open court, the indictment or information is read to the defendant; the defendant may plead guilty, not guilty, or former conviction or acquittal. (R.Cr.P. 8(2)(a))

#### Indictable Offense, Trial

Order of Trial.

1. Jury is drawn and sworn, unless the defendant waives jury.
2. The indictment is read to the defendant and the jury is informed of his/her plea.
3. The prosecutor and then the defense make their opening statements to the jury or court. (RCrP 18)
4. The state introduces its evidence.
5. The defendant introduces evidence.

6. Closing arguments are then made, first by the prosecutor, second by the defendant, and then the prosecutor will respond to the defendant's arguments.

7. The jury, or court if the jury has been waived, renders its verdict. The verdict will be "not guilty" or "guilty" together with the degree of the offense, where the offense is divided into degrees.

8. If the verdict is not guilty, the defendant is discharged. If the verdict is guilty, the court will order a presentence investigation in all cases where the conviction is for a felony; a presentence investigation will be ordered in misdemeanor cases where the court feels it is desirable.

9. Judgment will be entered and sentence pronounced. Possible sentences are (a) imprisonment; (b) fines; (c) a sentence of both fine and imprisonment; (d) suspended sentence with or without probation; and (e) deferred judgment.

Deferred Judgment. The deferred judgment is not available for a person who has been convicted of a forcible felony, or certain narcotics offenses, nor is it available for one who has been convicted of lascivious acts with a child under the age of 12. It is not available if the defendant has previously been convicted of a felony, nor if the defendant has been granted a deferred judgment or similar relief either in this state or anywhere else in the United States within the preceding five years, nor if he/she has received a deferred judgment or similar relief two or more times anywhere in the United States. A person granted a deferred judgment is placed on probation; upon fulfillment of the conditions of probation, the defendant is discharged without entry of judgment. The advantage to the defendant of this procedure is that there is no record of his/her having been convicted of a public offense. (Secs. 907.3 and 907.9) The deferred judgment procedure is discussed at greater length below.

Appeals. Appeals from convictions of indictable offenses are to the Supreme Court.

#### Nonindictable Offense, Prior to Trial

The Complaint. In the trial of nonindictable offenses, the complaint serves the same function that the indictment or information serves in the trial of an indictable offense. It is the official document used to formally charge a person for a crime. Nonindictable offenses are normally tried before a judicial magistrate, although in rare cases the trial may be before a district court judge.

Initial Appearance before the Magistrate. The charge against the defendant is read and the defendant is given a copy of the charge. The defendant will be informed of right to counsel, and if he/she wishes to have a counsel appointed and qualifies for such an appointment, the appointment will be made at this time. The defendant is required to enter a plea to the complaint. If he/she pleads guilty, a judgment will be entered and the sentence pronounced at that time. If the defendant pleads not guilty, the date for the trial will be set and he/she will be notified to appear at the time set for trial.

Jury. Normally a nonindictable offense will not be tried to a jury. The defendant may have a jury trial only if he/she requests it at least ten

days prior to the date set for trial. A jury, for nonindictable offenses, consists of six members.

### Nonindictable Offense, Trial

Order of Trial. The order of trial for a nonindictable misdemeanor is the same as that for an indictable misdemeanor. Some magistrates will conduct the trial of a nonindictable misdemeanor, particularly one where a jury has been requested, with all of the formality that attends the trial of an indictable misdemeanor. However, many magistrates conduct these trials in a very informal manner, often swearing in all of the witnesses at once and questioning them in any convenient order.

Judgment and Sentence. Where the defendant has been found guilty of a nonindictable misdemeanor, judgment will be entered and sentence pronounced immediately. Rarely, if ever, will a presentence investigation be used when the trial is for a nonindictable misdemeanor. The maximum sentence for a nonindictable misdemeanor is a \$100 fine, or 30 days in jail, but not both fine and imprisonment. Both deferred judgment and suspended sentence with or without probation are available. However, it will not be common for either the deferred judgment or for probation to be employed in such a case, although a suspended sentence may be pronounced.

Appeals. An appeal may be taken by the plaintiff only upon the finding of invalidity of an ordinance or statute. In all other cases, an appeal may only be taken by the defendant and only upon a judgment of conviction. If the original action was tried by a part-time magistrate, the district court judge shall promptly try the case anew. Judgment shall be rendered as though the case were originally tried. The right to further appeal is governed by Section 814.6 of the Code.

### District Court Processing and Docketing

Criminal action is initiated in district court when the preliminary hearing is waived or when the county attorney's office files an information direct. When an information is filed direct, the following procedures are used:

1. The county attorney swears, under oath, to a judge or clerk that the contents of the information are true as he/she verily believes. The county attorney then signs all three copies of the information. The clerk or a designee assigns a cause number and then signs all copies and applies the court seal to all copies. These are placed in a file bearing the number of the cause and are now ready to be taken to the judge or magistrate for approval.

2. When an information has been approved, and the file is returned to the clerk's office copies are conformed to the original and file-stamped. It is important that informations are filed prior to the time set for the preliminary hearing on each charge.

3. Copies are distributed to counsel, the original being retained in the court file.

4. Docketing the cause consists of entering the defendant's name, the charge, counsel of record, the name of the county attorney filing such

charge, the proceedings filed, the court calendar entries made, the bond provisions, fees due according to the Code and distribution of copies by clerk's office.

5. The criminal file in most cases consists of a calendar sheet bearing the cause number, the defendant's name, counsel of record, the charge and the entry of all court proceedings (to correspond with the docket entry). A bond provision tab is completed and placed inside the file beneath the criminal calendar. The minutes of testimony are NOT put in the court file during the pendency of the cause. They are taken from the information and put in an envelope bearing the cause number and defendant's name. These are kept in a confidential file and filed numerically.

6. Indexing all criminal causes consists of entering the defendant's name and cause number and page in the front of the docket book. Each cause is also indexed in a general ledger (alphabetically) giving cause number, defendant's name, the date the information was filed and the criminal docket and page on which said cause has been entered.

7. The pertinent information in each cause is inscribed on the criminal court file. After any entry made by the court, the entry is placed on the docket, notation of same made on the calendar sheet, copies made for all counsel of record, fees entered (if any) and the file is then given to the records clerk for proper posting.

8. Upon final disposition of a criminal cause, entries are processed as per each court order as to proper distribution and preparation of warrants, mittimus, etc. In addition, if a judgment specifies an amount of money (either in fine or costs) and said judgment has NOT been satisfied, judgment is entered in the judgment lien book. If a defendant has been incarcerated in a state institution, certified copies of the information and judgment and sentence are sent to the State Board of Parole. In the case of a moving violation (i.e., OMOVUI), certified copies of the information, judgment, and sentence are mailed to the State Department of Transportation with the record of conviction and the defendant's drivers license if one has been turned in. A final disposition report is filled out and mailed to the Bureau of Criminal Investigation Identification Division as soon as each case is disposed of. A copy of the report is retained in the court file.

9. If a judge grants a deferred judgment under Chapter 907, the clerk shall promptly report such deferment to the Supreme Court administrator who shall maintain a permanent, confidential record of every such judgment. The deferred judgment order sent to the Supreme Court administrator shall include the following information:

1. the name of the defendant,
2. the county where the defendant was tried or plead,
3. the district court docket number,
4. the nature of the offense, and
5. the date of the deferment.

Before sending a deferred judgment to the Supreme Court administrator, the clerk should check the order to make sure that all of the necessary information (above) is included.

Before granting deferment in any case, the court shall request the Supreme Court administrator to search the deferred judgment docket to determine if there is any prior record of a deferment of judgment for that defendant. Although a clerk or any officer of the court may request information by letter or phone concerning deferred judgments; only a justice, judge, magistrate, or judicial designee may receive deferred judgment information from the Supreme Court administrator.

After expiration of the period of probation, the court shall order the discharge of such person from probation. Upon discharge from probation, *if judgment has been deferred*, the defendant's criminal record in the trial court, with reference to the deferred judgment, shall be expunged/destroyed. After the defendant's name has been removed from all public records (docket and index) his/her criminal records should be sealed and placed in a locked/confidential file accessible only to a justice, judge, or magistrate. As the deferred judgment information contained in the permanent docket maintained by the Supreme Court administrator does not include the birth date, social security number, finger prints, or photograph of the defendant, for a more positive identification of the defendant a judge may find it necessary to check the sealed file in the district court clerk's office to determine if the "John Doe" appearing before him/her for sentencing is the same "John Doe" who previously was granted a deferred judgment according to information received from the Supreme Court administrator.

#### Magistrate's Court Processing and Docketing

When a complaint is filed with defendant in custody:

1. The arresting agency brings the complaint in to file. The complaint is assigned a number from the magistrate's docket and a file is started.
2. After the arraignment, the file is returned to the clerk. If the complaint has been approved by the magistrate, the complaint is file-stamped. Upon receipt of the approved complaint an entry is made of papers filed, copies mailed out, amount of bond, and preliminary hearing date. The defendant's name is indexed alphabetically in the magistrate's index, and copies are then sent out to counsel of record and the county sheriff if bond has been set. If the defendant does not have an attorney, copies are retained in the file until an appearance has been filed. The files are kept in a folder according to preliminary date.

When a complaint is filed with defendant not in custody; arrest warrant required:

1. Arresting agency brings in complaint accompanied with a warrant of arrest. It is then assigned a number in the magistrate's docket and a file is started.

2. If the magistrate signed the warrant, the complaint is file-stamped and a copy of the warrant is made for the clerk's records. Copies of the warrant are also given to the arresting agency (the original to show return of service, and one for their records), along with a copy of the complaint. Entry is made in the magistrate's docket of the charge and warrant issued. Copies of the complaint and warrant are sent out to counsel of record. Defendant's name is indexed in the magistrate's index, and warrant is recorded in the warrant book, which shows name, arresting agency, date issued, and date returned.

3. If the preliminary information is approved by the magistrate but no warrant issued, the clerk notifies defendant of time set up for his/her appearance on said charge by return receipt requested letter. The charge is file-stamped, entry is made in docket, defendant's name is indexed, and copies are mailed to counsel of record of the charge and letter. The file is then placed in folder according to initial appearance date set.

4. When defendant is arrested, the arresting agency brings the warrant with return of service to the clerk's office and receives the file to take to the magistrate. After arraignment copies of additional papers are file-stamped, and an entry is made in magistrate's docket. Copies are then sent to counsel of record (and the county sheriff if bond is set). The return of service on warrant is noted in warrant book and the file is placed in the preliminary folder according to preliminary date.

When a county attorney's information is filed, with waiver of preliminary hearing:

1. On the date of preliminary hearing if the county attorney's information has been filed, the magistrate notes this on the entry of appearance form. Entry is made in magistrate's docket, showing district court number. Magistrate's entry is mailed to counsel of record. This cause is thereby closed out of magistrate's court and into district court.

2. If the preliminary hearing is waived, at the time the waiver is filed, the file is pulled from the folder, entry is made in the magistrate's docket showing district court number, and that the preliminary hearing has been waived. A district court file is made up according to procedures as outlined on pages 4-5 and 4-6. The magistrate is then notified by the clerk or attorney of the waiver. Copies are mailed out to counsel of record. This cause is thereby closed out in magistrate's court and into district court.

3. If the preliminary hearing is held, the evidence is presented before the magistrate. At the close of the hearing the magistrate will consider the evidence presented and make a ruling as to if there is sufficient evidence to warrant that the action be bound over to district court. If the case is ordered bound over to district court, the same procedures are followed as in the proceeding paragraph. If the case is ordered dismissed, then the same procedures as stated in the paragraph below are followed.

Dismissal at preliminary level:

1. When a motion to dismiss and order are received both are file-stamped

and entry is made on the record. Copies are mailed out to counsel of record and county sheriff. Bureau of Criminal Investigation sheet is sent out with disposition, with one copy retained in file. If granted by the court, this closes the case. It is then filed away in the "disposed of preliminary" file.

#### Search warrant proceedings:

1. When search warrant is received by the clerk, the information for search warrant and affidavit have already been received by the judge or magistrate from the arresting agency. When this information is received by the clerk it is file-stamped, entry is made on the record, and the warrant is indexed according to the caption on the warrant. The clerk then types a notice of hearing on seized property, which shows time the warrant was issued, seized items, and time of hearing set for seized property hearing. This notice must be issued within 48 hours upon seizure of the property by such warrant (excluding Sundays only). The file is then placed in folder according to date of hearing. (Sec. 809.2) This notice must be issued by the clerk of court, although not necessarily served or published, within 48 consecutive hours, excluding those falling on a Sunday, after the last official act of possession completing a seizure of property. At a minimum, service upon known persons must be by mailing; service upon unknown persons must be by publication pursuant to the Iowa Rules of Civil Procedure. (Sec. 809.2) (Op. Atty. Gen., April 12, 1979)

2. If the seized property hearing takes place and an order is entered, this is file-stamped and entry is made in the magistrate's docket. Copies are mailed out to counsel of record and arresting agency. This closes the case.

3. All affidavits, applications, and information filed with the court for purposes of securing a search warrant shall be a confidential record until the warrant has been executed and returned by the peace officer. During the time the search warrant records are confidential, the documents shall be sealed and not disseminated to any person other than a peace officer, magistrate, or other court employee in the course of official duties.

#### Restitution:

1. When a plan of restitution has been approved by the judge, this is recorded in the district court docket, and copies are sent out to counsel of record, and victims listed on the plan. A record is made up showing defendant's name, docket number, and amount to be repaid.

2. At the time restitution is made, entry is made in the record. A cash slip is made up if a check is to be written. If payment is made by check, the check may be endorsed over to the victim. (Sec. 907.1(2))

#### Subpoenas

A subpoena is a written order used to compel witnesses to appear and give testimony pursuant to Rule 14 of the Rules of Criminal Procedure. A subpoena may only be issued in a criminal case to secure the attendance of a witness before a grand jury, at a hearing or trial before a court in which the proceeding is pending, or for attendance at the taking of a deposition.

There are three kinds of subpoenas that a clerk might be requested to issue:

### Regular Subpoena for Witnesses

The regular subpoena is used to secure the appearance of a witness to testify at a trial, hearing, or grand jury proceeding. A magistrate in a criminal action before him/her, and the clerk of court in any pending criminal action may issue blank subpoenas for witnesses. The subpoena must be signed by either the clerk or the judge. When the clerk issues and signs the subpoena, he/she must affix the seal of the court and deliver as many of them as requested to the defendant, the defendant's attorney, or the attorney for the state.

### Subpoena Duces Tecum

The subpoena duces tecum is used to require a witness to bring certain documentary evidence or tangible things when he/she appears to testify. When an appropriate motion is filed and granted by the court, the subpoena may be dismissed or modified if compliance would be unreasonable or oppressive.

### Subpoena for Taking of a Deposition

This type of a subpoena is used to require a witness to appear for taking of a deposition (sworn testimony taken before a court reporter, with attorneys present, which is then transcribed). Subpoenas for attendance at a deposition may be issued only if the court has ordered the deposition or the parties have stipulated for a deposition.

### Service

A subpoena may be served in any part of the state. It may be served by any adult person. A peace officer making service in a criminal case must serve without delay in his/her county or city and subpoena delivered to him/her for service and make a written return stating the time, place, and manner of service. When service is made by other than a peace officer, proof thereof shall be by affidavit. Service is made by showing the original to the witness and delivering a copy to him/her.

### Sanctions for Refusing to Appear or Testify

Disobedience to a subpoena, or refusal to be sworn or to answer as a witness, may be punished by the court or magistrate as a contempt. The court may force a witness to appear by issuing a warrant.

### Witness Fees

Payment of witness fees should be based upon some type of written evidence of witness's attendance filed either by the attorney or the witness. Witnesses shall receive ten dollars for each full day's attendance, five dollars for each attendance less than a full day, and mileage expenses as specified by the Code. (Sec. 622.69)

### Expert Witness Fees

Witnesses called to testify only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and state the result thereof, shall receive additional compensation,

to be fixed by the court, with reference to the value of the time employed and the degree of learning or skill required. (Sec. 622.72)

### Bail

Bail is a method of procuring the release of a person from legal custody by giving surety that the defendant will appear at a time and place designated and will submit to the jurisdiction and judgment of the court. Except a person accused or convicted of a Class A felony, all defendants, on sufficient surety, are bailable before trial and after conviction on appeal. (Sec. 811.1 as amended by Chapter 150, Acts of the 68th General Assembly, 1979 Session.)

In any misdemeanor case, the defendant is constitutionally entitled to bail. In most misdemeanor cases, the minor nature of the offense charged makes it unnecessary to require cash bail as a condition of releasing the defendant. Thus, in such cases, the court frequently will order the defendant to enter into a recognizance. A recognizance is an unsecured obligation of record (no money required) entered before a court to appear at designated future times. This form of pretrial release is commonly known as "released on his own recognizance" and sometimes abbreviated as "O.R. or R.O.R."

If the judge determines that a recognizance release would not reasonably insure the appearance of the defendant (irrespective of the seriousness of the offense), he may impose conditions upon the release. The most common condition imposed is the requirement that the defendant post a cash bail. However, if a defendant is financially unable to post the necessary cash bail, a judge may require the execution of an appearance bond in lieu of cash bail. An appearance bond is a guarantee by a solvent surety (an individual or bond company) that the defendant will appear at times specified by the court and, in the event the defendant fails to appear, that the surety will pay over to the court a specific cash amount fixed by the judge.

If the amount of the bail cannot be posted or a bond cannot be obtained, the defendant is then placed in the custody of the sheriff, until he/she appears for future court proceedings.

### Clerk's Duties

When cash bail is ordered by a judge, the defendant deposits the amount of the bail with the clerk. The clerk keeps the bail until final disposition of the case and the court orders that the bail be returned to the defendant or forfeited to the court.

Upon the receipt of a surety or cash bond, the clerk should:

1. Verify the accuracy of the bail/bond tendered by checking the file for the amount set by the judge.
2. Check that the bond is completed properly (e.g., it is signed by the principal and surety if one is required).
3. Give receipt to the person posting bail or bond.
4. Enter required information in the bond posted column in the docket.

5. Prepare a deposit slip for all cash bail.
6. File surety bond in a separate file drawer.
7. Prepare order of discharge for county sheriff.

Particularly where cash bail has been posted, it is advisable for the clerk to note this information on the case file. Upon disposition of the case, the court or clerk shall immediately return the cash bail to the person who deposited the money. (Sec. 811.8(2)) A tort claim may proceed against a public body for the negligence of a district court clerk in refunding bail money to the wrong party. Montgomery v. Polk County, 278 N.W. 2d 911 (1979). The district court clerk may be personally liable for failure to return bail money to the party that deposited the funds.

A clerk of district court acts as a trustee of funds deposited in his office. He does not merely owe a duty to retain the funds intact, preventing negligent release of them as here claimed, but a duty to pay them out to the rightful claimant upon demand. When the demand is made, and the clerk fails to comply, the breach of duty occurs. ... Id. at 918, J. Larson dissenting.

#### Appeals from the District Court to the Supreme Court in Criminal Cases

An appeal in a criminal action is the right of both the defendant and the state to have specified actions of the district court reviewed by the appellate court. Discretionary review is the process by which an appellate court may review specified matters not subject to appeal as a matter of right. (Sec. 814.1)

An appeal is perfected by filing a written notice within 60 days after a judgment has been rendered or an order has been issued, with the clerk of the district court in the county where the judgment or order was issued. An application for discretionary review is made by filing a written notice within ten days after a judgment or order has been issued with the clerk of the district court in the county where the judgment or order was issued. (Sec. 814.1)

When an appeal or an application for discretionary review is filed, the clerk of the district court must immediately prepare and transmit to the adverse party and his/her attorney of record a true copy of the notice of appeal or application, together with the date of filing. If the defendant is the moving party, the notice must be mailed to the attorney general and the clerk of the appellate court.

The clerk must then prepare a transcript of all record entries relevant to the appeal or application. The transcript and copies of all papers in the case on file are placed under the seal of the court and sent to the attorney general and the clerk of the appellate court. Papers that are retained by the examining magistrate on the preliminary examination are not to be included in the above materials. (Sec. 814.7)

After a decision has been rendered by the appellate court, and the expiration of the period allowed for a rehearing, the clerk of the district court will receive a certified copy of the decision, and opinion (if any) from the clerk of the appellate court. The district court clerk must then file and enter the decision in the record. (Sec. 814.24)

The Processing of a Scheduled Violation  
in the Clerk's Office

General Information

Each district court clerk's office serves as the traffic and scheduled violations office of the district court. Additional offices may be established at other locations if authorized by the chief judge of the district. (Sec. 805.7(1)) The clerk is responsible for furnishing law enforcement officers with self-addressed envelopes so that officers may release a person who has received a traffic citation upon observing that person mail the citation, complaint admission, and minimum fine along with five dollars court costs to the clerk's scheduled violations office. (Sec. 805.9(3)(a))<sup>1</sup> By order of the chief judge of the district, locked collection boxes may be used at weigh stations for the deposit of fines and costs received upon written admissions of those scheduled violations applicable to commercial carriers. Only the clerk or his/her designee may open the locked collection boxes. (Sec. 806.7(2))

Scheduled violations and scheduled fines are listed in Section 805.8 and compiled in the Compendium of Scheduled Violations and Scheduled Fines issued by the commissioner of public safety and the state conservation director. Scheduled violations and fines are applicable state laws, county resolutions, and municipal ordinances.

Procedure

At any time prior to the time specified in the citation and complaint for appearance before the court, a person who has received a traffic or parking citation may sign the admission of violation on the citation and complaint and deliver or mail the citation and complaint, together with the minimum fine for the violation, plus five dollars costs to a scheduled violations office in the county.

In processing payments of fines for scheduled violations, the clerk of the district court should first receive the violator's copy of the uniform citation and complaint (this copy is furnished to the court) together with the defendant's admission of guilt and scheduled fine and five dollars costs.<sup>2</sup>

The clerk should then match the violator's copy (green) with the complaint (white) copy which should be filed chronologically or alphabetically. Scheduled violations handled by the clerk's office are not posted in a docket book. A receipt is written for the money received on a

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<sup>1</sup>Supplies of the uniform citation and complaint for city and county agencies shall be paid for out of the court expense fund of the county. (Sec. 805.6(3))

<sup>2</sup>The clerk shall not handle scheduled violations where the enforcement officer endorses thereon "court appearance required." (Sec. 805.10)

two-part receipt form - a violator's copy and an office copy. The receipt should include the date, citation number, name of violator, amount of fines and costs, and the governmental unit to whom the fine is due. A receipt is written even if the violator mails in an incorrect amount. If the fine or costs were underpaid, a notification is sent to the violator requesting the amount of the difference. The amount of the payment and uncollected difference is noted on both court copies of the citation. Upon receipt of the additional amount of money, the violations office issues another receipt. If a violator overpaid his/her fine, a check is issued to him/her for the overpayment. Each receipt must be recorded in the cash journal.

The clerk should make daily deposits of all checks and cash in the special bank account established to handle the receipt and disbursement of scheduled fines and costs. Next, the clerk transfers any cash bonds or guaranteed arrest bond certificates received in a scheduled violations office to the proper judicial officer. No receipts or cash journal entries relating to such bonds are made in the violations office. If the violator who tenders a guaranteed arrest bond certificate fails to appear before the judicial officer, the certificate is returned to the violations office for collection along with the copies of the citation. The clerk notifies the certificate guarantor of the name of the violator, the certificate number, and the amount of fines and costs due. Upon receipt of payment from the guarantor, a receipt is issued and returned with the bond certificate to the guarantor.

#### Court Costs

The court costs in scheduled offenses are five dollars, whether or not court appearance is required. If a defendant pleads not guilty and demands a trial (judge or jury) additional court costs shall be imposed (e.g., five dollars jury trial, two dollars and fifty cents trial by court, etc.). (Sec. 606.15) However, under no circumstances may costs be collected from any defendant accused of a scheduled violation for: (1) entering final judgment, (2) taxing costs, or (3) satisfaction of any judgment. (Secs. 606.15(9), (10), (20); Sec. 805.9(6))

The five dollars court costs collected in scheduled violation cases shall be remitted monthly by the clerk as follows: three dollars to the state treasurer (general fund), two dollars to the county treasurer (general fund). (Sec. 602.55) Where the state (county) is a party, all fines and forfeited bail are remitted monthly to the county treasurer, where a municipality<sup>3</sup> is the plaintiff, the clerk shall remit 90 percent of the total fines to the city and 10 percent to the county treasurer for deposit

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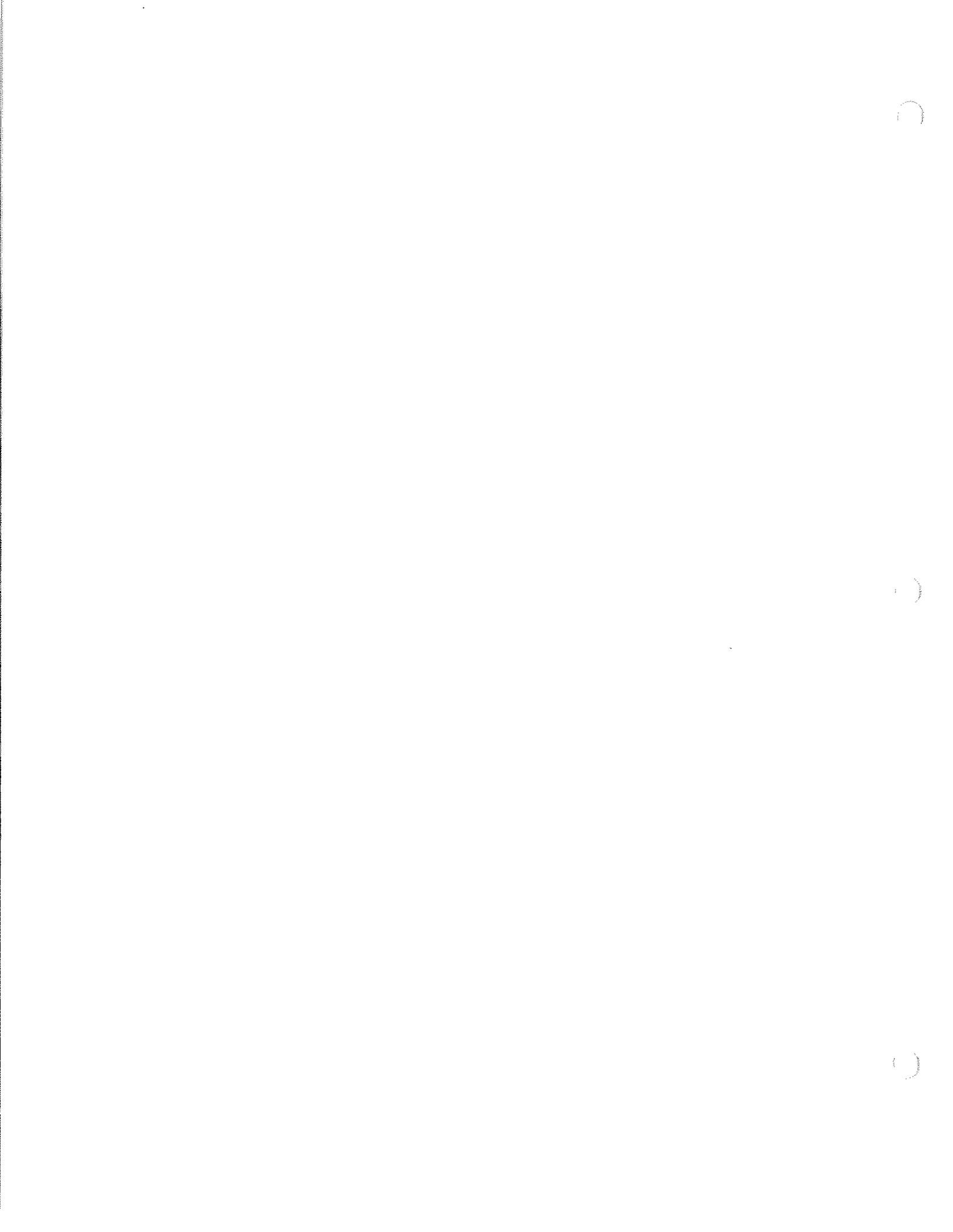
<sup>3</sup>A municipality may impose a fine, not exceeding five dollars, for a parking meter violation which is "admitted." No court costs or other charges are allowed. One hundred percent of all fines collected by a city shall be retained by the city. (Sec. 321.236(1)(a))

in the county general fund.<sup>4</sup> Additional court costs imposed as the result of trial shall be remitted to the county.

Within ten days after conviction, admission, or forfeiture of bail in violation of Chapter 321, or any other law regulating the operation of vehicles on highways, the clerk shall forward a certified copy of the disposition report (abstract of record) to the Iowa Department of Transportation. Convictions of manslaughter and other felonies involving a vehicle shall also be reported. Failure to report convictions, admissions, and bail forfeitures shall constitute misconduct in office and shall be grounds for removal. (Secs. 321.491, .207)

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<sup>4</sup>Cities shall not be taxed with court costs when ordinance prosecutions result in acquittal or dismissal, City of Cedar Rapids v. Linn County, 267 NW2d 673 (1978). However, cities are liable for witness fees and mileage upon a written statement of the clerk or a judicial officer showing the amount due. (Sec. 622.73(2))



## Chapter 5

### JUVENILE COURT

#### Introduction

Chapter 231 governs the structure and procedures of the Juvenile Court. Excepting cases where the Juvenile Court has referred the matter for criminal prosecution, the Juvenile Court has original and exclusive jurisdiction in all proceedings concerning any child under the age of 18 who is alleged to be delinquent or in need of assistance. The Juvenile Court also has original and exclusive jurisdiction in proceedings concerning:

1. The termination of parental rights to a child in accordance with the provisions of 600A, Chapter 232, Division 4.
2. The appointment and removal of a Juvenile Court guardian of a child where the parental rights have been terminated and an adoption petition has not been filed.
3. Approval of a mental commitment under Chapter 229 when the parents wish the child committed but the child is not in agreement.

#### General Procedures and Duties

Whenever the court or any of its officers are informed by any competent person that a minor is within the preview of this chapter, an inquiry must be made of the facts to determine whether the interests of the public or the minor require that further action be taken. After such an inquiry, the county attorney may file a petition with the clerk of court without payment of a filing fee alleging delinquency, or the judge, county attorney, Department of Social Services, or Probation Office can authorize sealing of a child in need of assistance petition.

Upon the filing of the petition, the clerk should make the appropriate entry in the juvenile docket, assign the case a number, set up a new file, and index the proceedings. The time for the hearing should be scheduled and the summons prepared requiring the person who has custody and control of the child to appear before the court at the time and place stated in the summons. Service of the summons or notice must be made in the manner provided for in Section 232.37. The court may order the clerk to mail copies of the summons or notice or issue subpoenas to any other person whose presence in the opinion of the court is necessary at the hearing. Upon completion of the hearing, the clerk must complete the docket entries, and see that all orders are recorded and mailed to the parties designated by the court. If additional hearings are required, the clerk must see that all persons affected are mailed a copy of the court order setting the date and time of hearings.

## Termination of Parental Rights/Adoptions

Pursuant to Chapter 600A or Chapter 232, Division IV, the juvenile court may, upon petition, terminate all rights of parents to a child in certain cases. Moreover, an adoption petition is not to be filed until a termination of parental rights is accomplished except where the person to be adopted is an adult. An additional exception permits the termination of parental rights as part of the adoption proceedings when the parent of the child to be adopted is not the spouse of the adoption petitioner, and consents to this arrangement.

Upon receipt of a petition for termination of parental rights, the clerk should file-stamp the petition, make the appropriate entry in the juvenile docket, assign the case a number, and index the proceedings. The time for a hearing will be scheduled and a summons should be prepared for service on all "necessary parties." Service of summons or notice must be made in the manner provided in Section 600A.6 or 232.112. Upon the completion of the hearing, the clerk must complete the docket entries and see that all orders are recorded. A copy of any finding of facts and orders made in termination of parental rights case are then sent to (a) the Department of Social Services, (b) the petitioner, (c) the parents whose rights have been terminated (if requested), and (d) any guardian, custodian, or guardian ad litem of the child.

Upon receipt of an adoption petition, the clerk should collect the filing fee (as specified by Sec. 606.15) and file-stamp the original and all copies of the petition. The original is placed in a file and two copies are mailed to the State Department of Health, Division of Records and Statistics. A copy is also sent to the designated investigating agency, if requested. The clerk should check for the natural parents consent forms and the termination of parental rights decree (where applicable).<sup>1</sup> The clerk should then assign the case a number, make a new file, index the child's name in the adoption book, and make a notation in the cash book that the fees were collected. Because of the confidential nature of the termination and adoption proceedings, the clerk should maintain a separate docket and segregated case files.

When the adoption decree is returned, signed by the judge, the clerk should file-stamp the original and all copies. The clerk must then sign and certify the adoption abstract form, and forward it along with a certified copy of the decree to the State Department of Health, Division of Records and Statistics. (Sec. 144.19) If the adoptive parents want a new birth certificate, collect from them a check or money order in the amount of two dollars per certificate to the State Department of Health, Division of Records and Statistics along with a note telling the department personnel where to send the corrected certificate. All relevant information included in the decree is typed or copied in the adoption record. A notation should be made on the face of the decree as to agencies or individuals to which copies of the decree have been issued. If there is a change of name, the

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<sup>1</sup>Parents whose parental rights have been terminated do not have to receive notice of an adoption hearing pursuant to Section 600.11(2). (Op. Atty. Gen., #77-8-12, August 30, 1977)

clerk should type the child's new name over the old name, and cross index. The case file should then be sealed. The files and records of the court in adoption and termination proceedings are not open to inspection, except upon an order of the court expressly permitting inspection. (Sec. 600.16)

### Confidentiality of Juvenile Court Records

Juvenile court records such as social histories, predisposition reports, and psychiatric evaluations are confidential; they shall not be inspected and their contents shall not be disclosed except as provided in Section 232.147. These records shall be sealed or filed separately so that a<sup>2</sup> person viewing the official records will not see the confidential materials.

"Official juvenile court records," as defined in Section 232.2(33), shall be "public records." However, access to such records without court order is limited as explained below. (Sec. 232.147(3)) Official records are defined as proceedings over which the court has jurisdiction, including but not limited to the following:

1. the docket of the court and entries therein;
2. complaints, petitions, other pleadings, motions, and application filed with the court;
3. any summons, notice, subpoena, or other process and proofs of publication;
4. transcripts of proceedings before the court; and
5. findings, judgments, decrees, and orders of the court.

Cases alleging delinquency shall be public records, subject to sealing under Section 232.150. Juvenile court records may be sealed if the court finds that:

1. Two years have elapsed since the final discharge or since the last official action in the case if there was no adjudication or disposition; and
2. The juvenile has not been subsequently convicted of a felony or an aggravated or serious misdemeanor or adjudicated a delinquent child and no proceeding is pending seeking such conviction or adjudication.

Notice and copies of a sealing order shall be sent to each agency or person having custody of the records. On entry of a sealing order:

1. All agencies and persons having custody of records which are named therein shall send such records to the court issuing the order.

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<sup>2</sup>Since confidential juvenile court records are not open for public inspection court clerks should keep them separate from the public docket. Confidentiality provisions do not apply to violations by a child of Chapters 106, 106A, 109, 110, 110A, 110B, 111, 321, or 321G which would be simple misdemeanors if committed by an adult, violations of Section 123.47 by a child, or child violations of county or municipal curfew or traffic ordinances. Moreover, where a juvenile court waives its jurisdiction and the child is prosecuted as an adult, confidentiality protection ceases. (Sec. 232.149; Op. Atty. Gen., #79-9-20, September 26, 1979)

2. All index references to sealed records shall be deleted.

The sealed records shall no longer be deemed to exist as a matter of law, and the juvenile court and any other person or agency who received notice and a copy of the sealing order shall reply to an inquiry that no such records exist.

Inspection of sealed records and disclosure of their contents thereafter may be permitted only pursuant to an order of the court upon application of the person who is the subject of such records except that the court in its discretion may permit reports to be inspected by or their contents to be disclosed for research purposes.

Official juvenile court records in all cases, except those alleging delinquency, may be inspected and their contents shall be disclosed to the following without court order :

1. The judge and professional court staff, including juvenile probation officers.
2. The child and his/her counsel.
3. The child's parents, guardian or custodian, and guardian ad litem.
4. The county attorney and his/her assistants.
5. An agency, association, facility, or institution which has custody of the child, or is legally responsible for the care treatment or supervision of the child.
6. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.
7. An appellate court in connection with an appeal. (Sec. 232.147(3))

Pursuant to court order official records may be inspected by and their contents may be disclosed to:

1. A person conducting bona fide research, provided that no personal identifying data shall be disclosed to such person.
2. Persons who have a direct interest in a proceeding or in the work of the court. (Sec. 232.147(4))

Inspection of social records and disclosures of their contents shall not be permitted except pursuant to court order or unless otherwise provided by law. (Sec. 232.147(5))

Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from the records concerning a juvenile court matter is guilty of a serious misdemeanor. (Sec. 232.151)

## Chapter 6

### PROBATE COURT

The clerk of the district court is the custodian of the records of the probate court and has concurrent jurisdiction with the court in some probate matters.

#### Powers and Duties of the Clerk

The clerk may appoint a personal representative in an estate such as an administrator, executor, and guardians of minors and may fix the amount of bond that the fiduciary should post, if any. A clerk may admit a will to probate, make orders in relation to personal effects, where no objections are filed, and where notice is waived by all interested persons. The clerk may approve a report in relation to the sale, mortgage, lease, or exchange of property.

#### Required Books

**Probate Docket:** The clerk must keep a docket known as the "probate docket" and must enter all estates and trust estates in the probate docket. The probate docket must show:

1. The name of every deceased person whose estate is being probated in the county and the date of his/her death.
2. The name of the fiduciary and the attorney representing the fiduciary, if any.
3. The names of all heirs, legatees or devisees, and the surviving spouse, if any, ages, and residences.
4. A note of every sale of real estate under court order.
5. The docket should be indexed under the name of the decedent showing the case number and page, also reference to where the court file is kept.

**Probate Record:** All orders and proceedings to sale of real estate must be recorded in this "probate record." This may be done by typing the instruments in the book, photographing the instrument to be placed in the book, or they may be recorded on microfilm and indexed back to the probate docket.

**Lis Pendens:** When a petition for sale of real estate is filed in an estate matter, the clerk shall enter the matter in the

"lis pendens book" showing the name of the decedent, date of petition to sell real estate, time of filing, and a description of property. (Secs. 617.10, .11)

Record of Bonds Book: All bonds required to be posted by the fiduciary of an estate should be recorded in the "bond record." (Sec. 633.30)

Will Record: All wills admitted to probate should be recorded in a permanent "will record." (Sec. 633.301)

Deposit of Will Record: The clerk is required to keep a "deposit of will record" in which wills should be indexed that are left for safe keeping. (Sec. 633.286)

Inheritance Tax Lien Record: All preliminary inheritance tax reports and inventories and appraisals must be recorded in this book. (Sec. 450.13)

### Types of Estates

If a will is filed for probate, this is a "testate estate."

If a person does not have a will at the time of death, a petition for letters of administration is usually filed by the surviving spouse, child or children of the decedent, mother and/or father, or the petition may be filed by a creditor after a period of time. This is called an "intestate estate."

A will may contain a requirement that a trust estate be created and that certain property or a sum of money should be transferred to the trust and will usually state the length of time that this trust should remain open and for whom or what purpose the trust was created. This is called a "testamentary trust." (The clerk should read the directions for the trust carefully and, if the trust is created for a charitable organization, a copy of the will creating the trust must be sent to the Attorney General's Office.) (Sec. 633.303)

### Custodian of a Will

After being informed of a death of a testator, the person having custody of the decedent's will shall deliver it to the court having jurisdiction. Usually the person having custody of the will of a decedent, will inquire of the clerk or their family lawyer, concerning the disposing of or probating the will. Usually an attorney will present the will for probate. (Sec. 633.285)

A person, during his/her lifetime, may deposit their will with the clerk for safe keeping and the clerk is required to maintain a file for this purpose. If the will is presented for safe keeping, the clerk should index it on a record book known as a "deposit of will record," the date it was deposited, and by whom. Every will shall be enclosed in a sealed wrapper and the clerk, at the time of the deposit, if provided shall write the name of the person to be notified in case of death on the wrapper. A party may remove this will from safe keeping by properly identifying himself/herself

and receipting the clerk for the removal of the will or by an order, in writing, duly acknowledged. (Secs. 633.286, .287)

After being informed of the death of a testator, the clerk is required to notify the person named on the wrapper, if any, and also inform the person if no petition for probate has been filed within 30 days after the death of the testator it shall be opened and the court shall make orders that it deems appropriate for the disposition of the will. If the proper venue is then in another court, the clerk, upon request, shall transmit such will to said court; however, the clerk must keep a true copy of said will in his/her file. (Sec. 633.289)

#### Probate of a Will without Administration

A will that does not request the appointment of an executor may be admitted to probate. The term for this is "probate of a will without administration."

When a petition for the probate of a will without administration is filed with the clerk, the will must be proven in the same manner as when the appointment of the executor for the administration of the estate is requested. The will must be accompanied by the petition, testimony of the witnesses to the will or the witnesses appearing in person before the clerk to give testimony in relation to the will. If the clerk finds that the will should be admitted to probate, he/she shall sign an order admitting the will to probate and directing that notice to be published in a newspaper of general circulation once each week for two consecutive weeks. (Secs. 633.290, .295, .297, .298) Usually this is done when the attorney of a fiduciary knows that the property is joint tenancy and will pass by death. However, the will must be disposed of and usually the preliminary inheritance tax report will be filed which will clear the property for inheritance tax purposes.

When the preliminary inheritance tax report is filed, in duplicate, the clerk is required to certify one copy to the Department of Revenue and enter or note the other copy was filed on the probate docket on the page number assigned to said estate. The clerk is also required to record the preliminary inheritance tax report and inventory in the inheritance tax lien record. (Secs. 450.13, .15)

Costs in an estate of this type are determined pursuant to Section 633.31 of the Iowa Probate Code. A fee of ten dollars is required for filing. Witness fees are charged and taxed the same as in a civil case, the sum of five dollars and, if a person appears in person, they should also be allowed mileage as specified by statute. (Sec. 622.69) Costs of the publication should also be taxed on your docket and a fee for the change of title, if one is required, (i.e., when there is joint tenancy or right of survivorship). The clerk shall tax two dollars for making the change and one dollar for each parcel of land which must be paid to the county auditor when the change of title is certified. All of the above costs should be collected in advance by the clerk from the applicant or from the attorney representing the estate.

#### Probate of a Will with Administration

The will should be presented with a "petition for probate of will and

for appointment of executor," and should be accompanied by testimony of the witnesses to the will, or the witnesses may appear, in person before the clerk, to testify under oath that the will was made by the testator and signed in the presence of the witnesses and the witnesses signed in the presence of each other and that the testator was of sound mind and disposing memory at the time the instrument was executed. (Secs. 633.290, .295)

The clerk must determine, from the will, who the testator has nominated as executor of the estate. The clerk must also determine if bond is required or if the testator has requested that the executor be appointed without bond. The clerk must then determine the residence of the person nominated in the will and if the person's residence is in the state of Iowa, the clerk may then sign an order admitting the will to probate and appointing the nominated person as executor of the estate, directing that the person qualify by filing a bond and oath of office or an oath of office, whichever is applicable, and publishing notice of his/her appointment in a newspaper of general circulation, once each week for two consecutive weeks. (Secs. 633.298, .299, .304)

Once the clerk has admitted the will to probate, the executor named in the will must present to the clerk a bond and oath of office or the oath of office, whichever is applicable. The clerk, at the time, shall issue letters of appointment to the executor and is also required to furnish the executor of the estate, without charge, one certified copy of the will and any codicils to said will. (Secs. 633.168-.181, .301)

If the person named in the will is not a resident of the state of Iowa, then the clerk has no authority to appoint the person and it must be presented to a district court judge, who may appoint the nonresident or may appoint the nonresident and a co-executor, who resides in the state of Iowa. (Sec. 633.64)

After the letters of appointment are signed and the notice sent to the publisher, the will is then in probate. The notice of appointment will be published twice and proof of the publication will be filed with the clerk. The clerk must enter the proof of publication on the probate docket and should show the date of the second publication since the statutes require that the estate remain open at least six months from the date of the second publication for the filing of claims.

A claim may be filed in this estate by a creditor or a person claiming to have performed some services for the decedent prior to death. The claim must be notarized and filed in duplicate, a copy of which must be given to the fiduciary or attorney for the estate and the original must be noted on the probate docket, showing when filed, amount of the claim, and the percentage of interest, if requested.

If a claim is filed in an estate and the fiduciary files a notice of disallowance of claim and files proof of mailing the notice of disallowance of the claim by certified mail with the clerk, the claimant must, within 20 days, file a request for hearing on the claim or the claim will be barred by statute. (Sec. 633.442)

When a request for hearing on a claim is filed, it is tried as an ordinary action at law. It may be tried to a jury if a demand is made.

If the claim or counterclaim does not exceed \$300, the claim is not entitled to a jury. If the claim or counterclaim exceeds the amount of \$300, then either party may demand a trial by jury. (Sec. 633.447)

Usually the next instrument filed in the estate will be the probate inventory and will be filed in duplicate, the original being recorded in the inheritance tax lien record, noted on the probate docket and the original placed on the court file. The copy must be certified by the clerk and sent to the Inheritance Tax Division, Department of Revenue. If the amount of the inventory does not exceed statutory exemptions of the surviving spouse, if any, and/or the other heirs in the estate would be entitled to, the Department of Revenue will file with the clerk a receipt showing no inheritance tax due. If the amount does exceed the statutory exemptions, and the state of Iowa wants the estate appraised to determine the value of the estate, they will send the clerk a notice to issue a commission to the inheritance tax appraisers to appraise the property in certain schedules or they may ask for the appraisal of the entire estate. Either way the clerk should issue a commission to the inheritance tax appraisers to appraise the estate. After the appraisers have completed the appraisal, they will file the appraisal forms with the clerk or the report showing the description of the property and the appraised value. The clerk must make a copy, if one is not furnished, of the report of this appraisal and certify this report to the Inheritance Tax Division, Department of Revenue. The original must be recorded in the inheritance tax lien record as previously described, noted on the probate docket and the original placed on the court file. (Secs. 633.361-.368)

The attorney for the estate will be filing papers on this estate from time to time and all must be noted on the probate docket and placed on the court file. Any orders filed in the matter must also be recorded in the probate record.

If the inventory is not filed within 60 days of the opening of the estate, or if the estate remains open after a period of three years, each May 1 and November 1, the clerk must send the attorney and the fiduciary a notice of delinquency. (Sec. 633.32) On July 1 and January 1 of each year, if the delinquency has not been removed in these estates, the clerk must report those to the court.

A petition for the sale of real estate may be filed in the estate and other instruments from time to time until the deed for the sale of the real estate has been delivered to the buyer, all of these must be noted on the probate docket and recorded in the probate record. The deed must also be recorded in the court officer's deed record.

Some of the last instruments to be filed in the estate will be the final report and an order and notice setting same for hearing or receipts and waivers of the hearing. An accounting may be filed and if there are no objections to this final report, the attorney will pay the costs the clerk has taxed pursuant to Section 633.31 of the Code and get his/her order signed closing the estate.

Upon final settlement of an estate, an order is entered discharging the personal representative from further duties and responsibilities. The order approving the final report constitutes a waiver of the omission from the final report of any of the requirements specified in Section 633.477. (Sec. 633.479)

## Ancillary Administration

Occasionally an estate will be opened for probate of a foreign will or for ancillary administration. A will of a nonresident of this state, not probated in any other state or county, may be admitted to probate in any county of this state where either real or personal property of the deceased nonresident is located. (Sec. 633.495)

A will probated in another state or country shall be admitted to probate in this state upon the production of a copy thereof and the original record of probate, authorized by certificate of the clerk of district court or a judge where the probate was made. (Sec. 633.496) All provisions relating to the carrying of domestic wills into effect shall apply so far as applicable to foreign wills admitted to probate in this state. (Sec. 633.498)

Ancillary administration may be taken of the estate of a deceased intestate nonresident where a fiduciary has qualified under the laws of the other state and the nonresident administrator may qualify in this state to serve as administrator provided that a resident administrator is appointed to serve with the nonresident. The court may, however, waive that requirement for good cause shown.

The application for such an appointment should contain the name and address of the foreign administrator and the resident administrator, if any, and shall be accompanied by certificate of the clerk of court of original jurisdiction certifying that the estate is under administration in that county and a certification of the original letters or other authorization authorizing the nonresident administrator to act in that state. (Secs. 633.500, .501)

## Intestate Estates

A surviving spouse, the heirs of a decedent, creditors, and other persons showing good grounds may petition the court to open the estate of a decedent and appoint an administrator. (Sec. 633.229)

The proceedings in an intestate estate are the same as those in a testate estate with a few exceptions. There is no will in this type of estate to present to the clerk, however, the petition will show the name of the surviving spouse, if any, and the heirs of the decedent. It will also show an estimated value of the personal property of the estate plus the estimated gross annual income of the estate during the period of administration.

The clerk may also appoint an administrator of the estate, if a resident of Iowa, and from the total amount of the estimated value of the personal property and the annual income determining the amount of bond the administrator must post. The bond is fixed at one and one-fourth times this amount. Upon the application of the heirs of the estate, the court, not the clerk, may waive this bond requirement.

After the bond is waived, or posted with sureties approved with the clerk, the clerk may appoint the person requested in the petition as administrator of the estate requiring said person also to file an oath of office. Notices of this appointment must be published once each week for two consecutive weeks in a newspaper of general circulation.

The procedures from this time forward are exactly the same as those in a testate estate.

## Short Form Administration without a Will

When a person dies having realty and other property in joint tenancy without a will, it usually has to be cleared for inheritance tax. This is known as "Short Form Administration" or more commonly called "C.I.T." (meaning Clearance for Inheritance Tax.)

The applicant will file an inventory, in duplicate, with the clerk of district court. He/she must certify one copy of this to the Inheritance Tax Division, Department of Revenue. The original must be filed and docketed, given a number the same as any other probate matter; it should also be recorded in the inheritance tax lien record. The filing fee for this is ten dollars. (Sec. 633.30) If a change of title is desired for the realty, the charge shall be two dollars for making the change and one dollar to be paid to the county auditor for each parcel of land.

## Small Estates

If a person dies neither testate or intestate and leaves a surviving spouse and/or children, and property valued at \$10,000 or less, the surviving spouse or child of the decedent, (or parents of a decedent having no surviving spouse or children) may petition the court to open a small estate.

The petition is filed with the clerk and must contain the following information: the name, domicile and date of the death of the decedent; the name and address of the surviving spouse, if any; the name and address of the children, if any; and if no surviving spouse or children, then the name and the address of each parent of the decedent. It must also state whether a will has been admitted without administration; and that the gross value of the estate, without life insurance, does not exceed \$10,000. Additionally, it must show that the petitioner agrees to be personally liable for the payment of debts and charges against the estate to the extent of the assets of the estate that would be subject to the payment of debts. Finally, it must state that the petitioner agrees to account to any personal representative of the decedent for all of the assets coming to his/her possession, if the estate should be opened for general administration and a personal representative appointed. When the petition is filed according to the above guidelines, the clerk must issue letters of appointment. (Ch. 635)

## Testamentary Trusts

If a will provides for the appointment of a trustee, and the court appoints a trustee, the clerk must establish a separate file for the trust. Trusts are given a new probate number and kept in a docket separate from the estate docket. Qualification of a trustee is recognized when the oath is filed as provided in Section 633.168.

A copy of the will must be placed in the trust file and the trustee will file a bond and an oath of office with the clerk; however, the court may appoint a trustee to serve without bond. If a charitable trust is created, a copy of the will also must be filed with the Attorney General. (Sec. 633.303) After the clerk has docketed this trust with a separate probate number, all papers filed in said trust will be noted on the probate docket and the orders will also be recorded in the probate record. (Sec. 633.168)

An inventory of the assets of the trust will be filed with the clerk and annually thereafter, the trustee is required to file a report with the court showing all income and expenditures of the trust, notifying interested persons of the time and place of hearing on the application to approve trusts and the report. If there are no objections to the report, the trustee will file an order with the clerk approving said report. (Sec. 633.70) If reports are not filed, the clerk must issue a delinquency notice as provided in Section 633.32.

#### Fees in Probate

All fees that the clerk is allowed to tax in a probate matter is set out in Section 633.31 except witness fees, which are set out in Chapter 622 of the Code and, of course, the publication fee will be certified to the clerk by the newspaper used for the publication. Change of title fees to the county auditor, that the clerk will be taxing, are set out in Section 558.66.

#### Incoming Transcripts

Occasionally, the clerk will receive a transcript of an estate from another county asking that the matter be filed and indexed in their office. This occurs when a decedent who domiciled in another county in the state, and his/her estate is probated in that county and that the decedent owned real estate in the county of the receiving clerk. The charge for this is three dollars. (Sec. 633.31(2)(c))

#### Outgoing Transcripts

Occasionally, the clerk will be requested to make a transcript of an estate that has been probated in his/her county to be sent to another county in the state. The transcript must be certified under the seal of the clerk and listing all instruments in the transcript. The fee for making this transcript is fifty cents per one hundred words. If this transcript is to go out of the state for ancillary administration or for some other purpose, then the transcript must have a judge and clerk certification attached.

#### Conservatorships

##### Opening Conservatorships

Any person may file with the clerk a verified petition for the appointment of a conservator. The petition shall comply to the guidelines provided under Section 633.566. No notice of the filing of such petition need be given when the ward is a minor and filed by the person who has custody of proposed ward. (Sec. 633.567)

Upon filing of petition the clerk should file-stamp and make entry in the docket kept for conservatorships. When an order appointing a conservator has been issued, the appointee has filed an oath and posted bond (if required), the clerk shall issue letters of appointment. The letters can be directed to the attorney or one opening conservatorship but eventually goes to the conservator to show proof of appointment. If a bond is required, the bond shall be recorded and placed in a safe area, other than the file, until it is

disposed of by closing the conservatorship or by court order. At the time the inventory of the estate is filed, the clerk shall review the amount of bond, and report to the court as to any apparent insufficiency thereof. (Sec. 633.179)

#### Filing Inventory

Within 60 days after the date of conservator's appointment, or within such further time as the court may allow a conservator shall file in the conservatorship a verified inventory of all of the property of the ward that has come into his/her possession or of which he/she has knowledge. (Sec. 633.642)

#### Annual Reports

Annual reports shall be filed with the clerk by the conservator every year unless court order exempts it. If conservator does not comply, the clerk shall on May 1st and November 1st of each year send a delinquency notice to the attorney and one to the fiduciary. On July 1st and January 1st of each year the clerk shall report to the presiding judge all delinquent inventories or reports in estates, trusts, guardianships, and conservatorships on which such notice has been given and no report or inventory has been filed in response to the notice. (Sec. 633.670)

#### Involuntary Conservatorships

An involuntary conservatorship is filed when the ward refuses to open a conservatorship or is in such condition that is incapable to volunteer to do so. In such case the ward must be served by original notice according to Rules of Civil Procedure before order can be signed appointing conservator. (Sec. 633.635)

#### Temporary Conservator

A temporary conservator may be appointed but only after a hearing on such notice, and subject to such conditions, as the court shall prescribe. (Sec. 633.573)

#### Disposal of Will by Conservator

When an instrument purporting to be the will of the ward comes into the hands of a conservator, the conservator shall immediately deliver it to the court. (Sec. 633.643) Upon receiving the will of a living ward the court may open said will and read it. The court with or without notice, as it may determine, may enter such orders in the conservatorship as it deems advisable for the proper administration of the conservatorship in the light of the expressed testamentary intent of the ward. The will thereafter is to be resealed and delivered to the clerk and is to be kept in safe keeping as provided in Sections 633.286-.289.

#### Standby Conservatorships

Any person of full age and sound mind may execute a verified petition for the voluntary appointment of a conservator of his/her property upon the expressed condition that such petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described

condition of the mental or physical health of the petitioner. The occurrence of the event, or the existence of the condition, shall be established in the manner directed in said petition. (Sec. 633.591)

Such petition may nominate a person for appointment to serve as such conservator, and may request that the appointment be made without bond, or with bond of a certain stated sum. The court in appointing the conservator shall give due regard to such nomination and other requests and recommendations contained in the petition. (Sec. 633.692)

Deposit of petition may be done with the clerk of the county in which the party resides, or with any person, firm, bank, or trust company selected by the petitioner. (Sec. 633.693)

Such petition may be revoked by the petitioner at any time before appointment of a conservator by the court, provided that the petitioner is of sound mind. Revocation shall be accomplished by the destruction of the petition by the petitioner, or by the execution of an acknowledged instrument of revocation may also be deposited there.

At any time after the deposit of the petition with the clerk, and before its revocation, it may be brought on for hearing by the filing of a verified statement to the effect that the occurrence of the event or the condition provided for in the petition has come to pass. (Sec. 633.695) If the petition has not been deposited with the clerk under the provisions of Section 633.593, then it may be brought on for hearing at any time by the filing of it and such a verified statement with the clerk of the county in which the person who executed the petition then resides.

At the time such petition is filed, the court, without any notice, may appoint the conservator nominated in such petition or may set the petition for hearing on such notice as the court may prescribe.

The powers and duties of such a conservator shall be the same as those of a conservator appointed in response to any of the other petitions authorized in the Code.

#### Guardianships

Any person may file with the clerk a verified petition for the appointment of a guardian. The petition shall state the information contained in Section 633.552.

#### Opening Procedures

Upon filing of a petition for guardian, the clerk shall file-stamp and enter in the docket for guardianships a record as to the name of the guardianship, the guardian, attorney of record, date of filing of petition, oath, and order. Index in front of docket and also in general index docket. All orders are recorded and original documents are kept in an individual file. Book and page of record is entered on calendar sheet and also in probate docket.

#### No Notice Required - Minor

No notice of the filing of such petition need be given when the proposed

ward is a minor and such petition is filed by the person having custody of the proposed ward. (Sec. 633.553)

In all other cases, notice of the filing of such petition shall be served upon the proposed ward in the manner of an original notice and the rules of civil procedure governing original notices shall also govern such notice as to content. (Sec. 633.554)

#### Pleadings and Trial - Rules of Civil Procedure

All other pleadings and the trial of the cause shall be governed by the Rules of Civil Procedure. The cause shall be tried as a law action, and either party shall be entitled to a jury trial if demand is made therefore as provided by the Rules of Civil Procedure.

If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved, the court may appoint a guardian.

#### Appointment of Guardian on Voluntary Petition

A guardian may also be appointed by the court upon the verified petition of the proposed ward, without further notice, if he/she is other than a minor under the age of 14 years, provided the court determines that such an appointment will be for the best interests of the applicant. However, if an involuntary petition is pending, the court shall be governed by Section 633.635.

#### Temporary Guardianships

A temporary guardian may be appointed, but only after a hearing on such notice, and subject to such conditions, as the court shall prescribe.

The parents of a minor, or either of them if qualified and suitable, shall be preferred over all others for appointment as guardian. Preference shall then be given to any person, if qualified and suitable, nominated as guardian for a minor child by a will executed by the parent having custody of a minor child, and any qualified and suitable person requested by a minor 14 years of age or older. Subject to these preferences, the court shall appoint as guardian a qualified and suitable person who is willing to serve in that capacity.

A petition for the appointment of a guardian on a standby basis may be filed by any person under the same procedure and requirements as provided in Sections 633.591-.597, for appointment of standby conservator, insofar as applicable.

#### Combined Guardianships and Conservatorships

Guardianships and conservatorships may be combined and the cause tried in the same manner as a petition for a conservator. The same person may be appointed to serve as both guardian and conservator. (Secs. 633.627, .628)

#### Clerk's Duties upon Filing an Estate, Guardianship, Conservatorship, or Trusteeship

1. File--stamp each document.

2. Collect filing fee.
3. Enter in docket provided and give new case number.
4. Enter all filings under papers filed.
5. Enter all orders under court proceedings.
6. Maintain calendar sheet for all court orders.
7. Index in front of docket book and in general index docket.
8. If bond is filed, record and keep bond in safe area.
9. Record inventories.
10. Charge guardian ad litem fees each time an answer of guardian ad litem is filed. Charges are set by judicial district.
11. Reports to be filed annually unless exempted by court.
12. Delinquency notices to be issued by clerk where no annual report made or court costs paid.
13. All pending bonds to be approved each June.
14. Clerk shall report all delinquencies to presiding judge on July 1st and January 1st of each year.
15. Before or at time of closing all court costs must be paid.
16. Most all districts require a referee's report before closing.
17. If clerk is referee, referee fees should be entered under clerk fees.

Note: Referee fees and guardian ad litem fees are set by judicial district.

## Chapter 7

### VITAL STATISTICS

#### Birth Certificates

The clerk of district court is designated by the Code of Iowa as the county registrar and shall record and transmit the certificate to the state registrar. (Sec. 144.9) When a birth occurs in an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate, and file the certificate with the clerk of court. The physician in attendance certifies the facts of birth and provides medical information required by the certificate within three days after the birth.

When a birth occurs outside an institution, the certificate must be prepared and filed by one of the following in the indicated order of priority: (Sec. 144.13(3))

1. The physician in attendance at or immediately after the birth.
2. Any other person in attendance at or immediately after the birth.
3. The mother or father.
4. The person in charge of the premises where the birth occurred.

Upon receipt, the clerk must sign and date each birth certificate. The certificate is then given a number and either typed or printed into the birth record book and birth record index. When a child is born out of wedlock, the certificate must be filed directly with the state registrar. (Sec. 144.13(3))

When the birth of a person born in this state has not been registered, within three days after it has occurred, a certificate may be registered when accompanied by documents that support the alleged facts of birth. A summary statement of the evidence submitted in support of the delayed registration must be endorsed (written or typed) upon the certificate. To be acceptable for filing, the name of the registrant and the date and place of birth entered on a delayed birth certificate shall be supported by at least:

1. two pieces of documentary evidence if filed within seven years after the date of birth; or
2. three pieces of documentary evidence if filed seven years or more after the date of birth.

Certificates of birth registered one year or more after the date of occurrence shall be marked "delayed" and shall show on their face the date of the delayed registration.

Each document must be from an independent source and only one of which may be an affidavit of personal knowledge. Facts of parentage need be

supported by only one document which may be one of the documents above other than an affidavit of personal knowledge. Documents presented must be in the form of the original record or a duly certified copy thereof or a certification statement from the custodian of the record or document.

All documents submitted in evidence, other than an affidavit of personal knowledge, must have been executed at least ten years prior to the date of the application or established prior to the applicant's tenth birthdate.

An acceptable statement of personal knowledge must be prepared and signed before an official authorized to administer oaths, by one of the parents, by the next of kin, or by any other older person. In all cases the person making the affidavit (affiant) must be older than the applicant and have personal knowledge of the facts of birth.

Documentary evidence may be presented for review to the clerk acting as the county registrar. Upon receipt of documentary evidence, the clerk must prepare an abstract for each document on a separate form provided by the state registrar. The abstracts along with the partially completed delayed certificate form and any affidavits that have been presented in evidence must be transmitted to the state registrar for final determination of acceptability.

At least twice a month (more often in larger counties), a report is submitted to the State Department of Health together with the original birth certificates. (Sec. 144.9)

The clerk is responsible for issuing a certificate of birth registration upon request, based on information contained on the birth certificate filed in his/her office. A fee of two dollars is collected for each certificate issued by the clerk. (Sec. 144.45, .46)

#### Marriage Application, License, and Certificate

Parties desiring a marriage license must sign and file a verified application with the clerk of court. The application may be mailed to the parties at their request. A completed health certificate for each person must be presented to the clerk of court at the time the application is submitted to the clerk's office. The certificate must show that the person has had a medical examination and a blood test performed by a physician licensed to practice in Iowa within 20 days prior to the application. The blood test may be performed by either the State Hygienic Laboratory at Iowa City or a laboratory approved for this purpose by the Iowa State Department of Health. Each district court clerk's office should have a listing of approved laboratories available to applicants. The application must be accompanied by at least one affidavit of a competent and disinterested person stating such facts as to age and qualifications of the parties as the clerk may deem necessary to determine the competency of the parties to contract to a marriage. The age requirement for marriage without permission is 18 for males and females. (Sec. 595.2) The signatures of parents and authorization of the district court are required for applicants 16 or 17 years of age. No one under the age of 16 may apply for a marriage license.

The clerk must then file the application in a record book kept for that purpose. The certificate of marriage may be typed in preparation for issuance to application after the three-day waiting period. In determining the waiting period, the date of filing is excluded and the last day is included. Thus, if a couple applies for a license on Monday, the clerk may issue the license at any time on Thursday. A license may be issued prior to the expiration of three days in cases of emergency or extraordinary circumstances. The parties must apply for a court order authorizing the expedited license with the clerk of court. A fee of five dollars shall be paid to the clerk at the time the application for the order is made. The order must be granted by a district court judge. (Sec. 595.4)

The requirements for nonresident applicants for a marriage license are substantially the same as for residents. Nonresident applicants must file a certificate signed by a duly licensed physician of the state in which the applicant resides, certifying that the applicant has been examined by the physician and that he/she is free from syphilis or is not in a stage where-by it may become communicable. The certificate must be sworn by the physician and acknowledged by an officer authorized to administer oaths. (Sec. 596.8)

When the applicants return to pick up the license, a certificate of marriage is then issued along with the marriage license. The certificate and license may be obtained, in person, by either of the applicants. Both applicants need not be present. The marriage license cannot be issued by mail.

Marriages must be solemnized by an authorized person such as a magistrate, judge, or ordained or licensed minister of the gospel within 20 days following the issuance of the license to marry. The certificate of marriage, with the proper signatures, is returned to the clerk after the marriage is performed. (Sec. 505.13) This return is then typed or copied into the marriage record book. At least twice a month, the original certificates of marriage are mailed to the State Department of Health.

The clerk of district court is required to provide the certificate form furnished by the state registrar. The parties must attest to the information by signing the certificate. The clerk must keep a marriage record book, which must be uniform throughout the state as prescribed by the state registrar. Marriage record books are provided at county expense. A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept instead of marriage record books.

Every person who performs a marriage must certify the fact of marriage and return the certificate to the clerk within 15 days after the ceremony. The certificate shall not contain information concerning either the educational level, previous marriages, or the race of the married persons. The clerk is required to record and forward to the state registrar on or before the tenth day of each calendar month the original certificates of marriages filed with him/her during the preceding calendar month. (Sec. 144.36)

#### Dissolution or Annulment

A statistical record must be prepared for each dissolution or annulment granted by any court in this state. The clerk can prepare the record or

direct the petitioner or a legal representative of the petitioner to prepare the record. The clerk is required to keep a dissolution record book (provided at county expense) that is uniform throughout the state. A properly indexed record of dissolutions upon microfilm, electronic computer, or data processing equipment may be kept as a substitute for dissolution record books. On or before the tenth day of each calendar month, the clerk must submit to the state registrar the record of each dissolution and annulment granted during the preceding calendar month. (Sec. 144.37)

#### Adoption

The clerk is required to certify all adoption certificates after an adoption decree has been granted by the court. Prior to certification, the clerk should make sure that the certificate contains the following information: (Sec. 144.19)

1. All facts necessary for the location and identification of the adopted person's birth certificate.
2. All information necessary to establish a new birth certificate.
3. Identification of the adoption.

No later than the tenth day of each calendar month, the clerk must forward to the state registrar certificates of adoption, or amendment or annulment of adoption entered in the preceding month. (Sec. 144.22)

#### Passport Applications

The Code of Iowa does not require the clerk of the district court to handle passport applications. However, in smaller counties, the clerk does perform this function. If your office provides service for issuing passports, please refer to the Passport Agent's Manual for information on procedures for processing passport application. The clerk should make sure that the following steps are taken:

1. Check the application to be sure that it has been filled out completely.
2. Collect two signed photographs (exactly 2" X 2") and attach them to the application.
3. Acknowledge the applicant's signature on the application and affix the district court seal on the application.
4. Collect ten dollars for the passport fee and four dollars for the clerk's execution fee.
5. A complete passport application must include: (a) a completed application form; (b) two pictures; and (c) a birth certificate. The pictures and the birth certificate are attached to the application and mailed to the Chicago Passport Agency along with the ten dollars.

### Change of Name

When a person changes his/her name pursuant to Chapter 674, the clerk of court must certify this information to the state registrar of vital statistics. (Sec. 144.39) (See p. 3-5 for more detail.)

### Death Certificates

By order of priority, the funeral director who first assumes custody of a dead body files a death certificate in the clerk's office. When a person other than a funeral director assumes custody of a dead body, that person shall file the certificate. The certificate of death must contain personal data concerning the deceased obtained from the next of kin or the best qualified person or source available. Additionally, a medical certification as to the cause of death must accompany the death certificate.

The death certificate must be filed in the clerk's office of the county in which the death occurred within three days after the death and prior to final disposition. (Sec. 144.26) Upon receipt of the death certificate, the clerk or a designee must sign and date each certificate. The certificate is then numbered and recorded in the death record book and death record index.

When a death occurring in this state has not been registered within three days after the death, a certificate may be filed by:

1. The attending funeral director and medical examiner, or persons acting in such a capacity; or
2. a member of the immediate family of the deceased.

If the attending physician or medical examiner at the time of death and the funeral director or person who acted as such are available to complete and sign the certificate of death, it may be completed without additional documentary evidence and filed with the state registrar. However, for those certificates filed one year or more after the date of death, the physician or medical examiner must state on the reverse side of the certificate that the information in the certificate is based on records kept in his/her files.

In the absence of the attending physician or medical examiner or the funeral director or persons who acted as such, the certificate may be filed by a member of the immediate family of the deceased and must be accompanied by:

1. an affidavit of the person filing the certificate swearing to the accuracy of the information in the certificate, and
2. two documents which identify the deceased and his/her date and place of death.

Certificates of death registered one year or more after the date of occurrence must be marked "delayed" and show on their face the date of the delayed registration.

The clerk of the district court where the death certificate is filed is

responsible for issuing a burial-transit permit. The permit must be issued within three days after the death has occurred.

The clerk must submit a report along with the original death certificates at least twice monthly to the State Department of Health. Such reports may be filed more often in larger counties. Upon request, the clerk may issue a certificate of death registration based on information contained on the death certificate filed in his/her office. A fee of two dollars is collected for each certificate issued by the clerk.

## Chapter 8

### NEW TECHNOLOGY\*

#### Microfilming Systems

##### Use of Microfilm

Increasingly, county officials are adopting microfilm programs of their own. They may employ commercial firms to microfilm records on contract, or they may purchase equipment and do their own microfilming, either as a means of recording documents, for security, in order that original records may be destroyed after microfilming with consequent saving in space and filing equipment, or for a combination of these reasons. They may also microfilm documents received for filing and have print-out copies prepared from the microfilm for that purpose.

##### Microfilm Plan

**What to Microfilm.** The microfilming of public records is not a panacea for all ills. The decision to microfilm should be reached only after careful consideration of all the factors involved. In general, only records of permanent or reasonably long-term value should be microfilmed. If records are to be retained no longer than 10 to 15 years and then destroyed, it is generally more economical and more efficient to retain the original records for the 10 to 15 years than to microfilm the records. See Preservation and Destruction of Court Records, pages 2-4, 2-5 of this Iowa Clerk's Manual.

**Arrangement and Index.** When the decision has been made to microfilm a series of records, a plan of operation should be prepared and adhered to. The records should be arranged in the order which will facilitate the retrieval of data microfilmed. An index of records microfilmed is an essential finding aid. The index should adequately identify the records, reel numbers, and if appropriate, page or item numbers of records microfilmed.

**Frequency of Microfilming.** A decision should probably be made as to the frequency of microfilming a particular series of records--whether they should be microfilmed daily as received or created, or if a monthly, quarterly, annual, or less frequent schedule will be adequate. A decision should be made as to whether the file should be microfilmed immediately upon filing or wait until the file has reached an age when there will seldom be additions to the file.

##### Microfilm Systems Available

Four microfilm systems, categorized by microfilm forms employed, are currently being used in county offices. They include: (1) roll film either

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\* Source: Minnesota Clerk's Manual, 1977.

16 or 35 millimeter on reels; (2) jacketized film, either 16 or 35 millimeter in strips in plastic jackets; (3) 35 millimeter film in aperture cards; and (4) 16 millimeter film in cartridges (magazines), with or without a high speed retrieval feature. Microfiche, a fifth form has found only limited application in county offices. A clerk desiring to install his/her own microfilm system should investigate the systems available and select the one best adapted to the particular needs of that office.

### Equipment

Many manufacturers are now in the business of selling and servicing microfilm equipment.

**Cameras.** If bound volumes are to be microfilmed on roll film, a 35 millimeter flatbed camera will be required. In general, 16 millimeter rotary cameras are more economical and easier to operate than flatbed cameras when used to microfilm papers rather than bound volumes. If a rapid-retrieval cartridge (magazine) system is adopted it will probably be preferable, or even necessary to use a flatbed camera designed or adapted for use with 16 millimeter film. Several county officials are using the processor-camera type of equipment to produce microfilm in aperture cards.

**Reader-Printers.** One or more reader-printers will be required if it is necessary to prepare for use of the public print-out (paper) copies of records microfilmed.

**Readers.** Possibly one or more microfilm readers will be required in addition to, or in place of, reader-printers. The number, of course, will depend upon the amount of public usage of the microfilm.

**Microfilm Processors.** Microfilm processing (developing) equipment may be required, but unless the amount of microfilming done is considerable (a reel or more per day) a county official will probably not want processing equipment but will arrange to have the processing done by a commercial company, probably the company from which raw microfilm is purchased.

**Microfilm Specifications.** The American Standards Association has promulgated specifications for photographic films for permanent records (USA Standard Specifications for Safety Photographic Film--USAS PHI-25-1965). The Department of Defense has also prepared data on microfilm reproduction standards and specifications and these have been adopted by the National Microfilm Association (NMA Information Monograph No. 1 Revised).

### Microfilm Forms and Procedures

To insure uniformity and to facilitate the use of microfilm, standard forms and operating procedures should be adopted. Samples of recommended forms are included as Exhibit 1. Forms may be printed or prepared by hand at your discretion. They consist of the following:

**Reel Number.** This is the first item to be microfilmed and it identifies the reel, by listing the number, the year, and the office of origin.

County and Office of Origin. This form contains the name of the county and the office of origin in large letters which will permit easy identification of the reel without having to place it in a reader.

Target Sheet. The target sheet contains the name of the office having custody of the records, the title of the record, or record series, volume number (of bound book or equivalent), inclusive dates of records (if possible), pages (of bound book or equivalent), date microfilmed, and reduction ratio used. If a reel is completed in a day, the date may be entered. If the filming period extends over several days, or weeks, it is sufficient to enter the month in which the filming was completed.

Certificate of Authenticity. To insure legal acceptance of microfilm copies of public records, a certificate of authenticity should be microfilmed at the end of the reel, unless a splicing certificate is also microfilmed, in which case the certificate of authenticity should be next to the last item.

Splicing Certificate. A spliced reel may raise the question as to whether something has been added or deleted illegally. To eliminate this possibility, a splicing certificate should be dated and signed by a responsible member of the staff of the department or office concerned and microfilmed at the end of the reel.

#### Microfilm Order and Spacing

Starting with a new roll of film in the camera, the order and spacing graphically illustrated in Exhibit 1 should be followed.

#### Storage of Security Microfilm

The security microfilm negatives should be stored in some place other than the building in which the original records are kept. Security negatives of records of permanent value should be stored in a microfilm storage vault. Security negatives of records should be stored in a cool, dry place which is free from dust, dirt, chemical gasses, and other pollutants. Ideally, storage temperatures should not exceed 50-60 degrees Fahrenheit and the relative humidity should be kept down to 20-30 percent. Obviously, it will seldom be possible to achieve these ideal conditions, but temperature and humidity should be kept as near the ideal as practicable. Microfilm properly processed and stored will last almost indefinitely, but it may deteriorate rather rapidly in unsatisfactory storage.

#### Computerization in the Courts

Computers have been here for some time now, and the administration of courts a great deal longer, but it is only recently that the two have discovered each other. There is a growing interest in courts throughout the country in studying the potential for computer applications to various aspects of the court management system in the hope that automatic data processing will cure the judicial process of its inefficiencies, reduce backlogs and delay, and provide split-second scheduling. In the proper environment, computers can help to streamline court and clerical administration; can be employed to

EXHIBIT 1

(LETTERHEAD)

CERTIFICATE OF AUTHENTICITY

This is to certify that the microphotographs appearing on this reel are true and accurate reproductions of the records listed on the target (title) sheet preceding each volume or series of records microfilmed hereon; that the records were microfilmed on the date, or during the period, and at the reduction ratio indicated; and that when microfilmed, the records were in the custody of the department, office, or individual listed on the target sheet(s).

[Signed] \_\_\_\_\_  
Camera Operator

Date \_\_\_\_\_

SPLICING CERTIFICATE

This is to certify that sections of this reel have been spliced together by the undersigned, a member of the staff of the office of the clerk of court, in order to complete one or more volumes, or a complete series of records, on the same reel.

[Signed] \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_ [Title]

MICROFILM ORDER AND SPACING

Reel No.	Space	County and Office of Origin	Space	Target Sheet	Space	Text	Text	Space	Certificate of Authenticity	Space	Splicing Certificate (if used)

provide instant access to information that in some courts is too voluminous to do manually; and can supply scheduling, managerial, and statistical information which has the potential for rationalizing much that is currently haphazard and inefficient in judicial administration. Some of the uses to which computers have been employed in courts include indexing, docketing, scheduling, jury management, traffic summons processing, general accounting and case monitoring. The following is a brief description of some of the tasks that data processing has been able to perform better and more cheaply in various jurisdictions.

### The Index

As each case is opened, information is entered either through keypunched cards or a terminal directly into the computer. A program automatically sets up an index of relevant facts. The index includes the names of the plaintiff(s), defendant(s), and file number as well as the names of the attorneys of record, judge, and other information which is desired.

The indices will then be printed on a periodic basis (e.g., weekly) in a completely alphabetical order, thus reducing much of the search time involved in manual systems. Where terminals are used to input the information, completely alphabetized indices are available immediately and can be called back on the terminal by requesting the program to display that information.

In criminal cases, some systems provide for displaying all cases in which a particular defendant is involved. For instance, an individual released on bail and rearrested a few days later can be spotted immediately when the computer program routinely checks the index.

### The Docket

As each intermediate action occurs after the initiation of a case, information is added to the computer file. Beginning with the complaint or information in a criminal case or the filing of a civil suit, every action is recorded complete with time and date right through ultimate disposition.

The docket is retrieved and displayed on a terminal screen simply by entering the file number on the terminal. If equipped with a printer, permanent copies of the displayed information can be quickly provided.

### Scheduling

On a daily basis, information that goes into the computer can be coordinated with the data on attorney commitments and status of current cases. This assists court managers in setting court calendars.

The computer can assist in maintaining a conflict-free assignment schedule. With information readily available to court clerks, courtroom scheduling on a day-to-day basis can be significantly improved.

### Jury Management

Names for jury duty from voter registration lists and other records can be entered into a computer system. The computer then scans these lists on a selective basis to produce a master list with all duplicates eliminated.

A random number generator can be programmed into the system and selection of prospective juror names can be made therefrom by a statistically valid random method.

Preliminary information may be obtained by mailing qualification questionnaires--addressed by the computer--to those who were selected. Responses can then be entered into the computer, and those who are to be excused from jury duty will then be deleted from the list of presently available prospective jurors. As jurors are periodically needed for individual panels, the required number will be automatically selected from the list of qualified prospective jurors and summonses printed by the computer. The only manual step involved is the deposit of the summonses in the mail box.

As jurors report and serve, this information is entered into the system to create a record of service which will provide the necessary information for payment of jurors upon completion of their term of service.

#### Traffic Summonses

The computer can monitor traffic offenders' appearance on stated dates, record payment of fines, check for other open violations, produce follow-up notices, update bail on the basis of prior violations, issue arrest warrants, and follow each individual case to its ultimate disposition.

Payments to be made by mail can be monitored, notices of action required printed if payments are not received, and all record keeping handled as payments are made.

#### General Accounting

Machine methods of accounting have been in use for many years. In the context of financial management, the computer is a proven quantity which is capable of performing the job faster and more accurately.

An automatic data processing system can routinely handle all calculations required in general accounting functions. Such a system is capable of providing the tight controls needed to account for, and disburse, money collected on court orders and satisfaction of litigant claims, garnishments, and support payments and the like. Trusts set up under court jurisdiction are also tightly controlled. Processing fees for marriage licenses, fines, and bail for traffic and criminal matters, and fees for civil filing also lend themselves to computerization where the volume is sufficient to justify the cost of the system. Income from fines is often distributed among city, county, and state agencies according to a complicated formula which could be handled speedily and accurately by computer. All functions and steps taken are tracked and audit trails are provided.

Effective accounting procedures are built into the system and data needed for periodic reports can be captured daily and printed in detailed forms as needed. In addition, the computer can provide periodic reports of your expenditures in a format that will assist in planning and preparation of the next year's budget.

## Case Monitoring

With the basic information of every civil or criminal case entered in machine records, it is possible to create programs which will flag deviations from accepted processing standards. For example, the computer program can provide information on civil actions which will periodically list all of the oldest cases which may then be considered for dismissal on the court's motion. It can also flag cases abnormally delayed between lawyer-initiated stages, perhaps indicating unreported settlements or cases that could easily be settled if prodded by the court. In addition, the system can identify overrepresentation of particular law firms, perhaps indicating potential delay as a result of an unusual number of conflicts and continuance requests.

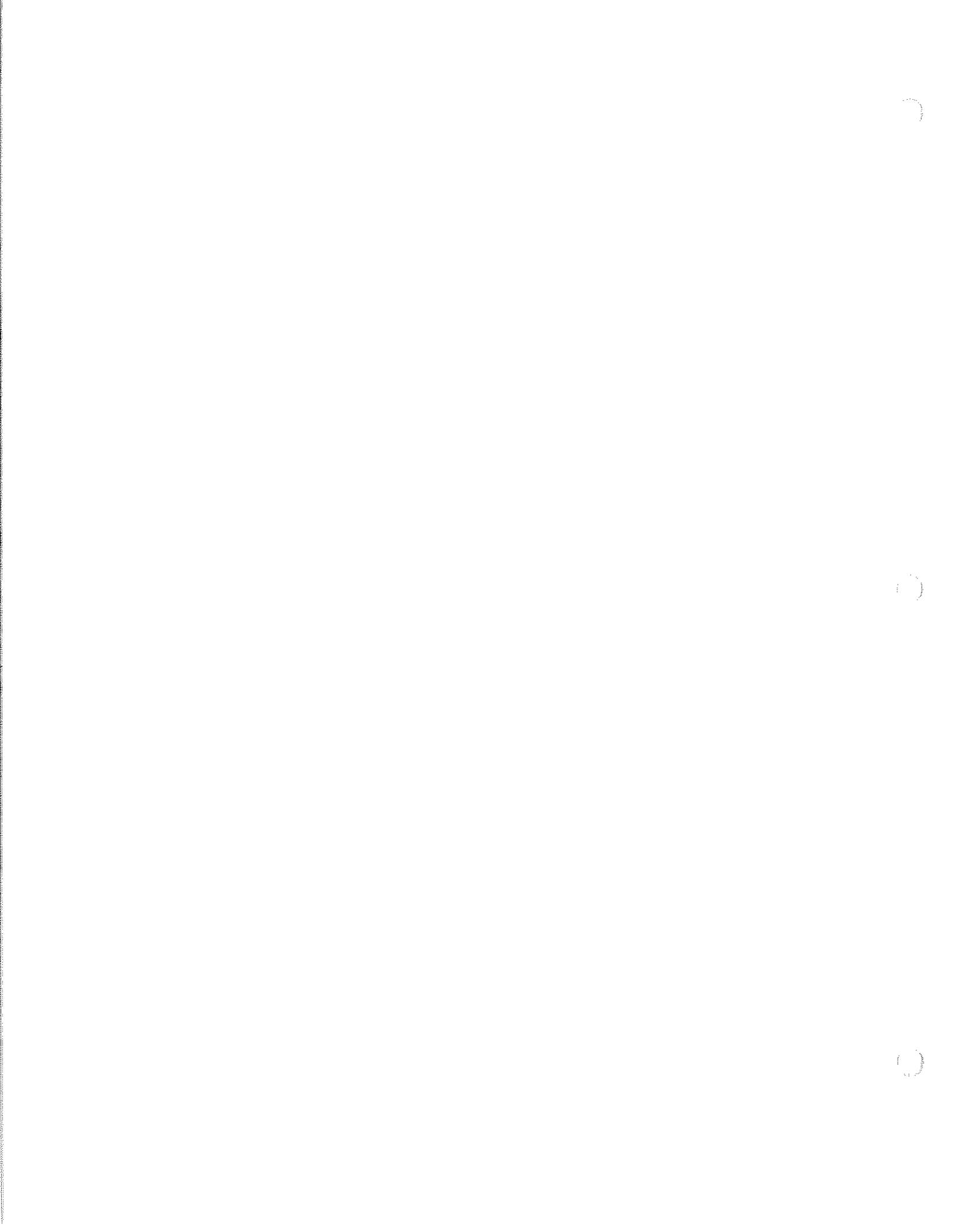
In criminal cases, the system can be programmed to provide exception reports on cases nearing speedy trial limits. For example, the program could print out all felony cases over 140 days old for the purpose of investigating the progress of the case toward disposition and insuring that it will come to trial or be disposed of within the statutory time limit.

Computerized case monitoring information provides the court manager with a tool which improves the court's ability to treat and reduce calendar congestion by providing accurate and adequate information on the causes of case processing delay.

## Implementation of Automated Systems

The basic question which must be answered in this regard is whether computerization can give you something essential to your operation and whether the cost can be justified. If the volume of business in your office is reaching a point where you feel that technology applications may be feasible, it is suggested that you first contact clerks who have implemented computerized systems in their offices. This consultation will provide you with first-hand knowledge of what the computer has done for them and with an understanding of the initial problems involved in installation which can be expected based on their experience. With this information as a frame of reference, you will be in a better position to evaluate the potential uses of automatic data processing and to make an informed decision on its feasibility in terms of cost/benefit when consulting with technical personnel on the specific problems and needs of your office which might be addressed by computerization.

Most government agencies which maintain their own computer facility do not use it to its maximum capacity. Consequently, it is quite possible to develop programs specifically for the clerk's office to be run on such computers on a shared time basis. Developing computer systems or programs to perform particular tasks now handled manually is a matter of analyzing the needs of the office and having the computer technician program accordingly. Of course, only when the cost of an automated system can be justified by the benefits of more efficient and accurate records and reduced clerical requirements, should it be implemented.



## Chapter 9

### JURY MANAGEMENT

#### Jurors in General

All eligible electors of the state, of good moral character, sound judgment, and in full possession of the senses of hearing and seeing, and who can speak, write, and read the English language are qualified to serve as jurors in their respective counties. (Secs. 607.1, 609.1)

The major purpose of Iowa's laws regarding jurors is to set forth clearly the policy that all persons selected for jury services be selected at random from the broadest possible cross-section of the population of the area served by the court.

Exemptions from jury service are allowed under this chapter for only three categories of people:

1. Persons holding office under the laws of the United States or Iowa.
2. Practicing attorneys.
3. Persons conscientiously opposed to acting as a jury because of religious faith. (Sec. 607.2)

In addition, the court may, in its discretion, excuse a prospective juror upon showing that the person's own interest or those of the public will be materially injured by his/her attendance, or when the state of the person's health, or the death or sickness of a family member, requires his/her absence from court. (Sec. 607.3)

Jurors receive ten dollars as compensation for each day's service, plus mileage expenses at the rate specified in Section 607.5. Upon conclusion of every calendar quarter the clerk of the district court shall certify to the county auditor a list of the jurors with the number of days of attendance to which each one is entitled compensation.

#### Jury Commissions

In each county the judges of the district court in the judicial district where the county is located shall, on or before October 1 of each year in which the general election is held, appoint three competent electors as a jury commission to select and make lists of names of persons to serve as grand and petit jurors and talesmen for the two years beginning January 1 after such election. (Sec. 608.2) The appointment shall be in writing, signed by three judges of the judicial district and shall be filed and made a matter of record, in the office of the clerk of the district court. The clerk of the district court shall at once notify each appointive commissioner of his/her appointment. (Sec. 608.4)

The appointive commissioners shall qualify on or before the tenth day of October, following their appointment, by taking the oath of office required of civil officers. The oath shall be subscribed by them and filed in the office of the clerk of the district court. They shall hold office for the term of two years and until their successors are duly appointed and qualified. (Sec. 608.7)

There is also an "ex officio jury commission" authorized by the Iowa Code. In all counties the clerk of the district court, the county auditor, and the county recorder constitute the ex officio jury commission to draw jurors from a list prepared by the appointive commission. (Sec. 608.1)

#### Selection of Jurors

The appointive jury commission shall, on the second Monday after the general election is held on each even-numbered year, meet at the courthouse, and return on blanks furnished by the county, the lists of grand jurors, petit jurors, and talesmen. (Sec. 609.1)

For the purpose of aiding the appointive commission in drawing the jury lists, officials of the state and its political subdivisions shall furnish the appointive commission with copies of the current list of registered voters, tax assessments lists, lists of persons holding motor vehicle operators' licenses, or such other comprehensive lists of persons residing in the county as the commission may request. The clerk of the district court shall also deliver to the commission a list of all persons who have served as grand or petit jurors since January of the preceding year. (Sec. 609.5)

The appointive commissioners shall, after certifying the jury lists, deposit them with the county auditor on or before the first Monday of December of the year in which the lists are made. Within five days after such lists are deposited with the county auditor, the auditor and clerk of the district court shall prepare separate ballots and deposit them in separate boxes for each class of jurors. The boxes shall then be sealed by the auditor, in the presence of the clerk, and deposited with the clerk of the district court. (Secs. 609.12, .17)

In counties containing a city having a population in excess of 50,000, according to the latest census, petit jury panels shall be drawn six times annually to serve for the following two months, and in other counties they shall be drawn four times annually to serve for the following three months. (Sec. 609.19)

Petit jurors shall be drawn by the ex officio commission at the office of the clerk of the district court. At least five days prior to the day of such drawing the clerk shall notify in writing the other members of the ex officio commission of the time and place of the drawing. The court may by order prescribe the time for such drawing. The clerk shall notify the jurors thus drawn of their selection and of their obligation to report for service when called. (Secs. 609.20, .21)

A grand jury panel of 12 persons shall be drawn by the ex officio commissioners from the grand jury box on or before the last secular Monday of

December preceding the new calendar year. In drawing grand jurors, not more than one person shall be drawn as grand juror from any election precinct in the county. (Sec. 609.25)

The clerk shall file the lists of grand and petit jurors in his/her office and immediately, upon order of the court, issue his/her precept to the sheriff, commanding this officer to summon the persons drawn for jury duty to appear at the courthouse at such time as the court may prescribe. (Sec. 609.30)

The final stage of the selection process involves only the petit jury and occurs in the courtroom. Usually the names of the panel of prospective jurors are placed in a box, or other receptacle from which names are drawn by lot for "voir dire" examination by attorneys involved in the case. As jurors are challenged and excused, additional names are drawn at random from the box until the requisite size jury acceptable to both sides of the case is drawn.

### Jury Management Considerations

Jury duty is the first exposure that many persons have to the court system. Therefore, it is particularly important that the jurors' impressions of the court be a favorable one. Persons called for jury service usually know little about the judicial system or what is expected of them as jurors. Since clerks have the most personal contact with jurors, it is imperative that such court personnel be sensitive to their perceptions, problems, and expectations.

Jury service is both a privilege and an obligation of citizenship. It can be a rewarding experience for each citizen who serves. It provides an opportunity to see courts in action and for taking part in a vital democratic service. When adequately informed about the judicial process and their role in it, and given courteous treatment, jurors generally come away with an improved regard for the work of the courts.

The place to begin creating a favorable impression of the work of the court is with the very first contact made with the prospective juror -- the summons. An information sheet should accompany the summons and inform prospective jurors of at least the following:

- How to get to the court and where to report.
- Brief description of jurors' duties or include a bar association handbook.
- Jurors' fees and mileage compensation.
- Duration of service.
- Parking.

Exhibit C on pages 9-11 and 9-12 is an example of a juror instruction sheet which could be used for this purpose.

In an effort to reduce the amount of clerical time involved in scheduling and rescheduling jurors and to reduce jury costs, an increasing number of courts of all sizes are utilizing automatic telephone answering devices to inform the jurors when to report or to change previous information. This

allows jurors to stay home or go back to work when not required for panels and saves many trips to the courthouse.

An effective means of saving time on the "voir dire" and also providing efficient controls over juror requests for excuses is to mail out questionnaires together with the summons and the information sheet. (See Exhibit B on pages 9-9 and 9-10 for a sample questionnaire.) The purpose of this questionnaire should be to solicit information from the prospective jurors which may be used by the attorneys to supplement "voir dire" questioning. Secondly, jurors requesting to be excused can do so when submitting the questionnaires at the beginning of the service period, rather than waiting until just prior to, or on the day of, the trial to receive notice that the juror wishes to be excused. Of course, emergency situations must still be allowed in terms of last minute requests to be excused from jury service.

The actions of all court officials and personnel, in showing appreciation for jurors' time and consideration of the personal inconvenience jury duty has caused them, can have a profound influence on their view of the court. When jurors understand the process and their role, and feel that they have been courteously and respectfully treated by court personnel, their favorable attitudes toward the court ripple into the community. Conversely, a lack of consideration for their comfort and convenience by court personnel will create a negative impression of the court which, over time, undermines community respect for the judicial process.

Perhaps the most important and lasting impression jurors will have of the court is created as of their first reporting date. The greatest possible consideration should be given to the convenience of jurors. They should be provided with comfortable waiting facilities. A brief but comprehensive orientation session should be provided to new jurors. This orientation session may be divided between remarks made by the clerk relating how jurors' names are selected, what the jurors should expect during their period of service, and other administrative matters; and remarks of the judge setting forth the legal nature of their function. However, it is appropriate for the entire orientation to be given by any one of these court officials.

## EXHIBIT A

The following are suggested remarks which may be made to prospective jurors that should assist in answering their questions and reducing their anxiety regarding jury service. (A book entitled Trial Juror's Manual is available from the Iowa State Bar Association for use by clerks in preparing an orientation for jurors.)

### Suggested Welcoming Remarks

#### Opening Statement

For many of you this may be a first experience; some may never have been in a courtroom or taken any part in a lawsuit, so this court experience is strange and new.

This government of law gives you the right to use the courts for the purpose of settling a dispute by means of a lawsuit. This right exists even though an individual citizen may never exercise it, since most disputes are settled without recourse to the courts. Every lawsuit tried in court has an important bearing on the future resolution of disputes because the court proceedings in similar lawsuits serve as a guide or standard by which these disputes are settled in future legal proceedings and outside of court. Therefore, while a fair and impartial trial is of great importance to the actual participants, it is of equal importance to the people at large. The right to a trial by jury is one of the most important rights Americans enjoy. This right is guaranteed to all United States citizens, by the Constitution and the Bill of Rights, and to us, as residents of Iowa, by our State Constitution.

#### Jury List Selection

Jury lists are drawn from the current list of registered voters, tax assessments lists, lists of persons holding motor vehicle operators' licenses, or such other comprehensive lists of persons residing in the county as the commission may request. The clerk of the district court shall also deliver to the commission a list of all persons who have served as grand or petit jurors since January of the preceding year. If you are drawn and serve on two jury cases, you may request to be excused from further jury service in the quarter. (Sec. 609.19)

#### What Is a Lawsuit?

When two parties have reached an impasse and are unable to resolve their dispute, the party feeling aggrieved may bring a lawsuit against the other party. This is done by filing a complaint in the office of the clerk of court and serving a copy of the summons and complaint upon the other party. The party bringing the lawsuit is known as the plaintiff; the party upon whom the summons and complaint is served is known as the defendant. If the defendant denies the claims of the plaintiff, an answer is served on the plaintiff. These papers are then filed in the clerk of court's office and the case is generally scheduled for trial.

## Waiting Time Serves a Purpose

Because of necessity, you will be waiting for periods of time in a jury assembly room for assignment or dismissal. We will try to release you each day as soon as possible. The fact that you are waiting here means we have a potential need for you as jurors. In this court system, we set a certain number of cases for trial each day. We do not know how many of these cases will be disposed of by negotiation and settlement or plea before going to trial. Only after all cases scheduled for the day are assigned out and it is determined whether and when a jury will be needed can we release you for the day.

Before a jury panel is called to a courtroom, the judge and lawyers attempt to dispose of the case by settlement. This is true of criminal cases as well as civil cases. A large percentage of cases settle on the day of trial; if they didn't, the cost of justice would be prohibitive and the delay for getting cases to court would be overwhelming. Please do not feel that the time spent waiting is wasted. Your presence here is an essential element of the judicial system and plays a vital part in the court process to settle cases.

## Basic Procedures for Trial by Jury

When a panel of jurors is needed, the required number of names will be drawn from the master panel and assigned to a judge and courtroom.

Simple misdemeanors are tried by a six-person jury; other misdemeanors, felonies, and civil cases other than small claims are tried by juries of 12 persons unless the parties stipulate to other arrangements.

After you have arrived at the courtroom, the jury slips with your names on them are placed in a box or tumbler. Then (number of) names are drawn, one at a time.

A brief statement will be made about the issues of the case and the identity of the parties and lawyers. In all cases, prospective jurors will be questioned about their qualifications to act as fair and impartial jurors for that particular case. Anyone found not qualified may be challenged for cause, and the questioning will continue with the next prospective juror. When all have been examined, the plaintiff and defendant exercise their right to (number of) pre-emptory challenges (no cause required) by alternately striking names from the jury panel. This right may be waived. However, each party must strike two jurors. When the required number of jurors are excused, the remaining persons are sworn as jurors for that case. Those not selected are released for reassignment or dismissal.

## Trial Procedures

First, the plaintiff's attorney will make an opening statement about what he/she intends to prove. In a civil case, this is the plaintiff's attorney; in a criminal case, it is the county attorney. The attorney for the defense may then speak about what he/she hopes to prove, but he/she often waits to do so until later.

After the opening statement, the side bringing the suit, the plaintiff or state, presents its evidence. This will be by means of witnesses and/or exhibits. They will be questioned first by one side and then cross-examined by the other, and the attorney may bring in letters, papers, charts, weapons, and other exhibits to help prove his/her case.

When the plaintiff or the state has given evidence, the other side will put on its defense. At this time, you will usually hear the defense attorney's opening statement, and again you will listen to witnesses and see exhibits.

Occasionally, the attorneys may challenge (make an objection to) a question asked by opposing counsel, the introduction of evidence, or a statement made by a witness. When this happens, the judge will instruct you on how to deal with the objection. You are to strictly follow the judge's ruling.

At the conclusion of the defendant's presentation of evidence, each attorney sums up his/her case; this is called "final arguments." He/she states what he/she believes the evidence shows and why it favors his/her side.

### Functions of Judge and Jury

At this point, the judge will instruct you on your duties as a juror. The judge is the presiding officer of the courtroom, and he/she alone decides what law shall apply to the case. Even though you believe a ruling of the court during trial or the law of the case as given to you by him/her is erroneous or unfair or doesn't otherwise coincide with what you think it should be, you must accept it as given and act on that basis, for the responsibility in these matters rests entirely upon the court - not upon you, the jury.

You, as a jury, are to determine the facts, credibility or worthiness of the testimony of the witnesses. The court may not interfere in that field. Likewise, the court is to determine the law as it applies, and you may not interfere in that field.

After the court has instructed the jury, the bailiff will be sworn, and he/she will usher you to the jury room where you will consider the evidence presented and decide upon a verdict (deliberate).

### Juror's Conduct

Please be on time for all sessions and occupy the same seat in the jury box throughout the trial. Don't talk to anyone about the case while evidence is being presented. This could be grounds for a mistrial which could result in delay of the case and additional expense to the litigants and to you and me as taxpayers.

In the jury room, the first thing you do is select one of your fellow jurors as foreman or forewoman. He/she presides at your deliberations and brings your verdict into court. The whole idea of a jury is that its members will come to a decision after full and frank discussion and calm, unbiased reasoning.

## The Verdict

When you have reached a verdict, you are ready to inform the court about it. The foreperson will record your verdict on an official form. The bailiff will usher you back into the courtroom, and the judge will ask, "Have you reached a verdict?" and the foreperson will respond, "We have, your honor." The verdict will be read as it will be recorded upon the records of this court. The judge will then ask, "Is this your verdict?" after which the foreperson will reply, "It is."

Sometimes one of the parties will ask that the jury be polled. This means that the clerk will ask each juror individually if this is his/her own verdict.

## Court Sessions

Court sessions usually begin at \_\_\_\_\_ a.m., and recess for the day at \_\_\_\_\_ p.m. There will be a noon recess running from 12:00 noon until 1:30 p.m. The beginning of the noon recess depends on what is an appropriate place in the proceedings, and the time for starting the afternoon session depends upon what other court matters the judge must take care of during that recess. You see, there are other duties and functions required of a judge in addition to presiding at the court sessions for a particular case, such as sentencings, violation of probation hearings, various motions, preparation of instructions, and other court matters that must be attended to outside the sessions.

Usually the court will recess during the morning session and once in the afternoon for personal comfort, so don't be apprehensive about having to sit for more than two hours without moving about. Quite often these recesses are used by the judge and lawyers to discuss the law of the case, or may even be an attempt to negotiate a settlement - so be assured that time is not being wasted during those recesses. There is a reason for them.

EXHIBIT B

SAMPLE

PLEASE COMPLETE AND RETURN WITHIN FIVE (5) DAYS OF RECEIPT HERE-  
OF.

JUROR QUESTIONNAIRE No. \_\_\_\_\_

1. Name \_\_\_\_\_  
(last) (first) (middle) (first name of spouse)
2. Home address \_\_\_\_\_  
(route or street & no.) (city)
3. Phone No. (home) \_\_\_\_\_ (work) \_\_\_\_\_
4. Age \_\_\_\_\_ Place of birth \_\_\_\_\_
5. Years of residence: In Iowa \_\_\_\_\_ In \_\_\_\_\_ County \_\_\_\_\_
6. Marital status: Married ( ) Single ( ) Widowed ( ) Divorced ( )
7. If you have children, how many? \_\_\_\_\_ Their ages \_\_\_\_\_
8. Extent of your formal education \_\_\_\_\_
9. Your occupation \_\_\_\_\_ Employer \_\_\_\_\_
10. Spouse's occupation \_\_\_\_\_ Employer \_\_\_\_\_
11. If retired: Last Occupation \_\_\_\_\_ Employer \_\_\_\_\_
12. If widowed: Spouses last occupation \_\_\_\_\_ Employer \_\_\_\_\_
13. Have you ever served as a juror before? \_\_\_\_\_  
If so, what kind of case? (civil or criminal) \_\_\_\_\_ What year? \_\_\_\_\_  
What was the outcome of the case? \_\_\_\_\_
14. Have you or has any member of your immediate family ever been a party to  
a lawsuit? \_\_\_\_\_ If so, in what Court? \_\_\_\_\_ When? \_\_\_\_\_
15. Have you or has any member of your immediate family ever made a claim of  
damages for personal injury? \_\_\_\_\_
16. Have you or has any member of your immediate family ever had such a claim  
made against you? \_\_\_\_\_
17. Are you related to, or are you close friends of, any law enforcement  
officer? \_\_\_\_\_ If so, who? \_\_\_\_\_

18. Have you, or has any member of your immediate family, been a victim of any crime? \_\_\_\_\_ If so, what? \_\_\_\_\_
19. Do you drive an automobile? \_\_\_\_\_ If so, how long? \_\_\_\_\_
20. Do you have any physical defect that would make it difficult for you to serve as a juror? \_\_\_\_\_ If so, what? \_\_\_\_\_
21. Are you enclosing a request to be exused from jury duty? \_\_\_\_\_
22. Have you ever been convicted of a felony? \_\_\_\_\_

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND CORRECT

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature of Juror

PLEASE ANSWER THE ABOVE QUESTIONS, SIGN YOUR NAME AND RETURN IN THE ENCLOSED ENVELOPE TO THE CLERK OF THE DISTRICT COURT.

FOR OFFICE USE: Case: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT C

SAMPLE

JURORS INSTRUCTIONS AND INFORMATION

NOTE: This sample instruction sheet should be modified to meet the particular needs of your office.

Questions concerning jury service should be addressed to \_\_\_\_\_, Clerk of District Court, Box 458, West Union, Iowa 52175, Telephone 422-3146.

**JURY TERM:** Jury service is for one quarter (three consecutive months) unless you are excused by the court. When a jury trial is ordered each juror shall receive a summons to appear at such time as the court may prescribe. Please report promptly at the designated time.

**LOCATION:** Petit jurors may be called to appear either in District Court (third floor of the Courthouse), West Union Magistrate Court (first floor of the Courthouse), or Oelwein Magistrate Court (Oelwein City Hall).

**PARKING:** Jurors may park on either the North (E. Main St.) or East (Walnut St.) sides of the Courthouse or in the Courthouse parking lot. Do not park on the South or West sides of the Courthouse, as there is a two-hour time limit for parking.

**REPORTING FOR JURY DUTY:** Unless your jury summons is for Oelwein Magistrate Court, report to the Clerk of Court's office on the second floor of the Courthouse in West Union. There you will receive a jury "venire" card and will have it punched. You should then go to the Courtroom on the third floor and wait for further instructions by the judge or Clerk of Court. If the jury summons is for Oelwein Magistrate Court, go to the City Council Room at Oelwein City Hall, where you will receive your jury "venire" card from the Bailiff.

**JURORS FEES:** The State Legislature has authorized the Court to pay \$10 each day you report for a trial, plus statutory mileage. Payment is computed from the jury "venire" card which must be turned in to the Clerk of Court on or after the last day of the quarter. A check is mailed to your home address approximately four days later. Certification of attendance for your employer can be obtained from the Clerk's Office.

**TRIAL DURATION:** Average trial length is one to three days, but a few trials may last longer. The trial judge will advise you of probable trial duration.

TO REPORT  
AN ABSENCE:

If illness or emergency prevents your attendance, call 422-3146 as early as possible after receiving notice of trial.

CANCELLATION:

Occasionally, matters set for jury trial may be settled or dismissed prior to trial. It will be the responsibility of each member of the jury panel to call the telephone number listed below between 5:00 p.m. the evening prior to the trial date and 8:00 a.m. the morning of the trial, and a recorded message will inform you whether or not the trial has been cancelled and whether or not you must appear. Any member of the jury panel who appears unnecessarily, after a trial has been cancelled, will not be paid for appearing on that date. The number to call to receive the above-mentioned recorded message is:

(319) 422-3573

If you are calling from outside of West Union, you may have the operator dial the number collect.

QUESTIONNAIRE:

Please complete and return the attached juror questionnaire within five days. Your answers to these questions will help improve jury service. All responses are voluntary and confidential.

## Chapter 10

### THE COURT AND COMMUNITY RELATIONS

#### Introduction

In recent years, courts have become increasingly aware of the importance of their image and of good community relations. As social problems have dramatically increased and thus court congestion and backlog have grown, the administration of the judicial system has become the focus of concern and criticism.

Achieving fair and efficient administration of justice is neither highly visible or dramatic. In the vast majority of cases, the responsibility of the court is fulfilled by careful and consistent adherence to procedural and administrative rules and practices. Success or failure in meeting this responsibility is the aggregate result of innumerable actions and decisions, rather than the product of bold, "attention-getting" occasional intervention. Consequently, because of the complexity of the legal process and the infrequency with which the general public is involved in the court system, the judicial branch of government remains an unknown quantity -- a mystery -- to most of our citizens.

Nevertheless, courts must operate in a context that at times subjects them to extremely close public scrutiny. As a result, court/community relations inevitably exist, and the quality of these relations has an important impact upon the ability of the judiciary to perform its function effectively. A law-abiding atmosphere is fostered by public respect for the court process. Such attitudes correspondingly suffer when public scrutiny results in public dissatisfaction. The perception the community has of the court system also has a direct impact on court processes, as when it affects the willingness of members of the community to appear as witnesses, serve as jurors, or support efforts to provide courts with adequate resources.

Individuals have various responses to the court system -- fear, awe, hostility, respect, indifference, and confusion. For the most part, public attitudes toward the court are neutral at best. Yet our experience tells us that ignorance of the principles and workings of the administration of justice is the primary cause. Juror experience is a classic example of that fact. Generally, an understanding of the process overcomes neutral or negative attitudes toward the courts. As a branch of government depending on the consent of the governed, courts have a responsibility to make their activities open to scrutiny and appraisal. To fulfill its informational obligations to the public, courts should establish vigorous and well-planned programs including systematic procedures for responding to inquiries and for disseminating information about their activities.

The following discussion focuses on two ways in which court personnel can assist in accomplishing this goal:

1. daily information provided on request; and
2. affirmative programs of public information and education.

As previously stated, one major deficiency in court/community relations is the lack of informational services in the courthouse itself. Participation in the criminal justice process, whether by a plaintiff, witness, juror, or defendant, often is a confusing and traumatic experience that leaves the participant with an unfavorable impression of the system. Public participants may experience difficulty locating the site of trials at which they are to appear. Generally, no provision is made for answering basic questions concerning the rights and responsibilities of participants, or the meanings of various parts of the process. Either of these factors reduces public respect for courts.

The lack of informational services also causes another problem: the public may request information from busy and harried court personnel who may respond abruptly or even rudely. This mistreatment of members of the community not only is inexcusable employee conduct, but also it has an adverse effect on the general attitudes of the community toward the judicial process.

The second major area in need of improvement is public information and education concerning the role of courts in the administration of justice. Inadequacies which exist in this area can be traced to several causes:

1. Because of the specialized terminology and procedures, legal proceedings are particularly difficult for the public to understand;
2. The availability of information often is not related to the importance of the proceeding as perceived by the public (e.g., access to information concerning a routine case, for example, may be much greater than access to information on a highly publicized case about which there is much public concern);
3. The absence of any centralized responsibility within the court system for disseminating information and educational material; and
4. The reluctance of some courts to engage in public relations work because of a feeling that this is not the appropriate function of judicial officers.

As you read the material that follows, ask yourself the following questions:

1. What image does the community have of the court?
2. What image should it have?
3. What steps are necessary to achieve this image?

Should this evaluation of the public's perception of the court result in the conclusion that improvements could and should be made, it should be remembered

that the accomplishment of that objective will require the cooperation of each and every court employee. Good community relations do not just "happen."

### Improving Court/Community Relations in Daily Activities

The clerk and his/her employees are perhaps the most visible and accessible participants in the judicial process. As a result, the impression which clerks leave with each individual with whom they come in contact has a very great impact on either enhancing or diminishing the community's respect for the court system as a whole.

Members of the clerk's staff come into contact with the public in three basic ways: (1) by telephone, (2) over the counter, and (3) through correspondence. Each of these media provides the court with an opportunity to foster public relations.

### Public Relations by Telephone Contacts

It is imperative that court personnel cultivate good telephone habits and manners for business conversations. A "good morning" or "good afternoon" as a word of greeting will be warmly received by the caller. Clear, distinct pronunciation is vital to a telephone conversation. You should vary the tone of your voice. An expressive voice will carry your personality over the wire. There should be no evidence of hurry, worry, boredom, or annoyance. If you speak too slowly, you may sound indifferent or bored. However, if you speak too rapidly, you may sound impatient. Be mindful of the "image" your voice projects.

The public will continue to count on you if your telephone manners show that you are courteous and efficient, and that you take a personal interest in anyone who calls. Treat every message as an important call. Let the other person tell his/her story completely and with as little interruption as possible; express a real interest in the other person's point of view. The basic elements of telephone courtesy are the same as those present in face-to-face contact, but they must be expressed by the voice alone. Telephone courtesy and efficiency may be accomplished using the following methods:

1. Answer the call pleasantly and promptly.
  - a. Always identify yourself and your office when answering or placing a call.
  - b. Use the caller's name whenever possible.
2. State clearly the purpose of the call.
3. Listen carefully; give your undivided attention to the telephone call.
4. Ask appropriate questions that lead to a better understanding of the situation. Make inquiries tactfully.
5. Offer assistance and volunteer information.
6. However, avoid unnecessarily long conversations.
7. Give the reason and ask permission when placing a caller on hold.
8. Remember to use "please" and "thank you."

9. Get the person's attention politely when returning to the line.
10. Conclude the call properly and replace the receiver gently.

Accurate recording of messages is of utmost importance. You should have on hand a standard memo pad, pen, calendar, a list of frequently-called out-of-town numbers as well as local numbers, and any reference material regularly used in your line of work. This avoids any delay in placing or answering phone calls and proper recording of messages. The caller's name (properly spelled), and the firm, department or title, if readily offered, should be noted. If the caller is reluctant to leave his/her name, be sure to verify the number to be called, including the area code if different from your own. The date and time the call was received are important, and the individual taking the call should always sign his/her name.

The ability to remain calm, cool, and collected is a challenge when your telephone explodes with activity. Don't panic! Keep your voice low and friendly. It is a mistake to let your voice become sharp, frantic, or impatient. *Being busy is never an excuse for being impolite!* If you have to, let the phone ring a moment longer; but when you answer, answer politely. If necessary, ask the person calling if he/she would "hold a moment, please." Whenever it is necessary to put someone on hold, be thoughtful and keep him/her posted. Assure him/her -- as he/she waits helplessly on the other end -- that you are trying to channel his/her call, locate the person, or gather the information requested. The caller won't mind the wait nearly so much if he/she knows that he/she isn't being neglected or forgotten. Thank the caller for being patient. Any person who regularly answers the office phone should also be familiar with the work of the other offices so any calls may be referred quickly and efficiently.

Using the telephone properly is really very simple. Just remember to extend the same courtesies that you wish to receive when placing a call.

#### Over-the-Counter Public Relations

A pleasant smile and an appropriate word of greeting are of utmost importance in your over-the-counter contact with the public. By being cooperative and helpful to customers, you project an image of efficiency and graciousness to everyone with whom you come in contact. Every employee contributes to the impression the public receives.

Everyone likes to be remembered and called by his/her name. This important human and public relations habit cannot be overemphasized. The individual who recognizes a person on the second visit to the office is not only observing good business etiquette, but is making an excellent impression upon the person involved.

Knowledge of office procedures is basic to over-the-counter contacts. If there is any doubt as to information you are asked to provide be sure to refer to another source rather than to relay information which is not correct. Occasionally an individual becomes unreasonable in his/her demands and expects the impossible. Even in such isolated cases, it is necessary to do everything within your power to maintain a friendly attitude. Good

public relations may take years to evolve, but can be destroyed in an instant by careless or thoughtless actions or remarks. A human error can trigger a chain-reaction of adverse public opinion. If an individual is unusually talkative and the conversation is not relevant to the line of duty, it is permissible to excuse yourself and return to your work.

### Public Relations Through Correspondence

The elements of an effective business letter are accuracy, attractive appearance, completeness, courtesy, and readability. A basic tool in business communication is the simple sentence - a group of words that conveys a complete thought. A business letter is a comparatively short form of communication; therefore, every word should serve a purpose. Excessive wordiness should be avoided.

Accuracy means perfection in grammar, spelling, punctuation, and typing. It means that all facts and figures, including addresses and dates, are faultless. Titles should be used properly, and the salutation and complimentary closing should be appropriate. A dictionary and a grammar usage book should always be used when in doubt. Strikeovers are never permissible, and any erasures should be invisible. The arrangement is the most noticeable feature of the letter and can interest or prejudice the reader at a glance. The letter that has an attractive appearance creates a responsive atmosphere for the message you are trying to convey. Effective communication through correspondence can be achieved by using the following suggestions:

1. Keep the paragraphs short.
2. Make the first paragraph say something direct and concise.
3. Stop when everything necessary has been said.
4. Revise the letter wherever it may be improved.
5. Keep the tone of the letter natural. Use words that are familiar to you yet appropriate.

A business letter is usually written to obtain or impart information. A letter that does not contain complete information wastes the reader's time. If the letter does not fully answer the questions in the reader's mind and necessitates a follow-up letter, then it has failed. There are two categories of endings; those which ask for action of some kind, and those which are designed to leave a certain impression with the reader but don't require action. Be sure your letter has accomplished the purpose you have intended. When a person with whom you are not personally acquainted reads the letter you have written, he/she automatically forms an opinion of you and your office from the content, arrangement, and tone of the letter.

### Community Relations Through Attorneys

The most valuable aid to the practicing attorney is often the clerk of court and his/her staff. While much of the clerk's official time is expended in providing services to the general public, the bulk of that time is directed to assisting attorneys. Fault or delay is generally placed at the court's doorstep by the public; therefore the role the clerk plays in

assisting attorneys to move their cases through the system rapidly has a direct effect on expediting cases and improving the court's image.

### Local Practice and Procedure

Training new attorneys, and those who are involved in litigation only infrequently, is one of the most important services provided by the clerk's office to the bar. Law school professors often advise students that the clerks initially will be their primary source of information, since clerks usually know more than lawyers do about the details of practice and procedure. Consequently, a significant part of your time and an essential function you will perform will involve answering attorneys' questions having to do with the entire gamut of practice and procedure. It is important - not only to the smooth and efficient processing of cases through the system, but also to the improvement of the court's image - that you be as helpful and as responsive as possible to these requests for information. In this regard, the clerk's office can perform a great service for attorneys by preparing a written statement of procedures applicable to your court and in making them available to the practicing bar. This document might include information relating to special fee schedules, special rules in your particular district, and judges' calendars.

In addition to providing information to attorneys upon request, the clerk's office can be of assistance in reviewing documents for the correction of inadvertent errors or omissions. For example, if you find papers that are not signed, notarized, or contain other omissions, you should return them to the attorneys for correction so as to eliminate the embarrassment of their appearing before the judge only to find they must resubmit the material. Sometimes a pleading has not been filed. Notifying the appropriate attorney of that fact can save both him/her and the court valuable time in a scheduled proceeding which results in a continuance or a dismissal for lack of compliance with technical procedures.

Similarly, upon completion of hearings in a case, the clerk should review the file to determine that findings or special orders have been presented for the judge's signature and filed and that the judgment has been entered. Occasionally, an attorney will hold up filing of some of these papers while awaiting his/her fee. But the clerk should make sure that the file is completed within a reasonable time.

Whether the clerk's office or the attorneys involved in the case draft the judgment, you should be sure that the judgment conforms to the conclusions of law and order for judgment. Clerical review of judgments drafted by attorneys has often revealed a lack of conformity to the conclusions of law and order for judgment rendered by the court. To assist attorneys, the clerk should notify the appropriate attorney of the lack of conformity.

### Research

Clerks can also assist the practicing bar in performing limited types of research. For example, attorneys often will be unfamiliar with particular types of actions. The clerk can provide assistance in these circumstances by locating a similar type of action in the files which the attorney can use

as a model for the manner of proceeding and types of forms to be filed in the case.

In some offices, the clerk prepares statistical reports for the county attorney about the status of pending criminal files. These reports provide the county attorney with a basis for monitoring the criminal caseload to ensure that all cases are proceeding as required through the intermediate stages to disposition and that no case "falls through the cracks."

Finally, the clerk's office will be involved with providing information regarding the applicable law in a variety of matters - including vital statistics and marriages, as well as particular types of court actions. The practical, everyday experience of the clerk can be of great value to even the most knowledgeable attorney.

#### Public Inquiry Regarding Attorneys

On occasion, clerks will be asked to give a recommendation of an attorney. In this circumstance, the clerk should give the person requesting the information a list of all local attorneys, public defender or legal aid, (if available in your county), or direct the person to the yellow pages of the telephone directory. This procedure should be followed as to eliminate any appearance of partiality which could create problems between you and the attorneys.

#### Court-Appointed Attorneys

If there are several lawyers in your county willing to serve as court-appointed attorneys, you may prepare a list to be provided for the court as needed. This will ensure that all such attorneys have an equal opportunity to be appointed.

#### Collections

Generally, the clerk's office will not encounter problems with attorneys regarding payment of fees owed to the office, since some fees are required to be paid in advance. However, if such a problem does arise and cannot be worked out informally with the attorney involved, the clerk may bring this matter to the attention of the ethics committee of the Bar Association.

#### Confidentiality

At times, attorneys will discuss matters with you, attorneys will seek information from you, or you may hear discussions regarding individual cases. The information you obtain as a result of these contacts should be treated as confidential information. Taken out of context, a statement which you may consider harmless could prove damaging to someone's interest. At the very least, disclosure of information regarded by the attorney as confidential as between the two of you will result in strained future relations.

## The Judge/Clerk Relationship

Many of the clerk's duties and responsibilities are specifically prescribed by statute. However, many others are established through district court rules and in the day-to-day working relationship between the clerk and the judges of the district court.

The major responsibility of the clerk in this regard is to comply with orders of the court and to ensure that they are properly executed. The clerk is primarily responsible for maintaining accurate and complete records on which the judges depend in the decision-making process.

An equally important duty of the clerk is to provide support to the judge in courtroom proceedings. Each courtroom clerk must be trained in the nature and procedure of each type of case which will be heard and in the duties and responsibilities of the clerk in relation thereto. A competent and efficient clerk, who has properly prepared the appropriate files in advance, presents them in an orderly fashion as required, and is flawless in the performance of his/her court duties, will contribute greatly to the fostering of good relations between the judges and the clerk's office, and in turn, contribute significantly to a favorable public image of the court.

Clerks can also perform a great service to individual judges by acquiring an understanding of the unique procedures, forms, and other requirements with which individual judges feel most comfortable and/or require and by adapting his/her work methods accordingly. While many of the court processes with which the clerk is involved will be prescribed by statute, Supreme Court rule, or local rule, knowledge and application of these unique requirements will greatly enhance the judge/clerk working relationship.

Probably more important than mechanics or procedure, however, is attitude. The attitudes of employees frequently reflect the attitude of the employer. Since the judge is represented to a substantial degree by the clerk, the bailiff and court reporter in his/her dealings with litigants, jurors, and courthouse visitors, he/she is concerned with the public demeanor of these court employees.

A final aspect of the clerk's duties which will assist in maintaining good relations between judges and clerks is the providing of accurate information to attorneys. The clerk's office acts as the information hub of the court. Both judges and attorneys rely heavily on the clerk's staff to provide information upon which the schedules of all court system participants depend. Clerks must keep themselves informed of hearing dates and other matters on the judges' calendars so inquiries may be answered accurately. Similarly, clerks must be informed as to the whereabouts of the various judges so messages will be accurately received for and/or transferred to the judges in their absence.

## Conclusion

Court/community relations cannot - and must not - be avoided. The fostering of favorable court/community relations is an essential aspect of each court employee's work. The court's maintenance of public confidence

and support depends not only on discharging its responsibilities in the administration of justice, but also upon effectively communicating the fact that it is doing so.

The effective operation of our judicial system is dependent upon the extent to which that system is responsive to the needs of society and individuals. Your role as Clerk of the District Court in facilitating good court/community relations cannot be overemphasized. The watchwords for the office of the Clerk of District Court must be EFFICIENCY and COURTESY.



JUDICIAL STATISTICAL REPORTS AND  
MAGISTRATE ACCOUNTING SYSTEM

Instructions for Completing the Monthly  
Statistical Reports of Judicial Business

General Information

1. Statistical reporting forms, i.e., DC (District Court), JC/PC (Juvenile Court/Probate Court), SRFM-AJ (Summary Report for Full-time Magistrates and Associate Judges) and SJM (Summary Report for Part-time Judicial Magistrates) will be supplied to the clerks of the district court by the Supreme Court Administrator.
2. By the 15th of the month, all judicial statistics for the previous month shall be reported to the Supreme Court Administrator and the District Court Administrator.
3. The Supreme Court Administrator shall receive the white copy of each report; the green copy shall be forwarded to the District Court Administrator, and the yellow copy shall be filed in the Clerk's Office. See instructions on the statistical reporting forms.
4. District Court Administrators shall monitor the collection and reporting of judicial statistics and notify the Supreme Court Administrator of any amendments or corrections in the statistics reported.
5. The business of part-time magistrates shall be consolidated and reported on the SJM Form.
6. Actions of a district court judge acting as a part-time magistrate (i.e., original proceedings in small claims and simple misdemeanors, initial appearance and preliminary hearings in indictable criminal cases) shall be included in the figures on the SJM Form (or the SRFM-AJ Form if a county has no part-time magistrates).
7. The business of substitute and alternate full-time magistrates (Secs. 602.59 and 602.71) shall be consolidated and reported on the SRFM-AJ Form and included in the hospitalization and search warrant activity of full-time magistrates and associate judges on Forms JC/PC and SJM.
8. Hospitalization hearings for judges, magistrates, and referees are included on the JC/PC Form; search warrant proceedings for all types of judges are reported on Form SJM.

Items to Check Before Submitting the Monthly Reports

1. The number of cases pending at the beginning of the month should agree with the number of cases pending at the end of the previous month.
2. Balance the columns - the number of cases pending at the beginning of the month plus the number of filings minus the number of dispositions should equal the actual number of cases pending at the end of the month.

3. The number of pending cases in the various age categories (c.g., 90 days or less, 3-18 months, over 18 months) should equal the total pending at the end of the month.
4. The total number of simple misdemeanors (Item #3, DC Form) filed, disposed of, and pending should equal the combined number of simple misdemeanors (state and ordinance) cases reported as filed, disposed of, and pending on Forms SRFM-AJ and SJM.
5. The number of small claims disposed of by judicial officers (DC Report) should agree with the combined figures on the SRFM-AJ and SJM Reports.
6. The number of civil and criminal (indictable misdemeanors and felonies) cases assigned to associate judges and full-time magistrates (DC Report), must agree with the figures submitted on the SRFM-AJ Report.
7. The scheduled violations handled by the clerk's office without judicial assistance shall not be reported as cases docketed or disposed by magistrates or judges on the SJM or SRFM-AJ Forms; such cases shall be reported exclusively at Item #8, Form DC.
8. The number of formal juvenile hearings by various types of judicial officers (Item #1A, Form JC/PC) must parallel the total number of juvenile hearings reported at Item #1.
9. The number of state and ordinance simple misdemeanors involving a motor vehicle law or traffic ordinance on Forms SRFM-AJ (Items #5 and #6) and SJM (Items #3 and #4) shall not exceed the total number of state and ordinance misdemeanors reported at Item #1.

#### Definitions

1. "Civil Cases" - Include all law, equity, and special proceedings docketed in the civil, combination or special dockets (e.g., adoption and dissolution of marriage). In addition to ordinary civil matters such as contracts, domestic relations, torts, and property, regular civil cases also include such matters as: marriage dissolutions (and modifications), domestic abuse, paternity suits, adoptions, name changes, suits on institutional liens, uniform support act (URESA), contempt actions, habeas corpus, post-conviction relief, and small claims transferred or appealed to the district court. Hospitalization and substance abuse hearings (Chapter 229) conducted by a district court judge shall be reported both as a civil action at Item #1d, Form DC, and as a hospitalization hearing at Item #3a, Form JC/PC. Civil cases do not include probate or juvenile matters. The number of civil cases filed will not necessarily equal the number of actions in which court costs are collected.

"Civil cases" are divided into five groups: a) dissolution (Chapter 598, The Code), b) uniform support (Chapter 252B), c) domestic abuse (Chapter 147, Acts, Sixty-Eighth General Assembly, 1979 Session), d) other equity and law cases, and 3) small claims on appeal. Unless a civil matter is a dissolution action (or modification), domestic abuse, or a small claim on appeal, it should be reported as "other equity and law".

2. "Criminal Cases" - Include all cases docketed or filed on a) the transcript when an accused is bound to the Grand Jury, b) an indictment by Grand Jury, c) the filing of a Trial Information, and c) an appeal of a nonindictable (simple) misdemeanor case.

3. "Filed" - On original proceedings a case is to be checked as filed at the time it is docketed and assigned a case number. Pretrial motions and search warrant applications are not considered new filings. A case reopened by: 1) grant of a new trial, 2) reversal on appeal, 3) application for citation for contempt, 4) application for modification of an existing decree, and 5) application for revocation of probation is to be checked as filed at the time the order, procedendo or application is filed. In such cases, list the same case number, but change the last four digits to identify the age of the new proceedings. For example, an original divorce action filed in February, 1979, CD428-0279, reopened for modification in June, should be numbered CD428-0679 - the last four digits indicating the month and year the new case was filed.

Where two or more defendants are charged in the same indictment, information, or complaint, such cases shall be counted as multiple filings for statistical purposes. In other words, an information charging three defendants with a criminal act shall be counted as three individual filings, even though only one docket page is used. However, an indictment, information, or complaint charging a defendant with multiple offenses, arising out of the same transaction or occurrence, shall be counted as a single filing. A petition in a civil action involving multiple parties is counted as one filing only.

4. "Disposed of by trial to jury" - In addition to the final verdict of the jury, this term includes cases disposed of by any other method which took place after the jury selected to try the issues in that case had been sworn. Since a hung jury does not dispose of the case, the case is carried as pending until final judgment.

5. "Disposed of by contested trial to the court" - In addition to the final decision, the term includes cases disposed of by any other method which took place after the first witness was sworn to testify at the contested trial. Pre-trial hearings on motions and applications do not constitute a contested trial to the court. Nor does the filing of the reporter's notes necessarily indicate a contested trial. To insure accurate data on the number of "contested" trials, the judge in each case should inform the clerk of the types of disposition, i.e., contested or uncontested and if disposed of without trial, the type of action, i.e., guilty plea/default or dismissed/transferred.

Small claims and simple misdemeanors appealed to district court on the record shall be considered "contested."

a. In criminal cases "contested trial to court" includes cases where the accused: 1) waived his or her right to a trial by jury and was found guilty/not guilty by the judge or 2) plead guilty after the first witness was sworn to testify at the contested trial. A contested trial to court does not include a case where the defendant entered a plea of guilty before the trial commenced even though testimony was taken to aid the court in determining the sentence. Such cases are to be checked as "Disposed of without contested trial".

b. In civil cases a contested trial to court does not include a default case where evidence was taken solely to establish the right to relief or the amount of relief. Such cases are to be checked as "Disposed of without contested trial."

6. "Disposed of without contested trial" - In addition to the cases referred to in 5, this term includes dispositions by all other methods when they took place before a contested trial to a jury or the court commenced, as defined in #4 and #5.

a. Criminal cases disposed of by guilty plea and civil cases disposed by default (Sec. 631.5 and R.C.P. 230) shall be entered in the first column under dispositions "without contested trials".

b. Criminal and civil cases dismissed, withdrawn, settled or transferred shall be entered in the second column under dispositions "without contested trials".

c. When a change of venue is granted and a trial is moved to another county or judicial district, the case shall be considered "disposed of without trial" (transferred). The case shall then be docketed in the second county and counted as a new case filing (R.C.P. 173).

7. For statistical purposes, a case is considered "disposed of" at the time the judgment is entered or the jury verdict is returned. Cases involving deferred judgments, deferred sentences, or suspended sentences are considered terminated at the time the judge or jury determines the innocence or guilt of the defendant; disposition of a case is not contingent upon the pronouncement of sentence or satisfaction of probation.

Instructions on Completing Form DC

Item 1a. Number of dissolution of marriage actions (and modifications) pending, filed, and disposed of by: trial to jury, contested trial to court (judge), or without contested trial (default or dismissal/transfer). Age of pending cases: 90 days or less, 3-18 months, or over 18 months.

Item 1b. Number of proceedings under the Uniform Support of Dependents Law (Chapter 252A).

Item 1c. Number of domestic abuse actions.

Item 1d. Number of other equity and law actions.

Item 1e. Number of small claims appealed to the district court.

TOTAL CIVIL - Total all columns - pending beginning of month, filed during month, disposition by jury, contested trial to court, without contested trial (default or dismissed/transfer), pending end of month, and age of pending cases.

Item 2a. Number of First and Second Offense OMVUI cases (Operating a motor vehicle while under the influence . . . Section 321.281, The Code). Pending, filed, and disposed of by jury, contested trial to court (judge), and without contested trial (guilty plea/dismissal). Age of pending cases: 90 days or less, 3-18 months, over 18 months. First and Second offense OMVUI cases are serious and aggravated misdemeanors, respectively; they are indictable misdemeanors.

Item 2b. Number of other indictable misdemeanors pending, filed, and disposed of and the age of cases pending at the end of the month.

Item 2c. Number of felonies pending, filed, disposed of and the age of cases pending at the end of the month. If the type of criminal offense is not listed on the information, the clerk is advised to consult the Code or ask the county attorney to classify the case as a felony or indictable misdemeanor.

Item 2d. Number of simple misdemeanor cases appealed to the district court for a new trial.

TOTAL CRIMINAL - Total all columns - Cases pending beginning of month plus filings during month minus dispositions by jury, court, and without contested trial equals the number of pending cases at the end of the month. The number of cases grouped under the three age categories shall equal the number of cases pending at the end of the month.

Item 3. Total Simple Misdemeanors - Total number of state and ordinance simple misdemeanor cases reported on the SRPM-AJ and SJM Forms as pending, filed, disposed of and the age of the pending cases.

Item 4. Total Small Claims - Total number of small claims pending, filed, and disposed of by clerk and judicial officer. The number of dispositions by judicial officer shall equal the totals reported on the SRFM-AJ and SJM Forms. The number and age of small claims cases pending shall include cases assigned and still pending before judicial officers as well as those pending in the clerk's office. See Item #2, SJM and SRFM-AJ Forms, for definition of cases "assigned" to judicial magistrates.

Item 4a. Number of small claims transferred to the regular civil docket. A small claim transferred to the regular civil docket must be disposed of as a small claim before it can be docketed as a Regular Civil Case.

Item 5. Number of civil cases transferred to Small Claims Docket. Before transferring a case from the Regular Civil docket and redocketing the case as a small claim, show the civil case disposed of by transfer, Item #1, Box 6.

Item 6. Number of civil cases assigned to full-time magistrates and associate judges. This number should be the same as that reported on the SRFM-AJ Form, Item #3, Box 2.

Item 7. Number of indictable misdemeanor cases assigned to full-time magistrates and associate judges. This number should be the same as that reported on the SRFM-AJ Form, Item #4, Box 2.

Item 8. Number of statutory scheduled violations handled by the clerk's office without judicial assistance.

Item 9. Number of civil cases on the trial certificate list (R.C.P. 181.1). Trial certificates should be monitored to insure that cases included on the list are ready to be tried.

MONTHLY REPORT OF JUDICIAL BUSINESS

\_\_\_\_\_ County \_\_\_\_\_ Judicial District  
Month ending \_\_\_\_\_, 19\_\_\_\_

Note: Instructions in the clerk's manual are essential to filling out this report.

Inventory of Cases							Age of Cases Pending		
Pending beginning of mo.	Filed during mo.	Disposed of				Pending end of mo.	90 days or less	3-18 months	More than 18 months
		By trial to jury	By contested trial to court	Guilty Plea/ Default	Without contested trial Dismissed/ Transferred				
1. CIVIL									
a. Dissolution									
b. Uniform Support									
c. Domestic Abuse									
d. Other Equity & Law									
e. Appeals - Sm. Claims									
TOTAL CIVIL									
2. CRIMINAL									
a. OMVUI (1st/2nd Off.)									
b. Other Ind. Misd.									
c. Felonies									
d. Appeals - S. Misd.									
TOTAL CRIMINAL									
3. TOTAL SIMPLE MISDEMEANORS (SJM & SRFM-AJ)									
4. TOTAL SMALL CLAIMS									
				Disposed of by					
				Clerk	Jud. Officers				

- a. Small Claims transferred to Regular Civil Docket \_\_\_\_\_.
- 5. Civil cases transferred to Small Claims Docket \_\_\_\_\_.
- 6. Civil cases assigned to full-time magistrates and associate judges \_\_\_\_\_.
- 7. Indictable Misdemeanors assigned to full-time magistrates and associate judges \_\_\_\_\_.
- 8. Statutory scheduled violations handled by clerks without judicial assistance \_\_\_\_\_.
- 9. Number of civil cases on the trial certificate list \_\_\_\_\_.

Distribution of copies:  
White - to Supreme Court Administrator  
Yellow - for your file  
Green - District Court Administrator

\_\_\_\_\_  
Signature - Clerk of District Court

Instructions on Completing Form JC/PC

Item 1a. Number of petitions filed in juvenile proceedings involving Delinquency, the number and type of formal juvenile hearings held in Delinquency actions. A "formal hearing" is an open/public or closed proceeding with definite issues of fact or law.

Item 1b. Number of petitions filed in juvenile proceedings involving Child in Need of Assistance (CHINA); number and type of formal juvenile hearings held in CHINA actions.

Item 1c. Number of petitions filed in juvenile proceedings involving Family in Need of Assistance (FINA); the number and type of formal juvenile hearings held in FINA actions.

Item 1d. Number of petitions filed in juvenile cases involving Interstate Compacts (extradition); the number and type of juvenile hearings in Interstate Compact actions.

Adjudication Hearing - a hearing to determine if the allegations of a petition are true. Section 232.2(2).

Disposition Hearing - a hearing held after an adjudication to determine what disposition order should be made. Section 232.2(16).

Review Hearing - a hearing held after a disposition order has been entered but prior to its expiration, to determine whether the disposition order should be terminated, modified, or vacated and another order substituted therefor. While formal review hearings include the mandated 6-month review of placements in open court, Section 232.102(6), they do not encompass the ex parte review of progress reports and other actions in chambers not requiring a formal hearing.

Detention/Shelter Hearing - a hearing at which the court determines whether it is necessary to place or retain a child in detention or shelter care. Section 232.2(14) (46).

Other Hearings - includes such proceedings as: hearings on motions for change of venue and placement, on financial responsibility, contempt of court hearings, motions for evaluation, special appearances, motions for appointment, change, or withdrawal of counsel, motions to continue or suppress evidence, probation violation hearings, and hearings involving the civil commitment of a child alleged to be mentally retarded under Section 232.51. Hearings involving the involuntary hospitalization of an alleged mentally ill child are reported at Item #3 below.

Item 1a. Number of formal juvenile hearings by type of judicial officer, i.e., district judges, associate judges and full-time magistrates, and referees.

Item 2a. Number of voluntary termination of parental rights proceedings and type of formal hearing, i.e., trial determination or review.

Item 2b. Number of involuntary termination of parental rights proceedings and type of formal hearing i.e., trial determination or review.

Item 3. Number and type of Chapter 229 hospitalization hearing by judicial officer. Four types of judicial officers and hospitalization hearings are listed. Hospitalization hearings handled by district judges (only) should also be included in the number of other equity and law civil cases reported at Item 1d, Form DC.

Item 4a. Number of Trusteeships opened and closed.

Item 4b. Number of Guardianships and Conservatorships opened and closed.

Item 4c. Number of Estates opened and closed and the age of cases closed: within one year, 1-3 years, after 3 years. Includes all estates docketed regardless of size or value, the presence of a will or administration.

Item 4d. Number of contested trials in probate cases by jury and by court.

MONTHLY REPORT OF JUDICIAL BUSINESS

County \_\_\_\_\_ Judicial District \_\_\_\_\_  
Month ending \_\_\_\_\_, 19\_\_\_\_

Note: Instructions in the clerk's manual are essential to filling out this report.

1. REGULAR JUVENILE DOCKET  
a. Delinquency  
b. CHINA  
c. FINA  
d. Interstate Compacts (Extradition)  
TOTAL

Petitions Filed	Number/Type of Formal Hearings				
	Adjudication	Disposition	Review	Detention/Shelter	Other

1A. Number of Formal Hearings by: District Judges \_\_\_\_\_; Associate Judges and Full-time Magistrates \_\_\_\_\_; Referees \_\_\_\_\_.

2. TERMINATION OF PARENTAL RIGHTS  
a. Voluntary  
b. Involuntary  
TOTAL

Petitions Filed	No./Type - Formal Hear.	
	Trial Determination	Review

3. NUMBER AND TYPE OF HOSPITALIZATION HEARINGS BY JUDICIAL OFFICER (Chapter 229):  
a. District Judges  
b. Assoc. Judges & Full-time Mags.  
c. Part-time Magistrates  
d. Referees

Invol. Minor (229.2)	Invol. Adult (229.12)	Emergency (229.22)	Substance Abuse (229.52)

4. PROBATE  
a. Trusteeships opened \_\_\_\_\_; closed \_\_\_\_\_.  
b. Guardianships and Conservatorships opened \_\_\_\_\_; closed \_\_\_\_\_.  
c. Estates opened \_\_\_\_\_; closed \_\_\_\_\_  
    { Within 1 year \_\_\_\_\_  
    { 1 to 3 years \_\_\_\_\_  
    { After 3 years \_\_\_\_\_  
d. Contested trials in probate by jury \_\_\_\_\_; by court \_\_\_\_\_.

Distribution of copies:  
White - to Supreme Court Administrator  
Yellow - for your file  
Green - District Court Administrator

\_\_\_\_\_  
Signature - Clerk of District Court

Instructions on Completing Form SRFM-AJ

(Summary Report for Full-time, Substitute, and Alternate Magistrates and District Associate Judges)

Item 1a. Number of simple misdemeanor state cases filed, disposed of, and pending at the beginning and end of the month. Method of disposition (jury, contested trial to court, guilty plea, and dismissal) and age of pending cases (90 days or less, 3-18 months, more than 18 months).

Item 1b. Number of simple misdemeanor ordinance (city) cases filed, disposed of, and pending at the beginning and end of the month. Method of disposition (jury, contested trial to court, guilty plea, and dismissal) and age of pending cases (90 days or less, 3-18 months, more than 18 months).

TOTAL SIMPLE MISDEMEANORS - Total all columns - pending beginning of month, filed during month, disposition by jury, contested trial to court, without contested trial (guilty plea or dismissal), pending end of month, and age of pending cases. Scheduled violations handled by clerk's office shall not be reported on this Form. Generally, unless a defendant admits a scheduled violation and exercises the option to appear before the court to explain mitigating circumstances, etc. (Section 805.9(4)) or pleads not guilty and demands a trial, a scheduled violation case shall not be entered in the magistrate's docket (filed) unless or until the case goes to warrant.

Item 2. Number of small claims assigned to full-time magistrates and associate judges, disposed of, and pending and the age of cases pending. A small claim should not be considered "assigned" until the date of the scheduled hearing or until the judicial officer has become involved in the case (e.g., granting a continuance) whichever occurs first. The clerk shall receive credit for all cases settled or disposed of without judicial assistance. Once a small claim is assigned to a judicial officer, the matter becomes the responsibility of the judge and only he/she shall be credited as disposing the case.

Item 3. Number of regular civil cases (over \$1,000 but no more than \$3,000) assigned, disposed of, and pending and the age of cases pending. The number of civil cases "assigned" to full-time magistrates and associate judges shall agree with the figure reported at Item #6, Form DC.

Item 5. Number of simple misdemeanor state cases disposed of at Item 1a which involve a moving or non-moving traffic violation.

Item 6. Number of simple misdemeanor ordinance (city) cases disposed of at Item 1b which involve a moving or non-moving traffic violation. Overtime and illegal parking are considered motor vehicle violations.

Item 7. Number of initial appearance proceedings held by full-time magistrates and associate judges in indictable criminal cases. Section 813.1; R.Cr.P. 2(1).

Item 8. Number of preliminary hearings held by full-time magistrates and associate judges in indictable criminal cases. Section 813.1; R.Cr.P. 2(4).

Item 9. Number of lost property actions (Chapter 644).

The number of search warrant applications reviewed and seized property hearings held by full-time magistrates and associate judges shall be reported at Item #8b, Form SJM.

Hospitalization hearings held by full-time magistrates and associate judges shall be reported at Item 3b, Form JC/PC.

MONTHLY SUMMARY OF REGULAR  
 FULL-TIME MAGISTRATES' AND ASSOCIATE JUDGES' REPORTS  
 \_\_\_\_\_ County \_\_\_\_\_ Judicial District  
 Month ending \_\_\_\_\_, 19\_\_\_\_

Note: The instructions in the clerk's manual are essential for completing the report.

Inventory of Cases							Age of Cases Pending		
Pending beginning of mo.	Filed/Assigned during mo.	Disposed of				Pending end of mo.	90 days or less	3-18 months	More than 18 months
		By trial to jury	By contested trial to court	Without Contested Trial					
				Guilty Plea/Default	Dismissed/Transferred				
1. SIMPLE MISDEMEANORS									
a. State cases									
b. Ordinance									
TOTAL S. MISD.									
2. SMALL CLAIMS									
3. CIVIL									
4. IND. MISDEMEANORS									

5. Number of cases "Disposed of" at Item 1a. which involved the Motor Vehicle Law (Chapter 321) \_\_\_\_\_.
6. Number of cases "Disposed of" at Item 1b. which involved a traffic ordinance \_\_\_\_\_.
7. Number of initial appearance proceedings held (indictable cases) \_\_\_\_\_.
8. Number of preliminary hearings held (indictable cases) \_\_\_\_\_.
9. Number of lost property actions (Chapter 644) \_\_\_\_\_.

Distribution of copies:  
 White - to Supreme Court Administrator  
 Yellow - for your file  
 Green - District Court Administrator

\_\_\_\_\_  
 Signature - Clerk of District Court

Instructions on Completing Form SJM

(Summary Report for Judicial Magistrates)

Item 1a. Number of simple misdemeanor state cases filed, disposed of, and pending; age of cases pending (90 days or less, 3-18 months, more than 18 months), and method of disposition (jury, contested trial to court, guilty plea, and dismissal).

Item 1b. Number of simple misdemeanor ordinance cases filed, disposed of, and pending; age of cases pending (90 days or less, 3-18 months, more than 18 months), and method of disposition (jury, contested trial to court, guilty plea, and dismissal).

TOTAL SIMPLE MISDEMEANORS - Total all columns - pending beginning of month, filed during month, disposition by jury, contested trial to court, without contested trial (guilty plea or dismissal), pending end of month, and age of pending cases. Scheduled violations handled by the clerk's office shall not be reported on this Form. Generally, unless a defendant admits a scheduled violation and exercises the option to appear before the court to explain mitigating circumstances, etc. (Section 805.9(4)) or pleads not guilty and demands a trial, a scheduled violation case shall not be entered in the magistrate's docket (filed) unless or until the case goes to warrant.

Item 2. Number of small claims assigned to part-time judicial magistrates and district judges acting as magistrates, disposed of, and pending and the age of cases pending. A small claim should not be considered "assigned" until the date of the scheduled hearing or until the judicial officer has become involved in the case (e.g., granting a continuance) whichever occurs first. The clerk shall receive credit for all cases settled or disposed of without judicial assistance. Once a small claims is assigned to a judicial officer, the matter becomes the responsibility of the judge and only he/she shall be credited as disposing the case.

Item 3. Number of simple misdemeanor state cases disposed of by part-time magistrates at Item 1a which involve a moving or non-moving traffic violation.

Item 4. Number of simple misdemeanor ordinance (city) cases disposed of by part-time magistrates at Item 1b which involve a moving or non-moving violation.

Item 5. Number of initial appearance proceedings held by part-time magistrates on indictable criminal cases. Section 813.1; R.Cr.P. 2(1).

Item 6. Number of preliminary hearing cases held by part-time magistrates in indictable criminal cases. Section 813.1; R.Cr.P. 2(4).

Item 7. Number of lost property actions (Chapter 644).

Item 6. Number of search warrant applications reviewed (Chapter 808) and the number of seized property hearings held (Chapter 809) by type of judicial officer - district judges, associate judges and full-time magistrates, and part-time magistrates.

The number of emergency hospitalization hearings by part-time magistrates shall be reported at Item #3c, Form JC/PC.

MONTHLY SUMMARY OF JUDICIAL MAGISTRATES' REPORTS

\_\_\_\_\_ County \_\_\_\_\_ Judicial District  
Month ending \_\_\_\_\_, 19\_\_\_\_

Note: The instructions in the clerk's manual are essential for completing this report.

Inventory of Cases						Age of Cases Pending			
Pending beginning of mo.	Filed/Assigned during mo.	Disposed of				Pending end of mo.	90 days or less	3-18 months	More than 18 months
		By trial to jury	By contested trial to court	Without Contested Trial					
				Guilty Plea/Default	Dismissed/Transferred				
1. SIMPLE MISDEMEANORS									
a. State cases									
b. Ordinance cases									
TOTAL S. MISDEMEANORS									
2. SMALL CLAIMS									

3. Number of cases "Disposed of" at Item 1a. which involved the Motor Vehicle Law (Chapter 321) \_\_\_\_\_.
4. Number of cases "Disposed of" at Item 1b. which involved a traffic ordinance \_\_\_\_\_.
5. Number of initial appearance proceedings held (indictable cases) \_\_\_\_\_.
6. Number of preliminary hearings held (indictable cases) \_\_\_\_\_.
7. Number of lost property actions (Chapter 644) \_\_\_\_\_.
8. Number of search warrant proceedings by judicial officers:

Search Warrant Applications (Chapter 808)	Seized Property Hearings (Chapter 809)
a. District Judges	
b. Assoc. J. & Full-time Mags.	
c. Part-time Magistrates	

Distribution of copies:  
White - to Supreme Court Administrator  
Yellow - for your file  
Green - District Court Administrator

\_\_\_\_\_  
Signature - Clerk of District Court

## Judicial Magistrate Accounting System

### Introduction

The Uniform Trial Court Act does not make specific reference to the type of financial records to be kept by judicial magistrates. However, to facilitate the work of the district court clerks, uniformity among magistrates' records is necessary. If accounting controls are maintained in the magistrates' records, both the magistrate and the clerk will benefit.

### Bank Accounts

Two bank accounts should be established in the magistrate's name for use in transacting court business. These accounts should carry the name of the magistrate as well as the designation "Judicial Magistrate, \_\_\_\_\_ County." One account should be subtitled "Fines and Costs" and the other "Bond Trust." The accounts should be used for official court business only and should never be used for personal transactions of the magistrate. As explained later, this segregation of funds will aid the magistrate in making monthly accountings to the clerk of court.

### Cash Receipts

Items to be Receipted. All cash and cash items should be receipted by the magistrate when received, regardless of source. This includes fines, costs, and bonds received by the magistrate as well as bond monies forwarded by the district court clerk. Clerks will make no entries regarding bonds which they forward to magistrates.

Receipt Forms. Prenumbered, three-part cash receipts forms used in a receipts book or machine furnished by the clerk will provide practical and meaningful control over all monies received by a magistrate. See page 11-19 for a sample of such a receipt.

Distribution of receipt copies will be as follows:

- a. 1st Copy - Payer
- b. 2nd Copy - Clerk of District Court
- c. 3rd Copy - Retained by Magistrate

Voided Receipts. Should it become necessary for a magistrate to void a receipt, all three copies should be marked "VOID" and should be retained. The number of each voided receipt should be entered in the daily cash journal (see page 11-23) with the notation "VOID" written in the "To Whom Due" column. The amount of the voided receipt should not be entered in the journal.

Guaranteed Arrest Bond Certificates. In those cases where the defendant tenders a guaranteed arrest bond certificate in lieu of cash bond, a receipt should also be prepared. The receipt should be filled out as is done in a regular case transaction with a notation that it is for a bond certificate.

Deposits. Cash receipts should be deposited daily by magistrates. All checks should be restrictively endorsed "for deposit only." This is for the protection of the magistrate.

Care should be taken to insure funds are deposited in the proper accounts.

### Disbursements

Checks Issued. Disbursements made by magistrates will consist of two types. One will be at the end of each month to remit fines and costs to the district court clerk. This check will be drawn on the "Fines and Costs" account. (See page 11-24).

Return of bond money to defendants or rightful parties and the monthly remittance of forfeited bond moneys to the clerk will be by check from the "Bond Trust" account.

Care must be taken to draw the disbursement from the proper account.

Checks Voided. If it is necessary to void a check, this should be done by marking the check as "VOID" and removing the signature corner. Voided checks are to be retained and filed with the applicable bank statement and canceled checks.

Record of the voided check must be made in the daily case journal by entering the check number with the notation "VOID" in the "To Whom Paid" column. The amount of the voided check should not be entered in the journal.

### Daily Cash Journal

Information from receipt copies and check books should be posted daily to the cash journal. Postings will include receipt number or check number and all other applicable information indicated by the column headings of the journal. The daily journal sheets should be totaled and proved (cross-footed) monthly. See page 11-23 for a sample daily cash journal.

### Monthly Report and Reconciliation

As required by the Uniform Trial Court Act, each magistrate shall, at the end of each month, furnish the clerk of district court, in his/her county, a complete accounting of all funds received and disbursed during the month. Remittance of the amount shown as due to the clerk should accompany the monthly report.

Monthly financial reports can be prepared by reference to the daily cash journal sheets for the month. Also, reconciliation of each of the two bank accounts as of the end of each month will aid in completing this report. See page 11-20 for the format of the monthly financial report prescribed by the Act.

In addition to the report, each magistrate should forward the second copy of all receipts issued and/or voided during the month. All receipt numbers between the last receipt issued in the previous month and the first receipt issued in the next month should be accounted for.

**"CASH RECEIPT"**

Name

\_\_\_\_\_ County  
 \_\_\_\_\_, Iowa

Received of \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date

Citation No.	Case No.	AMOUNT	
Received For	Due To		
Fine			
Traffic			
Other Than Traffic			
Costs			
Traffic			
Other Than Traffic			
Other (describe)			
	TOTAL		

CHECK \_\_\_\_\_ Rec'd By \_\_\_\_\_  
 CASH \_\_\_\_\_ Clerk  
 \_\_\_\_\_ Judicial Officer  
 12347

White Copy - Payer

Yellow Copy - Clerk of District Court

Pink Copy - Magistrate's File

Month of \_\_\_\_\_ 19\_\_\_\_

State	Municipality (use add'l sheets if needed)					Total
	A	B	C	D	E	

**Receipts:**

**Fines**

Traffic

Other than traffic


**Costs**

Traffic

Other than traffic

To court fund


**Bonds**

Cash

Certificates


Total receipts


**Disbursements:**

Return of bond

Other


Total disbursements


**Bonds held for cases pending**

Beginning of month

End of month


Net due/this report


**Reconciliation of remittance included with this report:**

Cash

Bond certificates

Total


**Municipalities shown above:**

- A \_\_\_\_\_
- B \_\_\_\_\_
- C \_\_\_\_\_
- D \_\_\_\_\_
- E \_\_\_\_\_

I, \_\_\_\_\_, Judicial Magistrate do hereby certify that the above is a true and correct statement of the fines and costs collected by me for the month of \_\_\_\_\_, 19\_\_\_\_





### DAILY CASH JOURNAL

DATE	DOCKET		CITATION	RECEIPT	TOTAL	FINES			COSTS			BOND		CITY OR TOWN					
	No.	Page	Number	Number	Received	Traffic	non Traffic	Traffic	non Traffic	Court Fund	Cash	Carl.	County	State					
1																			1
2																			2
3																			3
4																			4
5																			5
6																			6
7																			7
8																			8
9																			9
10																			10
11																			11
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30																			30
31																			31
32																			32
33																			33
34																			34
35																			35
36																			36

11-23

# DISBURSEMENTS

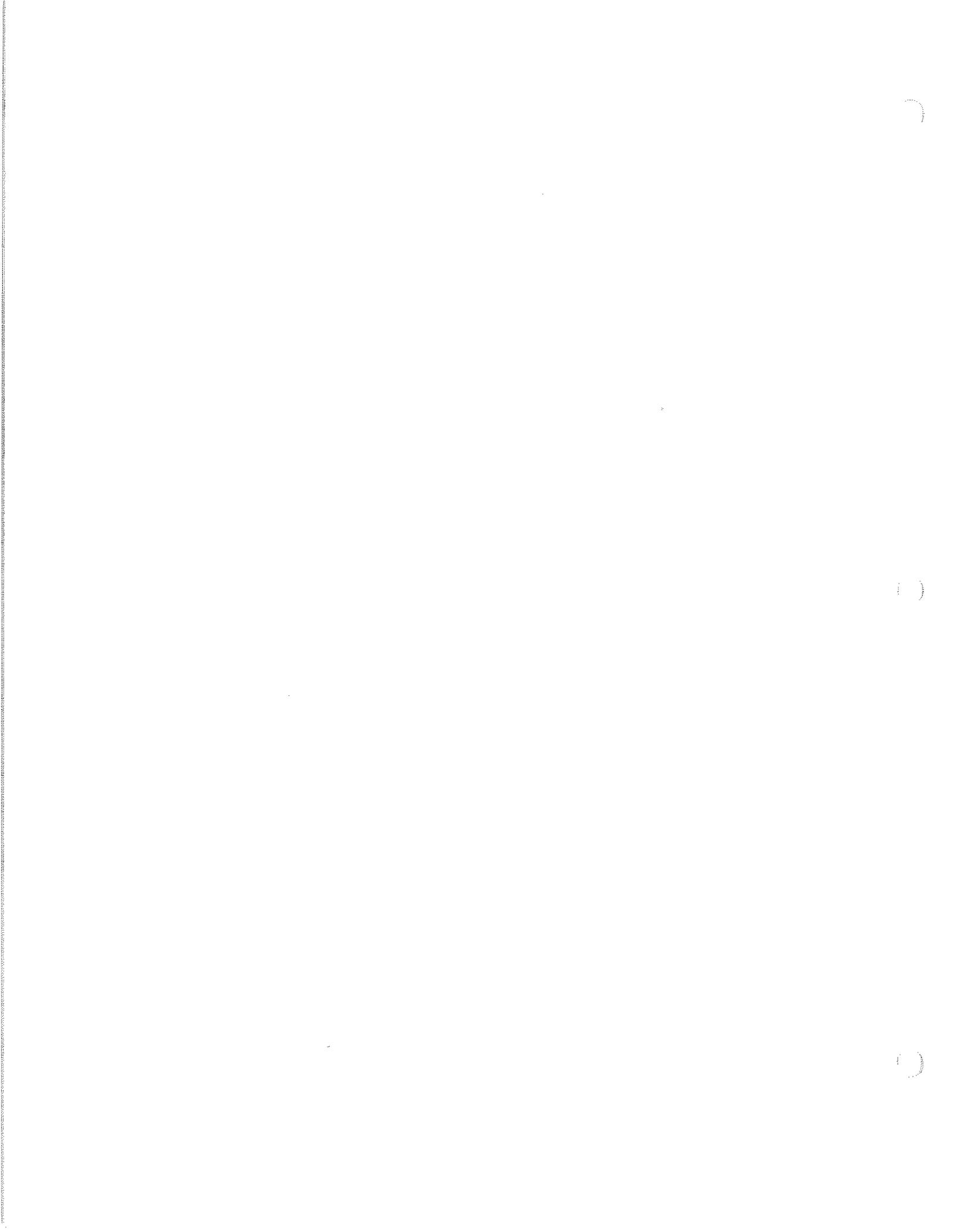
No.	REMARKS	Date	Check Number	TO WHOM PAID	FINES	COSTS	BONDS	TOTAL
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
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33								
34								
35								
36								

# DISBURSEMENT JOURNAL

Month of \_\_\_\_\_ 19\_\_

Date	To whom paid	Receipt Number	Total	Fines	Costs	Bonds	Remarks
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
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36							
37							
38							

11-26



Appendix A

CALENDAR OF DUTIES TO BE PERFORMED EACH MONTH

On or by this date:      These duties shall be performed:      Code Section:

JANUARY		
1st	Report to the presiding judge all delinquent inventories or reports in estates, trusts, guardianships, or conservatorships in which notice has been given and no report or inventory has been filed	633.32(2)
1st	Submit to the county auditor an estimate of the expenditures and receipts for the current and next fiscal years	24.25
1st	Clerk/judge to dismiss cases filed more than one year prior to July 15 of the previous year	RCP 215.1
2nd secular day	Your oath and official bond must be renewed once every four years	63.1, 64.9
2nd secular day	Submit to the board of supervisors a verified statement of the funds, monies, and securities deposited with the clerk, including the amount, date, and character of such deposits and to whom received and due.	682.37, .38
1st Monday	Report to the county board of supervisors all fines, penalties, and forfeitures imposed in their courts	666.6
10th Continue every month	Forward to the state registrar certificates of adoption or amendment or annulment or adoption, dissolution or marriage annulment; original marriage certificates; birth and death certificates	144.36, .37
10th	Submit report of deaths to county auditor	48.10
15th Continue every month	Submit monthly statistical report to the Supreme Court administrator and your district court administrator	602.64, 685.8

On or by  
this date: These duties shall be performed:

Code  
Section:

	<p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE: (e.g., motion days, etc.)</p> <hr/> <hr/> <hr/> <hr/>	
<p>FEBRUARY</p>		
<p>5th</p>	<p>Notify ex-officio jury commission of the time and place for drawing petit jurors. In counties containing a city having a population in excess of 50,000, petit jury panels shall be drawn six times annually to serve for the following two months, and in other counties they shall be drawn four times annually to serve for the following three months</p>	<p>609.19- .21</p>
<p>10th</p>	<p>Draw petit jurors by ex-officio commission</p>	<p>609.22</p>
<p>10th</p>	<p>Submit report of deaths to county auditor</p>	<p>48.10</p>
<p>10th</p>	<p>Forward to state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates</p>	<p>144.36, .37</p>
<p>15th</p>	<p>Submit monthly statistical report to the Supreme Court administrator and your district court administrator</p>	<p>602.64, 685.8</p>
	<p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/> <hr/> <hr/>	

On or by this date: These duties shall be performed:

Code Section:

MARCH		
5th	Notify ex-officio jury commission of the time and place for drawing petit jurors. In counties containing a city having a population in excess of 50,000, petit jury panels shall be drawn six times annually to serve for the following two months, and in other counties they shall be drawn four times annually to serve for the following three months	609.19-.21
10th	Draw petit jurors by ex-officio jury commission	609.22
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37
15th	Submit monthly statistical report to the Supreme Court administrator and your district court administrator	602.64, 685.8
30th	Submit clerk's report of fees collected to board of supervisors. Fees collected are paid to the county treasurer and a receipt is filed with the county auditor	342.3
	<p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/> <hr/> <hr/>	
APRIL		
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37

On or by  
this date: These duties shall be performed:

Code  
Section:

15th	<p>Submit monthly statistical report to Supreme Court administrator and your district court administrator</p> <p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/> <hr/> <hr/>	602.64, 685.8
MAY		
1st	Notify fiduciary and his/her attorney of any delinquent inventories or reports due by law in any pending estate, trust, guardianship, or conservatorship	633.32(1)
1st	In each odd-numbered year, post in your office and publish once in an official newspaper a Notice of Bar Registration	46.8
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37
15th	<p>Submit monthly statistical report to the Supreme Court administrator and your district court administrator</p> <p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/> <hr/> <hr/>	602.64, 685.8

on or by  
this date: these duties shall be performed:

Code  
Section:

JUNE		
1st	In each odd-numbered year, certify to the Supreme Court the names, addresses, and years of admission of the members of the Bar who registered during the previous month	46.8
2nd Monday	Submit to the board of supervisors a verified statement of the funds, monies, and securities deposited with the clerk, including the amount, date, and character of such deposits and to whom received and due.	682.37, .38
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37
15th	Submit monthly statistical report to the Supreme Court administrator and your district court administrator.	602.64, 685.8
30th	Submit clerk's report of fees collected to board of supervisors. Fees collected are paid to the county treasurer and a receipt is filed with the county auditor	342.3
30th	Submit an estimate of expenditures for the following year to the board of supervisors	344.1
	OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:  _____  _____  _____  _____	
JULY		
1st	Submit financial report of the clerk to the county auditor for the period July 1 to June 30 of the previous fiscal year	

On or by this date: These duties shall be performed:

Code Section:

1st	Report to the presiding judge all delinquent inventories or reports in estates, trusts, guardianships, or conservatorships in which notice has been given and no report or inventory has been filed	633.32(2)
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37
15th	Submit clerk's report of criminal statistics to the Board of Parole and Division of Corrections for the period July 1 - June 30 of the previous year	247.29
15th	Submit monthly statistical report to the Supreme Court administrator and your district court administrator	602.64, 685.8
	OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:  _____  _____  _____	
<b>AUGUST</b>		
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37
15th	Notify counsel of record that cases filed more than one year prior to July 15 will be subject to dismissal if not tried prior to January 1 of the next succeeding year	RCP 215.1
15th	Submit monthly statistical report to the Supreme Court administrator and your district court administrator	602.64, 685.8

On or by  
this date: These duties shall be performed:

Code  
Section:

SEPTEMBER		
	<p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/> <hr/> <hr/>	
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36; .37
15th	Submit monthly statistical report to the Supreme Court administrator and your district court administrator	602.64 685.8
30th	Submit clerk's report of fees collected to board of supervisors. Fees collected are paid to the county treasurer and a receipt is filed with the county auditor	342.3
30th	Make annual report to the court of all income and expenditures for each person for whom he is acting as trustee regarding worker's compensation	85.50
	<p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/> <hr/> <hr/>	

On or by  
this date:

These duties shall be performed:

Code  
Sections:

OCTOBER		
1st	In each year a general election is held, notify the jury commissioners of their appointment	608.2, .5
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption, or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37
10th	Jury commissioners must qualify by taking the oath of office. The oath is filed in the clerk's office	608.7
15th	Submit monthly statistical report to the Supreme Court administrator and your district court administrator  OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:  _____  _____  _____  _____	602.64, 685.8
NOVEMBER		
1st	Notify fiduciary and his/her attorney of any delinquent inventories or reports due by law in any pending estate, trust, guardianship, or conservatorship	633.32(1)
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption, or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37

On or by  
this date:

These duties shall be performed:

Code  
Section:

15th	<p>Submit monthly statistical report to the Supreme Court administrator and your district court admin-</p> <p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/> <hr/> <hr/>	602.64, 685.8
<b>DECEMBER</b>		
1st	Every six years, send ballots to all eligible members of the county bar to elect two resident members to the County Judicial Magistrate Appointing Commission	602.45, .46
1st	Remind board of supervisors to appoint new magistrate appointing members	
10th	Submit report of deaths to county auditor	48.10
10th	Forward to the state registrar certificates of adoption, or amendment or annulment of adoption, dissolution or marriage annulment; original marriage certificates	144.36, .37
15th	Submit monthly statistical report to the Supreme Court administrator and your district court administrator	602.64, 685.8
31st	<p>Submit clerk's report of fees collected to board of supervisors. Fees collected are paid to the county treasurer and a receipt is filed with the county auditor</p> <p>OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:</p> <hr/> <hr/>	342.3

	OTHER DEADLINES APPLICABLE TO YOUR PARTICULAR OFFICE:  _____  _____	
--	---	--

ADDENDUM

1. The clerk of the district court and county attorney are inspectors of the jails and shall visit and inspect such prisons twice each year, and, on or before the 15th day of the first month of the next calendar quarter present to the court a detailed report of the condition of such prisons at the time of inspection. (Secs. 356.9, .10, .11)
2. On the last secular Monday of December preceding the new calendar year, a grand jury panel of twelve members must be drawn. (Sec. 609.25)
3. Your oath and official bond must be renewed once every four years.

Appendix B

COURT COSTS

Generally all fees and court costs payable to the clerk's office are governed by Section 606.15.

Appeal, filing and docketing	\$7.00
Attachments	\$2.00
Bond and sureties, taking and approving	\$2.00
Certificate	\$2.00
Certificate and seal	\$2.00
Certificate and seal to applications to procure back pay or pensions	No fee
Change of name	\$10.00
Citizenship, entering of final order and issuance of certificate	\$4.00 <sup>a</sup>
Commission to take depositions, issuance of	\$2.00
Complaint, filing and docketing for non-indictable misdemeanor	\$5.00
Continuances on application of a party by affidavit	\$2.00
Continuances, other	\$1.00
Copies of records, transcripts, and other papers filed in clerk's office	\$ .50 per 100 words
Declaration of intention, filing of and issuing a duplicate	\$2.00
Decree, entering a final	\$1.50

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<sup>a</sup>For additional fees in connection with citizenship application, see Section 606.15(24).

Equity, all cases	\$3.00
Execution, issuance of after judgment or decree	\$2.00
Information, filing and docketing for nonindictable misdemeanor	\$5.00
Injunctions or other extraordinary processes or orders	\$5.00
Judgment by confession, entering	\$2.00
Judgment, entering a final	\$1.50
Jury, fee for costs (Secs. 606.15(3), 625.8)	\$15.00
Lien, mechanic's, entering and endorsement	\$3.00
Marriage licenses	\$5.00
Mechanic's lien, entering and endorsement	\$3.00
Order, entering a	\$1.00
Order, issuance of (not including subpoena)	\$2.00
Papers filed in clerk's office, making copies of	\$ .50 per 100 words
Passport fee	\$14.00 <sup>b</sup>
Petition, filing and docketing	\$7.00
Publication fee in connection with filing any petition, appeal, or writ of error	\$1.00 <sup>c</sup>
Records, examination of (Sec. 68A.3)	Cost of copying and reasonable fee for supervising
Records, filed in clerk's office, making copies of	\$ .50 per 100 words

<sup>b</sup>Ten dollars to passport office; four dollars to clerk.

<sup>c</sup>Applicable only in counties with a population of 100,000 or more.

Record, making complete	\$ .50 per 100 words
Record, making when required by law or court order	\$ .20 per 100 words
Real estate title change, cer- tification to	\$2.00 <sup>d</sup>
Real estate, title transfer (Sec. 558.66)	\$1.00
Real estate, sheriff's sale of, entering	\$2.00
Rule, entering a	\$1.00
Satisfaction of judgment, entering a	\$1.00
Seal, and certificate	\$2.00
Seal, and certificate to applications to procure back pay or pensions	No fee
Sheriff's sale of real estate, entering	\$2.00
Sureties and bond, taking and approving	\$2.00
Taxing costs	\$1.00
Transcripts filed in clerk's office, making copies of	\$ .50 per 100 words
Transcript of criminal cases appealed to Supreme Court	\$ .50 per 100 words
Transcript of judgment from another county, filing and docketing	\$1.00
Trial by court	\$2.50
Waiver of three-day waiting period, marriage license	\$5.00
Writ of error, filing and docketing	\$7.00
Writ, issuance of (not including sub- poena)	\$2.00

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<sup>d</sup>Collect additional \$1.00 parcel fee as authorized by Sec. 558.66.

SUPPLEMENT  
PROBATE FEES  
(Section 633.31)

Bond, taking and approving	\$2.00
Certificate and seal	\$2.00
Commission, issuing to appraisers	\$2.00
Estate settlement, other services	a
Order, entering	\$1.00
Real estate, making complete record	\$ .20 per 100 words
Rule, entering	\$1.00
Short form probate	\$10.00
Small estate, administration	\$10.00
Title, certifying charge	\$2.00
Transcript, filing and indexing	\$3.00
Transcript, making	\$ .50 per 100 words
Will without administration	\$10.00

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<sup>a</sup>Amount based on value of estate. (Sec. 633.31(1)k)

Appendix C

CLASSIFICATION of CRIMES  
IOWA CRIMINAL CODE  
(Chapters 701-728)

Class A Felony

Murder - 1st degree	Sec. 707.2
Sexual Abuse - 1st degree	Sec. 709.2
Kidnapping - 1st degree	Sec. 710.2

Class B Felony

Murder - 2nd degree	Sec. 707.3
Nonconsensual Termination (can be Class C)	Sec. 707.8
Murder of Fetus Aborted	Sec. 707.9
Sexual Abuse - 2nd degree	Sec. 709.3
Kidnapping - 2nd degree	Sec. 710.3
Robbery - 1st degree	Sec. 711.2
Arson - 1st degree	Sec. 712.2
Burglary - 1st degree	Sec. 713.2

Class C Felony

Conspiracy to Commit a Forcible Felony	Sec. 706.2
Voluntary Manslaughter	Sec. 707.4
Feticide	Secs. 707.7-707.10
Nonconsensual Termination (can be Class B)	Sec. 707.8
Attempt to Commit Homicide	Sec. 707.11

Assault while Participating in a Felony -if serious injury	Sec. 708.3
Willful Injury (serious)	Sec. 708.4
Sexual Abuse - 3rd degree	Sec. 709.4
Detention in Brothel	Sec. 709.7
Kidnapping - 3rd degree	Sec. 710.4
Child Stealing	Sec. 710.5
Robbery - 2nd degree	Sec. 711.3
Arson - 2nd degree	Sec. 712.3
Possession of Explosive or Incendiary Materials or Devices	Sec. 712.6
Burglary - 2nd degree	Sec. 713.3
Possession of Burglar's Tools	Sec. 713.4
Theft - 1st degree	Sec. 714.2
False Use of a Financial Instrument	Sec. 715.6
Criminal Mischief - 1st degree	Sec. 716.3
Insurrection	Sec. 718.1
Permitting Prisoner to Escape - charged or convicted of Class A Felony	Sec. 719.5
Assisting Prisoner to Escape - charged or convicted of Class A Felony	Sec. 719.6
Accepting Bribe	Sec. 722.2
Abandoning Child or Disabled Person	Sec. 726.3
 <u>Class D Felony</u>	
Solicitation to Commit a Felony	Sec. 705.1
Conspiracy to Commit a Felony other than a Forcible Felony	Sec. 706.3
Involuntary Manslaughter (can be Aggravated Misdemeanor)	Sec. 707.5

Assault while Participating in a Felony -if no serious injury	Sec. 708.3
Administering Harmful Substances	Sec. 708.5
Terrorism	Sec. 708.6
Going Armed with Intent	Sec. 708.8
Lascivious Acts with a Child	Sec. 709.8
Violating Custody Order	Sec. 710.6
Extortion	Sec. 711.4
False Reports	Sec. 712.7
Threats	Sec. 712.8
Theft - 2nd degree	Sec. 714.2(2)
Criminal Mischief - 2nd degree	Sec. 716.4
Falsifying Public Documents	Sec. 718.5
Escape from Custody - charged or convicted of felony	Sec. 719.4
Permitting Prisoner to Escape - charged or convicted of public offense other than Class A Felony	Sec. 719.5
Assisting Prisoner to Escape - charged or convicted of public offense other than Class A Felony	Sec. 719.6
Furnishing Controlled Substance to Inmate	Sec. 719.8
Perjury	Sec. 720.2
Suborning Perjury	Sec. 720.3
Felonious Misconduct in Office	Sec. 721.1
Bribery	Sec. 722.1
Unauthorized Possession of Offensive Weapons	Sec. 724.3
Pimping	Sec. 725.2
Pandering	Sec. 725.3
Incest	Sec. 726.2
Nonsupport of Child or Ward under 18	Sec. 726.5
OMVUI - Third Offense and up	Sec. 321.281
Drug Offenses	Ch. 204

Aggravated Misdemeanor

Accessory after the Fact (can be Simple Misdemeanor)	Sec. 703.3
Solicitation to Commit an Aggravated Misdemeanor	Sec. 705.1
Involuntary Manslaughter (can be Class D)	Sec. 707.5
Assault with Intent to do Serious Injury	Sec. 708.2
Spring Guns and Man Traps	Sec. 708.9
Arson - 3rd degree	Sec. 712.4
Theft - 3rd degree	Sec. 714.2(3)
Operating Vehicle without Owner's Consent	Sec. 714.7
Fraudulent Practices	Sec. 714.8
Criminal Mischief - 3rd degree	Sec. 716.5
Injuries to Animals	Sec. 717.1
Impersonating a Public Official	Sec. 718.2
Interference with Official Acts (can be Simple Misdemeanor)	Sec. 719.1
Obstructing Prosecution	Sec. 719.3
Compounding a Felony	Sec. 720.1
Tampering with Witness or Juror	Sec. 720.4
Bribery in Sports	Sec. 722.3
Bribery of Elector	Sec. 722.4
Bribery of Election Officials	Sec. 722.5
Duress to Prevent Voting	Sec. 722.8
Procuring Vote by Duress	Sec. 722.9
Riot	Sec. 723.1
Carrying Weapons	Sec. 724.4
Application for Permit to Carry Weapons -false statement	Sec. 724.17
Giving False Information when Purchasing Weapon	Sec. 724.21

Receipt, Transportation and Possession of Firearms and Destructive Devices by Felons	Sec. 724.26
Prostitution	Sec. 725.1
OMVUI - Second Offense	Sec. 321.281

Serious Misdemeanor

Duty to Preserve the Life of the Fetus	Sec. 707.10
Indecent Exposure	Sec. 709.9
False Imprisonment	Sec. 710.7
Reckless Use of Fire or Explosives	Sec. 712.5
Theft - 4th degree	Sec. 714.2(4)
Criminal Trespass with Injury or Damage over \$100	Sec. 716.8
Exhibitions and Fights (Animals)	Sec. 717.3
Willful Disturbance	Sec. 718.3
Escape from Custody - charged or convicted of misdemeanor	Sec. 719.4
Escape from Custody - one in certain institutions	Sec. 719.4
Malicious Prosecution	Sec. 720.6
Misconduct in Office	Sec. 721.2
Misuse of Public Records and Files	Sec. 721.3
Interest in Public Contracts	Sec. 721.4
Improper Voting	Sec. 722.6
Misconduct by Election Official	Sec. 722.7
Leasing Premises for Prostitution	Sec. 725.4
Public Indecent Exposure	Sec. 725.5
Exhibiting Deformed or Abnormal Persons	Sec. 725.6
Bigamy	Sec. 726.1
Wanton Neglect of a Minor Child	Sec. 726.6
Fireworks	Sec. 727.2

Electronic and Mechanical Eavesdropping	Sec. 727.8
Dissemination and Exhibition of Obscene Material to Minors	Sec. 728.2
Admitting Minors to Premises where Obscene Material is Exhibited	Sec. 728.3
OMVUI - First Offense	Sec. 321.281

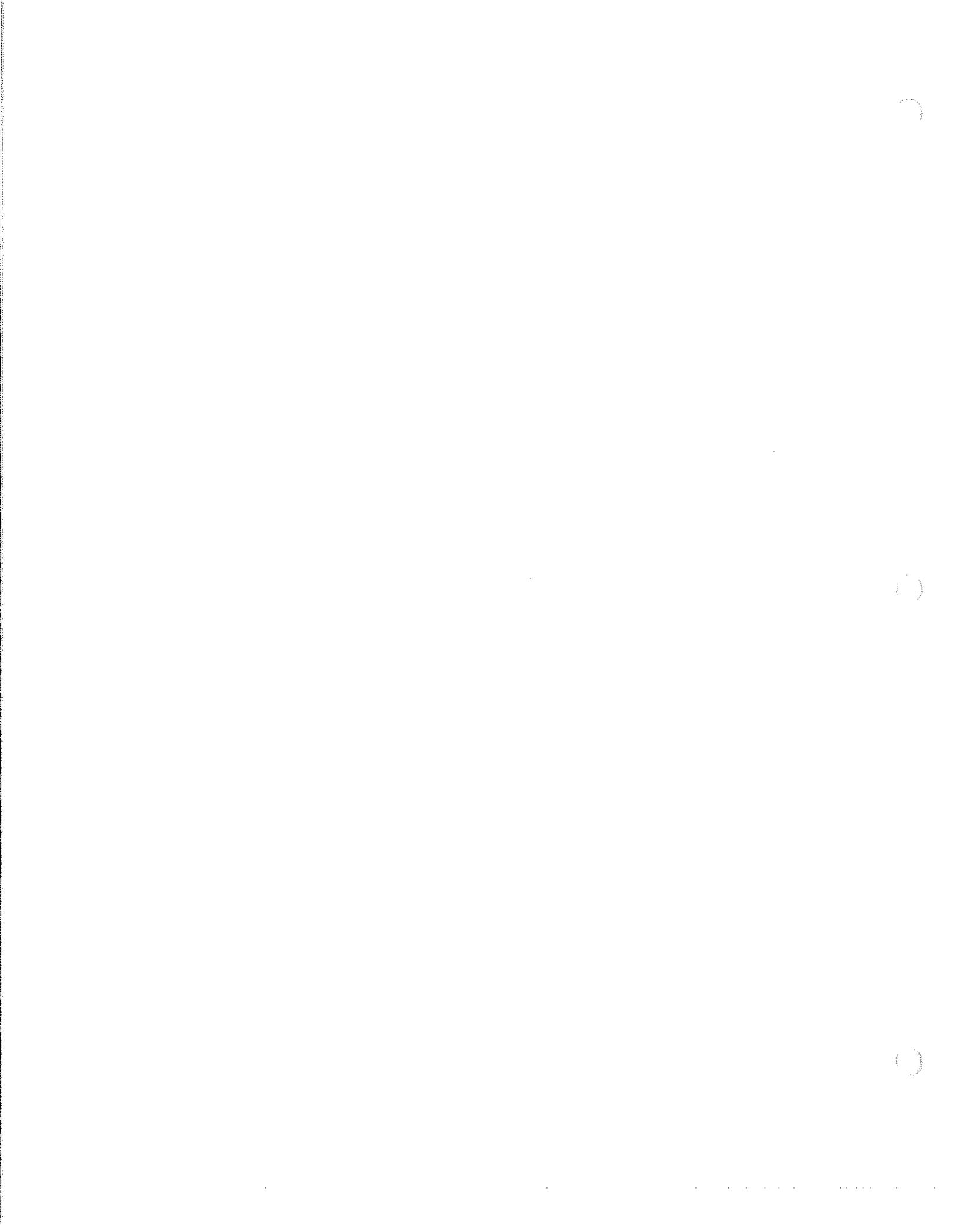
Simple Misdemeanor

Accessory after the Fact (can be Aggravated Misdemeanor)	Sec. 703.3
Assault (other)	Sec. 708.2
Harassment	Sec. 708.7
Theft - 5th degree	Sec. 714.2(5)
Criminal Mischief - 4th degree	Sec. 716.6
Criminal Trespass	Sec. 716.8
Cruelty to Animals	Sec. 717.2
Harassment of Public Officers and Employees	Sec. 718.4
Interference with Official Acts (can be Aggravated Misdemeanor)	Sec. 719.1
Refusing to Assist Officer	Sec. 719.2
Furnishing Intoxicants to Inmates	Sec. 719.7
Use of False Process or Records	Sec. 720.5
Unlawful Assembly	Sec. 723.2
Failure to Disperse	Sec. 723.3
Disorderly Conduct	Sec. 723.4
Report and Record of Sales of Revolvers or Pistols -failure to make a report	Sec. 724.15
Sale to Minors (weapons)	Sec. 724.22
Permit to Purchase Required (weapons)	Sec. 724.16
Duty to Carry Permit (weapons)	Sec. 724.5
Distributing Dangerous Substances	Sec. 727.1

Abandoned or Unattended Refrigerators	Sec. 727.3
Exposing Persons to X-ray Radiation	Sec. 727.4
Obstructing Emergency Phone Calls	Sec. 727.5
Falsely Claiming Emergency	Sec. 727.6
Publication Required - telephone company	Sec. 727.7
Transacting Business without a License	Sec. 727.9
Hard Core Pornography Prohibited	Sec. 728.4

Miscellaneous

A conspiracy to commit a misdemeanor is a misdemeanor of the same class.



Appendix D

LIST OF OFFICIAL AND  
STANDARD FORMS, BLANKS, AND BOOKS FOR CLERKS  
OF IOWA DISTRICT COURT

Adoption Forms

Adoption Sets

Adoption - Final Decree  
Application for Hearing - Adoption  
Consent to Adoption  
Interlocutory Adoption Decree  
Notice of Adoption Hearing  
Notice of Termination Hearing - Adoption  
Order Appointing Custodian - Adoption  
Order for Appointing Guardian Ad Litem - Adoption  
Order for Hearing - Adoption (Juvenile)  
Order for Hearing - Adoption  
Petition for Adoption  
Petition for Custody - Adoption  
Petition for Termination of Parental Rights - Adoption  
Release of Custody - Adoption  
Report of Expenditures - Adoption

Dissolution Marriage Forms

Decree of Dissolution of Marriage  
Directions for Service (Original Notice, Dissolution of Marriage)  
Financial Statement and Affidavit (Dissolution of Marriage)  
Original Notice (Dissolution of Marriage)  
Writ of Attachment in Dissolution of Marriage Without Bond  
Writ of Injunction - Temporary (Dissolution of Marriage)

Jury Forms

Attendance of Witnesses  
Challenges (Cause/Preemptory)  
Jury Slips  
Jury Summons Precept (Sec. 609.30)  
Notice of Jury Drawing (Sec. 609.21)  
Notice of Selection as Juror  
Summons - Juror - Magistrate (Sec. 762.15)  
Jury List (Ch. 609)

Marriage Forms

Application for Marriage License

Clerk's Certificate as to Marriage Record  
Consent to Marriage of Minor  
Marriage License and Certificate

Mechanic's Lien Forms

Mechanic's Lien (Sec. 572.2)  
Satisfaction of Mechanic's Lien (Sec. 572.23)  
Waiver of Mechanic's Lien  
Waiver of Lien to Date - Labor and Materials

Mental Health Forms

Affidavit in Support of Application for Order of Involuntary Hospitalization  
(Mental Health)  
Application for Order of Involuntary Hospitalization (Mental Health)  
Appointment of Physician (Mental Health)  
Claim for Attorney or Physician's Fees Order and Certificate  
(Mental Health)  
Discharge and Termination of Proceeding (Mental Health)  
Emergency Hospitalization Order (Mental Health)  
Notice to Respondent Order Setting Hearing (Mental Health)  
Order Appointing Attorney (Mental Health)  
Order for Hospitalization (Mental Health)  
Order Re: Extension of Time (Terminated) (Mental Health)  
Order Re: Extension of Time (7 Days) (Mental Health)  
Order to Take Into Custody (Mental Health)  
Physician's Report (Mental Health)  
Statement of Costs in Civil Commitment - To Auditor (Mental Health)  
Written Findings of Fact (Mental Health)

Probate Forms

Affidavit of Mailing Notice (Probate)  
Affidavits Re Compensation (Probate Code Ch. 202)  
Application and Order for Notice - General (Probate)  
Application and Order Prescribing Notice for Inheritance Tax Appraisement  
(Probate)  
Application for Appraisal in Intestate with Spouse (Probate)  
Application for Appointment of Guardian Ad Litem (Probate)  
Certificate of Payment of Personal Taxes (Probate)  
Certificate of Probate of Will (Sec. 633.300)  
Claim in Probate  
Commission to and Report of Appraisers of Real Estate of Decedent  
(Probate)  
Court Officer's Bond (Statutory) (Probate)  
Court Officer's Deed (Probate)  
Court Officer's Oath (Corporate) (Statutory) (Probate)  
Court Officer's Oath (Individual) (Statutory) (Probate)  
Designation of Attorney(s) (Probate)  
Election of Surviving Spouse in Relation to Will (Probate)  
Final Report of Guardian and Petition for Discharge (Probate)

Inventory in Conservatorship (Probate)  
Letters of Appointment (Probate)  
Notice of Appointment of Administrator and Notice to Creditors (Probate)  
Notice of Delinquency (Probate)  
Notice of Disallowance of Claim (Probate)  
Notice of Hearing on Probate of Will  
Notice of Probate of Will, of Appointment of Executor and Notice to  
Creditors  
Notice of Proof of Will Without Administration (Probate)  
Notice Re-Appraisal in Intestate with Spouse (Probate)  
Notice to Surviving Spouse to Elect (Probate)  
Order Admitting Will to Probate and Appointing Executor  
(Secs. 633.293, 633.298, and 633.299)  
Order Admitting Will to Probate Without Present Administration  
(Secs. 633.298, 633.303, and 633.305)  
Order Appointing Administrator (Probate)  
Order Appointing Administrator of a Small Estate (Probate)  
Order Appointing Guardian Ad Litem (Probate)  
Order Appointing Guardian, Conservator (Probate)  
Proof of Will (Probate)  
Petition for Administration and Appointment of Administrator (Probate)  
Petition for Administration and Appointment of a Small Estate (Probate)  
Petition for Appointment of Conservator (Involuntary) (Probate)  
Petition for Appointment of Guardian (of the Person) (Probate)  
Petition for Appointment of Guardian and Conservator (Involuntary)  
(Probate)  
Petition for Probate of Will and Appointment of Executor  
Petition for Probate of Will Without Present Administration  
Receipt and Waiver of Notice (Probate)  
Report of Change of Title Made by Decree of Court or by Will (Probate)  
Report of Referee in Probate (Detailed Form)  
Report of Referee in Probate (General Form)  
Request for Hearing Upon Claim (Probate)  
Request for Notice (Probate)  
Testimony of Subscribing Witness on Probate of Will  
Voluntary Petition for Appointment of Conservator (Probate)  
Voluntary Petition for Appointment of Conservator(s) Standby Basis  
(Probate)  
Waiver of Bond and Order (Probate)

#### Small Claim Forms

Affidavit - Small Claims  
Affidavit Of Default - Small Claims  
Appearance and Answer of Defendant (Small Claims)  
Appearance and Answer of Third Party Defendant - Small Claims  
Counter Claim (Small Claims)  
Cross-Claim Against Co-Party (Small Claims)  
Cross-Petition Against Third Party (Small Claims)  
Dismissal - Small Claims  
Magistrate Notations - Small Claims  
Testimony of Witness (Small Claims)

Notice of Assignment to Small Claims Division  
Notice of Hearing - Small Claims  
Notice of Hearing for Determination - Small Claims  
Original Notice - Small Claims Forcible Entry  
Original Notice - Small Claims - Money Judgment  
Petition of Intervention (Small Claims)  
Release and Satisfaction of Judgment - Small Claims  
Small Claims Docket  
Transcript of Judgment (Small Claims)  
Verification of Account (Small Claims)  
Verification of Account, Identification of Judgment Debtor, and Affidavit  
Re Military Service (Small Claims)

Office Accounting, Ready Calendar, Report Sheets, and Dockets

Application for Employment (County Form)  
Bar Register Leaves  
Clerk's or Auditor's Report of Warrants Drawn  
Clerk's Daily Work Sheet - Civil  
Clerk's Daily Work Sheet - Criminal  
Clerk's Daily Work Sheet - Juvenile  
Clerk's Daily Work Sheet - Probate  
Clerk's Daily Work Sheet - Small Claims  
Clerk's Monthly Report to County Commissioner of Registration (Changes  
for Permanent Registration) (Secs. 48.10, 48.30, 48.31)  
Clerk's Receipt Book in Duplicate  
Clerk's Report of Fees Collected  
Daily Cash Journal (Disbursements) (Magistrate)  
Daily Cash Journal (Receipts) (Magistrate)  
Employee's Withholding Allowance Certificate  
Magistrate Docket, Loose Leaf  
Magistrate's Receipt Book in Triplicate  
Monthly Report of Financial Activity - Magistrate  
Monthly Time Report - Individual (Wage and Hour)  
Motion Calendar - Single  
Motion Calendar Leaves  
Ready Calendar List  
Ready Calendar - Single  
Witness and Exhibit Sheets  
Certificate of Judge and Reporter

## GLOSSARY

Abstract - A summarization of the major actions and determinations in a case.

Acquittal - The legal and formal certification of the innocence of a person who has been charged with a crime; setting free a person from a charge of guilty.

Action - A proceeding in a court of law or equity by which one party sues to secure the protection of a right or the prevention of a wrong.

Adjournment - Closing of open court usually for lunch, close of the day, or recess.

Adjudication - The giving or pronouncing of a judgment or decree for one side or the other in a lawsuit.

Administrator - Any person appointed by the court to administer an intestate estate.

Adoption - The act by which a person takes the child of another into his/her family and makes the child, for all legal purposes, his/her own child.

Adult - A person who has attained the age of 18 years.

Affiant - One who makes and signs an affidavit; a deponent.

Affidavit - A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having the authority to administer such oath.

Alimony - A sum of money which a court orders a spouse to pay to his/her separated or ex-spouse, for support, aid, maintenance.

Allegation - An assertion made by a party which must be proved or supported with evidence.

Amend - Improve, correct, or change.

Ancillary Administration - Administration of an estate in another jurisdiction where a decedent had property but where the decedent did not live.

Annotations - (1) STATUTORY: Brief summaries of the law and facts of cases interpreting statutes passed by Congress or state legislatures which are included in codes. (2) TEXTUAL: Essays of varying length on significant legal topics chosen from selected cases published with the essays.

Annulment - A court order declaring that a marriage or other agreement or contract was void.

Answer - The legal paper in which the defendant answers the claims of the plaintiff in a lawsuit.

Appeal - A proceeding in a higher court to correct or modify the judgment of a lower court.

Appeal Bond - The bond given on taking appeal; the bond posted by the person taking the appeal to assure his/her compliance with the trial court judgment as affirmed or modified.

Appearance - (1) Coming into court -- the formal act by which a defendant submits to the jurisdiction of a court. (2) Document identifying one who is representing another. Defense counsel files an "APPEARANCE," making it known to the court that he/she is representing a specific individual.

Appellant - The party appealing a decision or judgment to a higher court; sometimes used interchangeably with "Petitioner."

Appellate Court - A court which has the power to hear appeals and to reverse court decisions; refers to a court of review rather than one with trial jurisdiction.

Appellee - The successful party in the lower court against whom an appeal is taken.

Argument - That portion of the trial after all evidence has been presented in which the prosecution and defense attempt to establish belief by a course of reasoning.

Arraign - To bring a prisoner to a court for the purpose of having the prisoner answer the charge against him/her.

Arraignment - A hearing by the court in which the defendant is informed of the charges against him/her, is appointed counsel if necessary, and is permitted to plead to the charges. Pretrial motions may be made.

Arrest - To take a person into custody for the purpose of having him/her answer to a criminal charge or complaint.

Arrest Warrant - A written order from a magistrate or judge directing a peace officer or some other person specially named, commanding him/her to take the person accused of an offense to be dealt with according to law.

Assignment of Cases - The system or method that a court uses to assign cases to the judges of the court.

Attachment - The act of seizing a person or property under the authority of a judicial order so that the person or property is before the court, subject to its judgment; a writ issued by the judge or court clerk under seal in a criminal case commanding a peace officer to take the body of a witness and bring him/her before the court to testify in behalf of the defense or prosecution.

Attestation - The act of witnessing the execution of a written instrument and subscribing or signing it as a witness.

Attorney of Record - The attorney named in the permanent record or file of a case who bears the ultimate responsibility for the handling of the case on behalf of the party he/she represents.

Authenticated Copy - A copy of a document which is accompanied by a certificate attesting to the office of the person signing the copy.

-B-

Backlog - Total inventory of cases at issue (in civil cases) or defendants arraigned (in criminal cases) and awaiting trial. (A case is no longer considered in the backlog once trial has begun.)

Bail - The security given by the defendant that he/she will appear and answer before the court the charge brought against him/her.

Bail Bond - Surety bond; a written undertaking entered into by the defendant and his/her sureties which assures the appearance of the defendant before the court to answer a criminal charge or risk losing the value of the bond.

Bailiff - An officer of the court whose primary duty is to preserve order and decorum while the court is in session. A police officer or city marshal may serve as bailiff in many of the smaller municipal courts.

Bar Register - A book maintained by the clerk of the district court which contains the names, addresses, and year of admission to the Iowa bar of the members of the state bar residing in the county. During the first week of May in odd-numbered years, the clerk is required to notify members of the county bar to register. (Sec. 46.8)

Bench Warrant - An order issued by the court, ("from the bench") for the attachment or arrest of a person.

Bequeath - To give personal property by will to another. As used in the Code, bequeath includes the word "devise," a verb which normally means to give realty by will to another.

Bequest - A gift by will of personal property; a legacy. As used in the Code, it includes the word "devise," a noun which normally means a gift of realty given under a will.

Bond - The security given by the defendant that he/she will appear in court to answer the charges against him/her; analogous to bail.

Bond Forfeiture - A suit initiated in the name of the State, to recover from the defendant or his/her sureties a bond due to the violation of the conditions of such bond. A bond may be forfeited when a defendant fails to appear in court at the time stated in the bond.

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Bond Over - To hold for trial; a finding at a preliminary examination that sufficient evidence exists to require a trial on the charges made against the defendant.

Brief - A written argument submitted to the court by counsel setting forth facts and/or law supporting his/her client's case.

-C-

Caseflow - The management of cases through the court; the passage of cases through the court system. (Ideally cases are to "flow" through the judicial process in a smooth, orderly manner, hence the name "caseflow.")

Caseload - The number of cases a judge handles in a specific time period.

Cash Bond - A type of appearance bond in which the defendant deposits money with the court for his/her appearance instead of having sureties sign his/her bond.

Certified Copy - A copy of a document with a certificate attesting that the copy is a true and correct copy of a document on file.

Certiorari - An order commanding judges or officers of a lower court to certify the record of a case for judicial review by an appellate court.

Change of Venue - The transfer of a suit started in one county or district to another location for trial, usually on the ground that one of the parties cannot obtain a fair trial in the original county or district.

Chattels - Personal property as opposed to real property.

Chief Judge - In the eight judicial districts in Iowa, a chief judge is appointed to a two-year term by the chief justice, with the approval of the Iowa Supreme Court. In addition to ordinary judicial duties, the chief judge supervises and directs the performance of all administrative business in the judicial district. (RCP 376, 377)

Child Abuse - Intentional injury to a minor.

Child Neglect - A form of child abuse; a failure to properly care for a child's needs.

Child Support - In a divorce or custody action, money paid by one parent to another to pay the expenses of the children of the marriage.

Citation - (1) This word is often used in place of the words: summons, violation notice, notice to appear. (2) Also can be reference to an authority (such as case or statute), that supports a statement of law or from which a quotation is taken. Citations occur most frequently in briefs.

Civil Actions or Suits - Generally, noncriminal cases concerning the claim of one private individual against another.

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Civil Law - Having to do with the establishment, recovery, or redress of private and civil rights.

Code - By popular usage means a compilation or revision of statutes, in which the laws in force are rewritten and arranged in classified order, with the addition of material having the force of law taken from judicial decrees. The repealed and temporary acts are eliminated and the revision is re-enacted.

Codicil - A supplement or an addition to a will; it may explain, modify, add to, subtract from, qualify, alter, restrain, or revoke provisions in a will.

Commit - To send a person to a prison or reformatory pursuant to court order.

Complainant - The person that swears to an affidavit or statement which forms the basis of a complaint.

Complaint - A written statement under oath or affirmation accusing someone of committing a public offense.

Conservator - A person appointed by the court to have the custody and control of the property of a ward under the provisions of the Code.

Contempt of Court - Any conduct that tends to bring the authority and administration of the law into disrespect or disregard, that interferes with or prejudices parties to litigation, or that obstructs, impedes or embarrasses the court in the discharge of its duties; generally, any willful disregard or disobedience of public authority.

Continuance - The adjournment or postponement of an action pending in court to a later date.

Conviction - Judgment or verdict of guilt in a criminal case.

Cost Bond - A bond given by a party to an action which acts as an assurance that if the outcome of a case is not favorable such costs as may be awarded against the party will be paid.

Costs of Administration - In probate matters includes court costs, fiduciary's fees, attorney fees, all appraisers' fees, premiums on corporate surety bonds, statutory allowance for support of surviving spouse and children, cost of continuation of abstracts of title, recording fees, transfer fees, transfer taxes, agents' fees allowed by order of court, and all other fees and expenses allowed by order of court in connection with the administration of the estate. Court costs shall include expenses of selling property.

Counsel - An attorney; one who gives advice, especially legal advice. It also means the advice given.

Counterclaim - A claim asserted by a defendant against the plaintiff in the course of suit; in essence, a counter-lawsuit within a lawsuit.

Court of Record - A court whose proceedings are permanently recorded; they have the power to fine or imprison for contempt. Courts not of record have less authority and their proceedings are not permanently recorded.

Court Reporter - A person who records the activities of a court using shorthand or a stenotype machine.

Criminal Cases - A lawsuit is called a criminal case when it is between the State of Iowa on one side as plaintiff, and a person or corporation on the other as defendant and, involves a question of whether the defendant has violated one of the laws defining crimes, and the verdict is usually "guilty" or "not guilty."

Criminal Law - The statutes that forbid certain actions or conduct as detrimental to the welfare of the state and that provide punishment. Criminal acts are prosecuted by the prosecuting attorney.

Cross-claim - A claim by a defendant in a lawsuit against a co-defendant.

Custody - Care and keeping of a person or of an article; physical detention; imprisonment.

-D-

Damages - Money paid to a person who has been injured by the actions of another person.

De Novo - Latin. Means "anew;" for example, a trial de novo is a trial anew, or, a new trial.

Debts - As used in probate matters, includes liabilities of the decedent which survive, whether arising in contract, tort, or otherwise.

Decedent - A deceased person.

Declaratory Judgment - A judgment of a court determining the rights of the parties or giving the court's opinion on a legal point, without ordering that anything be done. A declaratory judgment is usually requested before the happening of (and in order to prevent) any specific act which could result in a claim for damages.

Decree - A court decision or order. A final decree is one fully and finally disposing of a case; an interlocutory decree is preliminary in nature, determining some issue in the case but not the ultimate question involved.

Default - A party shall be in default whenever the person (a) fails to serve, and within a reasonable time thereafter file a written special appearance, motion, or answer, or has appeared without thereafter serving any motion or pleading; or (b) fails to move or plead unless judgment has already resulted; or (c) withdraws his/her pleading without permission to replead, or withdraws his/her appearance, or fails to present himself/herself for trial; or (d) fails to comply with any order of court or do any act which permits entry of default against him/her under any rule or statute.  
(RCP 230)

Default Judgment - Action taken by the court when a person fails to appear in court in answer to a petition in a civil case.

Defendant - The person against whom a lawsuit is started or a crime charged.

Defense Attorney - The attorney representing the accused (defendant).

Deferred Judgment - A sentencing option that may be utilized in certain cases with the consent of the defendant. Upon a plea or verdict of guilty, the court may defer judgment and place the defendant on probation. Upon discharge of probation, the defendant's criminal record in the trial court shall be expunged. (Secs. 907.3-907.9) A deferred judgment is sometimes referred to as a "deferred sentence." However, a deferred judgment should not be confused with a "suspended sentence" which has an entirely different meaning. See definition below.

Delay - Unreasonably long time periods between phases in the processing of cases through the judicial system.

Deponent - One who gives a deposition.

Deposition(s) - Testimony taken in writing by question and answer under oath of a party or person who because of illness or distance or other good reason cannot be in court during the course of trial. This is read in court and to the extent it is admitted by the judge becomes evidence just as though the person were personally present.

Detainer - Detention of a person, especially one in custody; a writ authorizing further detention of a person in custody pending action.

Detention - The temporary care of a child who requires custody for his/her own or the community's protection pending disposition by the court or execution of an order of the court for placement or commitment. Also holding cell or area in circuit and district court for defendants in custody pending trial or other appearance.

Devise - To give real property by means of a will; in probate matters: when used as a noun, includes testamentary disposition of property, both real and personal; when used as a verb, to dispose of property by will, both real and personal.

Devisee - A person given real property by means of a will; in probate matters: one who receives real and/or personal property by will.

Dilatory - Having intent of causing delay.

Direct to Grand Jury - Submitting a case to a grand jury without providing the defendant a preliminary hearing.

Directed Verdict - If after presentation of evidence by one or both sides the judge holds that there is no issue of fact for the jury to decide, he/she will instruct the jury on the verdict to be returned and the jury will return such verdict. For example, in cases where there is not enough evidence to prove that the defendant committed the offense charged,

the judge should instruct the jury to render a verdict of "not guilty," i.e., directed verdict of not guilty.

Discovery - Investigation and gathering of information by opposing parties prior to going to trial, e.g., depositions, interrogatories, and other methods.

Dismissal - An order or judgment finally deciding a particular lawsuit in favor of the defendant by sending it out of court without trial. Dismissal "with prejudice" forever bars the right to bring a lawsuit on the same claim or cause; dismissal "without prejudice" disposes of the particular lawsuit before the court but permits a new lawsuit to be brought based on the same claim or cause.

Disposed Case - Not pending, closed court has reached its final determination and that determination has been carried out.

Disposition - Final determination of a case, whether by dismissal, plea, settlement, verdict, or finding.

Distributee - A person entitled to any property of the decedent under his/her will or under the statutes of intestate succession.

Docket - A written list containing an entry in brief of all the important acts done in court in the conduct of each case from its inception to its conclusion.

Docket Number - The numerical designation assigned to each case by a court.

Duces Tecum - Latin; it means "bring with you." On a subpoena it means that you must bring your records or other specified material into court with you.

-E-

Easement - A right to use land of another for a special purpose, such as crossing their land to gain access to yours if there is no other entrance.

Enjoin - To forbid; restrain; to order; command.

Election of Surviving Spouse - The right of the surviving spouse to select property from the estate of the decedent spouse.

Equity - A court's power to act fairly where specific laws do not cover the situation; an equitable action is an action for specific relief rather than money damages, e.g., injunction.

Escheat - The right of the state to take property to which no one else has a valid claim.

Estate - The interest which one has in real or personal property; most commonly used in probate matters to describe the real and personal property of a decedent, a ward, or a trust.

Evidence - Any type of proof legally permitted at a trial through witnesses, records, documents, objects, etc., for the purpose of inducing belief in the minds of the court or a jury as to the contention of an issue.

Evidentiary Hearing - Hearings to determine the admissibility of evidence to be presented at trial.

Ex Officio - From office; by virtue of the office; without any other appointment than that resulting from the holding of a particular office.

Ex Parte - By or for or on the request of one party only, without notice to any other party.

Ex Parte Injunction - An injunction issued without prior notice to the adverse party.

Ex Parte Motion - A motion made to the court without notice to the adverse party.

Ex Parte Order - An order made by the court upon the application of one of the parties to an action without notice to the other.

Execute - To carry out, complete, or dispose of properly or according to law.

Execution - The carrying out of some act or course of conduct to its completion; i.e., execution of a civil judgment is the putting into effect of the final judgment of the court by obtaining possession of that which the judgment has awarded; a writ empowering an officer to enforce a judgment.

Execution Sale - A sale on a mortgage foreclosure; a sale made under proper authority following a levy on the property of a debtor.

Executor - A person named in a will to carry out its terms, that is to execute the will; under the Code, any person appointed by the court to administer the estate of a testate decedent.

Exhibit - A document or item which is formally introduced in court and which, when accepted, is made a part of the case file.

Expunge - The act of physically removing information -- including criminal records -- in files, computers, or other depositories.

Extradite - The surrender by one state to another of an individual accused or convicted of an offense outside its own territorial jurisdiction and within the territorial jurisdiction of the other, which being competent to try and punish him/her demands the surrender.

Extradition - The formal process of delivering a person found in one state to the authorities of another state where that person has been accused or convicted of a crime.

Fee - A charge fixed by law for services of public officers or for use of a privilege under control of government. A recompense for an official or professional service or a charge or compensation for a particular act or service.

Felony - An offense so designated by law; punishable by a fine or confinement in the penitentiary, or both.

Fiduciary - A trustee; one who has the duty to act primarily for the benefit of another with respect to the subject matter of a trust; includes personal representative, executor, administrator, guardian, conservator, and trustee.

File - To put upon the files, or deposit in the custody or among the records of a court. Permanent preservation as a public record.

Filing - The act of recording the various legal documents pertaining to a suit with the clerk of the court. "Filing" also specifically refers to the original warrant, complaint, or other document which initiates the action.

Filing Fees - Sums of money which must be paid to the court clerk before a civil action may start.

Finding - A decision by a judge or jury about a question of fact.

Fine - A penalty or forfeiture resulting in the payment of money. CIVIL: To be paid to the offended party; CRIMINAL: To be paid to the court.

Foreign Judgment - A judgment from a court other than an Iowa court.

Foster Home, Shelter Home, Group Home - The temporary board and care of children in a licensed home or facility supervised by the court, a public or private agency.

Fraud - The intentional perversion of truth to deprive another of property or to induce a person to surrender a legal right, or to injure him/her in some other way.

Friend of the Court - An official connected with the district court who investigates and advises the district court in domestic relations cases involving minor children and also provides enforcement of court orders in those cases.

Fugitive - One who flees; always used in law with the implication of a flight, evasion, or escape from some duty or penalty or from the consequences of a misdeed.

Fugitive Warrant - A federal warrant authorizing the taking into custody of a person who has fled from one state to another to avoid prosecution.

Full Age - The state of legal majority attained through arriving at the age

of eighteen years or through having married, even though such marriage is terminated by death or divorce.

-G-

Garnishment - A court order to take part of a person's wages or other money owed to him/her before he/she receives the money, because of an unpaid debt owed to a creditor who has obtained a judgment against the debtor.

Guardian - A person who has the legal duty and power to take care of the person and property of another who because of some disability, usually age or incompetence, is considered incapable of administering his/her own affairs.

Guardian Ad Litem - A person appointed by the court during the course of a litigation, in which an infant or person mentally incompetent is a party, to represent and protect the interests of the infant or incompetent.

Guilty - A plea by which a defendant confesses to the crime with which he/she is charged; or a verdict by which a defendant is determined to have committed the offense of which he/she was charged.

-H-

Habeas Corpus - "You have the body;" the name of a writ used to bring a person before a court or judge. Generally, the writ is addressed to an official or person who holds another. It commands him/her to produce the detained person in court so that the court may determine whether that person is being denied his/her freedom lawfully.

Hearing - A flexible term for a court proceeding or the trial of a suit.

Heir - Any person, except the surviving spouse, who is entitled to property of a decedent under the statutes of intestate succession.

-I-

Impanel - (As pertains to juries); to select a jury and enroll their names.

Inactive Case - A pending case over which the court has no effective control; a case which is filed in the court, but for some reason cannot be processed by the court; examples: nonservice, no progress (civil).

Incarceration - Commitment to jail or prison.

Incompetent - Any person who has been adjudicated by a court to be incapable of managing his/her property, or caring for his/her own person, or both.

Indictment - Formal accusation presented by a grand jury which charges a person with a felony.

G-11

Indigent - Impoverished; needy; poor; without funds; a defendant who is too poor to hire an attorney to represent him/her in a criminal case.

Information - A formal accusation (criminal information) of a crime, differing from an indictment only in that it is prepared and signed by the prosecuting attorney instead of the grand jury.

Injunction - A writ restraining a person from doing or continuing to do something that threatens or causes irreparable injury to an individual or the public at large; requiring the defendant to do a particular act. (See "Restraining Order")

Injunction, Permanent - An injunction intended to remain in force unless and until modified by a later decree of a court.

Injunction, Temporary - An injunction granted at the institution of a suit, to restrain the defendant from doing or continuing some act, the right to which is in dispute, and which may either be discharged or made perpetual, according to the result of the controversy, as soon as the rights of the parties are determined.

Inquest - A legal inquiry, generally before a court of law but in some instances before certain other officers legally empowered to hold inquiries; generally used to determine whether anyone is responsible for the death of another.

Instructions to Jury - A direction given by the judge to the jury concerning the law of the case; a statement made by the judge to the jury informing them of the law applicable to the case.

Interlocutory - Temporary; not final, generally decides some point or matter between the beginning and end of a suit but is not a final decision of the case.

Interrogatories - Written questions posed by one party and served on another who must answer them in writing under oath -- a form of discovery to enable the party posing the questions to prepare for trial.

Intestate - Dying without having made a valid will.

Inventory - The number of cases a court should have pending at any time assuming the court is properly staffed; the total number of cases a court can be expected to handle in any given year; cases, in various stages of the court process, which are being handled within required time periods between each stage.

Issue - For the purposes of the intestate succession, includes all lawful lineal descendants of a person, whether natural or adopted, except those who are the lineal descendants of his/her living descendants; a single point in dispute between two sides in a lawsuit. AT ISSUE: an action which is "at issue" is one that is in all respects, ready for trial.

Judgment - The official decision and/or verdict of a court. Every final adjudication of any of the rights of the parties in an action. (RCP 219)

Judgment Creditor - A party in a lawsuit who received a favorable decision and is awarded money or property against a debtor.

Judgment Debtor - A person against whom a judgment has been entered and who must pay the judgment creditor.

Judgment Notwithstanding the Verdict - Judgment N.O.V. (non obstante veredicto). A judgment rendered in favor of one party notwithstanding the finding of a jury verdict in favor of the other party.

Jurisdiction - The power of the court to hear and decide the case; area or subject matter of legal control or authority.

Jurisdiction, Concurrent - Where two courts of record have jurisdiction over a particular legal dispute.

Jury - A body of men and/or women sworn to consider the evidence presented and to deliver a true verdict or decision in a judicial proceeding; TRIAL or PETIT: a group of people assigned to hear a case and render a verdict. GRAND: a group of people assigned to listen to prosecutorial evidence and to decide whether to indict a person.

Jury, Grand - A jury of inquiry which receives complaints and accusations in criminal cases. It hears the prosecutor's evidence and issues indictments when satisfied that there is probable cause to believe that a crime was committed, and that the accused committed that crime.

Jury Panel - The whole number of prospective jurors, from which the trial jury of 6 or 12 is chosen.

Jury, Petit - The ordinary jury (of 12 (or fewer) persons) selected to hear the trial of a civil or criminal case and to determine issues of fact; so called to distinguish it from the grand jury.

Juvenile - A minor; any person under age 18.

Legatee - An heir to a bequest; one who is entitled to receive personal property under a will.

Lessee - Tenant, or one who has leased certain property.

Lessor - Landlord.

Letters - Includes letters testamentary, letters of administration, letters

guardianship, letters of conservatorship, and letters of trusteeship. Most commonly used in probate matters.

Lien - A claim against property to secure a debt or other obligation; any money judgment placed against property which prevents a person from selling the property without satisfying the judgment.

Lis pendens - A notice of a matter affecting the title to real estate.

Litigation - The process of resolving a dispute over legal rights in court.

-M-

Magistrate - A judicial official whose duty it is to preserve the peace within his/her jurisdiction by use of all lawful means, to issue all process intended to aid in preventing and suppressing crime, and to cause the arrest of offenders by the use of lawful means in order that they may be brought to punishment.

Maintenance - Means of subsistence; the act of keeping in order.

Malfeasance - The commission of some act which is unlawful; the doing of an act which is wholly wrongful; the doing of an act which a person ought not to do at all or the unjust performance of some act.

Mandamus - Latin; "we command." A Writ of Mandamus is a written order requiring the person to whom it is addressed to do some specified act, generally connected with his/her duty as a public official.

Mental Deficiency - Means mental deficiency to such an extent that a person so afflicted is incapable of managing himself/herself and his/her affairs, but does not include mental illness.

Mental Illness - (1) "Mental illness" means a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.  
(2) Means mental disease to such an extent that a person so afflicted requires care and treatment for his/her own welfare, or for the welfare of others or of the community.

Mentally Retarded - Means significantly below average intellectual abilities which originate during physical development (especially during pregnancy and early infancy).

Minor - Means a person under the age of 18 years; a person who is not of full age.

Misdemeanor - Generally, an offense against society less serious than a felony, punishable by time in the county jail as opposed to the state prison.

Mistrial - An erroneous trial. A trial declared defective and void due to prejudicial error in the proceedings.

Mittimus - Latin for "we send": (1) A written court order directed to the keeper of a prison, directing that he/she receive and safely keep an offender. (2) A writ directing the transfer of records from one court to another.

Moot - Not actual; theoretical or hypothetical -- usually in reference to a court's refusal to consider a case because the issue involved has been resolved prior to the court's decision, leaving nothing which would be affected by the court's decision.

Motion - A request or suggestion. An application to the court for the handing down of a certain order or decision.

Motions to Suppress - Application to the court before a trial, asking that a certain fact or evidence not be brought out during the trial.

-N-

New Trial - The re-hearing of a criminal action, after verdict, before the judge or another jury. The effect of a new trial is to place the case in the same position in which it was before any trial had taken place.

Non-Service - In either a civil or criminal case, where a summons or warrant is issued but not served, or no arrest made.

Not Guilty - A plea in which the defendant denies guilt, or a verdict in which the defendant is found innocent.

Notice of Hearing - Document notifying of schedule matter in court.

Notification of Parents, Record of Notice - Whenever a child is taken in custody by any peace officer, that officer is required to notify the parents of the child. A written record of the names of the persons notified, the manner and times of notification, or reasons for failure to notify must be made and preserved.

Nunc Pro Tunc - Latin, meaning "Now for Then." A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e., with the same effect as if regularly done; usually used to mean the supplying of an omission in a record rather than the correction of an omitted action.

Nunc Pro Tunc Judgment - A method of amending the record of a judgment which is not in accord with what was actually pronounced and done, so that the record will be accurate and true. It is a procedural device often employed in correcting defects in titles to real estate.

-O-

Oath - Any form of affirmation by which a person signifies that he/she is bound in conscience to perform an act faithfully and truthfully.

Offense - A crime or misdemeanor; a breach of the criminal laws. The word "offense" generally implies a crime or misdemeanor infringing public as distinguished from private rights. In respect to minors, an offense is any act which violates provisions of the Juvenile Code and thus places the person committing the act in the jurisdiction of the juvenile court.

Offense against Child - Any act or acts by a person other than the child asserted as grounds for bringing such child within the provisions of the Juvenile Code.

Offense by Child - Any act or acts by a child asserted as grounds for bringing the child within the provisions of the Juvenile Code.

Order - Every decision of a court or judge made or entered in writing, and not included in a judgment. Orders, as distinguished from judgments are directions concerning the summary or interlocutory matters.

Ordinance - A local law or regulation enacted by a municipal government. It has no effect outside that city.

-P-

Panel - The jurors serving a specific court; either all persons summoned for jury duty for a specific court term, or those the clerk selected by lot for the trial of a particular case. Also see "Jury Panel."

Parole - Conditional release from prison before the end of a sentence; if the parolee observes the conditions, he/she need not serve the rest of his/her term.

Paternity - Fatherhood.

Paternity Suit - A type of court suit in which a mother tries to prove that a certain man is the father of her illegitimate child.

Peace Officer - Any municipal police officer, sheriff or deputy sheriff, state police officer, state conservation officer, juvenile court officer, or probation officer of any court of record.

Pending Case - Not disposed of; active file; "live" case at some stage of the court process.

Peremptory Challenge - An objection made to a particular juror which does not require that any cause be shown or that any ruling be made by the judge; resulting in dismissal of the juror from the panel.

Permanent Ward - The permanent termination of parental rights from a child under the jurisdiction of the juvenile court; thus making the child a permanent ward of the court or other guardian.

Personal Recognizance - Release is gained without the necessity of having to post money with the court. The court takes one's word that he/she will appear for a scheduled matter by considering his/her means to post bond, past record and character.

Personal Representative - Includes executor and administrator.

Petit Jury - See "Jury Petit."

Petition - (1) An application made in writing to the court. A "declaration" or "complaint" document. (2) In probate court it is the instrument used to set forth the allegations (complaint) against the party before the juvenile court. Jurisdiction of the juvenile court can only be invoked by petition.

Petitioner - A person who makes a written request that the court take a particular action.

Plaintiff - One who brings an action, such as a complainant. In criminal matters, the government is the plaintiff.

Plea - The defendant's response to a criminal charge (guilty or not guilty).

Plea-Bargaining - An arrangement between the prosecutor and defense counsel whereby the defendant agrees to plead guilty to a particular offense in return for the prosecuting attorney's promise to dismiss some other offense pending against the defendant. The defendant normally pleads to a lesser included offense of the original charge, or, in those instances where more than one charge has been brought against the defendant, the defendant pleads to one while the remaining are dismissed.

Plead - To answer the indictment or charge; to answer to an allegation.

Pleading - The process by which opposing parties alternately present their contentions in writing, each responding to the immediately preceding pleading of the other party, thereby narrowing the controversy until a single point of dispute emerges, called the issue(s). It is the issue(s) which are resolved at trial.

Praecipe - A notice; a writ ordering a person to do some act or to show cause why he/she should not do it.

Precept - An order or direction emanating from a court or other authority to an officer or body of officers, commanding him/her or them to do some act within the scope of their powers.

Preliminary Hearing - A hearing in a felony case before a district judge at which the prosecution presents evidence (the defendant and his/her counsel being present) from which the district judge decides whether or not there is probable cause to believe that a crime has been committed and that the defendant committed the crime and to "bind over" or refer the defendant to the circuit court for trial.

Presentence Investigation - Investigation of the relevant background of a convicted offender. Usually conducted by a probation officer attached to a court, designed to act as a sentencing guide for the sentencing judge.

Presentence Report - Written report prepared by the Probation Department containing the family and personal history of the accused, evaluation of the crime and its ramifications, and recommendations as to sentencing. Required in all felony cases. Presented to the judge as a guide in determining sentence.

Presentment - (1) The initial appearance by the accused before the magistrate after arrest. (2) Also, written notice taken by a grand jury of any offense, from their own knowledge or observation, without any bill of indictment laid before them at the suit of the government.

Pretrial Conference - Hearing in a criminal or civil case between the judge and the attorneys to discuss any questions or matters that can be resolved prior to the trial itself to assist in expediting or simplifying the trial. Such hearing is usually informal and without clients participating in the hearing itself.

Probate - The act or process of proving the validity of a will.

Probate Court - The court in Iowa which handles matters of probate; that is, wills, estates, etc.

Probation - Allowing a person convicted of a minor offense to remain in the community instead of going to jail or prison. The sentence is suspended as long as the offender fulfills the conditions of the probation. One's probation is usually supervised by a probation officer.

Procedendo - A formal instrument that restores jurisdiction to the trial court. Unless otherwise ordered by the Iowa Supreme Court, the clerk of the Supreme Court may not issue a procedendo until 15 days after the filing of a Supreme Court opinion or 21 days after an opinion of the Court of Appeals is filed. (RAP 29)

Proceeding - Any hearing or court appearance related to the adjudication of a case.

Process - A court order to appear in court. Subpoenas and summonses are examples of process.

Process Server - A person employed to deliver a summons or complaint to a person being sued or to deliver a subpoena to a witness.

Pro Se - For himself/herself; in his/her own behalf; in person.

Property - Includes both real and personal property.

Prosecuting Attorney - A public officer whose duty is the prosecution of criminal proceedings on behalf of the people.

Public Defender - A lawyer paid by the county to defend one who is indigent (without funds). Iowa does not have a statewide "Public Defender" office.

-Q-

Quash - To annul, discharge, vacate, to make void; i.e., to indicate, a conviction, or order. A motion to quash is initiated for the purpose of disqualifying certain evidence.

Quo Warranto - Latin for "by what authority." The name of a writ which brings a person into court so that it may be determined by what right he/she exercises his/her authority.

-R-

Real Property - Land and things attached to land; see "Realty."

Realty - A brief term for real property; also for anything which partakes of the nature of real property. Real property is land, and generally whatever is erected upon or affixed to land.

Recognizance - (1) An obligation entered into before a court of record or duly authorized magistrate, containing a condition to do some particular act, usually to appear and answer a criminal accusation. (2) A term used interchangeably with "bail bond" in many statutes and court opinions.

Record - The word for word account by the official court reporter of all proceedings at the trial. The term "off the record" means that the matter is not to be taken by the reporter.

Record on Appeal - A copy of the pleadings, exhibits, orders or decrees filed in a case in the trial court, and a transcript of the testimony taken in the case.

Records Retention and Disposal Schedules - A system or plan covering all records kept by a court which states what must be kept indefinitely and what may be disposed of and when.

Referral - Referral to a Protective Service. If it appears that the best interests of the child and of society will be served, the court may refer the matter at hand to a public or private agency providing such service.

Release-on-Recognizance (ROR) - The pretrial release of an arrested person on his/her stated promise to appear for trial at a later date, and after a determination that he/she is likely to appear. Used primarily with indigent defendants as a alternative to monetary bail. See "ROR," "Recognizance."

Remand - Order by an appellate court which sends a case back to the lower court for action in accord with the appellate court's opinion.

Remittitur - (1) The judgment of an appellate court issued after the release of an opinion (final process). (2) An order in cases when a jury has made an award of damages which is excessive in which the amount of damages is reduced and any excess paid refunded.

Replevin - An action to recover property wrongfully taken or held by another.

Reporter - (1) A court official responsible for recording the proceedings in

trials, including the questions addressed to, and answers made by, witnesses. (2) A court official responsible for compiling, indexing, and publishing the opinions of an appellate court.

Reports - (1) (Court reports) published judicial cases arranged according to some grouping, such as jurisdiction, court, period of time, subject matter, or case significance. (2) (Administrative reports or decisions) published decisions of an administrative agency. (3) Annual statements of progress, activities or policy issued by an administrative agency or an association.

Respondent - A defendant on appeal; used interchangeably with appellee.

Restraining Order - An order of the court which is intended to restrain a person's actions and preserve the status quo until a hearing can be held to determine if an injunction should be issued.

Restricted Delivery Mail - A new postal classification which takes the place of certified mail. Court clerks frequently use this type of mail in conducting the court's business.

Return - An endorsement or report by an officer, recording the manner in which he/she served, the process or order of a court.

Reverse - To set aside a judgment on appeal or proceedings in error; to annul; to vacate.

-S-

Satisfaction - To fulfill a legal obligation such as paying a judgment of the court; Satisfaction of Judgment (Civil) - payment of all monies determined to be owed in a court judgment.

Search Warrant - A written order from a judge or magistrate directing an officer to search a specific place for a specific object, issued upon a showing of probable cause.

Secure File - File kept in a separate, secure locked file.

Sentence - Judgment in a criminal proceeding. In Iowa, the judicial branch of government (a judge) has the power to sentence.

Service - Formal delivery of a court document; depending on the situation it may be personal, by mail, or by publication.

Service of Process - The service of writs, summonses, etc.; signifies the delivering to or leaving of such documents with the party to whom or with whom they ought to be delivered or left; and, when they are so delivered, they are then said to have been served.

Show Cause Order - An order to appear as directed and present to the court

reasons and considerations as to why certain circumstances should be continued, permitted, or prohibited, as the case may be.

Simple Misdemeanor - An offense which carries a maximum penalty of 30 days in jail or a \$100 fine, but not both.

Small Claims Court - A division of district court. The jurisdiction of the small claims division is limited to cases where the amount claimed does not exceed \$1,000. Claims are handled informally.

Specific Performance - A court order directing a party to a contract who has breached its terms to do what he/she contracted to do; generally involved when the thing or service contracted for is unique so that money damages for breach of contract would be inadequate, i.e., breach of contract to sell water rights to one who has no alternative access to water.

State Case - Refers to a violation of state law. The term is most often used to distinguish between the local ordinance violations and violations of state statutes.

Statute - A law enacted by the legislature.

Stay - The halting of a judicial proceeding by court order.

Stipulation - An agreement between opposing attorneys on any matter relating to the proceedings or trial, i.e., to extend the time to answer, to adjourn the trial date, to admit certain facts at the trial, etc.

Subpoena - A writ issued to a proper officer commanding him/her to summon one or more persons therein named to appear at a certain term of the court, or on a certain day, to testify in a civil or criminal action before an examining trial, inquest, or any other case in which the testimony of the witness may be required under provisions of the Code of Criminal Procedure, and Code of Civil Procedure.

Summary Judgment - (1) A judgment in a summary proceeding. (2) A judgment in certain types of actions, which is rendered on the motion of one of the parties, when the pleadings, depositions, affidavits, etc., show that there is no real issue to be decided or that no valid defense has been offered.

Summons - A writ directing a sheriff or other officer to notify the person named in the summons that an action has been started against him/her in court and that he/she is required to appear on the day named to answer the complaint; a summons can be enforced by contempt proceedings or a warrant.

Supreme Court - The court of last resort in Iowa, the highest appeals court in the state. A case may go no further in the Iowa court system, making the Supreme Court's decision final barring possible review by the United States Supreme Court. The Iowa Supreme Court also has superintending control over all other courts in the state.

Surety - A person who legally accepts the responsibility for the fulfillment of another's obligation, in case the latter, who is called the principal, fails to fulfill it. The obligations are usually financial.

Surety Bond - A bail bond; a written undertaking entered into by the defendant and his/her surety to assure the appearance of the defendant before the court to answer a criminal charge.

Suspended Sentence - A sentencing option that may be utilized in certain cases whereby the judicial officer, after entering judgment and at the time of or after sentencing, suspends the sentence and places the defendant on probation. The judgment or record of conviction is not affected by the suspension of the sentence.

-T-

Temporary Administrator - Any person appointed by the court to care for an estate pending the probating of a proposed will, or to handle any special matter designated by the court.

Temporary Ward - The acquiring of temporary jurisdiction over a child for whom a petition has been accepted after adjudication. Parental rights and responsibilities not terminated.

Termination Hearing - A hearing held in Juvenile Court to determine if the parental rights are to be taken away from the parties involved, and therefore the child will become a ward of the court. The prosecutor is required to attend.

Testate - The condition of a person who dies having made a valid will.

Testimony - Evidence given by a competent witness, under oath or affirmation; as distinguished from evidence derived from writings and other sources.

Tort - An injury or wrong committed against the person or property of another, arising out of violation of a duty established by law rather than by contract.

Transcript - The record of proceedings in a trial or hearing.

Trial Certificate List - A list of current pending actions, maintained by the clerk, in which a trial certificate of readiness for trial has been filed. The list shall be available for public examination and arranged in columnar form to show: (1) caption of cause, (2) docket, page, and cause number, (3) date of filing certificate, (4) jury or nonjury case, and (5) if removed from list, date of such removal. (RCP 181.1)

Trustee - The person or persons appointed as trustee by the instrument creating the trust, or the person or persons appointed by the court to administer the trust.

Trusts - In probate court includes only: Testamentary trusts; express trusts where jurisdiction is specifically conferred on the court by the trust instrument; express trusts where the jurisdiction of the court is invoked by the trustee, beneficiary or any interested party for a limited purpose, or otherwise; and trusts which are established by a judgment or decree

of court which results in administration of the trust by the court, and the court entering the judgment or decree establishing such trust orders the administration of the trust transferred to the probate court.

-U-

Uniform Traffic Complaint - A form of complaint in which the officer indicates by means of a checkmark which traffic violation the defendant is accused of committing.

Unlawful Detainer - Illegal withholding of property of another.

U.R.E.S.A. - An abbreviation for "Uniform Reciprocal Enforcement of Support Act." Pertains to nonsupport actions against one in another state. States honor and enforce another state's support order.

-V-

Venire - Technically, a writ summoning prospective jurors; popularly refers to the group of jurors summoned.

Venireman - A member of a jury panel.

Venue - The county in which an act is done; also where trial may be held. See also "Change of Venue."

Verdict - CRIMINAL: A jury's decision or, in cases where there is no jury, a court's decision as to the guilt or innocence of a defendant; CIVIL: The decision for plaintiff or for defendant.

Verification - The affidavit of a party, (e.g., in a court pleading,) or of his/her agent or attorney, that certain statements of fact, (e.g., the allegations of a pleading,) are true.

Voir Dire Exam - The preliminary examination into the qualifications and potential biases of prospective witnesses or jurors.

-W-

Waive - To give up a right, claim, or privilege voluntarily.

Waiver - The act of waiving or relinquishing a right, privilege, etc.

Waiver Hearing - When a petition is filed in juvenile court requesting a waiver of jurisdiction, a two phase hearing is given on the merits of the petition.

Warrant - An order from a court which authorizes an officer to: (1) arrest a person (arrest warrant); (2) search a place (search warrant); (3) arrest a person who fails to appear in court or pay a fine or fee as ordered (bench warrant).

Will - A written instrument executed with the formalities of law, whereby a person makes a disposition of his/her property to take effect after his/her death; includes a codicil; it also includes a testamentary instrument that merely appoints an executor, and a testamentary instrument that merely revokes or revives another will.

Witness - One who testifies to what he/she has seen, heard, or otherwise observed.

Writ - A precept or order in writing issued by a court in the name of the State, to an officer or body of officers commanding him/her or them to do some act within the scope of their powers. A court order requiring the performance or prohibiting the performance of a specific act. See "Habeas Corpus," "Ne Exeat," "Quo Warranto," "Praecipe," "Mittimus," and "Mandamus."

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