

Civil Court Costs

in the

District Courts

by:

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CIVIL COURT COSTS IN THE DISTRICT COURTS

This report examines the costs involved in pursuing civil actions in Louisiana's district courts. Civil court actions typically involve suits between parties to collect monetary damages, enforce contracts, collect debts or seek divorce. Other civil actions are more administrative in nature, such as adoption, estate settlements and name changes.

FUNDING THE DISTRICT COURTS--AN OVERVIEW

The funding of Louisiana's major trial courts, the district courts, differs from that of the other levels of the state's judicial system. Moreover, funding arrangements differ substantially from district to district, in part reflecting the varying forms the court structure takes across the state.

In Orleans Parish, separate civil, criminal and juvenile courts operate. Orleans also employs separate civil and criminal sheriffs and civil and criminal clerk of court offices. In the 19th Judicial District (East Baton Rouge), the district court combines civil and criminal jurisdiction but assigns judges to hear only one or the other. The 19th, however, has separate family and juvenile courts. A rural district may cover up to three parishes with its judge, or judges, handling both criminal and civil (including family and juvenile) cases in turn.

The basic financing model melds state, local and self-generated sources of funding. The judge's basic salary and related benefits are paid by the state. District court employees' salaries and benefits along with operating expenses are typically paid from a criminal court fund, maintained by the parish government, which receives criminal fines assessed by the court. The parish may also appropriate general fund revenues to subsidize the criminal court fund when fines are insufficient. Alternatively, half of any end-of-year surplus in the fund reverts to the parish. Furthermore, the parish is constitutionally mandated to provide court rooms, office space, utilities and necessary furniture and equipment for the court to function. The parish mandate likewise applies to the clerk of court and district attorney.

In addition to these basic funding sources, several supplemental funding mechanisms are provided. A surcharge on each civil court case filed is forwarded by the clerk of court to the state treasury and appropriated by the Legislature to pay monthly salary supplements to judges.

In most of the judicial districts a separate expense fund receives a surcharge on civil case filings and a criminal case fee. This money may be spent by the court at its own discretion. A variety of minor revenue sources may also go to the court's expense fund including a portion of the fee to reinstate a driver's license; a

share of seized drug related assets; federal grants; and special state appropriations for individual courts.

The full cost of the judicial system at the district level goes well beyond the funding of courts per se. It includes funding for related services provided by the clerk of court, sheriff, district attorney (whose office shares in the parish criminal court fund), indigent defender board, coroner and, in a limited way, the secretary of state.

Each of these agencies in turn has a different mix of funding sources, some as complex as that of the district court itself. With the exception of the indigent defender, these agencies have, to a varying degree, additional responsibilities unrelated to the operation of the district courts.

In the multiparish judicial districts further complexity is provided by the presence of as many as three criminal court funds and parish budgets as well as three clerks of court.

Funding of the Orleans civil district court differs substantially from the general model statewide. As elsewhere, judges are paid by the state. However, a single judicial expense fund, controlled by the civil court judges, funds the civil district court, first and second city courts, mortgage office and conveyance office. Civil court fees and self generated revenues from the city courts and other offices pay the operating expenses of all these agencies. The city does not subsidize the operating expenditures.

Statewide, the flow of money among all of these levels of government, agencies, budgets and funds makes it nearly impossible to obtain a comprehensive picture of judicial finances in this state. There is no uniformity in reporting or accounts and no system for central collection of data.

By one current estimate, about \$100 million a year is required to operate the courts at all levels with another \$115 million for the clerks of court, district attorneys, coroners and indigent defense. These figures do not include the sheriffs or state and local corrections facilities. Nearly half of the \$216 million is estimated to be from self-generated revenues, two-thirds of which (\$67 million) arises from operations of the clerks of court. Of the remainder, state funding provides an estimated \$64 million and local governments \$51 million.

Limiting the examination to civil court costs simplifies the equation somewhat as these play a limited role in funding the court operations. Outside of Orleans, civil court fees are used largely to fund ancillary court functions, particularly those of the clerks of court and, to a lesser extent, the sheriffs.

Court Costs

In the broadest sense, court costs encompass the expenses incurred by all of the agencies whose activities are involved in any way in operating the court system and providing services used in a particular case or suit. In theory, society or the State, has assumed responsibility for maintaining the basic system required to adjudicate criminal and civil wrongs. In practice, the cost is shared by the taxpayers through their state and local governments and by participants in the legal process through fines, forfeitures and fees.

In the narrower sense, as used in this report, "court costs" include amounts assessed against a party in litigation and reflect the fees, miscellaneous charges and surcharges imposed for services required in a judicial proceeding. These include numerous services by the clerk of court such as recording, filing and copying suit documents; by the sheriff in serving papers and subpoenas, seizing property and holding sales; by court reporters and by the parish government in providing jurors and witnesses for trials.

Court costs may be assessed against criminal defendants upon conviction. However, with the exception of traffic offenses, white-collar crimes and major drug cases, few criminal defendants have assets from which to pay court costs. Criminal fines are treated primarily as government revenues, and at the district level, are used to help fund court operations, the office of the district attorney and other related functions. These fines do not typically provide reimbursement to the clerk of court, sheriff or other agencies for services provided. However, surcharges on fines may go to a court expense fund and to help support the indigent defender office and similar services.

In civil cases, the plaintiff (person who brings suit) and defendants are liable for court costs for specific services provided. These fees generally must be paid in advance of the service. The judgment in a civil case typically renders one or more parties liable for the court costs assessed in the case. The party who paid the fees initially may be reimbursed if the other party is required to pay the costs. Pauper and government cases are frequent exceptions.

If a party to a civil suit is granted pauper status, court costs may not be collected in advance and may never be collected if the losing party is unable or unwilling to pay. Court costs are not collected from the state, local governments or any public agency as parties in a civil suit unless cast to pay costs by the judge.

CIVIL COURT COSTS

The term "civil court costs" covers a wide assortment of fees and charges which may be assessed against parties in a civil suit by

and for a variety of local and state governmental entities. For the most part these fees are paid to or through the clerk of court, however some significant fees are paid directly to other agencies.

The major categories of fees include those for the clerk of court, the sheriff, special assessments and state agency fees. Another significant subset of fees--jury trial costs--includes substantial payments to several local government entities.

Clerk of Court Fees

The fees which clerks of the district courts may collect in civil matters are enumerated in a state law (R.S. 13:841) covering 77 separate services with fees for most ranging from \$1 to \$5. This current schedule (see Appendix) was set by a 1981 act which at least doubled the fees which had been in effect since 1974.

A 1985 act authorized the Jefferson Parish clerk to assess fees 25% above the schedule. The following year, all other clerks were authorized to increase civil fees, at their discretion, by up to 10%.

While the scheduled fees are individually relatively small, they accumulate to a significant level in the processing of a given action in a suit. The Civil Fee Manual prepared by the Louisiana Clerks of Court Association suggests a model for combining fees to fix a charge for handling various common procedures. For example, for the clerk to issue a subpoena, a number of individual activities are involved, each with a separate statutory fee:

1. Original for service	\$2.00
2. Copy for file	2.00
3. Record copy for file	2.00
4. Copy for return	2.00
5. File return copy	2.00
6. Record return copy	<u>2.00</u>
Sub-total	\$ 12.00
7. 10% fee increase	<u>1.20</u>
Total Clerk's fees for issuing subpoena	\$ 13.20

Adding the separate fees together to fix a single charge for a particular action eases the clerk's accounting burden. Yet, even when this is done, literally hundreds of separate accounting entries may be required to keep track of all the often minor fees and charges incurred in a complicated suit.

Lack of Uniformity

The 10% discretionary increases have not been applied uniformly. Some clerks report having applied the full 10% increase to all fees while others have only increased some of the fees. Several clerks

reported no increases. Furthermore, the increases have been applied at different times since they were authorized in 1986.

Technically, the bundle of fees applied to handling a given pleading or other action should not differ more than 10% from parish to parish (except in Jefferson Parish). Some attorneys have noted that vastly different charges may be applied for the same action at different times by the same or different clerks. There may be some differences in the way fees are handled and some misapplication of fees in some cases. However, the perception of a lack of uniformity may be fostered by the fact that minor fees, which are components of a charge for a particular action, can be multiplied depending on the number of pages involved, signature pages included or other factors thus substantially increasing the overall clerk's fee for handling a given document.

Clerks also exercise some discretion in charging fees. One clerk reports charging a fixed fee of \$5 for a citation regardless of the number of pages or signatures involved. The clerk in a neighboring parish applies a separate \$2 charge for each page and stamp, which can substantially increase the fee for issuing a lengthy citation.

PAR has not attempted to analyze the manner in which the various clerks combine fees to arrive at a cost for a particular action. There is some apparent variation.

Additional Clerk's Fees

Some clerks have instituted special fees to help cover some of their basic costs of setting up or managing a suit file. These include administrative fees, jacket fees, and postage and handling fees and range from \$1 to \$10.50 per suit. A detailed billing in a single suit in one parish indicated that a \$9 administrative fee had been charged on four separate occasions. One parish applies a "processing fee" of \$5 to \$7 to the levy of the other surcharges applied to a civil suit.

While some of the service fees included in these assessments are specifically authorized by statute--indexing and postage for example--others are not.

Sheriff's Fees

The sheriff is authorized by statute (R.S. 33:1428) to receive specific fees for serving legal documents such as subpoenas, and executing court orders (e.g. seizures or evictions). (See Appendix for fee list.) Commissions are also provided for selling property seized to satisfy a judgment. In addition, the sheriff may charge for various actual costs (advertising for sales, expenses in securing property, storage costs, etc.).

In most civil suits or actions (the exceptions include summary and

executory actions and Article 102 divorce) it is essential that the defendant(s) be served with a citation informing him of the action. The sheriff must serve any subpoenas for witnesses and a variety of other documents which may arise such as a countersuit by one of the defendants.

The sheriff can charge up to \$15, plus mileage, to serve a subpoena or other documents. However, if several documents are served on the same person in one trip, the sheriff can charge a separate fee for each. Thus in a divorce suit requiring a citation, temporary restraining order and rule to be served on the defendant, sheriff's fees of \$45 plus mileage can be incurred when the suit is filed. Likewise, two service fees can be charged for two defendants living at the same address.

By a special arrangement, the East Baton Rouge Parish sheriff collects a flat fee of \$17 per service in lieu of the \$15 plus mileage.

While most clerks pay the sheriff various fees from the initial filing deposit, some sheriffs require separate checks be written to them. Separate checks are often required for service by sheriffs outside of the parish.

A great deal of variation exists in the way fees are assessed for the sheriff's services in property seizures and garnishments. The clerk may collect an advance deposit which may or may not include an advance deposit for the sheriff. In other parishes, the clerk may accept a normal deposit for a suit requesting a garnishment or seizure and sale and have the plaintiff make out a check to the sheriff to serve as an advance deposit against his fees, commissions and other expenses. The sheriff's advance deposit in a FIFA proceeding (property seizure) can range from \$25 to \$300 depending on the parish. In some parishes, the sheriff does not require an advance deposit but bills the costs of services actually performed.

The sheriff's role in serving summons on prospective jurors, as discussed further below, is subject to tremendous variation from parish to parish.

Special Assessments

A number of special assessments or surcharges are applied to civil suits and, in some cases, to additional pleadings within suits. (A surcharge is generally considered to be an amount added to fines, fees, or assessed costs that is to be used for a designated purpose.) These special charges, as shown in Tables 1A and 1B, add significantly to the cost of filing a suit.

The combined cost of these surcharges in the initial filing of an ordinary civil suit, at a minimum, ranges from \$13 to \$63 depending

TABLE 1A
Statutory Civil Surcharge Authority

Parish	Judges' Supplemental Comp. Fund**	Judicial Expense Fund*	Court Reporter Fund	Building Fund
Acadia	\$13	\$15		
Allen	13			
Ascension	13			
Assumption	13			
Avoyelles	13	10		
Beauregard	13			
Bienville	13	15	5-20c	
Bossier	13	15		
Caddo	13	15	20-35c	
Calcasieu	13	15		
Caldwell	13	10		
Cameron	13	15		
Catahoula	13	10		
Claiborne	13	15	5-20c	
Concordia	13	10		
Desoto	13			
E.Baton Rouge	13	15		
East Carroll	13	15		
E.Feliciana	13			
Evangeline	13	15		
Franklin	13	15		
Grant	13	10		
Iberia	13	15		
Iberville	13	10 or 15a	5-20c	
Jackson	13	15		7
Jefferson	13	15		
Jeff. Davis	13			
Lafayette	13	15		
Lafourche	13	10		
LaSalle	13	10		
Lincoln	13	15		
Livingston	13	10		
Madison	13	15		
Morehouse	13	15		
Natchitoches	13	15		
Orleans	13	b		
Ouachita	13	15		
Plaquemines	13		10-20d	
Point Coupe	13	10 or 15a		
Rapides	13	15		
Red River	13	10		
Richland	13	15		
Sabine	13			
St. Bernard	13	30	10-20e	
St. Charles	13	15		
St. Helena	13	10		
St. James	13			
St. John	13	15		
St. Landry	13	15		
St. Martin	13	15		
St. Mary	13	15		
St. Tammany	13	15		
Tangipahoa	13	10		
Tensas	13	15		
Terrebonne	13	10		
Union	13	15		
Vermillion	13	15		
Vernon	13			
Washington	13	15		
Webster	13	15	3-15e	
W.Baton Rouge	13	10 or 15a		
West Carroll	13	15		
West Feliciana	13			
Winn	13	10		

* Called the District Court Fund in Lafourche and the Judicial Clerk's Fund in Union, Lincoln, St. Charles, Terrebonne and St. Bernard.

** Fee on filing any type of civil suit or proceeding.

a. Three versions of statute provide different fees.

b. Orleans Civil Court has a judicial expense fund shared with the city courts.

c. The fee allowed varies depending on the type of proceeding.

d. Fee depends on filing. Applies to any suit or proceeding, intervention or third-party demand.

TABLE 1B
Civil Suit Surcharges Reported By Clerk of Court
(NR indicates no response to survey)

Parish	Total Surcharge Per suit	Judges' Supplemental Comp. Fund**	Judicial Expense Fund*,**	Court Reporter Fund***	Other
	\$ NR	\$	\$	\$	\$
Acadia					
Allen	13	13			
Ascension	13	13			
Assumption	15	13			2 processing fee****
Avoyelles	23	13	10		
Beauregard	13	13			
Bienville	49	13	15	20	1 filing fee**** 5 judges' fee/judgment
Bossier	18	13			
Caddo	63	13	15 /demand	35	
Calcasieu	26	13	13		
Caldwell	23	13	10		
Cameron	28	13	15		
Catahoula	25	13	10		2 judges' fee
Claiborne	48	13	15 /demand	20	
Concordia	25	13	10		2 judges' fee
Desoto	13	13			
E. Baton Rouge	23	13	10		
E. Carroll	28	13	15		
E. Feliciana	13	13			
Evangeline	40	13	15		12 processing fee#
Franklin	28	13	15		
Grant	13	13			
Iberia	30	13	15 /suit		2 for LLibrary Fund
Iberville	NR				
Jackson	48	13	15 /demand	20	
Jefferson	35	13	15		7 for Building Fund
Jeff. Davis	13	13			
Lafayette	32	13	15		4 for law library
Lafourche	25	13	10		2 for law library
LaSalle	13	13			
Lincoln	33.50	13	15	5.50	
Livingston	23	13	10 /suit		
Madison	28	13	15		
Morehouse	NR				
Natchitoches	33	13	15		5 for law library
Orleans	13	13			
Ouachita	28	13	15		
Plaquemines	NR				
Point Coupe	NR				
Rapides	23	13	10		
Red River	NR				
Richland	28	13	15		
Sabine	13	13			
St. Bernard	63	13	30	20	
St. Charles	38	13	15		10 stenographer fee
St. Helena	23	13	10		
St. James	NR				
St. John	NR				
St. Landry	43	13	15		15 to parish government
St. Martin	NR				
St. Mary	28	13	15 /new filing		
St. Tammany	43	13	15		15 to parish government
Tangipahoa	NR				
Tensas	28	13	15		
Terrebonne	NR				
Union	28	13	15		
Vermilion	28	13	15		
Vernon	15.50	13		2.50 /judgment	
Washington	NR				
Webster	22.90	13	5	4.90 /\$1,000	
W. Baton Rouge	28	13	15		
W. Carroll	28	13	15		
W. Feliciana	13	13			
Winn	23	13	10		

* Called the District Court Fund in Lafourche and the Judicial Clerk's Fund in Union, Lincoln, St. Charles, Terrebonne and St. Bernard.

** Fee on filing any type of civil suit or proceeding.

*** Amount shown is highest charged.

**** Added charge on Judges' Supplemental Compensation Fund.

Additional \$7 charged on Judges' Supplemental Compensation Fund; additional \$5 charged on Judicial Expense Fund.

on the parish. Additional pleadings in a case may involve additional surcharges.

These charges are not directly related to services connected with the suit. In recent years, additional surcharges or increases have been enacted in a piecemeal basis, for individual parishes or judicial districts, resulting in upward revisions in the advance deposits required for filing suits. The surcharges include:

1. Judges' Supplemental Compensation Fund (R.S. 13:10.3). A \$13 charge for every civil filing collected by the clerk of every court (city, parish, juvenile, family, district, appellate, and supreme court) and deposited in the state treasury. The fee is collected at least once for each civil suit, however it also applies to the filing of a supplemental petition, amended petition, intervention, cross claim, third party demand, reconventional demand, and interrogatories (if served). In a complex suit, the fee may be charged a number of times.

The funds collected are then appropriated by the Legislature annually and distributed by the judicial administrator for the Supreme Court at the direction of a special board set up for the purpose. The money goes to pay a monthly salary supplement to all district, parish and city court judges. The fee rises with the consumer price index but is rounded off to the nearest half dollar.

In 1991, about \$2.8 million went into the fund. The fund currently permits the distribution of a \$900 a month salary supplement to district court judges with lower amounts for lower court judges.

2. Judicial Expense Funds. A special fund has been individually created by law for most of the district courts. As shown in Tables 1A and B, these funds receive varying amounts per civil suit or pleading and certain criminal fees.

The typical judicial expense fee is \$15 per suit, or in some cases, per demand. A handful of districts have \$10-per-suit fees and one requires \$30 per new filing. The 19th district family court and some juvenile courts have their own separate expense funds and fees.

The judicial expense funds are generally controlled by the district judges sitting en banc. In at least one case, the fund is divided into three separate funds--one for each of three judges. The funds are used for office salaries, equipment and supplies not covered by parish government appropriations or allocations from the criminal court funds. The funds generally cannot be used to pay judges' salaries.

Audits of the judicial expense funds indicate combined annual revenues from criminal and civil fees and other sources of \$3.4 million. Some audits combine civil and criminal fees, but civil

suit surcharges appear to provide between \$1 million and \$1.5 million of the total.

In several parishes, a small additional "local judges' fee" was reported being collected. PAR has not determined the statutory basis or purpose for these fees.

3. Court Reporter Funds. Five judicial districts are authorized to collect fees for funds to help pay court reporters. Each of these fees is fixed on a sliding scale based on the amount involved in the suit. The minimums range from \$3 to \$20 and the maximums from \$15 to \$35. In several districts, additional fees were reported for which PAR could not locate a statutory authority, including a \$2.50 court reporter fee for each judgment rendered in one district and a \$10 per suit stenographer fee in another.

4. Law Library Funds. Fees ranging from \$2 to \$5 per suit are levied in three districts to help support a law library.

5. Judicial Building Fee. One district has a \$7 per suit building fee.

6. JAMIS fee. The clerk of court may collect a \$1.50 per suit fee to help defray expenses incurred to meet the requirements of the supreme court reporting system. (R.S.13:841.1) While some clerks reported collecting this fee, others apparently do not. It is not known to what extent it is applied statewide. (The JAMIS fee is not reflected in Tables 1A and 1B.)

7. Parish Government Surcharges. While each of the preceding surcharges is used to fund some aspect of the court operation, the recent advent of parish government surcharges broadens the potential uses for civil suit fees. These charges are remitted to the parish government for operational expenses of the judicial system and its related agencies, which might include the offices of district attorney, sheriff, coroner or other functions.

The first of these was authorized for St. Tammany Parish in 1991 (R.S.33:1236). The act allowed the parish government to enact, by ordinance, a fee of up to \$15 for filing and recording adoptions, successions, and any other new civil suits and written motions for hearings filed with the clerk. This fee can be applied any number of times in a given suit, depending on the number of hearings involved.

A 1992 act (Act 661) provided a similar authorization for the St. Landry Parish government.

In both cases, the clerk of court may retain 5% as a processing fee.

Other Agency Fees

The Secretary of State serves as the designated attorney for out-of-state insurance companies to receive any papers to be served on such companies. The secretary is to forward such service by registered mail to the insurer or its representative. The secretary receives a \$25 fee for each such service and the sheriff of East Baton Rouge Parish a \$15 fee for serving the secretary. Together with the clerk's fee for issuing a citation, the cost of citing an insurance company as defendant runs in excess of \$50.

A similar procedure is provided for serving corporations through the secretary of state office when local service cannot be carried out.

The Commissioner of Insurance receives a \$5 fee for each personal injury suit filed. The clerk of court, at least in some parishes, applies an additional \$5 processing fee.

Jury Trial Costs

Jury trials in civil cases are relatively rare. In 1991, only 824 (less than one half of one percent of the 168,530 civil cases filed) went to jury trial statewide. Fifteen district courts reported five or fewer civil trials and three of those had none.

Due to the cost of jury trials, state law limits them to civil suits over \$20,000 with some exceptions. Most family suits and administrative matters are not eligible. The limit was raised from \$1,000 to \$5,000 in 1983 and to the present level in 1987.

PAR asked clerks of court to list the bond required and various costs which might be assessed in a two-day civil jury trial including the amounts required to cover the selection, summoning and payment of jurors. The diversity of responses defies any attempt to present a reasonable comparison.

Variations in statutory provisions, local practice and local conditions result in substantial differences in costs and in how those costs are apportioned from district to district. Populous parishes which can use a jury pool to cover a number of civil and criminal trials in the same period can prorate certain costs among cases. Parishes with infrequent jury trials must select a panel of prospective jurors for each trial and assess the full cost to that trial.

In general, the following cost elements are involved in a civil jury trial:

1. Clerk's jury fee. A uniform \$84 fee is collected by the clerk of court when a jury trial is requested (\$250 in Orleans). This is added to the normal advance deposit for the suit if jury is

requested initially. The charge is credited to the clerk of court.

2. Bond for Jury Trial. When a jury trial is set, the court fixes a bond which must be posted to cover the costs. The court may order, in lieu of the bond, a cash deposit of up to \$300 for each day the trial is estimated to run. According to PAR's survey, a surety bond would not typically be required in several parishes--only the \$300 per day cash bond. Other parishes report typical bonds for a two day trial ranging from \$750 to \$5,000. In two parishes, large cash bonds--\$1,500 and \$2,300--would be reportedly required.

In Orleans, the clerk receives a \$10 cash bond and a jury deposit of \$192 per day is required to cover payment of jurors.

3. Jury commission costs. A five-member jury commission (except in East Baton Rouge Parish where the judicial administrator performs this function) must meet to draw a list of prospective jurors to serve for a given period or a specific case. The cost of the commission (\$75 per day each per meeting) is typically paid by the parish government which covers the cost related to criminal trials and is reimbursed for costs related to civil trials. This cost is charged to the case or prorated over several cases. In several parishes, the police jury apparently absorbs the cost for civil trials as well. In other parishes, the cost, if not prorated, can run as high as \$475.

In Orleans, the jury commission is appointed by the governor, has a full time staff and employs its own process servers.

4. Clerk's fees for jury summons. The clerk charges a fee for issuing the juror summons. These charges appear to range from as little as \$1 per juror for 75 jurors to as much as \$12 per juror to summon 100. The total cost is affected by the fee and the number of jurors summoned. In one parish the clerk's fee is \$5 per juror, but 250 are summoned. In another parish, 150 are summoned and the clerk charges \$8 per issuance, but only for those that appear.

Typically, small districts call 100 for each case. The clerk's fees are generally prorated if several trials run concurrently and can draw from the same jury pool.

The clerk may also in some cases collect a fee to cover the cost of mailing juror payments.

5. Sheriff's fee for serving summons. The law provides that the sheriff may serve prospective jurors in person or by registered, certified or regular mail. Depending on the method chosen, the sheriff's fee and number summoned, the cost assessed can range from as little as \$29 to more than \$1,500 for one pool of prospective jurors. A majority of the clerks reported that certified or first class mail was used in the first instance to deliver summons. Some

parishes use regular mail. Personal service is made if there is no response to the mailed summons.

However, a sizeable number of parishes apparently allow the sheriff to make personal service to all prospective jurors and collect the full fee allowed on a subpoena. On the other hand, in at least 10 parishes the sheriff reportedly would receive an estimated \$300 or less to make the service by mail.

6. Juror costs. Prospective and empaneled jurors receive \$12 a day plus mileage and on occasion, meals are provided. (\$16 per day in Orleans.)

7. Witness fees. Advance deposits are required to cover the costs of expert and other witnesses called. Ordinary local witnesses receive \$8 a day plus mileage. Nonlocal witnesses and law enforcement personnel receive additional compensation. Subpoenas for witnesses require additional clerk and sheriffs fees.

8. Other clerk's fees. The clerk may charge a variety of fees during a jury trial, some rather minor, for swearing witnesses, court attendance, etc., however these are fairly standard.

The total cost of a civil jury trial can vary greatly depending on the number of pleadings, witnesses called and expert witnesses used. However, it is apparent that the basic costs of a jury trial may vary greatly depending on location.

Some of the variance is unavoidable such as the inability to pool jury selection costs and prorate them among a number of trials. The apparent wide variation in the costs assessed for issuing and serving summons on prospective jurors, on the other hand, is not.

THE ADVANCE DEPOSIT SYSTEM

State law requires the clerks of the district courts to collect from the plaintiff in an ordinary suit a deposit of not less than \$20 dollars to be disbursed to the clerk's salary fund or to others as their fees accrue. When the deposit is exhausted, the clerk may refuse to perform any further function in the proceeding until the additional costs for the function have been paid (R.S. 13:842 (A)). The advance deposit, or remaining balance, must be refunded after five years have passed without a pleading (R.S. 13:842 (B)) or within 120 days upon termination of a suit other than probate (R.S. 13: 843.1).

The Orleans Parish Civil District Court has the option of using the advance deposit system with a separate statutory fee schedule provided in R.S. 13:1213 or a system of nonrefundable flat filing fees set by court rule (as authorized by R.S.13:1312). The court has opted for the flat fee approach.

Setting the Deposit

From 1898 to 1954, the clerk of court was allowed a \$10 deposit for an ordinary suit. The \$10 amount was changed in 1954 to a minimum. The \$10 minimum was raised in 1974 to \$20 where it remains today. In view of the rapid escalation in the advance deposits required by clerks, the \$20 minimum is no longer relevant.

Each clerk of court is individually responsible for establishing the advance deposits required in his parish. If one consults the schedule of advance deposits for each parish published in the annual Louisiana Legal Directory, a rather confusing picture results. Some parish entries offer exhaustive lists detailing the different advance deposits required for a variety of types of suits and actions. Some entries show only one basic deposit and some provide no schedules.

A request for civil court fee schedules from the clerks produced an array of deposit arrangements which in many cases are difficult to compare. PAR also asked each clerk to provide the advance deposit required for selected suits or actions to assure comparability. These reported deposit requirements are shown in Table 2.

While the deposit required in an ordinary suit with one defendant to be served is typically \$150 or \$165, the range is from \$125 to \$201. Considering the major differences in the combined surcharges the clerk is required to collect from parish to parish, it would be unreasonable to expect any greater uniformity.

As reported by the clerks, there are substantial differences in the deposits required for specific types of suit. These differences cannot be explained by the presence of surcharges alone. The deposit required for an answer and reconventional demand, for example, ranges from a low of \$65 to a high of \$200.

Two of the categories for which advanced deposits were requested in the survey were subject to interpretation. PAR asked for the deposit for a garnishment with the sheriff's fee included. It was not clear in several cases whether the fee was included or not. Some clerks reported the sheriff's deposit requirement separately or indicated that the sheriff's fee was unknown.

The responses regarding the deposit for a writ of FIFA obviously included some which were only the charge for issuing the writ. Others gave the deposit for the entire proceeding with some including the advance deposit for the sheriff's fees and some excluding sheriff's fees.

Many of the clerks require a lower advance deposit for suits filed on the clerk's docket which serves as a type of small claims procedure. Clerks in several areas reported efforts to establish a uniform schedule of advance deposits. One schedule, prepared in

TABLE 2
Advance Deposits Required, Selected Actions
As of 12/31/92

PARISH	Civil Suit No Service	Civil Suit One Service	Additional Defendant	Garnishment One Service	Executory Process	Answer and Recon. Demand	New Probate Suit	Writ of FIPA	Handamus (Cancellation)	Clerk's Docket Suit	Divorce w/TRO, Rule
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Acadia	150	150	20	150	150	75	150	150	60	100	150
Allen	100	150	40	200	150	125	150	150	85	-	275
Ascension	150	150	40	150	150	100	125	-	85	-	175
Assumption	125	150	50	150	150	110	150	150	150	100	150
Avoyelles	-	-	-	-	-	-	-	-	-	-	-
Beauregard	150	150	25	150	150	150	100	150	100	100	150
Bienville	115	130	35	200	130	90	115	310	75	115	160
Bossier	-	142	30	142	162	112	142	162	72	131	192
Caddo	150	150	40	150	100	150	100	11	75	93	150
Calcasieu	150	150	50	100	150	150	150	100	85	100	250
Caldwell	150	150	40	100	150	150	150	-	150	125	150
Cameron	75	150	25	150	150	150	150	-	-	95	200
Catahoula	200	200	40	275	200	200	150	-	80	100	250
Claiborne	150	150	35	80	150	150	150	50	150	75	150
Concordia	150	150	30	200	200	150	150	400	150	75	200
Desoto	100	150	40	150	180	125	-	165	-	100	205
East B.R.	165	165	40	150	165	150	165	165	165	115	165
East Carroll	100	150	40	200	150	125	150	150	85	-	275
East Feliciana	-	175	40	175	175	175	150	125	-	-	275
Evangeline	78	150	50	150	150	145	150	26	78	95	200
Franklin	100	150	50	125	150	150	150	50	50	100	200
Grant	150	150	40	200	150	150	125	125	75	75	150
Iberia	-	-	-	-	-	-	-	-	-	-	-
Iberville	150	150	30	225	150	150	150	-	100	100	175
Jackson	157	157	45	277	157	100	157	120	82	157	237
Jefferson	-	150	50	150	-	150	-	-	75	80	-
Jeff. Davis	150	150	40	200	150	150	125	125	75	75	250
Lafayette	125	125	40	60	150	80	95	65	44	75	155
LaFourche	100	150	40	175	150	150	150	25	150	85	175
LaSalle	165	165	30	240	165	165	165	240	75	165	165
Lincoln	135	150	40	150	150	125	150	330	200	150	210
Livingston	165	165	30	165	165	165	100	165	165	100	165
Madison	-	-	-	-	-	-	-	-	-	-	-
Morehouse	125	200	30	200	200	200	200	40	100	100	200
Natchitoches	201	201	-	-	151	176	201	-	201	-	-
Orleans*	145	145	25	145	145	100	145	10	10	75	145
Ouachita	-	-	-	-	-	-	-	-	-	-	-
Plaquemines	-	-	-	-	-	-	-	-	-	-	-
Point Coupe	-	-	-	-	-	-	-	-	-	-	-
Rapides	100	150	45	150	150	85	125	85	65	65	150
Red River	80	130	25	130	150	130	130	150	150	130	150
Richland	150	150	50	150	155	125	125	75	50	100	150
Sabine	175	175	25	175	175	100	175	175	150	-	250
St. Bernard	-	160	55	121	204	85	130	-	107	70	-
St. Charles*	150	150	40	200	150	150	125	150	85	85	275
St. Helena	-	-	-	-	-	-	-	-	-	-	-
St. James	-	-	-	-	-	-	-	-	-	-	-
St. John	165	165	40	215	215	165	165	165	105	105	245
St. Landry	-	-	-	-	-	-	-	-	-	-	-
St. Martin	110	150	40	200	150	150	125	125	75	75	150
St. Mary	-	165	45	200	-	100	130	55	85	105	285
St. Tammany	-	-	-	-	-	-	-	-	-	-	-
Tangipahoa	125	125	15	125	125	125	125	50	75	75	135
Tensas	-	-	-	-	-	-	-	-	-	-	-
Terrebonne	140	160	20	235	160	160	75	100	80	90	160
Union	100	150	50	200	150	150	125	150	100	100	200
Vermilion	-	175	30	220	200	95	75	-	95	75	200
Vernon	-	-	-	-	-	-	-	-	-	-	-
Washington	150	200	30	200	200	200	100	20	80	NA	200
Webster	90	135	30	210	135	65	100	30	85	70	175
West B.R.	150	150	30	150	150	150	150	100	150	100	150
West Carroll	150	150	40	200	150	100	150	100	65	85	175
West Feliciana	150	150	50	175	150	150	110	55	150	75	300
Winn	-	-	-	-	-	-	-	-	-	-	-

* Orleans and St. Charles are flat fees.
SOURCE: PAR Survey.

1988 bore the signatures of seven parish clerks, however, one of those parishes separately reported a substantial increase over the scheduled rates due to a new \$15 surcharge added last year.

Flat Fees

As described above, the Orleans civil district court has opted for a system of flat fees instead of using advance deposits. These fees, adopted by rule of the court en banc, are nonrefundable and cover most of the clerk's services with the exception of certain copy charges. (See Appendix for copy of fee schedule.) The flat fees do not include service by the civil sheriff which must be paid separately.

The flat fee in Orleans for filing an ordinary suit is currently \$200.50 with a \$125 fee per defendant for answers. Obviously, the clerk's office will do better in some cases than others compared to the pay-for-service approach used in other parishes. It is difficult to compare the two in terms of relative cost. However, some of the flat fees appear to be on the high side. For example, a \$200.50 flat fee for a name change seems high compared to the \$75 advance deposit required in many parishes.

Because the Orleans fees are used to fund the operations of the clerk's office and court staff as well, the fees are established on a much different basis than those in other parishes. The fees are being used to fund operations typically supported by criminal court funds and parish appropriations elsewhere.

The St. Charles Parish clerk of court has also instituted a type of flat fee system informally (see Appendix for fee schedule). The clerk exercises some flexibility in allowing refunds in discontinued suits. The fees, which are comparable in amount to the advanced deposits required in other parishes, reportedly cover the clerk's costs to service suits. This approach reduces the problem of accounting for numerous individual service charges.

Rapides Parish was given statutory authority to establish a flat fee system but it has not been instituted.

Advance Deposit Fund

Each of the parish clerks, except Orleans, maintains a separate fiduciary fund to account for all advance deposits and subsequent payments made to or through the clerk for services related to suits. The advance deposit fund serves as the basis for a suit accounting system in each parish. As services are performed, disbursements are made from the advance deposit fund to the clerk's salary fund, local sheriff, other parish sheriffs, or other agency performing the service. The automatic surcharges are also drawn from the fund and transmitted to the state treasury (for the judges' supplemental compensation program), the district court (for

the judicial expense fund) and other entities as required.

Not all court costs flow through the advance deposit fund. Some payments are made directly to the sheriff for his services in garnishments and seizures, for example. Juror costs may be reimbursed to the parish government and payments may be made directly to court reporters.

While it would be extremely difficult to track down all costs related to civil suits, the bulk of these do flow through the advance deposit funds. PAR compiled audit report data for most of the parish advance deposit funds for fiscal 1991 or the nearest available year. Most of these audits employ different categories of disbursements, often with little detail. However, all of the audits provided at least the beginning balance, total additions, total reductions and ending balance (see Table 3).

At any one time, a substantial amount is being held statewide in advance deposit funds. The total amount being disbursed from these funds annually was approaching \$50 million in 1991 and growing. PAR obtained more detailed disbursement data for 55 of the 63 parish advance deposit funds (Orleans does not have one) covering more than \$44 million in payments.

Table 4 shows how the \$44 million was distributed on a percentage basis. Of the total, 18%, or \$7.7 million was returned to litigants from balances in suit accounts. The portion of total disbursements going to refunds, by parish, ranges from nearly nothing to over half. Minus the refunds, the remaining \$36 million was distributed 61% to the clerks of court (\$22.1 million), 18% to the sheriffs (\$6.6 million) and 21% to various other payees (\$7.7 million), including the recipients of the surcharges.

The large percentage of disbursements going to the clerk of court--over 70% in a number of parishes--is not all clerks' fees in some cases. The clerks in Madison, St. Helena and Washington parishes report using their salary fund to make other agency payments that ordinarily are made directly from the advance deposit fund. This tends to overstate their share of deposits. Several other high percentage parishes do not do this however.

Detailed Disbursement Example

The audit of the East Baton Rouge Parish Clerk of Court Advance Deposit Fund provides a far more detailed accounting of range of disbursements made from such a fund. Table 5 shows that refunds to litigants amounts to about the same percentage as the average for the 55-parish analysis discussed above. The percentages of the disbursements going to the clerk and to sheriffs, after refunds are removed, are similar to the 55-parish averages. However, here it is clear that one third of the payments to sheriffs goes for service provided in other parishes.

TABLE 3
Advance Deposit Fund Additions and Reductions

<u>Parish</u>	<u>Beginning Balance</u>	<u>Total Additions</u>	<u>Total Reductions</u>	<u>Ending Balance</u>
Acadia '89	\$254,236	\$845,632	\$793,961	\$305,907
Allen '91	171,528	407,673	246,052	333,149
Ascension '91				
Assumption '91	285,531	227,323	233,912	278,942
Avoyelles '92	282,010	644,358	586,059	340,309
Beauregard '90	48,555	508,605	486,669	70,491
Bienville '91	125,871	157,978	140,480	143,369
Bossier '91	402,339	810,000	800,015	412,324
Caddo '92	1,723,996	2,530,760	2,248,068	2,006,688
Calcasieu '90	1,809,254	2,378,238	3,001,506	1,185,986
Caldwell '91	43,797	128,347	119,245	52,899
Cameron '91				
Catahoula '91	138,742	125,013	109,388	154,367
Claiborne '89	95,627	204,360	184,024	115,963
Concordia '92	130,467	230,838	225,560	135,745
Desoto '91	69,097	352,941	338,651	83,387
East B.R. '91	4,725,027	4,630,166	4,456,141	4,899,052
East Carroll '92	54,210	166,511	104,411	62,100
E. Feliciana '91	175,320	248,177	264,298	159,199
Evangeline '91	404,037	440,783	363,301	481,519
Franklin '92	180,487	214,847	200,133	195,201
Grant				
Iberia '91 *	499,743	1,334,598	1,241,869	685,202
Iberville '91	323,850	876,447	421,398	778,899
Jackson '91	152,426	244,414	221,138	175,702
Jefferson '91	6,990,904	7,175,655	5,466,424	8,700,135
Jeff. Davis '91	251,630	357,690	339,722	269,598
Lafayette '91	2,220,105	3,976,191	3,912,734	2,283,562
Lafourche '91	1,976,998	1,387,573	1,131,809	2,232,762
LaSalle '90	128,993	235,115	235,923	128,185
Lincoln '91	165,679	337,524	322,121	181,082
Livingston '91	736,065	856,827	848,292	744,600
Madison '92	37,007	134,119	126,858	44,268
Morehouse '92	75,530	272,698	275,156	73,072
Natchitoches '91	373,535	515,278	420,626	468,187
Orleans				
Ouachita '91	798,733	1,495,619	1,424,391	869,961
Plaquemines '91	653,097	355,097	322,996	685,198
Point Coupe '89				
Rapides '91	547,293	1,694,483	1,608,245	633,531
Red River '91				
Richland '92	120,092	227,136	237,770	109,458
Sabine '91	69,159	384,432	373,188	80,403
St. Bernard '91	994,159	1,224,358	1,120,786	1,097,731
St. Charles '91	414,332	642,071	591,570	464,833
St. Helena '91	126,583	141,022	131,479	136,126
St. James '91	112,270	130,940	119,137	124,073
St. John '91	254,490	573,781	529,713	298,558
St. Landry '90	1,559,443	1,353,693	1,195,511	1,717,625
St. Martin '91	240,977	787,688	735,300	293,365
St. Mary '91	787,368	1,039,785	954,539	872,614
St. Tammany '92	2,582,427	2,440,277	2,079,860	2,942,844
Tangipahoa '91	2,087,812	1,364,514	1,151,927	2,300,399
Tensas '92	29,486	56,763	53,225	33,024
Terrebonne '92	2,323,209	2,345,052	2,166,880	2,501,381
Union '92	136,698	220,624	200,825	156,497
Vermilion '92	407,670	375,094	512,192	270,572
Vernon '91	192,901	514,493	471,275	236,119
Washington '91	242,829	388,083	369,407	262,506
Webster '91	136,854	392,348	386,588	142,614
West B.R. '90	322,336	244,643	247,712	319,267
West Carroll '92	49,067	157,309	110,595	46,714
W. Feliciana '91	127,848	138,448	130,340	135,956
Winn '91	148,074	203,396	197,858	153,612
Total	40,517,803	51,847,828	47,289,253	45,066,832

* Data shown for Iberia parish for FY 1991 has been divided in half due to the format of the two year audit. (Data from FY 1990 and FY 1991 were combined.)

SOURCE: Annual audits.

TABLE 4
Advance Deposit Fund Disbursements by Recipient

<u>Parish</u>	<u>Clerk Cost % of Total Reductions</u>	<u>Refund % of Total Reductions</u>	<u>Sheriff's % of Total Reductions</u>	<u>Other % of Total Reductions</u>
Acadia '89				
Allen '91	55.2%	19.6%	13.5%	11.7%
Ascension '91				
Assumption '91	56.6%	10.0%	17.2%	16.1%
Avoyelles '92	47.8%	23.7%	12.4%	16.1%
Beauregard '90	28.7%	56.4%	8.7%	6.2%
Bienville '91	48.7%	14.9%	12.0%	24.4%
Bossier '91	47.1%	22.0%	16.4%	14.5%
Caddo '92	44.5%	18.3%	14.4%	22.8%
Calcasieu '90	42.3%	31.3%	12.6%	13.8%
Caldwell '91	57.4%	16.8%	14.2%	11.7%
Cameron '91				
Catahoula '91	60.0%	11.5%	15.1%	13.4%
Claiborne '89	42.8%	22.3%	15.1%	19.8%
Concordia '92	62.2%	16.3%	10.9%	10.6%
Desoto '91	51.3%	27.4%	13.0%	8.3%
East B.R. '91	49.4%	19.3%	15.6%	15.7%
East Carroll '92	46.7%	15.2%	11.3%	26.8%
E. Feliciana '91	52.9%	0.1%	12.2%	34.8%
Evangeline '91	61.7%	13.6%	17.8%	7.0%
Franklin '92	57.4%	15.8%	11.8%	15.0%
Grant				
Iberia '91	52.6%	23.4%	13.8%	10.3%
Iberville '91	48.6%	0.0%	17.0%	34.4%
Jackson '91	32.0%	17.2%	12.1%	38.7%
Jefferson '91	57.0%	3.5%	22.6%	17.0%
Jeff. Davis '91	54.7%	23.1%	11.7%	10.5%
Lafayette '91	47.7%	26.6%	12.2%	13.5%
Lafourche '91				
LaSalle '90	52.8%	22.2%	10.9%	14.1%
Lincoln '91	49.7%	23.9%	10.2%	16.2%
Livingston '90	50.5%	21.2%	10.1%	18.2%
Madison '92	72.6%	1.1%	8.8%	17.5%
Morehouse '92	56.3%	18.3%	13.2%	12.2%
Natchitoches '91	36.1%	27.2%	12.7%	24.0%
Orleans				
Ouachita '91	41.0%	0.0%	13.2%	45.9%
Plaquemines '91	50.5%	0.0%	18.0%	31.5%
Point Coupe '89				
Rapides '91	40.0%	30.6%	16.2%	13.1%
Red River '91				
Richland '92	46.4%	23.9%	8.6%	21.0%
Sabine '91	37.4%	26.8%	14.3%	21.6%
St. Bernard '91	51.2%	10.9%	19.5%	18.3%
St. Charles '91	56.3%	9.3%	11.7%	22.7%
St. Helena '91	70.9%	7.9%	9.9%	11.4%
St. James '91	48.0%	24.7%	18.2%	9.1%
St. John '91	60.6%	15.3%	8.6%	15.5%
St. Landry '90				
St. Martin '91	57.5%	16.3%	12.4%	13.8%
St. Mary '91	49.3%	23.9%	14.9%	11.9%
St. Tammany '92	51.2%	12.1%	14.2%	22.5%
Tangipahoa '91	72.9%	7.9%	5.0%	14.2%
Tensas '92	55.7%	15.8%	11.3%	17.2%
Terrebonne '92	40.7%	21.4%	19.0%	18.9%
Union '92	54.4%	16.0%	12.5%	17.0%
Vermilion '92	71.1%	0.0%	17.2%	11.7%
Vernon '91	42.1%	32.9%	13.3%	11.8%
Washington '91	72.8%	0.0%	12.6%	14.5%
Webster '91	51.3%	0.0%	11.2%	13.1%
West B.R. '90	50.3%	0.0%	18.5%	29.4%
West Carroll '92	58.5%	0.2%	11.8%	29.5%
W. Feliciana '91	48.5%	27.3%	13.7%	10.5%
Winn '91	43.4%	41.5%	13.1%	1.9%
Total	50.1%	17.5%	14.9%	17.5%
Total minus Refunds	60.7%	N.A.	18.1%	21.2%

Table 5

Disbursements from Advance
Deposit Fund
East Baton Rouge
FY (1991)

Reductions (Disbursements)		% of Tot. Red.	% of Tot. Red. less refunds
		-----	-----
Advertising	21,331	0.5	0.6
Civil jurors	34,615	0.8	1
Commissioner of Insurance	12,095	0.3	0.3
Court of Appeals	25,880	0.6	0.7
Curator Fees	136,560	3.1	3.8
Deposition fees	1,318	0	0
Garnishment fees	2,705	0.1	0.1
Family expense fund	30,050	0.7	0.8
Foreign sheriffs	225,766	5.1	6.3
Judges supplemental fund	154,452	3.5	4.3
Judicial expense fund	192,268	4.3	5.3
Local sheriff's cost	467,662	10.5	13
Miscellaneous	7,570	0.2	0.2
Notary and appraisal	350	0	0
Refund of deposit balances	861,427	19.3	n.a.
Secretary of State	59,358	1.3	1.7
Stenographers	8,922	0.2	0.2
Transfer to Salary Fund	2,203,348	49.4	61.3
Transfer to registry of court	1,585	0	0
Unclaimed property	4,199	0	0.1
Witness fees	4,680	0.1	0.1
		-----	-----
Total reductions	4,456,141	100.0%	
Tot. Red. less refunds	3,594,714		100.0%

Nearly 11% of the actual payout from the East Baton Rouge Parish advance deposit fund goes to the four surcharges applied to civil suits in the 19th district: judges' supplemental compensation fund, judicial expense fund, family court expense fund (family suits only) and the commissioner of insurance (personal injury cases only).

Comment

The size of the initial deposit required to file a suit in district court has obvious ramifications. Given the present level of fees and surcharges required, it would be difficult to say that the general level of deposits is inappropriate from the vantage point of the clerks. The standard \$150 deposit can quickly evaporate in the early stages of even a relatively uncomplicated active suit.

The sizeable amount of refunds to litigants is largely due to reimbursements to parties, who advanced costs initially, after the other parties are cast to pay costs at judgment. Some of the refunds are for overpayments in discontinued suits.

Four-fifths of all advance deposits made ultimately go to pay charges and fees, 60% of which are in the clerk's jurisdiction, while the remaining 40% is split between sheriffs and a host of other agencies. By rough estimates, possibly one-tenth of the money deposited goes to finance the district court system per se.

Since 1985, a rapid rise in required advance deposits has resulted from newly legislated surcharges, increases in fees for the sheriffs and secretary of state and a 10% discretionary increase in clerks' fees.

While advance deposits may generally be appropriate considering existing fees, the question still remains as to the appropriateness of those fees which the deposit is designed to cover.

FUNDING THE CLERK OF COURT OFFICE

The clerk of court office has long been financed on a fee-for-service basis. It is generally recognized that certain of these services--recordings, mortgages and copying--tend at least to pay for themselves. Civil suit fees are considered the cash cow for the offices--generally covering the costs related to paying civil suits and covering a portion of the cost of servicing nonpaying civil suits and criminal actions as well.

It is difficult to determine if the fees for individual clerk of court services are inherently appropriate. Few of the clerks' offices employ an accounting system designed to cost the operation of their functional departments much less their individual services. In many of the smaller offices, there is no clear delineation of functional departments. Thus, it is difficult to

accurately compare the cost of a given service with the fees generated by that service.

Fortunately, financial audits for four of the clerks' offices--St. Tammany, St. Mary, Sabine and Washington parishes--provide a breakdown of all expenditures (salaries, benefits, expenses) on a departmental basis. In addition, the East Baton Rouge office provided a departmental breakdown of salaries which permits an estimate of how total expenditures might be distributed. While it is still difficult to relate the revenue categories with the departments, a reasonable comparison can be made between revenues from "court costs, fees and charges" (for the most part from civil suits) with civil suit department expenditures.

While the financial audits for most of the clerks' offices do not allow a detailed comparison of revenues and expenditures, they do permit a comparison of clerk's fees from suits and successions with total revenues. This comparison gives a broader statewide view of the role of civil suit fees in funding the clerks' offices.

Three Parish Analysis

St. Tammany Parish

The fiscal 1991 audit of the St. Tammany Parish clerk of court general (salary) fund detailed expenditures for seven distinct departments and five revenue categories:

Table 6. St. Tammany Parish Clerk of Court

<u>Expenditures</u>	<u>Actual 1991</u>	<u>% of Total</u>
Administration	\$ 364,680	14.0%
Recordings & Filings	539,789	20.7
Mortgage Certificates	354,344	13.6
Suits & Probate	767,218	29.4
Criminal Costs	380,622	14.6
Elections	68,376	2.6
Purchasing & Maps	<u>137,401</u>	<u>5.3</u>
Total Expenditures	\$ 2,612,430	100.0
<u>Revenues</u>		
Marriage Licenses	\$ 18,057	0.7%
Court costs, fees & chgs.	1,172,993	47.0
Recording fees	935,614	37.5
Copy fees	176,502	7.1
Interest	<u>150,019</u>	<u>6.0</u>
Total Revenue	\$ 2,493,537	100.0

At first glance it would appear that civil suit fees, about \$1.2 million, exceeded the cost of operating the suits and probate division by more than \$400,000. However, if the overhead or cost of the administrative division--an added 34%-- is distributed over the operating divisions, the difference narrows to about \$280,000. In this case, civil court costs appear to be covering all of the related clerk expenditures including those for unpaid civil suits and subsidizing better than half of the criminal court costs as well.

St. Mary Parish

Audited expenditures by the St. Mary Parish clerk of court office for fiscal years 1991 and 1992 are shown for five categories in Table 7. Revenues from court costs are two-thirds of all revenues for the clerk's office and are sufficient to cover the combined expenditures for the Suits and Probate division and the Criminal & Civil Minutes division. This is true even after adding 35% to distribute the cost of the administrative division as overhead among the operating divisions.

East Baton Rouge Parish

The East Baton Rouge Parish clerk of court office provided an accounting report showing salaries by 22 separate functions (see Table 8). Currently the system cannot generate a similar breakout of other compensation and expenses. PAR made a rough estimate of the total expenditure by category by distributing, to the operating functions, the total non-salary expenditures of the office, all capital outlay and the salary costs for the administrative and support functions.

The clerk's revenue from civil suits (the amount transferred from the advance deposit fund) for fiscal 1991 was \$2.2 million or roughly \$250,000 more than the estimated total expenditure for the civil functions in the office. The clerk received enough in fine settlements to cover about half of the \$300,000-plus cost for providing criminal court services. The surplus in civil suit funding more than took care of the difference in the criminal area.

In addition, the clerk received \$400,000 in interest earnings. Depending on how much of this interest was related to investment of civil court fees, other aspects of the clerks' office, beyond the civil and criminal court services, were being subsidized.

In Summary

The three case studies indicate that civil court costs are the revenue workhorse for the clerk's offices. In each case civil suit fees were sufficient to cover all related service costs, the related administrative overhead, services left unreimbursed in pauper and government suits and criminal court services as well.

Table 7

ST. Mary Parish Clerk of Court

Expenditures by Function

	6/30/92	% of Total	6/30/91	% of Total
Administration	233,370	26.0%	225,184	25.5%
Recordings & Filings	101,277	11.3%	94,290	10.7%
Mortgage Certificates	51,509	5.7%	55,900	6.3%
Crim. & Civil Minutes	182,055	20.3%	177,023	20.1%
Suits & Probate	244,192	27.2%	246,727	28.0%
Miscellaneous	84,158	9.4%	82,449	9.4%
Total Expenditures	896,561	100.0%	881,573	100.0%

Revenues by Type

Marriage licenses	7,849	0.9%	8,290	1.0%
Court costs, fee, & chgs.	583,642	65.8%	551,816	64.7%
Recording fees	178,023	20.1%	188,305	22.1%
Copy fees	50,624	5.7%	55,016	6.4%
Interest	65,706	7.4%	48,899	5.7%
Miscellaneous	901	0.1%	1,111	0.1%
Total Revenues	886,745	100.0%	853,437	100.0%

TABLE 8
East Baton Rouge Parish Clerk of Court
Expenditure and Revenue Comparison

EXPENDITURES

<u>Operating Departments</u>	<u>Estimated Expenditures*</u>
Civil evidence	\$21,881
Civil appeals	103,075
Civil processing	273,740
Family court	151,448
Family processing	119,911
Family violence	77,673
Suit accounting	685,809
Suit records	<u>515,272</u>
Total Civil Court Services	\$1,948,809
Criminal Dept.	<u>\$306,797</u>
Total Criminal Ct. Services	\$306,797
Copy dept.	\$269,302
Data indexing	343,612
Mortgage	477,846
Recording	<u>219,690</u>
Total Conveyance/Mortgage	\$1,310,450
Archives	\$257,146
Archives research	14,785
Inner Office	24,432
Microfilm	<u>402,543</u>
Total Records storage	\$698,906
Public service	\$481,897
Elections	<u>265,522</u>
Total Other	\$747,419
Total Expenditures	\$5,012,381

REVENUES

Cancellations	\$72,193
Certified copies	149,711
City-Parish budget allocation	35,196
Copies	298,985
Court reporters	70,980
Criminal court costs	460
Election expenses-reimbursed	87,166
Expungements	4,829
Fine settlements	146,374
Interest income	402,418
Judicial expense-reimbursed	3,048
Marriage licenses	38,647
Miscellaneous	55,989
Mortgage certificates	116,040
Notarial fees	11,127
Qualifying fees	1,030
Recording	1,046,711
Sale of microfilm	8,709
Secretary of State-UCC	125,244
Transfers-Advance Deposit fund	<u>2,203,348</u>
Total Revenues	\$4,878,205

* PAR estimated departmental expenditures by distributing all expenditures to these operating departments according to each department's share of total salary expense.

A similar analysis of the Sabine and Washington parish clerks' audits provided the same results.

Statewide Analysis

PAR examined the financial audit of the general fund (salary fund) of each clerk of court office for the fiscal year ending June 1991 or the most recent year available. Table 9 presents a breakdown of the basic funding sources reported for all parishes except Orleans and Grant parishes. The Orleans clerk of civil district court is discussed separately below. An audit for Grant Parish was not available.

The category "clerk's fees" was the one uniformly distinguishable revenue category presented in the audit reports. This generally represents the fees related to civil suits and successions credited to the clerk's office from the advance deposit fund. (Audits for some smaller parishes combine civil fees and criminal revenue, but, the criminal revenues are typically only about 10% of the total.)

Overall, clerk's fees in civil suits comprised slightly more than half of all operating revenues of the offices. With the exceptions noted, clerk's civil suit fees totalled over \$27 million for one year. A very rough measure of the average costs per civil suit is derived by dividing this amount by the number of filings in those parishes for 1991--resulting in about \$190 as the average costs per civil suit.

It should be noted however, that this "average" cost reflects only the fees paid the clerk and excludes the various surcharges and fees paid to other agencies such as the sheriff.

The clerks also received, on average, nearly 7% of their revenues from interest earnings on funds held on deposit. A large share of this revenue is attributable to civil fees and advance deposits.

The second largest revenue source for the clerks was their recording function which provided at least one fourth of their income.

Criminal fees were a relatively small portion of the clerk's revenue in most parishes--too small to warrant a separate item on many audit reports. While these fees amounted to almost 10% in a handful of parishes, only one parish audit indicated a much larger share--nearly 20% in St. Charles Parish.

Most of the audit reports do not provide a particularly detailed exhibit of revenues, thus many of the minor sources cannot be distinguished. Only a few of the audits indicated any intergovernmental revenue other than minor election cost reimbursements. In the few cases where election expenditures could be identified, the reimbursements fell short of the costs.

There is no indication that any of the clerks have recently received any significant funding from the state or from their parish governments beyond the mandated indirect expenditures for providing courthouse facilities and utilities. A survey, by the Police Jury Association, indicated that local governments provided a total of \$1.9 million in funding for the clerks of court in 1989. However, much of the funding reported was likely indirect.

State law provides for a state grant of \$6,000 a year to each clerk of a parish in which a state correctional institution is located, however this money has not been appropriated in recent years.

The most recent audit of the Orleans civil district court's judicial expense fund (calendar year 1990) shows total revenues of \$8.1 million of which \$4.5 million was from fees generated in the civil district court alone. (Another quarter million dollars was generated from interest on those fees.) The remainder was generated by the first and second city courts, mortgage office and conveyance office. The audit combines expenditures for the civil district court and the clerk of court offices. The civil court fees, however, clearly support the operation of both offices.

When the clerk's fees and related interest from Table 9 and the similar revenues in Orleans are combined, total revenues generated by civil court fees statewide can be estimated at nearly \$36 million a year.

Comment

The role of civil court costs in subsidizing other aspects of the clerks' offices is evident in specific cases and is strongly suggested for most clerks' offices statewide. Asked to estimate the percentage of their budgets devoted to civil court related activities, most clerks who answered guessed somewhere between 30% and 50%. This together with the fact that roughly half of clerks' revenues are from civil suits again indicates that they may often exceed the costs of providing the related services.

PAUPER AND GOVERNMENT CASES

As demonstrated above, civil court fees provide a major share of the revenue for most clerks of court. Many civil cases, however, are filed and processed without fees being paid. Pauper and government suits are the major classes of suits falling in this category.

In surveying the clerks of court, PAR asked them to identify the most common types of pauper and government suits filed in their parishes. By far the most common pauper cases appear to be domestic cases--divorce and protective orders. Some clerks mentioned suits for damages as being important as well.

TABLE 9
Clerk of District Court Revenues

PARISH	Total Revenues	Clerk's Fees	% of Total	Copies	% of Total	Interest	% of Total
Acadia '89	\$816,018	\$394,043	48.3%	\$39,444	4.8%	\$38,433	4.7%
Allen '91	266,380	135,722	51.0%	15,979	6.0%	13,103	4.9%
Ascension '91	916,213	590,637	64.5%	50,701	5.5%	80,444	8.8%
Assumption '91	258,486	159,964	61.9%	10,578	4.1%	25,356	9.8%
Avoyelles '92	543,249	312,432	57.5%	19,917	3.7%	25,936	4.8%
Beauregard '90	296,515	139,712	47.1%	16,581	5.6%	15,456	5.2%
Bienville '90	255,273	80,282	31.4%	34,276	13.4%	4,602	1.8%
Bossier '91	800,998	471,749	58.9%	56,149	7.0%	52,415	6.5%
Caddo '92	2,608,613	1,590,306	61.0%	154,315	5.9%	155,674	6.0%
Calcasieu '90	2,172,640	1,314,742	60.5%	138,780	6.4%	169,874	7.8%
Caldwell '91	173,185	77,754	44.9%	28,534	16.5%	4,334	2.5%
Cameron '91	339,509	100,365	29.6%	54,211	16.0%	24,901	7.3%
Catahoula '91	214,376	14,730	6.9%	23,348	10.9%	12,396	5.8%
Claiborne '89	287,552	11,156	3.9%	28,893	10.0%	29,509	10.3%
Concordia '92	383,316	147,081	38.4%	0	0.0%	0	0.0%
Desoto '91	378,978	228,730	60.4%	44,284	11.7%	9,005	2.4%
East B.R. '91	4,878,205	2,203,348	45.2%	448,696	9.2%	402,418	8.2%
East Carroll '92	204,265	126,657	62.0%	2,774	1.4%	9,698	4.7%
E. Feliciana '90	270,932	157,468	58.1%	26,435	9.8%	22,923	8.5%
Evangeline '91	420,372	223,977	53.3%	19,300	4.6%	25,399	6.0%
Franklin '92	282,567	164,777	58.3%	15,500	5.5%	13,539	4.8%
Grant							
Iberia '91 *	1,088,986	652,700	59.9%	20,215	1.9%	96,930	8.9%
Iberville '91	430,518	186,229	43.3%	38,132	8.9%	5,802	1.3%
Jackson '91	187,208	97,633	52.2%	14,029	7.5%	16,171	8.6%
Jefferson '90	7,741,322	4,001,314	51.7%	351,916	4.5%	710,701	9.2%
Jeff. Davis '91	587,745	186,343	31.7%	56,066	9.5%	26,788	4.6%
Lafayette '91	3,602,758	1,864,032	51.7%	323,040	9.0%	304,611	8.5%
Lafourche '91	1,062,066	510,638	48.1%	81,735	7.7%	60,566	5.7%
LaSalle '90	252,858	127,447	50.4%	33,254	13.2%	0	0.0%
Lincoln '91	418,517	216,018	51.6%	33,327	8.0%	25,227	6.0%
Livingston '90	865,051	477,592	55.2%	47,190	5.5%	75,431	8.7%
Madison '92	226,650	142,972	63.1%	4,701	2.1%	567	0.3%
Morehouse '92	367,455	154,815	42.1%	28,102	7.6%	7,054	1.9%
Natchitoches '91	399,116	151,960	38.1%	30,729	7.7%	30,028	7.5%
Orleans**							
Ouachita '91	1,417,524	915,871	64.6%	74,009	5.2%	100,399	7.1%
Plaquemines '91	939,631	162,683	17.3%	42,221	4.5%	75,800	8.1%
Point Coupe '89	314,215	138,454	44.1%	40,053	12.7%	12,421	4.0%
Rapides '91	1,352,305	648,505	48.0%	89,370	6.6%	12,210	0.9%
Red River '91	163,126	67,088	41.1%	10,496	6.4%	11,593	7.1%
Richland '92	300,634	177,359	59.0%	9,078	3.0%	10,995	3.7%
Sabine '90	339,695	164,167	48.3%	20,601	6.1%	13,157	3.9%
St. Bernard '91	893,309	607,103	68.0%	6,256	0.7%	52,479	5.9%
St. Charles '91	786,139	333,067	42.4%	43,270	5.5%	48,076	6.1%
St. Helena '91	159,834	96,508	60.4%	8,409	5.3%	10,386	6.5%
St. James '91	224,932	103,287	45.9%	21,696	9.6%	8,684	3.9%
St. John '91	645,499	423,820	65.7%			14,401	2.2%
St. Landry '90	1,210,379	584,687	48.3%	48,715	4.0%	137,152	11.3%
St. Martin '91	786,107	422,558	53.8%	50,010	6.4%	12,386	1.6%
St. Mary '91	853,437	551,816	64.7%	55,016	6.4%	48,899	5.7%
St. Tammany '92	2,493,537	1,172,993	47.0%	176,502	7.1%	150,019	6.0%
Tangipahoa '91	1,400,748	839,968	60.0%			144,314	10.3%
Tensas '92	112,384	59,629	53.1%	22,211	19.8%	4,789	4.3%
Terrebonne '92	1,565,878	880,973	56.3%	150,669	9.6%	11,625	0.7%
Union '92	277,984	138,377	49.8%	21,058	7.6%	14,776	5.3%
Vermilion '91	934,758	253,708	27.1%	143,534	15.4%	23,295	2.5%
Vernon '91	484,843	198,300	40.9%	21,936	4.5%	20,204	4.2%
Washington '91	498,889	267,832	53.7%	5,040	1.0%	12,546	2.5%
Webster '91	505,413	198,178	39.2%	46,526	9.2%	22,947	4.5%
West B.R. '90	256,356	111,260	43.4%	17,429	6.8%	21,336	8.3%
West Carroll '92	155,177	75,950	48.9%	9,337	6.0%	3,587	2.3%
W. Feliciana '91	134,554	121,871	90.6%	0	0.0%	0	0.0%
Winn '91	201,203	119,975	59.6%	12,277	6.1%	14,466	7.2%
Total	\$53,406,382	\$27,251,312	51.0%	\$3,436,850	6.4%	\$3,508,233	6.6%

* Data shown for Iberia parish for FY 1991 has been divided in half due to the format of the two year audit. (Data from FY 1990 and FY 1991 were combined.)

** 1990 Orleans Civil District Court clerk fees, not shown above, total \$4,520,204.

SOURCE: Annual Financial Audit of Clerk's Salary Fund.

TABLE 9
(Continued)

PARISH	Licenses & Permits	% of Total	Recordings	% of Total	Miscellan.	% of Total
Acadia '89	\$12,860	1.6%	\$245,089	30.0%	\$86,149	10.6%
Allen '91	5,375	2.0%	68,562	25.7%	27,639	10.4%
Ascension '91	17,900	2.0%	176,531	19.3%	0	0.0%
Assumption '91	2,429	0.9%	58,481	22.6%	1,678	0.6%
Avoyelles '92	4,050	0.7%	180,070	33.1%	844	0.2%
Beauregard '90	8,480	2.9%	73,579	24.8%	42,707	14.4%
Bienville '90	2,400	0.9%	133,576	52.3%	137	0.1%
Bossier '91	10,237	1.3%	210,356	26.3%	92	0.0%
Caddo '92	34,087	1.3%	672,239	25.8%	1,992	0.1%
Calcasieu '90	25,330	1.2%	523,914	24.1%	0	0.0%
Caldwell '91	3,000	1.7%	58,935	34.0%	628	0.4%
Cameron '91	1,850	0.5%	127,176	37.5%	31,006	9.1%
Catahoula '91	2,605	1.2%	145,270	67.8%	16,027	7.5%
Claiborne '89	1,352	0.5%	212,406	73.9%	4,146	1.4%
Concordia '92	0	0.0%	178,868	46.7%	57,367	15.0%
Desoto '91	2,312	0.6%	94,362	24.9%	285	0.1%
East B.R. '91	38,647	0.8%	1,046,711	21.5%	738,385	15.1%
East Carroll '92	1,300	0.6%	63,578	31.1%	258	0.1%
E. Feliciana '90	1,961	0.7%	49,840	18.4%	12,305	4.5%
Evangeline '91	8,825	2.1%	75,009	17.8%	67,862	16.1%
Franklin '92	2,716	1.0%	86,035	30.4%	0	0.0%
Grant						
Iberia '91 *	16,600	1.5%	211,174	19.4%	91,367	8.4%
Iberville '91	7,400	1.7%	101,013	23.5%	91,942	21.4%
Jackson '91	3,611	1.9%	49,238	26.3%	6,526	3.5%
Jefferson '90	110,223	1.4%	2,391,701	30.9%	175,467	2.3%
Jeff. Davis '91	7,852	1.3%	168,441	28.7%	142,255	24.2%
Lafayette '91	43,099	1.2%	638,622	17.7%	429,354	11.9%
Lafourche '91	20,650	1.9%	214,552	20.2%	173,925	16.4%
LaSalle '90	4,055	1.6%	62,681	24.8%	25,421	10.1%
Lincoln '91	4,841	1.2%	139,104	33.2%	0	0.0%
Livingston '90	21,353	2.5%	195,782	22.6%	47,703	5.5%
Madison '92	2,800	1.2%	75,610	33.4%	0	0.0%
Morehouse '92	5,250	1.4%	99,230	27.0%	73,004	19.9%
Natchitoches '91	7,600	1.9%	105,336	26.4%	73,463	18.4%
Orleans**						
Ouachita '91	17,675	1.2%	309,570	21.8%	0	0.0%
Plaquemines '91	4,475	0.5%	120,101	12.8%	534,351	56.9%
Point Coupe '89	4,850	1.5%	77,623	24.7%	40,814	13.0%
Rapides '91	34,922	2.6%	272,171	20.1%	295,127	21.8%
Red River '91	2,850	1.7%	40,446	24.8%	30,653	18.8%
Richland '92	2,262	0.8%	100,940	33.6%	0	0.0%
Sabine '90	2,376	0.7%	94,046	27.7%	45,348	13.3%
St. Bernard '91	7,687	0.9%	218,476	24.5%	1,308	0.1%
St. Charles '91	4,722	0.6%	115,463	14.7%	241,541	30.7%
St. Helena '91	2,225	1.4%	33,629	21.0%	8,677	5.4%
St. James '91	3,962	1.8%	42,820	19.0%	44,483	19.8%
St. John '91			138,856	21.5%	68,422	10.6%
St. Landry '90	19,364	1.6%	209,766	17.3%	210,695	17.4%
St. Martin '91	8,200	1.0%	197,542	25.1%	95,411	12.1%
St. Mary '91	8,290	1.0%	188,305	22.1%	1,111	0.1%
St. Tammany '92	18,057	0.7%	935,614	37.5%	40,352	1.6%
Tangipahoa '91			335,632	24.0%	80,834	5.8%
Tensas '92	625	0.6%	25,130	22.4%	0	0.0%
Terrebonne '92	16,282	1.0%	282,792	18.1%	223,537	14.3%
Union '92	3,775	1.4%	99,998	36.0%	0	0.0%
Vermilion '91	5,201	0.6%	264,034	28.2%	244,986	26.2%
Vernon '91	11,428	2.4%	74,424	15.4%	158,551	32.7%
Washington '91	11,201	2.2%	102,993	20.6%	99,277	19.9%
Webster '91	9,996	2.0%	144,444	28.6%	83,322	16.5%
West B.R. '90	3,334	1.3%	35,115	13.7%	67,882	26.5%
West Carroll '92	1,120	0.7%	61,700	39.8%	3,483	2.2%
W. Feliciana '91	1,575	1.2%	0	0.0%	11,108	8.3%
Winn '91	2,100	1.0%	52,069	25.9%	316	0.2%
Total	\$651,604	1.2%	\$13,506,770	25.3%	\$5,051,523	9.5%

By far the most frequently mentioned government cases were suits to collect student loans. AFDC paternity cases were also high on the list. Department of Employment Security cases and hospital collection suits topped the list in some parishes. Tax collection suits by local government were cited in some areas of the state, but are apparently relatively rare in others. Some types of suits can become very important for a while as in the case of expropriation suits accompanying a road project.

Legal Authority

The following is a discussion of the statutory basis for postponing or foregoing the collection of court costs in pauper and government cases.

Pauper Cases

The Louisiana state constitution gives each person the right to judicial access. Article I, Section 22 states:

"All courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation or other rights."

The Code of Civil Procedure enacts this provision of the constitution by providing for the waiver of court costs for an indigent party. Under Article 5181, an individual unable to pay court costs because of his poverty or lack of means is given access to the court without paying the costs in advance or as they accrue. (One exception to this is a person who files suit in a state court while imprisoned for commission of a felony; he must pay advance costs in accordance with a schedule provided in the Code of Civil Procedure which is based on the prisoner's present assets).

The individual must file an affidavit with the court attesting to his inability to pay. If the court agrees, it renders an order allowing the individual to litigate or continue litigating without paying advance costs, costs as they accrue, or furnishing security therefor. The court can reconsider the order at any time. The clerk of court or an adverse party can object to the granting of poverty status and the court can rescind the order if it finds the individual is not entitled to the poverty status.

The indigent party is not absolved of never paying the court costs due. His ability to litigate is considered a privilege granted to avoid denying an individual his day in court due to lack of financial means to pay or provide security. An accounting is to be kept of all court costs incurred by the public officers (i.e., sheriff, clerk of court) to whom the costs would be payable. If judgment is rendered in favor of the indigent party, the party

against whom the judgement is rendered is condemned to pay all costs due those public officers (i.e., sheriff, clerk of court) who have a privilege on the judgment superior to the rights of the indigent party or his attorney. If judgment is rendered against the indigent plaintiff and he is condemned to pay court costs, an affidavit of the account by a public officer to whom costs are due has the effect of a judgment for the payment of money.

Basically, the judge in each case determines whether or not a person is entitled to pauper status. There is no specific standard of income or financial status prescribed by state law. A 1977 Louisiana case, Benjamin V National Super Markets, Inc. 351 So. 2d 138 has been considered the leading determinant. In this case, the court said that in determining a litigant's qualification to proceed as indigent, courts have taken a realistic view as to the litigant's actual ability to advance or secure court costs out of net income available for that purpose, after payment of reasonable living expenses and debts, and in view of unencumbered property other than a modest family residence, or a modest automobile essential for family transportation.

Comment. The indigent litigant remains liable for costs if costs are cast against him. However, it does not appear that clerks of court systematically try to recover costs at a later date after a case has been decided.

The basis used in Benjamin V National Super Markets for deciding whether a person qualifies as indigent may be inappropriate. The total worth of two different people could be the same, but because one primarily has his assets in property while the other has cash, the first would be considered indigent but not necessarily the second. Also, by leaving it completely to the discretion of the judge, inequities are likely to occur as each individual judge must in effect set his own standards in each case. Many lawyers and judges have indicated that obtaining pauper status for a client is easy and basically just a matter of getting the necessary papers filed. The increased use of pauper status which clerks of court indicate has been occurring may partly reflect this attitude.

Government Suits

State law (R.S. 13:4521) provides that state and local governments shall not be required "to pay court costs in any judicial proceeding instituted or prosecuted by or against the state or any such parish, municipality, or other political subdivision, board, or commission, in any court of this state or any municipality of this state," including those in Orleans Parish and the city of New Orleans. This does not apply to stenographers' costs for taking testimony. The law requires the exempted governmental entity to help collect the court costs due by asking the court to tax costs.

Certain exceptions are provided including one, R.S. 13:5112, which

generally exempts Louisiana state and local government from paying court costs *in advance* in a suit filed against it, but does require the state or local government involved to pay court costs once a judgement is rendered against it, the judgement becomes final and definitive, and the funds therefor have been appropriated in the specified dollar amount due. It does not appear that the state or a local government has to pay court costs in a proceeding it institutes whether successful or not. (Obviously the court may require the other private party to pay court costs, but if this does not happen or the party does not pay the costs, the state or local government involved would not have to pay any court costs and therefor the court costs would go unpaid.)

Other exceptions referred to in R.S. 13:4521 concern expropriation of property:

(a) The court can require any party, including the state Department of Transportation and Development, who demands a jury trial, to post a bond or other security for jury costs as may be required in ordinary similar jury cases (R.S. 48:451.3).

(b) If the expropriating authority (for example, the state or a local government) demands a jury trial to determine compensation, the costs of the jury trial are to be assessed against the expropriating authority (R.S. 19:15). The same language is provided in R.S. 19:116 regarding expropriation by a municipality.

Additional exceptions are given in other state laws.

The state office of employment security or the administrator cannot be cast for court costs in any judicial review proceeding occurring under R.S. 23:1634, which concerns unemployment compensation claims (R.S. 13:5112(D)).

R.S. 40:31 exempts the state health and human resources department, parish health units, state health officer and parish health officers from the payment of costs of court and stenographers' fees in any suit in which one of them is a party. However, the costs can be charged against any other party, other than these, as though they had actually paid the costs.

Other special laws govern suits for tax refunds, worker's compensation benefits, proceedings regarding garnishment of wages, and suits or mandamus proceedings against the state division of public health statistics and vital statistics.

Finally, state law provides that no suit *against* the state or a state agency or local government can be tried by jury (R.S. 13:5105).

Impact of Pauper and Government Suits on Court Fees

In 1991, civil suits comprised about 31% of all cases filed in

district courts. However, on a parish basis, the percentage ranged from 8.7% to 77.9%. (See Table 10). Likewise, the importance of pauper and government suits varies substantially with the economy of an area and the presence of state and local institutions. Practice and local custom also appear to enter into the equation.

PAR's survey of the clerks of court requested data concerning the number of pauper, government and AFDC paternity cases filed in 1991 and the amounts of court costs which went unpaid in each category. This data is not readily available in most of the accounting systems employed and some had to rely on estimates. However, most of those responding provided some hard data and a few were able to produce fairly detailed information.

Table 11 presents the data on pauper, government and paternity suits provided by the clerks of court. It offers a reasonably broad sample of parishes from across the state. The 48 parishes reporting pauper and government suit data represented about 85% of the total civil suit filings in the state. From the data reported, ratios of government, pauper and paternity suits to total civil suit filings were developed for those parishes with complete data. Likewise, those parishes reporting estimates of unpaid costs for each type of suit were used to develop average unpaid costs per case. These ratios and cost averages were then applied to the statewide total civil suit filing for 1991 to estimate the approximate total numbers and costs for these suits. (See Table 12.)

Approximately 24,584 pauper suits (nearly 15% of all suits) were filed in 1991 based on the above methodology. These suits in turn generated \$3.8 million in unpaid court costs or an average of about \$153 per suit. Not all pauper suit costs go unpaid; however, respondents estimated that from 85% to 100% do.

While there is no statistical evidence, comments by some clerks of court strongly suggest that pauper status is obtained far more easily in some courts than in others. The broad statutory guidelines for granting pauper standing leave a great deal of room for judicial discretion.

Approximately 29,195 government suits (over 17% of all suits) were filed in 1991 generating \$3.4 million in unpaid court costs or about \$116 per case. The lower average unpaid cost for government suits as compared to pauper suits may, at least in part, be due to a higher rate of collections. While the government suits may include more simple suits that generate fewer service charges, a number of clerks reported receiving at least partial payments on a share of their government suits. For example, court costs cast in student loan judgments may be paid to the clerk if and when collections are successful.

Government suits may be treated somewhat differently across the state. Several clerks reported that judges never cast costs in

TABLE 10
Civil Cases as a Percent of All Cases Filed, 1991

Parish	Total Cases	Civil Cases	Civil as % of Total
Acadia	6,590	1,428	21.7%
Allen	3,578	957	26.7%
Ascension	3,133	2,390	76.3%
Assumption	4,198	894	21.3%
Avoyelles	6,207	2,216	35.7%
Beauregard	3,935	1,049	26.7%
Bienville	4,377	572	13.1%
Bossier	9,343	2,628	28.1%
Caddo	17,400	8,909	51.2%
Calcasieu	19,299	7,108	36.8%
Caldwell	1,646	429	26.1%
Cameron	3,095	458	14.8%
Catahoula	2,794	425	15.2%
Claiborne	2,335	439	18.8%
Concordia	5,015	758	15.1%
Desoto	6,548	1,277	19.5%
East Baton Rouge	37,293	13,908	37.3%
East Carroll	2,559	234	9.1%
East Feliciana	4,022	820	20.4%
Evangeline	3,421	1,442	42.2%
Franklin	2,182	819	37.5%
Grant	3,839	613	16.0%
Iberia	9,064	2,983	32.9%
Iberville	4,852	1,734	35.7%
Jackson	1,979	742	37.5%
Jefferson	23,023	16,683	72.5%
Jefferson Davis	7,491	1,143	15.3%
Lafayette	16,096	7,083	44.0%
Lafourche	15,839	3,538	22.3%
LaSalle	2,435	616	25.3%
Lincoln	4,133	957	23.2%
Livingston	8,275	2,800	33.8%
Madison	3,949	478	12.1%
Morehouse	4,758	948	19.9%
Natchitoches	9,062	1,297	14.3%
Orleans	30,641	23,874	77.9%
Ouachita	19,461	4,744	24.4%
Plaquemines	4,934	1,036	21.0%
Point Coupe	3,850	793	20.6%
Rapides	21,278	5,277	24.8%
Red River	2,163	387	17.9%
Richland	4,022	807	20.1%
Sabine	4,396	1,243	28.3%
St. Bernard	10,999	2,636	24.0%
St. Charles	18,496	1,618	8.7%
St. Helena	1,373	341	24.8%
St. James	4,125	816	19.8%
St. John	17,799	1,751	9.8%
St. Landry	10,746	3,140	29.2%
St. Martin	10,197	1,702	16.7%
St. Mary	8,911	2,444	27.4%
St. Tammany	22,755	5,845	25.7%
Tangipahoa	14,648	4,023	27.5%
Tensas	2,557	269	10.5%
Terrebonne	18,002	3,408	18.9%
Union	3,231	770	23.8%
Vermilion	4,362	2,109	48.3%
Vernon	14,553	1,802	12.4%
Washington	5,473	2,144	39.2%
Webster	2,514	1,239	49.3%
West Baton Rouge	6,357	998	15.7%
West Carroll	1,100	325	29.5%
West Feliciana	2,168	409	18.9%
Winn	4,544	877	19.3%
Total	539,420	167,602	31.1%

SOURCE: "Annual Report, 1991," Judicial Council of the Supreme Court of Louisiana.

TABLE 11

Pauper, Government and Paternity Cases, 1991, Reported by Clerks of Court

Parish	Pauper Cases	Pauper Costs Unpaid \$	Govt. Cases	Govt. Costs Unpaid \$	Paternity Cases	Paternity Costs Unpaid \$	Total Pauper & Govt.	Govt. & Pauper as % of Civil Cases
Acadia								
Allen								
Ascension	432	68,500	180		137		612	25.6%
Assumption	215						215	24.0%
Avoyelles	1,056	132,000	56	7,000			1,112	50.2%
Beauregard								
Bienville	38	6,825	19	1,640	119	17,850	57	10.0%
Bossier	174		188		226		362	13.8%
Caddo					411		1,524	17.1%
Calcasieu	484	11,820	1,538		640	123,769	2,022	28.4%
Caldwell	21	4,540	7	478			28	6.5%
Cameron	100		60		30		160	34.9%
Catahoula	60		40		20		100	23.5%
Claiborne	22	4,406	19	2,856			41	9.3%
Concordia	102	15,300	31	4,650	2	300	133	17.5%
Desoto	120	24,000	400	60,000	300		520	40.7%
East Baton Rouge	2,417	260,000	4,175	461,000	1,003		6,592	47.4%
East Carroll	2		6		0		8	3.4%
East Feliciana	48	5,250	93	26,500	45	6,750	141	17.2%
Evangeline								
Franklin	150	22,000	365	62,000			515	62.9%
Grant	87		10				97	15.8%
Iberia					184	43,188	733	24.6%
Iberville								
Jackson	25	4,800	27	2,200	139	20,850	52	7.0%
Jefferson	5,576	963,868	6,256	682,423	60		11,832	70.9%
Jefferson Davis	225		144				369	32.3%
Lafayette	962		750		600		1,712	24.2%
Lafourche	137	54,800	536	80,400	500	50,000	673	19.0%
LaSalle	23		82		50		105	17.0%
Lincoln	50		35				85	8.9%
Livingston	326	48,900	158	23,700	100	15,000	484	17.3%
Madison	8	831	32	2,542			40	8.4%
Morehouse								
Natchitoches	193	70,228	58	18,727	1,000		251	19.4%
Orleans	2,686		3,834		2,953		6,520	27.3%
Ouachita	293		281				574	12.1%
Plaquemines								
Point Coupe								
Rapides	692	101,060	847	78,534	289		1,539	29.2%
Red River								
Richland	9	1,800	42	8,400	243	14,580	51	6.3%
Sabine	91	12,000	34	7,000	206	30,000	125	10.1%
St. Bernard	340				75		340	12.9%
St. Charles	180		72				252	15.6%
St. Helena	37		11				48	14.1%
St. James								
St. John								
St. Landry	536						536	17.1%
St. Martin								
St. Mary			300		183		300	12.3%
St. Tammany	368	72,599	410	30,820			778	13.3%
Tangipahoa								
Tensas	3		88		88		91	33.8%
Terrebonne								
Union	37	6,127	46	4,860			83	10.8%
Vermilion	205	29,000	175	35,000	100	20,000	380	18.0%
Vernon	116	17,537	101	7,134			217	12.0%
Washington								
Webster	100		20		200		120	9.7%
West Baton Rouge	55	5,340	115		100		170	17.0%
West Carroll	15		10		0		25	7.7%
West Feliciana	73	5,599	44	7,427	30	7,000	117	28.6%
Winn								
Total Reported	18,889	\$1,949,130	21,695	\$1,615,291	10,033	\$349,287	42,841	29.9%

Table 12. Pauper, Government & Paternity Cases Estimated Statewide Totals, 1991

<u>Type of Case</u>	<u>Percent of all Civil Cases</u>	<u>Average Unpaid Costs per Case</u>	<u>Number of Cases</u>	<u>Unpaid Court Costs</u>
Pauper	14.7%	\$152.84	24,584	\$3,757,483
Government	17.4%	\$115.95	29,195	\$3,385,110
Paternity	8.6%	\$175.64	14,418	\$2,518,010
Pauper & Government combined			53,779	\$7,142,593

Source: PAR estimates based on ratios developed from survey of clerks of court.

government cases. Of the responding clerks, 60% said judges sometimes cast costs and 29% said they were frequently cast. The varying perceptions of willingness to cast costs may relate to differences in the types of government cases which predominate in those areas or may reflect real differences in judicial inclination.

The data on paternity cases cannot be simply added to that for pauper and government suits. It is apparent that some parishes included the paternity suit data in the government suit numbers while others did not. Taken separately, however, the data has some relevance. The ratios developed indicate that more than 14,000 paternity cases may have been filed at an average unpaid cost of \$176 per case for a total of \$2.5 million. Some portion of this amount is double counted in the estimate for government suit costs above.

Table 12 shows the magnitude of combined pauper and government cases. Overall, they make up nearly one third of all civil suits filed in the state. In several parishes, these suits comprise a majority of all civil filings. The estimated total unpaid costs of over \$7 million for these suits means that fees for other civil actions must have been set high enough to subsidize their processing.

Comment

Pauper and government cases obviously require a substantial subsidization to cover related court costs. The precise amount cannot be ascertained--the data presented here is incomplete, unaudited and based in part on estimates. The subsidy required in some parishes is apparently quite high. However, in a small clerk of court office, any unreimbursed services can create a severe burden.

An important caveat in interpreting the data on unpaid court costs is the recognition that these "costs" are stated in terms of lost fees, not in terms of the actual marginal cost to the clerk or other agency in providing the services related to pauper and government suits. Because the civil fee schedule is designed to cover the subsidies for other underpaid or unpaid services, they are obviously higher than the actual cost of providing the services for which they are assessed.

SURVEY OF ATTORNEYS

In December 1992, PAR surveyed a random sample of Louisiana attorneys for their opinions on various items related to district court financing and particularly civil court costs. The total sample of 373 included at least two attorneys from each parish. Of the surveys returned, 146 were usable while ten were returned unanswered for reasons varying from the attorney no longer

practicing to not practicing in an area of law such that he could knowledgeably answer the questions posed. Also, it was clear that if an attorney felt he could not answer a particular question knowledgeably, it was left unanswered or "no opinion" checked.

Responses

When questioned about whether court costs are generally appropriate to the services provided, 12% of the respondents answered "never," 46% said "seldom," 32% said "often," 1% said "always," and 10% had no opinion. Attorneys answering in the negative were requested to indicate services for which they felt fees are particularly inappropriate. Those most often cited related to filing fees, copying and service by the sheriff. Several mentioned recording fees as being too high and objected to the number of fees imposed as surcharges (such as the "fee to finance judges' retirement") that are not related to a particular service.

When asked whether court costs ever exceed attorneys' fees, 52% said "seldom," 17% said "often," 25% said never, 1% said always and 5% had no opinion. The types of cases in which this occurred were given by attorneys as primarily being collections, small claims, foreclosures, divorces, and sheriff sales.

Attorneys were asked to what extent court costs varied among the parishes on a scale of one to five with one being highest and five being no variation. Nineteen percent chose "1," 45% chose "2," 29% chose "3," and 7% chose "4." None chose "5."

Attorneys also were asked whether actions or services are required in civil suits which increase court costs unnecessarily. The largest group, 43%, had no opinion; 37% responded yes, and 21%, no. Of those who responded yes, the types of actions or services cited most often involved requirements for service of pleadings and subpoenas.

Most of the respondents, 53%, had no opinion on whether civil court fees were used to finance unrelated court expenses. However, 44% said they did and only 2% answered no.

Most attorneys were familiar with some of the surcharges imposed in civil cases and their purposes. When asked whether they were aware that fees collected by the clerk of court include:

- (a) a surcharge to supplement judges' salaries, 37% said no;
- (b) payments to the Secretary of State when an insurance company is part to a suit, 43% said no; and
- (c) a surcharge to help finance the district court offices, 37% said no.

Twenty-three percent also were not aware that state and local governments are not liable for court costs except when specifically

ordered by a judge.

Two-thirds of the attorneys had received from a parish clerk of court an itemized bill detailing the charges for all actions in a suit. Most had specifically requested such a bill although it had been automatically provided to 23%.

Regarding jury trials, the survey included a question on whether considerable differences were found in the costs of jury trials in the different parishes. Most of those responding, 66%, had no opinion--apparently due to having had little or no experience with jury trials, judging from the comments provided. Twenty-four percent answered in the affirmative while 10% said no. As requested, some provided an estimate of the minimum and maximum in court costs charged per day. The amounts given included: \$150 to \$300; \$1,000 to \$1,500; \$300 to \$500; \$200 to \$500; \$750 to 1,250; \$500 to \$1,000; \$500; and \$600. Some commented that the costs attached to jury trials were becoming prohibitive for individuals.

Attorneys were asked whether costs billed at the courthouse frequently differ from those quoted over the phone by the clerk or a clerk employee. One percent answered that this was always the case, 38% answered "often," 33% "seldom," 15% "never," and 13% had no opinion. One stated that his office "had to start a procedure of adding \$25 to every quote we get over the phone in order to protect ourselves."

The majority of those responding, 55%, indicated they seldom experience problems in their practice due to delays by the clerk of court in processing papers filed. Twenty-eight percent did experience such problems often while 15% never did. The causes cited most frequently concerned misplaced documents or slow processing. One respondent presented the following scenario: "costs are quoted; advance court costs checks are sent with filing; notice is received a week later that documents have not been filed; additional funds needed." Several blamed the delays they experience on insufficient or inadequate personnel in the clerk of court offices and lack of coordination between the clerk and sheriff's offices and between clerks in different parishes.

Refunds of surplus advance deposits are required to be returned within 120 days. However, 36% of the respondents indicated that this seldom occurred; 14%, never; 36%, often and 5%, always. Conversely, when attorneys were asked whether they receive substantial late billings for court costs (after the suit is resolved), half responded that this seldom occurred. One-third indicated that it happened often, 4% said always, 8% said never and 3% had no opinion. The amounts of the late billings that attorneys reported receiving varied considerably, but of the specific amounts given, the lowest was \$5 and the highest was \$500. Most of the amounts cited were around \$50. One attorney commented that part of the problem may lie in slowness of getting refunds from the other

public officials for whom the clerk collects fees.

Generally, most attorneys responding to the survey found court costs to be too high, not appropriate for the service provided, too much at the discretion of the public official levying them, and to vary considerably from parish to parish. Several commented that no deposit, or fee, should be charged to answer a lawsuit. Difficulties in access to the courts were cited, particularly regarding "merchants participating to collect small amounts," many of those filing for divorce or custody, "people earning between \$800-\$1,500 a month," a "non-corporate plaintiff," "defendants who must respond to lawsuits initiated for the benefit of plaintiffs," and middle income individuals. Also, many respondents criticized sheriffs' fees as being too high and varying considerably from parish to parish. However, most of those responding did not appear overly dissatisfied or critical of their clerk of court's office, at least in regard to the services that were the subject of some of the questions asked.

Attorneys also were asked to indicate their position on several possible changes regarding civil court costs. These are reproduced below along with the percentage of attorneys who agreed, disagreed or had no position on the potential change.

- * A statewide system or agency for monitoring civil fees; 67% agreed, 27% disagreed and 6% had no opinion.
- * Standardized statewide rules for determining pauper status; 84% agreed, 10% disagreed and 6% had no opinion.
- * Replacing fee schedules with a standardized one-time filing fee for various broad categories of suits; 63% agreed, 25% disagreed and 12% had no opinion.
- * Uniform statewide court costs and advance deposits; 81% agreed, 15% disagreed and 4% had no opinion.
- * A minimum fee with costs supplemented by state government funding; 26% agreed, 57% disagreed and 17% had no opinion.
- * Substitution of certified mail for service by a sheriff; 74% agreed, 21% disagreed and 5% had no opinion.
- * State assumption of full cost of criminal justice system; 50% agreed, 31% disagreed and 19% had no opinion.
- * Requirement that governmental entities pay court costs in civil suits; 66% agreed, 22% disagreed and 12% had no opinion.

With the exception of the two proposals which would involve additional state funding, a clear majority of respondents agreed with the change proposed. The greatest support was for having standardized statewide rules regarding pauper status and uniform statewide court costs and advance deposits. Several comments were made that private service of subpoenas should be allowed as an alternative to the sheriff. Some who agreed with a system of monitoring civil fees, did express reservations about setting up

another possible bureaucracy.

The survey requested that attorneys give their best estimate of the total court costs involved in an average suit filed in district court in the parish in which they primarily practiced. The suits were in four different categories and the average of the amounts reported as well as the range for that category are given below.

- * Administrative matter (e.g., probate, adoption): average, \$220; range, \$90 to \$500.
- * Simple uncontested suit (e.g., divorce): average \$205; range, \$50 to \$500.
- * Normal contested matter (e.g., collection suit): average \$352; range, \$100 to \$1,575.
- * Suit with one-day jury trial: average, \$1,528; range, \$150 to \$7,500.

In the same categories, attorneys were asked to indicate what would be an appropriate single court cost amount to be applied if a system of one-time filing fees were instituted to replace the current schedules. Their responses are presented below.

- * Administrative matter: average, \$148; range, \$50 to \$500.
- * Simple uncontested matter: average, \$140; range, \$40 to \$300.
- * Normal contested matter: average, \$215; range, \$65 to \$500.
- * Suit with one-day jury trial: average, \$703; range, \$150 to \$1,700.

The amounts suggested by attorneys for a one-time filing fee in each category were considerably lower than that reported as actual costs. Also, the range of costs reported was much smaller.

These amounts contrast with those given by the clerks of court when they were asked to give their best estimate of the total court costs involved in an average suit for each of the four categories. The average and range for each category as derived from the clerks' responses are given below.

- * Administrative matter: average, \$164; range, \$95 to \$600 (however, the \$600 was out of line with the other responses; the next highest amount reported was \$300).
- * Simple uncontested suit: average, \$139; range, \$75 to \$235.
- * Normal contested matter: average, \$239; range, \$90 to \$650.
- * Suit with one-day jury trial: average, \$2,371; range, \$500 to \$6,000.

The amounts given by the clerks corresponded more closely to what

the attorneys suggested for a one-time filing fee than the actual average costs attorneys reported. The one exception concerned a one-day jury trial in which the attorneys and clerks' responses showed a considerable difference.

NATIONAL COMPARISONS

A national study by the Conference of State Court Administrators in 1986 (Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice) and updated by the National Center for State Courts in 1991 and 1992 as well as one by the National Center for State Courts in 1988 (Status of State Financing of Courts -- 1988) provide the best information by which to compare Louisiana's district courts with those of other states.

Findings of National Studies

Results of these studies suggest that Louisiana is out of line with practices elsewhere in the level of its fees, in the funding sources and financial practices of its district or trial courts.

For comparison purposes, the definitions of certain terms used by the studies are provided. For example, a "fee" was defined as:

"An amount charged during litigation for the performance of a particular court service. These fees are specified by an authority at a fixed amount."

Examples of fees included were given as: entry of action or filing fee, motion fee, answer fee, certificate fee, jury fee, photocopy fee and service of process fee. Not included in the definition of fees were: juror per diem and reimbursement, witness per diem and reimbursement and transcription charges. The latter charges were excluded because "they are not public revenues for court services."

Fees

In 37 states, including Louisiana, the authority to set civil fees rests solely with the state legislature. Three states vest such authority solely in the state supreme court. Ten place the authority with more than one official body and in one, Maryland, trial court fees are set by the state court administrator.

Most states, 22, use a combination of methods to calculate civil filing fees. Seventeen of these indicated the primary method or method used in trial courts: 8 reported using a flat fee system while the next most frequently used method, by four, was an itemized fee or step fee system. The most commonly used single method is a single or flat fee (16 states), followed by the itemized fee/step fee method (seven states). Only Connecticut uses

a graduated fee schedule. A combination of methods is used in Louisiana.

Unlike Louisiana, answer fees do not exist in the general jurisdiction trial courts of a majority of the states (36).

At least 29 states, including Louisiana, impose some type of post-trial fees. These are usually related to actions necessary to file an appeal. Several states did not provide information on this type of fee.

Louisiana had the highest filing fee, \$150, although it was the maximum of a range of figures obtained by sampling. However, the total filing fees in New York and Delaware's general jurisdiction trial courts may exceed Louisiana's. West Virginia and Puerto Rico had the lowest filing fees at \$20. The average fee for 44 jurisdictions (includes the District of Columbia and Puerto Rico) was \$61.71, while \$75 was the amount most frequently cited. In most states, the filing fee was \$75 or less. The fees of eight states were too complex or varied to list. (See Table 13.)

The study's definition of a filing fee was "a fee charged in all state courts to initiate a civil lawsuit." To determine a civil filing fee for Louisiana, it appears that the national studies used the advance deposit fees levied. Because of this, the comparison between Louisiana and the other jurisdictions may not be entirely accurate. The amount shown for Louisiana fits the definition used as it reflects the amount that must be paid to start a suit; however, it actually includes more than just the "filing fees" as the advance deposit is drawn on to cover other charges as they are incurred.

The Louisiana Clerks of Court Association challenged the numbers from the national survey claiming that Louisiana's fees are not as out of line as the national comparisons seem to indicate. To prove their point they obtained by phone from a county clerk of court in each of several different states, information on the filing fees and charges for serving process imposed in that state's general jurisdiction trial court. The Association felt that a filing fee of \$68.30 for Louisiana compared with the figures they obtained. (The figure for Louisiana was based on Iberia Parish's charges namely, \$11 for a three page petition, \$14.30 charge for citation, \$1.50 JAMIS fee, \$3.00 for indexing, \$8.50 service charge, \$13 for Judges' Supplemental Compensation Fund, \$15 for the Judicial Expense Fund, and \$2 for the Law Library; the charge for service of process by the sheriff locally would be \$20 + mileage or \$35 + mileage if out of parish.) The information gathered was presented to PAR with supporting documentation for some of the states and is

Table 13.
Civil Filing and Answer Fees

State	Court of General Jurisdiction		State	Court of General Jurisdiction	
	Filing	Answer		Filing	Answer
Alabama	\$95	None	Montana	Varies	\$40
Alaska	\$100	None	Nebraska	\$40	None
Arizona	\$45	\$30	Nevada	Varies	---
Arkansas	\$50*	None	New Hampshire	\$75	None
California	Varies*	Varies*	New Jersey ('86)	\$75	None
Colorado	\$79	\$40	New Mexico	\$60*	None
Connecticut*	\$60	None	New York	Varies*	None
Delaware	\$125*	---	North Carolina	\$47	None
	Varies**		North Dakota	\$30	None
D.C.	\$45*	None	Ohio	Varies	None
Florida*	\$40**	None	Oklahoma	\$62	None
Georgia	\$55*	None	Oregon	\$65	\$37.50
Hawaii	\$30	None	Pennsylvania	Varies	Varies
Idaho*	\$46	\$26	Puerto Rico	\$20*	\$20*
Illinois* ('86)	\$40**	\$20#	Rhode Island	\$50	None
	\$75***	None	South Carolina	\$50	None
Indiana	\$55	None	South Dakota	\$25	None
Iowa	\$70	None	Tennessee	Varies	None
Kansas	\$55*	None	Texas	\$75	None
Kentucky	\$75	None	Utah	\$75	None
Louisiana	\$85-150	\$0-100	Vermont	\$35	None
Maine	\$100	None	Virginia	Varies	---
Maryland	\$80*	None	Washington	\$78*	None
Massachusetts	\$110*	None	West Virginia	\$20	None
Michigan	\$42	None	Wisconsin	\$76*	None
Minnesota	\$55	\$55	Wyoming	\$25	None
Mississippi	\$25	---			
Missouri	\$45	None			

LEGEND: --- (No information provided)

SOURCE: National Center for State Courts, "Update of 1986 State Civil Filing Fee Information," June 1992, in Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and a National Survey of Practice, 1986.

NOTE: If the information dates from the original 1986 table, "('86)" appears next to the name of the state.

Footnotes to Table 13.

Arkansas:

* Includes some amounts that may be considered surcharges. Also, fees vary from circuit to circuit depending on local enabling legislation.

California:

* Varies by county. Filing fees range from \$73 to \$144. Answer fees range from \$41 to \$114.

Connecticut:

* Has a graduated civil filing fee schedule. The figure given is for actions up to \$2,500; over \$2,500, a filing fee of \$125 is charged.

Delaware:

* Figure given applies to the Superior Court.
** Chancery Court filing fees range from \$60 to \$600.

District of Columbia:

* Various civil writs range from \$5 to \$10.

Florida:

* Has a graduated civil filing fee schedule. The figure given is based on claims of \$2,000.
** A \$6 service charge and a \$1.50 service charge for CTEF are added for a total of \$47.50 in non-local charges. For each defendant in excess of five, \$2 extra is charged. A fee of \$10 is charged for each severance granted. Another \$35 is added for all proceedings in garnishment, attachment, replevin, and distress.

NOTE: By special legislative act, numerous counties have been authorized to charge additional, local filing fees that are earmarked for such items as a law library. A few statutes give all counties the discretion to charge extra fees.

Georgia:

* The filing fee is \$55 plus \$8 for each additional party other than the original plaintiff and defendant. Other costs may be assessed, such as \$.50 per page for certification or exemplification of record or for post-judgment proceedings.

Idaho:

* Has a graduated civil filing fee schedule. The figure given is for actions over \$1,000. Filing fees for cases up to \$300 are \$24; between \$301 and \$1,000, the fee is \$26. The answer fee is \$26 for actions over \$300 and \$10 for actions for not more than \$300.

Illinois:

* Has a graduated civil filing fee schedule. The fees shown are based on claims of \$2,000.

** Applies to counties with populations of one million or less. Fees also vary by amount claimed ranging from \$10 to \$45. Answer fees range from \$20 to \$40.

*** Applies to counties with populations greater than one million. Fees also vary by amount claimed, ranging from \$20 to \$75, except for filings in a pro se branch of circuit court for which a fee of \$2 is charged.

A deposit of \$20 is required from which step costs are withdrawn. The step costs range from \$.25 to \$16.

Kansas:

* An additional charge of \$3 is imposed in the 18th judicial district. In limited civil actions, the fee is \$30 when the damages sought are \$500-\$5,000 and \$10 when the damages sought are \$500 or less.

Maryland:

* The exception is a \$10 fee for a petition for protection from domestic violence.

Massachusetts:

* In contract cases, the filing fee is \$110; in tort cases, the filing fee is \$110 per plaintiff.

New Mexico:

* There is an additional \$30 fee for domestic relations cases (total \$90).

New York:

* In the Supreme Court (court of general jurisdiction), an index number fee of \$165 is required. The charge for a jury demand is an additional \$50. When a request for judicial intervention (RJI) is required to be filed by rules, a \$75 fee is charged (total = \$290), and no subsequent note of issue fee is charged. When the RJI is not required and a note of issue is filed, a \$100 fee (total = \$315) is charged. The \$290 sum is the more common.

Puerto Rico:

* These figures represent the maximum fees. The range is from \$4 to \$20 depending upon the type of civil case.

Washington:

* This single fee is applied to all cases, except for: \$15 for transcripts and abstracts of judgments; \$5 for tax warrants; \$5 per garnishee defendant, as per writ of attachment; \$5 per unit of execution on real property, and \$20 for modification of a decree of dissolution.

Wisconsin:

* In family cases, the fee is \$95; however, if a person not receiving public assistance requests child support, maintenance, or family support, the fee is \$105.

presented below for nine states so contacted:

Washington: \$110 filing fee for first filing; service is \$30 plus mileage.
Arkansas: \$60.75 to file suit; \$40.75 for each additional pleading filed; service is \$35 plus mileage.
Arizona: \$92.25 to file suit; service is \$40 plus mileage; simple divorce filing is \$136 plus \$109.50 if an answer is filed.
Franklin County, Virginia: \$51 + \$5 per page service charge.
Sumner County, Tennessee: \$52 for simple divorce; service is \$17 per person. (However, from documentation provided the total fee for an uncontested "divorce with no process" is shown as \$79.50 while the total fee for an uncontested "divorce with process by sheriff" is shown as \$96.50).
Hardy County, West Virginia: \$70 flat filing fee on civil suits; \$20 per service per defendant.
Chatham County, Georgia: \$60 filing fee; \$25 for each service.
Madison County, Illinois: \$172 filing fee for simple divorce; service fee is \$25-\$40.
Allen County, Indiana: \$55 flat filing fee; service cost is \$25-\$50.

The figures obtained by the Clerk's of Court Association differed from that shown by the National Center for State Courts for six of the nine states. The National Center for State Courts did not provide figures for Tennessee or Virginia as they found the fees too complex and varied in these states for comparison purposes. Indiana's fee is the same as that provided by the National Center for State Courts and Georgia's is \$5 more. It should also be noted that the figures of the National Center for State Courts may not be up to date while that obtained by the clerk's association is as of January 1993 and these figures may only reflect the charges for the county contacted not necessarily the state as a whole.

There is controversy over the place of user fees in court financing and whether courts should generate their own resources from their clients. The main issue is whether adjudication is a fundamental aspect of justice at the core of government activity or a government-supplied service to be paid for by those who use it.

State Financing

In a range of 1 to 5 with one being total state financing and 5 being substantial local funding with the exception of judicial salaries and minor items, Louisiana is categorized as a 4. As shown in Table 14, only nine states and the District of Columbia have full state financing of state trial courts. However, a total of 28 have a greater degree of state financing than does Louisiana. (When state financing of all state courts is considered, 22 states receive greater than 60% of court funding from the state and 19

TABLE 14
Categorization of States By Level of State Court Financing

STATE	CATEGORY					COMMENT
	1	2	3	4	5	
Alabama		X				
Alaska	X					
Arizona					X	
Arkansas					X	
California					X	California has deferred its large block grant program. Still locally funded to large degree.
Colorado		X				
Connecticut	X					Probate courts are not state financed but have very minor administrative role. Wilmington Municipal Court, alderman courts, clerical offices in major trial courts are locally funded.
Delaware		X				
Dist. of Col.	X					
Florida					X	
Georgia					X	
Hawaii	X					
Idaho					X	
Illinois				X		
Indiana					X	
Iowa		X				
Kansas			X			Placed in #3 due to local funding of nonpersonnel costs.
Kentucky	X					
Louisiana				X		
Maine	X					County facilities grandfathered for general jurisdiction trial courts. Probate courts not state-funded.
Maryland		X				Clerks recently became state financed, but counties still pay many circuit court costs.
Massachusetts	X					
Michigan				X		Michigan makes expenditures for trial courts in Detroit.
Minnesota					X	
Mississippi					X	
Missouri			X			
Montana					X	There is some trial court funding through executive branch.
Nebraska			X			
Nevada					X	
New Hampshire	X					
New Jersey				X		
New Mexico		X				
New York		X				
North Carolina		X				
North Dakota			X			
Ohio				X		
Oklahoma			X			Hard to classify. Mostly fee supported. State, rather than counties, make up difference between revenues and expenditures.

TABLE 14
(Continued)

STATE	CATEGORY					COMMENT
	1	2	3	4	5	
Oregon		X				
Pennsylvania				X		State financing, by court decision, is being considered.
Rhode Island	X					Providence Court, probate court not state funded. Latter very minor.
South Carolina					X	
South Dakota		X				
Tennessee					X	
Texas					X	
Utah		X				
Vermont	X					Counties fund general jurisdiction trial court facilities.
Virginia			X			
Washington					X	
West Virginia			X			
Wisconsin					X	
Wyoming			X			
TOTALS	10	11	8	6	16	

SOURCE: National Center for State Courts, Status of State Financing of Courts - 1988, August 1988.

receive less than 30% from state funds; Louisiana is in the latter group.) According to an October 1989 study of Orleans Parish trial courts by the National Center for State Courts, 30 states now provide the primary financial support for trial courts. Louisiana is among the minority where the primary financial responsibility is placed on local governments.

The trend has been towards increased state financing of trial courts. Much of the earliest motivation for this change, up to the 1970s, primarily was derived from the desire to achieve uniform statewide procedures and systems, greater professionalism among judges and court employees, more equitable and efficient allocation of resources, a more stable and flexible funding base and improved court management. Chief Justice Edward E. Pringle of the Colorado Supreme Court in 1977 summarized many of the reasons to support state financing:

- "(1) State funding makes it possible to budget on a systemwide basis, facilitating planning and making it possible to allocate resources on the basis of need and to assure that an adequate standard of judicial service is provided throughout the state.
- (2) State funding facilitates the implementation and operation of a separate personnel system and makes it possible to shift personnel, as well as judges, on a temporary basis when workloads require.
- (3) State funding permits economies of scale. some examples are purchasing of forms, furniture, and equipment; automation of the jury selection process on a centralized basis rather than by individual courts; and centralized microfilm equipment and facilities to serve several courts rather than each court having its own.
- (4) It facilitates the overall development of a management information system and other tools to effective administration.
- (5) It makes it possible to meet unusual emergencies. . .
- (6) State funding makes greater operational efficiency possible through control of resources and the development of cost and caseload data that show meaningful comparisons among courts and among different kinds of cases. From these comparisons, criteria can be developed to determine how many and what kind of employees are needed in courts with differing numbers of judges and caseloads. These criteria can then be used in evaluating budget requests and measuring the effectiveness of resource allocation and expenditures for court operations."

Opponents' objections to state financing were cited by the 1988 National Center for State Courts study:

"* removing courts from the local government orbit made them

- more remote from the local community and less service-oriented;
- * operating costs increased without any demonstrable gains in productivity;
- * trial courts were denied any real role in the budget process or purchasing and had little incentive to be efficient;
- * bureaucracy was increased, and too many petty matters of financial administration were centralized;
- * states are not immune to fiscal problems, and so why should courts put all their eggs in one basket?
- * if state financing is adopted, why could it not be done on a reimbursement basis to preserve the local orientation of courts?"

Much of the criticism concerned whether state financing and the often accompanying uniform budgeting actually increased court efficiency and effectiveness. Certain cost increases necessarily occur with state financing, at least initially, due to the need to make up for deferred or inadequate local funding, upgrading personnel and services to statewide standards, improving salaries and benefits and equalizing regional disparities. Providing financial relief to local governments was not a consideration in state assumption of trial court financing until the late 1970s when it became a major factor as local governments faced increasing fiscal problems and court costs increased. While local autonomy and involvement is still propounded, more local governments have become proponents of state financing as they face greater demands on local revenues. State fiscal problems may be slowing the movement but the need to provide local relief is keeping it alive.

The methods of state financing used varies but have been identified by the National Center for State Courts as:

- "* direct appropriations for general court operations or for specific items of court expenses (e.g. Judicial salaries);
- * appropriations to an intermediate funding agency with authority to make discretionary grants to courts;
- * appropriations in the nature of block grants or subsidies which are distributed by statutory formula;
- * appropriations for reimbursement of local government expenditures on courts;
- * appropriations to a special fund from which court-related payments are made; and
- * appropriations to cover court expenses not covered by court-collected revenues."

Direct appropriation to a state court agency is the principal means used to fund trial courts, particularly those primarily state-financed. The degree of freedom to allocate the appropriation varies from a lump sum which the courts allocate as they see fit to

allocations dependent on a stringent formula.

States which use discretionary grants tend to be those where counties have the primary burden of trial court financing. the grants are used for various purposes including financing facility costs and supporting specific types of programs.

California and Pennsylvania are two states that use the block grant approach. Block grants are directed to counties or cities based on a formula. The may be specified for court use, as in California, or not, as in Pennsylvania.

The reimbursement method is most common in states where counties bear the brunt of financing. The reimbursement is generally related to certain high cost items such as indigent defense or juror costs.

Appropriations to special funds can be exemplified by state appropriations to judicial retirement funds from which retirement benefits are paid. Judicial contributions may also go into the fund.

Supplements to court collected revenues often reflect the state making up the difference between court user fees and expenditures.

Also, the scope of state financing may vary. For example, Kansas and Missouri assumed personnel costs but left nonpersonnel costs a local responsibility. Few states have assumed full responsibility for trial court facilities since this may involve various legal, political and architectural complexities.

Financial Practices

Unlike Louisiana, 33 of the states use a uniform statewide accounting system to manage the court's monies. In 35 states, including Louisiana, court funds can be deposited in interest bearing accounts. However, in some states, the funds are deposited with a state agency or mingled with state general fund monies where they are turned over to the state rather than deposited in a local financial institution.

NATIONAL STANDARDS

As part of its 1986 national study, the Conference of State Court Administrators proposed certain standards for court costs. Those relevant to this study are discussed below. These standards are generally directed at assuring uniformity across a state; establishing a proper relationship between a court's proceeds from fees and charges and funding by state and local governments; prohibiting surcharges and local charges; maintaining access to the courts; avoiding use of fees and charges as an alternative form of taxation, and assuring that court costs are simple to calculate and easy for the public to understand.

The standard is underlined followed by a summary of the comment on it provided in the study.

Fees and miscellaneous charges should be set by the Legislature of each state with recommendations provided by the appropriate judicial body.

The legislative branch is considered the part of government that should set fees and charges since the authority to appropriate and to tax is a basic legislative responsibility. However, since public access and the types of fee structures used are concerns of the courts, the judiciary should be involved in the process. While Louisiana's legislature sets the fee schedule in the statutes, judiciary involvement is not apparent.

The Conference of State Court Administrators also stated that fees and miscellaneous charges should be consistent within a state, as is not the case in Louisiana. Inconsistent practices may occur otherwise and litigants will not receive consistent treatment and practice among the courts throughout a state. The level of fees should be consistent throughout a state and not be more or less costly simply as a result of venue and jurisdiction.

Fees and miscellaneous charges should not preclude access to the courts.

Financing of the courts from such sources must be balanced against public access to the courts. By increasing the cost of using the courts, excessive fees or charges can limit the access of those citizens who are neither wealthy nor financially needy enough to qualify for waiver of fees. The Conference rejected the idea of deliberately making fees burdensome in order to deter the filing of frivolous suits. Whether or not a suit is frivolous should be decided by the court after it is filed, and if found frivolous, appropriate costs and sanctions applied.

Fees and miscellaneous charges should be waived for indigent litigants.

Providing equal access to the courts is a fundamental objective of the judicial system. Louisiana already provides for indigent civil litigants, although the granting of indigent status seems to be very loosely applied.

Fees and miscellaneous charges should not be an alternate form of taxation.

This standard recognizes that fees and miscellaneous charges are revenue producers, but opposes their use for anything other than a moderate offset of the costs of providing services specifically related to cases generating the revenues.

Fees and miscellaneous charges should be reviewed periodically to determine if they should be adjusted.

Part of this review should involve determining whether the level of fees and charges do not unduly restrict access to the courts and is reflective of the current economy. Fees and charges should be reduced when improved procedures have resulted in certain economies. The review should permit time to evaluate the impact of previous revisions, allow the collection and analysis of economic data, and provide advance notice of increases to judicial offices, attorneys and the public.

Fees and miscellaneous charges should be simple and easy to understand with fee schedules based on fixed or flat rates.

A flat or fixed fee is defined as one that consolidates all of the fees itemized for each of the different transactions involving court services into one fee. It may vary for different types of cases but should not vary between cases of the same type.

Louisiana primarily uses a "step" fee system in which various fees are provided for each activity undertaken in a case. A major drawback to the step fee system is that as the number of fees for different activities increases, calculating the correct fees becomes more complex requiring substantial expenditures of effort from all concerned. This is particularly evidenced in Louisiana by the amount of effort spent by many clerks on "suit accounting."

With use of a flat or fixed fee schedule, a fixed miscellaneous charge per unit (e.g., transcript page rate, mileage rate, juror per diem rate), and elimination of surcharges, the personnel expenses associated with maintaining a complex accounting system are decreased, risk of clerical errors and omissions is reduced, and court personnel can be directed toward more productive tasks. Also, adoption of these principals provides a system that is more understandable to the public, court personnel and attorneys.

Fees and miscellaneous charges should be codified in one section of the statutes to facilitate access.

This avoids the confusion and inefficiencies that can occur if the laws on court fees are spread throughout the statutes. Most of Louisiana's laws regarding court costs and financing are in Title 13 but they have developed in a piecemeal fashion over the years.

Surcharges should not be established.

The use of surcharges, or earmarking funds for special purposes, should be eliminated. By earmarking funds for special purposes, the appropriation process, which is a legislative responsibility, is side-stepped as also is the setting of spending priorities. The purpose being funded should be done so in competition with other

government activities through the normal appropriation process. Also, some surcharges are used for purposes related to the judiciary but others have no relationship to the judicial system. Louisiana imposes numerous surcharges including some unrelated to court operation.

Fees and miscellaneous charges should not incorporate surcharges.

Some fees and charges have hidden surcharges or earmarked monies. These can occur when a statutory surcharge is eliminated, or not enacted, but instead fees are increased by corresponding amounts.

Optional local fees or miscellaneous charges should be prohibited.

Such local fees create inconsistent costs in different locales.

Neither courts nor specific court functions should be expected to operate from proceeds produced by fees and miscellaneous charges. Courts should receive adequate financial funding from governmental sources to enable them to fully carry out their constitutional mandates.

A judicial system established by the state constitution and governed by state laws should not reflect different levels of service based on different localities' "ability to pay." It should be funded at a level that assures consistency in quality, fairness, competency and effective disposition of its cases throughout the state.

All funds collected from fees should be deposited to the account of the governmental source providing the court's funding.

These funds should be used to offset the actual cost of the court services.

All courts of a state should utilize a uniform system of financial record keeping whereby records are maintained on all monies collected and disbursed.

The advantages of a uniform record keeping system include:

"1) judges and administrators can be assured that basic financial record keeping requirements are included, 2) newly elected and appointed clerks can be relieved of the time, effort, and expense required to evaluate the accounting system employed by their offices, 3) new statutory or administrative changes can be incorporated through standardized updates rather than having each clerk make individualized adjustments in the accounting system, 4) the uniformity of record keeping systems and documentation decreases the time and expense associated with audits, and 5) uniform record keeping permits the preparation of uniform statewide judicial financial reports."

Courts should establish internal procedures and controls that cover adequately the collection, security, and disbursement of fees and miscellaneous charges within their responsibilities.

Financial records should be subject to a timely independent audit at least biennially.

The judicial expense funds of Louisiana's district courts as well as the clerk of court's office are subject to annual audits which are filed with the legislative auditor.

Clerical personnel of the courts should be trained in proper fiscal practices at regular intervals by a designated agency.

Without adequate training, inconsistent and incorrect practices may occur.

COMMENTS AND RECOMMENDATIONS

Each district court, parish clerk of court and sheriff operates independently of its peers, as well as from the local parish government although the parish government is often a major funding source. Each is basically answerable only to themselves. There is no general oversight agency to monitor their management, the level and types of fees charged and the way finances are budgeted. Moreover, there is no one agency or statewide organization that looks at the entire financial picture on a systematic basis, or identifies problem areas and solutions. For example, no other governmental entity has approval or veto power over the budgets of the clerk of court, judicial expense fund, and sheriff. The only significant influence exercised is through the Legislature's power to enact laws affecting these offices. Some clerks have maintained that the Legislative Auditor acts as an oversight agency but this is not the case. Most, if not all, audits of the clerk of court offices are done by a private firm and simply filed with the Legislative Auditor's office. The sparsity of statewide information, and difficulties involved in obtaining any information, on the courts and court-related agencies further points out their independence.

Uncertainty over court costs is causing problems for attorneys in client relations. The attorney cannot give a definitive answer to how much an action will cost and often has to request more money from the client because court costs increased or the advance deposit was too low an amount to cover the actual costs. (It should be noted that this could also occur in cases where the attorney could not estimate the actions that will be required in the case.)

The imposition of seemingly endless fees at every step of the judicial process is overwhelming and appears out of control.

The lack of uniformity in court costs makes it difficult to address

problem areas on a statewide, systematic basis. It also leads to confusion in out-of-parish filings. From a financial viewpoint, equal access to the courts may not occur as it costs more to file certain actions in one parish than in another. As an example, in 1991 one attorney had a choice of filing a lawsuit in the parish where the accident occurred or the parish where the insurance corporation was domiciled. He had to have two long-arm statute services made, along with other services. He and his client chose the latter parish "even though this was a little less convenient" as the clerk in the latter parish "wanted approximately \$200.00" while the other clerk of court "wanted \$385.00" for the same suit. Any logical need to vary court costs from parish to parish is not readily apparent.

The costs associated with jury trials vary considerably from parish to parish. Considerable variation particularly appears to exist in the advance deposit amount required, bond for a jury trial, level of the actual court costs cast, and the costs arising from selection and service of jurors.

Civil court costs are limiting access to the courts and use of judicial remedies by business. It is not cost effective for a business to pursue collection of a debt through the judicial system when the court costs substantially reduce the net amount to be gained, or exceed it. Because only an individual can qualify for pauper status, and thus avoid court costs at least in advance, businesses may be increasingly forced to bear a greater burden of civil court charges as pauper cases grow.

Court access may also be developing into a problem for middle income individuals who may not have large amounts of cash reserves available.

Since government litigants do not really have to concern themselves with court costs, there is little incentive for them to consider how cost effective pursuing an action through the judicial system really is.

Civil court fees have been imposed by statute to fund certain specific expenditures, to offset the shortfall created by litigation filed by the state and local governments in which court costs are not paid, to supplement the financing in some parishes of clerk of court and judicial activities related to criminal cases, and to subsidize pauper suits.

Numerous state and local agencies are receiving funding through application of court costs, i.e., Secretary of State, the state insurance department and two parish governments. Sheriffs benefit considerably from their share of civil court charges. The clerk of court often bears the brunt of disgruntlement over increases related to these officials' fees because he collects the fees for them.

It should be noted that according to the Louisiana Clerks of Court Association, some clerks are trying to standardize and make more uniform the court costs imposed and the actions subject to those costs, particularly on a regional or multi-parish basis.

The following recommendations could be implemented independently of each other. The focus of these recommendations is on the financing of the courts and related agencies and not court operations, in particular not caseflow management. They are based on the finding of this study, national standards and trends, and various other studies of the Louisiana judicial system.

Recommendations

1. The state should develop a plan to phase in total state funding of the district courts. This plan should include attention to financial management, staffing levels, the appropriate level of spending, and workload levels of district judges.
2. A statewide standard should be set, either by law or supreme court rule, that determines pauper status.
3. A system should be developed and followed for collecting court costs owed by indigent litigants in later years as their financial situation changes.
4. Alternatives to personal service by a sheriff, such as by certified mail and private servers, should be utilized where possible. Charges by sheriffs should be standardized statewide and double-dipping through double charging of mileage should be banned. Any charges by the sheriff should not exceed the actual cost of providing a given service in the most economical manner.
5. Governmental entities should be required to pay an advance deposit when filing a civil suit and to pay any court costs cast against them.
6. Louisiana's step fee schedule should be replaced with standard one-time flat or fixed fees for categories of suits and uniform statewide court costs and advance deposits adopted at a level recommended by the Louisiana Supreme Court (or a group designated by it) and based primarily on principles of justice. These should be annually reviewed and any necessary changes recommended to the Legislature.
7. No advance deposit or fee should be charged to a plaintiff to answer a suit filed against him.
8. All surcharges on civil suits should be eliminated and prohibited, including such surcharges as those levied by St. Tammany and St. Landry parishes.

9. Charges by court personnel, such as court reporters, should be standardized.

10. Attorneys should make clear to their clients that if they file as a pauper they are still responsible for payment of costs if they are cast with costs.

11. Clerks of Court and district courts should be required to utilize a uniform system of financial record keeping or accounting such that records are maintained and readily accessible on all monies collected and disbursed. Additionally, each district court should be required to have a budget reflecting total income and expenditures of the court. The long range goal should be established of a fully integrated accounting system for the judicial branch.

12. Additional study is needed regarding jury trials, with particular emphasis on costs related to jury commissions, selection and empaneling.

13. The state should eventually assume its constitutional responsibility for the funding of the entire judicial system. Further study of the entire state court system and related officials and agencies will be needed to determine the best structure and financing methods that will make the most effective and efficient use of the limited financial resources available to the state and local governments. As the state assumes more financial responsibility for the judicial system, some local government general funds previously used to finance the judicial system will be freed up. Where possible, these funds now available for other purposes should be used to finance local responsibilities now financed by the state, such as supplemental pay programs for local officials and employees. State financing of district court operations is a logical (and perhaps the least difficult financially) first step in this process.

CONCLUSION

Under Louisiana's constitution, state government is composed of three branches: executive, legislative and judicial. While it finances the first two, Louisiana has delegated to local governments and private litigants a substantial portion of the responsibility to fund the judicial branch. Civil fees are carrying clerk of courts' work for the district courts as well as costs associated with civil pauper and government suits. In the absence of this funding, local governments must make up the difference.

While it is recognized that the state's financial resources are limited and under stress, the judicial system is not a function of local government and should not be controlled by local government. Neither should its funding be dependent on a local government jurisdiction's "ability to pay" and judicial officers' ability to

generate revenues. Justice should be uniform throughout the state and not dependent on the relative "wealth" of either the court, locality or individual involved. Fees should be charged but should not be a primary source of funding.

Past and present studies of Louisiana's judicial system and related agencies (i.e., the courts, clerks of court, sheriffs, district attorneys, coroners, and indigent defense function) have reiterated many of the same issues and conclusions, but no concerted effort towards judicial reform has yet occurred in this state. It is considerably past due. While this study's primary focus was on the financing of the district court system and particularly civil court costs, it became obvious that the state's judicial system is operating under considerable financial restraints forcing it to pass on much of the financing burden to paying civil litigants and local governments, and largely represents a piece-meal approach to dispensing justice.

It is also obvious that the lack of action must be at least partly due to the parochialism and defensiveness of many of the parties involved. Most of the factions involved consistently blame the other officials, the Legislature or attorneys for problems raised. For meaningful reform to occur expeditiously and effectively, the various parties involved will need to cooperate and offer their expertise and experience in helping to address the many issues facing the state in this area. However, the overriding factor in any judicial reform should be the basic principles of justice and the provision of a fair, equitable and accessible system of justice for the state.

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APPENDIX

R.S. 13:783

Note 5

5. Expenses

Police jury and clerk of court can enter into an intergovernmental agreement for the clerk to

COURTS AND JUDICIAL PROCEDURE

pay utility bills for the courthouse. Op. Atty. Gen., No. 89-232, May 10, 1989.

§ 784. Police jury to defray capital outlay expense; clerk's salary fund surplus

[See main volume for text of A]

B. Out of any surplus in his salary fund, each of the clerks of the district courts may purchase office furniture, equipment, record books, and supplies as may be needed for the proper conduct of his office and may expend funds for renovation of his office, all in accordance with the public bid law of the state.

Amended by Acts 1985, No. 324, § 1.

Historical and Statutory Notes

1985 Amendment: In the section heading, added "; clerk's salary fund surplus"; in subsec. B, substituted "courts" for "court", inserted "and may expend funds for renovation of his office", and inserted "all" preceding "in accordance".

Law Review Commentaries

Not endowed by their creator: State mandated expenses of Louisiana parish governing bodies. I. Jackson Burson, Jr., 50 La.L.Rev. 635 (1990).

books is triggered by request by clerk of court for items and showing of necessity of requested items. Post v. Madison Parish Police Jury, App. 2 Cir.1989, 554 So.2d 198.

Clerk of court's budgetary request for "office equipment" did not qualify as specific request for computer, such as might trigger police jury's duty to provide him with such a computer. Post v. Madison Parish Police Jury, App. 2 Cir.1989, 554 So.2d 198.

Either clerk of court or police jury may purchase computer equipment from parish assessor subject to Public Bid Law, LSA-R.S. 38:2211 et seq., but only police jury can enter into contract providing for payment of purchase price over period of years. Op. Atty. Gen. No. 80-916, Aug. 27, 1980.

Notes of Decisions

1. Office equipment and expenses

Police jury's duty to furnish clerk of court with office furniture, equipment, and record

§§ 788 to 792. Repealed by Acts 1983, No. 4, § 2

Historical and Statutory Notes

See, now, R.S. 13:793.

§ 793. Clerk's salary fund, payment by Department of Corrections

The Department of Corrections, out of its appropriated funds, shall annually pay the sum of six thousand dollars into the salary fund of the clerk of court of each parish for each state adult correctional facility located in the parish in consideration of services rendered by that clerk of court to the adult correctional facility or by reason of its location in the parish.

Added by Acts 1983, No. 4, § 1.

SUBPART C. FEES

§ 841. Enumeration of fees in civil matters

A. The clerks of the several district courts shall be entitled to demand and receive the following fees of office and no more in civil matters:

- (1) For endorsing, registering, and filing petition, two dollars.
- (2) For endorsing, registering, and filing supplemental or amended petition, two dollars.
- (3) For endorsing, registering, and filing answer, two dollars.
- (4) For endorsing, registering, and filing amended answer, two dollars.
- (5) For copying all instruments of writing or pleadings not otherwise provided for, each one hundred words including seal and certificate thereto, two dollars.
- (6) For issuing citations, with seal and certificate, three dollars.

COURTS AND JUDICIAL PROCEDURE

R.S. 13:841

- (7) For issuing copy of citation, with seal and certificate, two dollars.
- (8) For issuing writ of attachment, with seal, five dollars.
- (9) For issuing copy of writ of attachment, with seal and certificate, two dollars.
- (10) For issuing writ of fieri facias, with seal, five dollars.
- (11) For issuing order of seizure and sale or executory process, with seal, five dollars.
- (12) For issuing writ of sequestration, with seal, five dollars.
- (13) For issuing copy of writ of sequestration, with seal and certificate, two dollars.
- (14) For issuing writ of certiorari, with seal, five dollars.
- (15) For issuing copy of writ of certiorari, with seal and certificate, two dollars.
- (16) For issuing writ of injunction, with seal, five dollars.
- (17) For issuing copy of writ of injunction, with seal and certificate, two dollars.
- (18) For issuing writ of habeas corpus, with seal, five dollars.
- (19) For issuing copy of writ of habeas corpus when required, with certificate and seal, two dollars.
- (20) For issuing writ of mandamus, with seal, five dollars.
- (21) For issuing copy of writ of mandamus, with seal and certificate, two dollars.
- (22) For issuing writ of distringas, with seal, five dollars.
- (23) For issuing copy of writ of distringas, with seal and certificate, two dollars.
- (24) For issuing subpoena duces tecum, with seal, three dollars.
- (25) For issuing copy of subpoena duces tecum, with seal and certificate, two dollars.
- (26) For issuing subpoena or summons, with seal for each witness, two dollars.
- (27) For issuing copy of subpoena or summons, with seal and certificate for each witness, two dollars.
- (28) For issuing writ of possession, with seal, five dollars.
- (29) For issuing copy of writ of possession, with seal and certificate, two dollars.
- (30) For issuing each order or commission of partition, with seal, five dollars.
- (31) For issuing notice of judgment, with seal, two dollars.
- (32) For issuing copy of notice of judgment, with seal and certificate, two dollars.
- (33) For every entry fixing a cause for trial, two dollars.
- (34) For issuing notice of appeal, with seal, three dollars.
- (35) For issuing copy of notice of appeal, with seal and certificate, two dollars.
- (36) For issuing order of attachment for a witness, with seal, two dollars.
- (37) For issuing copy of order of attachment for a witness, with seal and certificate, two dollars.
- (38) For issuing venire facias in each case in which a jury may be prayed for and ordered, with seal, eight dollars.
- (39) For copy of venire facias, with seal and certificate, when ordered and issued, four dollars.
- (40) For swearing jury, two dollars.
- (41) For swearing each witness, two dollars.
- (42) For entering final judgment in full on the minutes, two dollars plus fifty cents per hundred words.
- (43) For simply entering statement of rendition of final judgment without copying it in the minutes, two dollars.

- (44) For every interlocutory judgment entered on the minutes of the court no matter how many parties, two dollars.
- (45) For each order of court entered on the minutes of courts not otherwise provided for, two dollars.
- (46) For copies of same, with seal and certificate, two dollars.
- (47) For issuing notice to creditors of insolvents to attend meetings, with seal and certificate, two dollars.
- (48) For issuing copy of notice to creditors of insolvents, with seal and certificate, two dollars.
- (49) For issuing notice to creditors in respite, succession, or liquidation proceedings, with seal, two dollars.
- (50) For issuing copy of notice to creditors in respite, succession, or liquidation proceedings, with seal and certificate, two dollars.
- (51) For taking and filing bond in all cases required by law, three dollars.
- (52) For entering satisfaction judgment, two dollars.
- (53) For issuing commission to take testimony of witnesses or answers to interrogatories, three dollars.
- (54) For filing and docketing each petition for notice of an application for appointment as administrator under Article 3091 of the Code of Civil Procedure, eight dollars. If this petition is the first pleading filed in the succession proceeding, the clerk may charge additionally all of the fees allowed for opening the record of the succession proceeding but may not demand or exact any advance costs under R.S. 13:842 or any security for costs under R.S. 13:843.
- (55) For recording the petition, answer, and judgment in each case in the book of pleadings, for each one hundred words, including seal and certificate, two dollars.
- (56) For all services in every confession of judgment, where no papers are issued by clerk, five dollars, and fifty cents per hundred words for recording in book of pleadings when ordered by plaintiff.
- (57) For making out the papers in each confirmation or appointment of curator, tutor, administrator, or testamentary executor, four dollars.
- (58) For copy of same, with seal and certificate, two dollars.
- (59) For each writ or decree ordering or assessing estimate and commission therefor, with seal and certificate, five dollars.
- (60) For affixing seals on any act when required by law, not otherwise herein provided for, two dollars.
- (61) For probate of will, including the proces verbal, and all writing and work in connection with the probate thereof, eighteen dollars.
- (62) For recording all acts, for each hundred words, one dollar.
- (63) For examining and swearing each witness in probating will, two dollars.
- (64) For every order rendered and signed of a quasi-judicial nature or in probate proceedings, two dollars.
- (65) For each appointment of notaries and appraisers in probate or succession matters, civil, and family, two dollars.
- (66) For taking, approving, and filing bond in probate or succession matters, three dollars.
- (67) For copies of all acts, for each one hundred words, including seal and certificate, one dollar.
- (68) For all services in administering oath of allegiance, recording evidence of residence, etc., of any foreigner becoming naturalized, including all services, copy, certificate, seal, three dollars and fifty cents.

(69) For issuing marriage license, ten dollars, and two dollars and fifty cents for certificate to state.

(70) For taking down testimony on the trial of any suit in person or by deputy, for each one hundred words, one dollar.

(71) For every order entered on the minutes dismissing any suit, two dollars.

(72) For making transcript of record on appeal to the supreme court, for each one hundred words, one dollar.

(73) For certificate and seal to transcript of record on appeal to supreme court, two dollars.

(74) For filing any paper in any suit not otherwise provided for, two dollars.

(75) For indexing of all documents filed for record, for each name indexed, seventy-five cents.

(76) To issue Act of Congress, five dollars.

(77) For delivery of material by U.S. Postal Service and common carriers, costs actually incurred.

B. The funds derived by the clerk of court in the parish of Calcasieu from that portion of the fees collectable pursuant to this Section above the amount of such fees collectable at the rates provided by R.S. 13:841 prior to the amendment thereof at the 1981 Regular Session of the Legislature shall be expended exclusively for the payment of salaries of deputy clerks of court in that parish.

C. In addition to the fees provided in Subsection A of this Section, the clerk of the Twenty-Fourth Judicial District for the parish of Jefferson may demand and receive additional fees in an amount not to exceed twenty-five percent of the fees specified in Subsection A of this Section. The funds so derived by the clerk shall be expended exclusively for the payment of salaries of deputy clerks of court in that parish.

D. In addition to the fees provided in Subsection A of this Section, the clerks of the several district courts may demand and receive additional fees in an amount not to exceed ten percent of the fees specified in Subsection A of this Section.

Amended by Acts 1984, No. 438, § 1; Acts 1985, No. 749, § 1; Acts 1986, No. 317, § 1.

Historical and Statutory Notes

1984 Amendment: Preceding the first paragraph deleted "A."; in the first paragraph deleted ", except in the parish of Calcasieu,"; in par. (5) deleted commas following "writing or pleadings" and following "one hundred words"; in par. (43) deleted a comma following "final judgment"; in par. (54) deleted a comma following "R.S. 13:842"; in par. (56) deleted "the" following "issued", and deleted a comma following "book of pleadings"; in par. (57) deleted "a" following "appointment of"; in par. (63) deleted a comma following "each witness"; in par. (68) deleted "and" following "certificate,"; in par. (70) deleted a comma following "suit"; and deleted former subsec. B (see main volume for former text).

On authority of R.S. 24:253, in this section as amended in 1984, subssecs. A and B were designated, and in subsec. B "Section" was substituted for "Subsection".

1985 Amendment: Added subsec. C.

1986 Legislation

The 1986 amendment added subsec. D.

Notes of Decisions

4. Payment of fees

Inasmuch as bond for cost of jury covered only jury per diem and mileage, any and all other costs related to jury such as payment of jury commissioners, payment for advertisement of list of veniremen, and preparation of and service of notices must be included within R.S. 13:841 enumerating fees chargeable by clerks of courts in civil matters. *Babin v. Ivy*, App. 1 Cir.1983, 432 So.2d 281.

Clerk of court must look to plaintiff for costs of jury other than per diem and mileage as they accrue, notwithstanding that it was defendant who requested jury trial. *Id.*

§ 841.2. Advance fee to offset services performed by an interpreter

A. In addition to any other fees or costs authorized by law, the clerk of court may demand an additional deposit as advance costs, which shall be a specific cash amount, for payment of estimated compensation and expenses of travel, lodging, and meals under Code of Civil Procedure Art. 192.1.

R.S. 33:1428

§ 1428. Fees in civil matters

A. Sheriffs shall be entitled to no more than the following fees and compensation of office in all civil matters:

(1) For all service and returns of legal documents, notices, and subpoenas, fifteen dollars.

(2) For execution of all writs, twenty-five dollars; for each notice of seizure and sale and returns thereon, fifteen dollars; for return of any writ, fifteen dollars.

(3) For advertising sale under writ of fieri facias, seizure and sale, or other order of court, the rates established by existing laws for judicial advertisements and no more.

(4) For preparing advertisement for newspapers, for each one hundred words or part thereof, ten dollars.

(5) For keeping property under seizure when stored in warehouse, the usual charge of warehousekeepers shall be allowed and no more. The sheriffs may collect the costs of insurance affected or of drayage or other incidental expenses necessary for preservation or keeping of property and actually paid by them.

(6) For keeping property when a keeper or guardian is required, the sheriffs shall be allowed the actual amount paid the keeper appointed by them but not to exceed sixty dollars for each eight hours of keeping; and in all cases in which the property under seizure is of a nature requiring the constant attention of the sheriffs, they may appoint one or more additional keepers for which allowance shall be made on the basis above set forth.

(7)(a) For commission on sales of property made by the sheriffs, three percent shall be allowed on the price of adjudication of immovable property, and six percent shall be allowed on the price of adjudication of movable property. As used herein, "the price of adjudication" shall mean the amount of the successful bid price at the sale conducted by the sheriff.

(b) When the amount necessary to be realized to satisfy any writ under which the property, movable or immovable, is to be offered for sale by the sheriffs is in excess of fifty thousand dollars, including interest and costs, the sheriffs and the seizing creditor may, with the approval of the court, agree upon the fee or commission to be paid to the sheriffs for making the sale, irrespective of the rates hereinabove set forth, prior to the offer and adjudication of the property by the sheriffs.

(c) No agreement shall be valid which provides for a fee or commission in any case of less than fifteen hundred dollars.

(8) For commission on monies realized under mesne or final process, the same rates as in case of sale; but no commission shall be allowed in cases where nothing is realized by the plaintiff in execution or other writ except as otherwise provided herein.

SHERIFFS
Ch. 3

(9) For traveling each mile necessary in going to make and returning from service of any process of court, a mileage allowance based upon the mileage rate established by the division of administration for the use of state owned vehicles and all actual expenses incurred in the service of the process, but such mileage shall not be charged for a greater distance than that of the residence or domicile of the party on whom service is made, and when service is made upon different parties in the same case by the same officer on the same day or official tour, only one mileage shall be charged. This Section shall not be construed to prevent the officer from charging mileage as above provided in each separate suit.

(10) For each deed of conveyance of immovable property, fifty dollars in addition to the cost of registering the deed in the conveyance office and of recording it in the office of the clerk of the district court.

(11) For each proces verbal of the sale of movable or immovable property, thirty dollars.

(12)(a) For executing writ of possession or writ of ejectment, fifteen dollars.

(b) For service of each notice to vacate on defendant or occupants, fifteen dollars.

(c) If the defendant or occupants do not vacate the premises named in the writ upon service of notice to vacate and the sheriffs are required to do anything further to obtain possession, they shall be entitled to an additional fee of fifteen dollars.

(d) Nothing herein shall be construed to bar the sheriffs from charging and collecting for costs of labor and other costs and expenses actually paid or incurred by them in order to obtain possession of the premises described in the writ.

(13)(a) In all cases where the sheriffs have in their possession for execution a writ of fieri facias, a writ of seizure and sale, or any conservatory or other writ under which property is or may be seized:

(i) When there has been an adjudication which is not completed as a result of instructions given by the plaintiff in writ or for any other reason, or

(ii) When the plaintiff in writ receives cash, other consideration, or both pursuant to judgment rendered in suit in which the writ issued without the necessity of judicial sale, or

(iii) When the suit in which the writ issued is discontinued by the plaintiff in writ, or

(iv) When at the request of the plaintiff in writ the writ is recalled or dissolved or its further execution discontinued, or

(v) When the parties in interest make an amicable settlement or compromise or enter into any other agreement under the terms of which the writ is recalled or dissolved or its further execution discontinued,

the sheriffs shall be entitled to receive a fee or commission as in the case of a sale.

(b) But in the discretion of the sheriffs and under circumstances satisfactory to them, they may modify or reduce any fee or commission due and payable under the provisions of this Paragraph. However, if the property is the debtor's homestead exempt residence and there has been a settlement or compromise between the parties, the fee or commission shall be calculated on the amount of the settlement or compromise.

(c) The fees or commission provided for in this Paragraph shall be due and payable in every case by the plaintiff in writ and shall be due and payable under the circumstances above set forth even though there has only been a constructive seizure or where property seized under any of the writs herein-above enumerated has been released on bond.

(d) In a case where there has been an amicable settlement by compromise or otherwise, but no judgment has been rendered, the fee or commission shall be due and payable in solido by all parties to the compromise agreement or settlement who may be proceeded against by the sheriffs by rule to be tried in a summary manner in term time or in vacation.

(14) For any services rendered or duties performed by the sheriffs not otherwise herein specially provided for, they shall be entitled to a fee or commission to be determined by agreement with the parties in interest or fixed by the court by rule tried in a summary manner in term time or in vacation.

B. These costs shall be due and collectible as provided for clerks of the district courts in ordinary suits and when realized on any process of court by collections or sales, except in those parishes where the sheriffs collect their fees independently of the clerks.

Orleans Civil District Court

NOTICE

The following amendment to Local Rule 5 was adopted at a meeting of the Court En Banc on 10/23/84; (Updated 2/3/87; 4/7/87, 1/1/88; and 6/88, 6/19/91). Updated 9/6/85, ACT 63 of the 9185 Regular Session, La. Legislature. Judges Supp. Comp. Fee, \$13.00 as of 7/1/92. AMENDED EFFECTIVE 7/1/92.

COSTS. The following costs shall be paid to the Clerk of Court at the time of filing of the pleading specified. In all instances, the amount provided for is NOT a deposit, but is a non-refundable filing fee.

- PLAINTIFF'S FILING FEE for filing ORIGINAL PETITION.....\$200.50
- DEFENDANT'S FILING FEE for filing ANSWER to main or ancillary demand (due by each Defendant who files a separate Answer).....\$125.00
- Unless it is the first ANSWER in an IN FORMA PAUPERIS Or Government case.....\$138.00
- If there are MORE THAN FIVE DEFENDANTS named by the Plaintiff, there will be an additional charge of \$15.00 each for every Defendant named over five.....\$ 15.00
- There will be an additional charge of \$50.00 each for every Plaintiff named over five.....\$ 50.00
- PETITION OF INTERVENTION by party not previously a party to the suit.....\$100.50
- REQUEST FOR TRIAL BY JURY.....\$250.00
- THIRD PARTY DEMAND.....\$ 50.50
- RECONVENTIONAL DEMAND.....\$ 50.50
- CROSS CLAIM DEMAND.....\$ 50.50

SPECIAL PROCEEDINGS

- PETITION FOR GARNISHMENT.....\$125.50
- RECORDATION OF ATTORNEY'S CONTINGENCY FEE CONTRACT.....\$ 75.50
- DOMESTIC RELATIONS PETITION (DIVORCE).....\$150.50
- DOMESTIC RELATIONS ANSWER.....\$150.00
- DOMESTIC RELATIONS FILING FEE OF EACH AND EVERY RULE excluding a RULE FOR DIVORCE.....\$ 25.00
- PETITION FOR PARTITION BY LICITATION.....\$200.50
- PETITION FOR PARTITION OF COMMUNITY PROPERTY - DOMESTIC.....\$150.50
- ANSWER TO PETITION FOR PARTITION - DOMESTIC.....\$150.00
- PROOF OF CLAIM AGAINST SUCCESSION.....\$ 75.50
- SUCCESSIONS (Filing fee to be paid with filing of original Petition): ADMINISTRATION.....\$200.50
- SIMPLE POSSESSION.....\$200.50
- SMALL SUCCESSION.....\$100.50
- PETITION FOR NOTICE OF APPLICATION FOR APPOINTMENT OF: ADMINISTRATION.....\$ 75.50
- TUTORSHIP.....\$150.50
- EMANCIPATION.....\$150.50
- JOINT PETITION TO APPROVE WORKERS' COMPENSATION or MINOR'S SETTLEMENT filed as an initial pleading.....\$150.50
- SUIT TO MAKE A FOREIGN JUDGMENT EXECUTORY and pleadings relating thereto.....\$150.50
- PETITION FOR ISSUANCE OF A SUBPOENA.....\$200.50
- PETITION FOR CHANGE OF NAME.....\$200.50
- PETITION TO BECOME A NOTARY PUBLIC.....\$200.50
- INTERDICTION-(CURATORSHIP), GUARDIANSHIP, AND TRUST.....\$200.50
- TUTORSHIP where the only asset is a disputed claim or the Minor's Estate is valued at \$20,000.00 or less.....\$ 75.50

The above schedule does not affect the charge presently imposed for transcripts of appeals, the charge for true copies or other pleadings in the process purposes. However, a certified copy of a pleading requested for other purposes is subject to the charge presently in effect.

- CERTIFIED COPIES.....\$2.00 per page
- UNCERTIFIED COPIES.....\$.75 per page
- CERTIFIED IN ACCORDANCE WITH "ACT OF CONGRESS".....\$5.00
- PRO THO NOTORIAL CERTIFICATES.....\$2.00
- LETTERS TESTAMENTARY.....\$2.00
- FACSIMILE TRANSMISSION FEE.....\$5.00
- plus \$2.50 per page for transmissions in excess of two (2) pages

EFFECTIVE
JULY 1, 1992

ST. CHARLES PARISH CLERK OF COURT'S OFFICE
CIVIL AND PROBATE FILING FEES

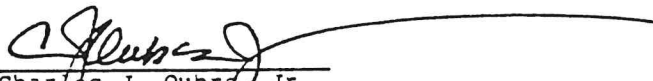
	CLERK'S FEES	STENO FEES	JUDICIAL FEES	ACT 63 OF 1985	CITATION & SERVICE FEES-EACH DEFENDANT	TOTAL ONE DEFENDANT
ADOPTIONS	52.00	10.00	15.00	13.00	30.00	120.00
AMENDED PETITION	42.00			13.00	30.00	56.00
ANSWER & RECONVENTIONAL	42.00			13.00	30.00	85.00
ANSWER & 3RD PARTY DEMAND	42.00			13.00	30.00	85.00
SUPPLEMENTAL & AMENDED PETITION	42.00			13.00	30.00	85.00
COLLECTION SUIT	72.00	10.00	15.00	13.00	30.00	140.00
COMP. SETTLEMENT	52.00	10.00	15.00	13.00		90.00
WORKER'S COMP.	72.00	10.00	15.00	13.00	30.00	140.00
DIVORCE	92.00	10.00	15.00	13.00	30.00	160.00
				WRIT FEE AND SERVICE	44.00	
EXECUTORY PROCESS	92.00	10.00	15.00	13.00	30.00	204.00
INTERVENTION	42.00			13.00	30.00	85.00
J.D. RULE	30.00				30.00	60.00
JUDGMENT EXECUTORY (GARNISHMENT AND J.D. RULE)	72.00	10.00	15.00		GARN. FEE 15.00 WRIT FEE 14.00	186.00
MANDAMUS	52.00	10.00	15.00		30.00	107.00
SEPARATION	92.00	10.00	15.00	13.00	30.00	160.00
SEQUESTRATION	92.00	10.00	15.00	13.00	60.00	
SUCCESSIONS (TUTORSHIP AND EMANCIPATIONS)	62.00	10.00	15.00	13.00	30.00	130.00
CLERK'S DOCKET	27.00			13.00	30.00	70.00
ALL OTHER SUITS DAMAGES, ETC.	92.00	10.00	15.00	13.00	30.00	160.00
EACH ADDITIONAL DEFENDANT	25.00				30.00	55.00
GARNISHMENT IN SUIT ALREADY FILED	32.00			GARN. FEE 15.00 WRIT FEE 14.00	60.00	121.00

ADDITIONAL COSTS: Subpoenas \$13.00, Subpoenas Duces Tecum \$13.00, Sheriff's fees \$30.00 (Service) Subpoena for Deposition \$13.00 each. All writs \$14.00
Witness Fees (Refer to Schedule)
Expert, Jury Trial, Appeal Fees and Transcript Costs

NOTE: A \$25.00 Check payable to the Secretary of State must be furnished for each service made on the Secretary of State plus \$15.00 check payable to Sheriff, East Baton Rouge Parish plus \$14.00 to St. Charles Parish Clerk of Court.
A \$15.00 check made payable to Sheriff of Jefferson Parish and a \$14.00 check made payable to St. Charles Parish Clerk of Court must be furnished for each service to be made in Jefferson Parish.
Subpoenas & Subpoena duces tecum going to Tangipahoa Parish needs a check for \$30.00 made out to J. Edward Layrisson, Sheriff. Also, Order's and TRO's going to Tangipahoa Parish we need a check for \$45.00 made out to the J. Edward Layrisson, Sheriff.
Each service going to Jefferson Davis Parish needs a check for \$15.00 made out to Sheriff, Jefferson Davis Parish.
Acadia Parish and Terrebonne Parish need a separate checks,
PLEASE CONTACT US FOR COST.

NO SUIT WILL BE FILED, NO CITATION OR SUBPOENA ISSUED WITHOUT PROPER FEE.
YOUR FULL COOPERATION WILL BE APPRECIATED.

Thank you,


Charles J. Oubre Jr.
Clerk of Court
St. Charles Parish

(The number of attorneys checking each response has been inserted next to the response.

SURVEY OF ATTORNEYS

Please answer the following questions concerning the court costs of civil suits in district court based on your experience.

1. Are refunds of surplus advance deposits returned to you in a timely manner (for example, within 120 days)?

7 Always 49 Often 49 Seldom 19 Never 14 No Opinion

2. Are court costs generally appropriate to the services provided?

1 Always 45 Often 65 Seldom 16 Never 12 No Opinion

If not, please indicate any services for which you feel the fees are particularly inappropriate:

3. Do costs billed at the courthouse frequently differ from those quoted over the phone to you or your employee by the clerk or a clerk employee?

2 Always 53 Often 46 Seldom 21 Never 18 No Opinion

4. Do court costs ever exceed attorneys' fees?

1 Always 24 Often 73 Seldom 35 Never 7 No Opinion

If yes, please specify the types of cases involved:

5. Do you experience problems in your practice due to delays by the clerk of court in processing papers filed?

3 Always 39 Often 77 Seldom 21 Never 1 No Opinion

If yes, please indicate some of the causes of the delays:

6. Do you receive substantial late billings for court costs (after the suit is resolved)?

6 Always 49 Often 72 Seldom 12 Never 5 No Opinion

If yes, (a) please indicate the typical amount(s):

(b) do you usually: Bill your client for the amount

Write it off

Not pay

7. Have you ever received from a parish clerk of court an itemized bill detailing the charges for all actions or services in a suit?
91 Yes 48 No

If yes, was the itemized bill: 76 Specifically requested
20 Automatically provided
(some attorneys checked both)

8. To what extent do court costs vary among the parishes?

Substantial Variation			No Variation	
1	2	3	4	5
<u>25</u>	<u>60</u>	<u>38</u>	<u>9</u>	<u>0</u>

9. Are civil court fees used to finance unrelated court expenses?
60 Yes 3 No 72 No Opinion

10. Are actions or services required in civil suits which increase court costs unnecessarily?
50 Yes 28 No 58 No Opinion

If yes, please specify any such actions or services: _____

11. Do you find considerable differences in the costs of jury trials in the different parishes?
32 Yes 14 No 89 No Opinion

If yes, please give an estimate of the minimum and maximum in court costs charged per day: _____

Please comment on any particular problems you may have experienced regarding court costs in jury trials.

12. Are you aware that fees collected by the clerk of court include:

- * A surcharge to supplement judges' salaries? 87 Yes 52 No
- * Payments to the Secretary of State when an insurance company is party to a suit? 78 Yes 60 No
- * A surcharge to help finance the district court offices?
86 Yes 50 No

13. Are you aware that the state and local governments (and their agencies) are not liable for court costs except when specifically ordered by a judge?
105 Yes 31 No

14. Please indicate your position on the following potential changes regarding civil court costs:

- * A statewide system or agency for monitoring civil fees.
93 Agree 38 Disagree 8 No Opinion
- * Standardized statewide rules for determining pauper status.
117 Agree 14 Disagree 8 No Opinion
- * Replacing fee schedules with a standardized one-time filing fee for various broad categories of suits.
89 Agree 35 Disagree 17 No Opinion
- * Uniform statewide court costs and advance deposits.
110 Agree 20 Disagree 6 No Opinion
- * A minimum fee with costs supplemented by state government funding.
36 Agree 79 Disagree 24 No Opinion
- * Substitution of certified mail for service by a sheriff.
103 Agree 29 Disagree 7 No Opinion
- * State assumption of full cost of criminal justice system.
68 Agree 42 Disagree 25 No Opinion
- * Requirement that governmental entities pay court costs in civil suits.
88 Agree 30 Disagree 16 No Opinion

Comments or additional suggestions: _____

15. Please give your best estimate of the total court costs involved in an average suit in each of the following categories as filed in district court in the parish in which you primarily practice:

	<u>AVERAGE</u>	<u>LOW</u>	<u>HIGH</u>
* Administrative matter (e. g., probate, adoption)	\$ 220	\$ 90	\$ 500
* Simple uncontested suit (e. g., divorce)	205	50	500
* Normal contested matter (e. g., collection suit):	352	100	1,575
* Suit with one-day jury trial:	1,528	150	7,500

16. If a system of one-time filing fees were instituted to replace the current fee schedules, please indicate what you feel would be an appropriate single court cost amount to be applied in the following actions:

	<u>AVERAGE</u>	<u>LOW</u>	<u>HIGH</u>
* Administrative matter (e. g., probate, adoption)	\$ 148	\$ 50	\$ 500
* Simple uncontested suit (e. g., divorce)	140	40	300
* Normal contested matter (e. g., collection suit)	215	65	500
* Suit with one day jury trial	703	150	1,700

17. Please list the parishes in which you practice: _____

18. The space below is provided for any additional comments you may wish to make.

Please return the questionnaire to:

Public Affairs Research Council of Louisiana, Inc.
P.O. Box 14776
Baton Rouge, LA 70898-4776

PHONE: (504) 926-8414
FAX: (504) 926-8417

LOUISIANA DISTRICT COURTS
THREE YEAR TREND IN ACTIVITY

JURY TRIALS
1991

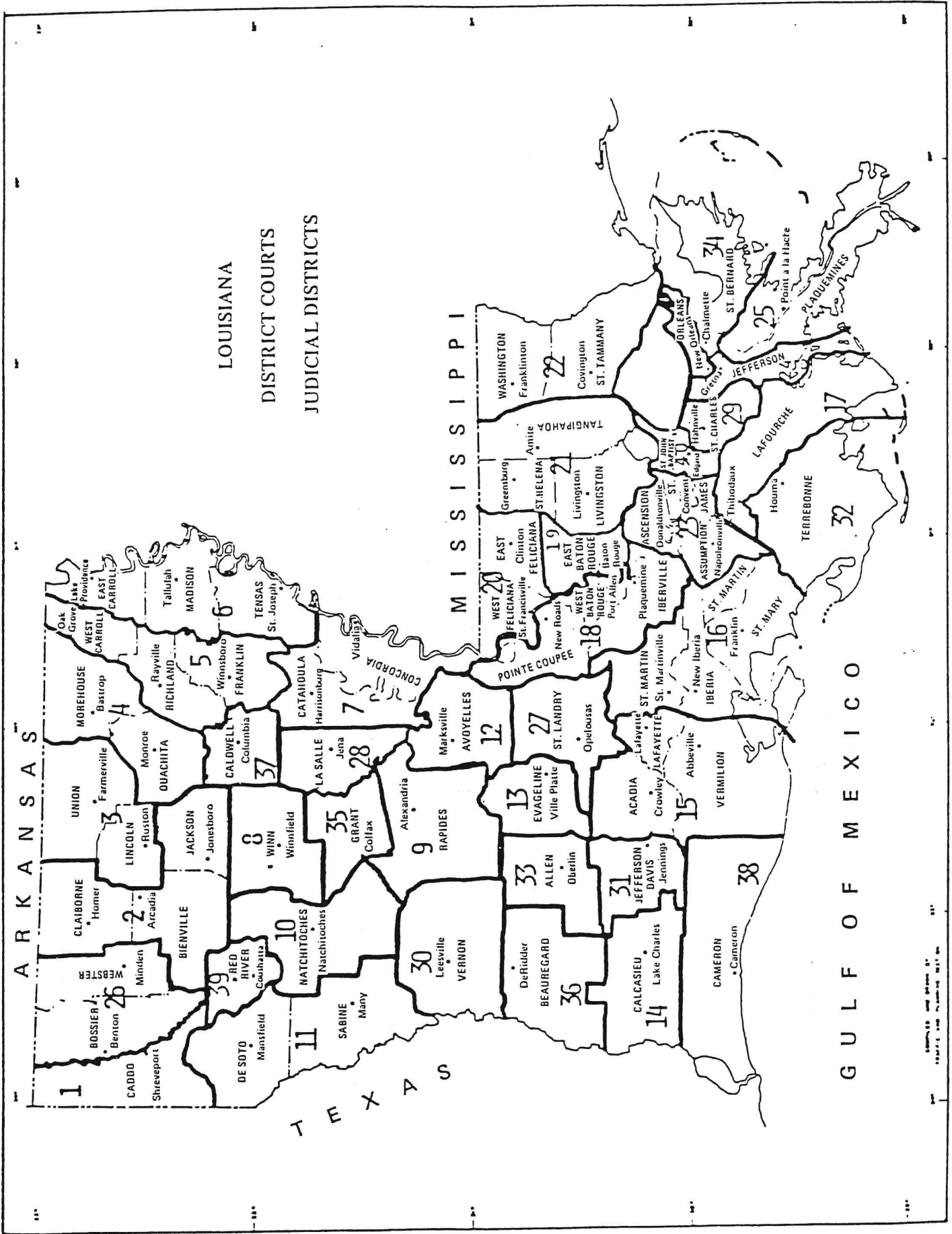
District	Parish	Cases Filed	Cases Filed	1991 Juvenile	1991 Civil	1991*** Criminal	1991 Traffic	1991 Total	Civil	Criminal
		1989 Total	1990 Total							
1	Caddo*	19,195	17,679		8,909	4,322	4,169	17,400		
	District Totals	19,195	17,679		8,909	4,322	4,169	17,400	12	44
2	Bienville	2,767	2,880	352	572	688	2,765	4,377		
	Claiborne	2,459	2,139	263	439	444	1,189	2,335		
	Jackson	2,361	2,134	127	742	615	495	1,979		
	District Totals	7,587	7,153	742	1,753	1,747	4,449	8,691	3	15
3	Lincoln	3,811	5,260	396	957	1,139	1,641	4,133		
	Union	2,602	2,665	345	770	939	1,177	3,231		
	District Totals	6,413	7,925	741	1,727	2,078	2,818	7,364	3	22
4	Morehouse**	3,958	4,307	488	948	3,322		4,758		
	Ouachita	17,201	19,640	2,316	4,744	4,431	7,970	19,461		
	District Totals	21,159	23,947	2,804	5,692	7,753	7,970	24,219	11	30
5	Franklin	2,341	2,300	389	819	513	461	2,182		
	Richland	3,176	3,788	405	807	649	2,161	4,022		
	West Carroll	1,199	1,108	192	325	262	321	1,100		
	District Totals	6,716	7,196	986	1,951	1,424	2,943	7,304	1	14
6	East Carroll**	2,487	2,377	214	234	2,111		2,559		
	Madison	4,291	3,636	282	478	858	2,331	3,949		
	Tensas	3,667	2,803	131	269	401	1,756	2,557		
	District Totals	10,445	8,816	627	981	3,370	4,087	9,065	0	6
7	Catahoula**	2,742	3,034	56	425	2,313		2,794		
	Concordia	5,226	4,105	350	758	1,187	2,720	5,015		
	District Totals	7,968	7,139	406	1,183	3,500	2,720	7,809	6	16
8	Winn	1,960	2,162	47	877	384	3,236	4,544		
	District Totals	1,960	2,162	47	877	384	3,236	4,544	2	1
9	Rapides	19,568	21,122	992	5,277	2,607	12,402	21,278		
	District Totals	19,568	21,122	992	5,277	2,607	12,402	21,278	20	23
10	Natchitoches**	6,856	7,271	119	1,297	7,646		9,062		
	District Totals	6,856	7,271	119	1,297	7,646		9,062	12	7
11	DeSoto**	3,134	5,395	93	1,277	5,178		6,548		
	Sabine	3,662	4,145	117	1,243	1,121	1,915	4,396		
	District Totals	6,796	9,540	210	2,520	6,299	1,915	10,944	3	20
12	Avoyelles	4,350	4,202	202	2,216	1,380	2,409	6,207		
	District Totals	4,350	4,202	202	2,216	1,380	2,409	6,207	6	5
13	Evangeline**	3,437	2,860	256	1,442	1,723		3,421		
	District Totals	3,437	2,860	256	1,442	1,723		3,421	7	1
14	Calcasieu	15,468	18,393	715	7,108	4,331	7,145	19,299		
	District Totals	15,468	18,393	715	7,108	4,331	7,145	19,299	40	39
15	Acadia	6,842	5,625	431	1,428	1,188	3,543	6,590		
	Lafayette	15,543	14,654	1,606	7,083	2,707	4,700	16,096		
	Vermilion	3,583	3,523	377	2,109	538	1,338	4,362		
	District Totals	25,968	23,802	2,414	10,620	4,433	9,581	27,048	74	15
16	Iberia	8,095	7,124	292	2,983	1,152	4,637	9,064		
	St. Martin	5,701	6,069	469	1,702	1,276	6,750	10,197		
	St. Mary	8,343	7,664	278	2,444	2,490	3,699	8,911		
	District Totals	22,139	20,857	1,039	7,129	4,918	15,086	28,172	39	25
17	Lafourche**	13,813	13,322	581	3,538	11,720		15,839		
	District Totals	13,813	13,322	581	3,538	11,720		15,839	24	6
18	Iberville**	3,923	3,481	18	1,734	3,100		4,852		
	Pointe Coupee	4,942	4,378	57	793	2,044	956	3,850		
	W. Baton Rouge**	6,000	4,792	29	998	5,330		6,357		
	District Totals	14,865	12,651	104	3,525	10,474	956	15,059	15	16
19	E. Baton Rouge	30,498	32,255		13,908	9,491	13,894	37,293		
	District Totals	34,498	32,255		13,908	9,491	13,894	37,293	79	88

LOUISIANA DISTRICT COURTS
THREE YEAR TREND IN ACTIVITY

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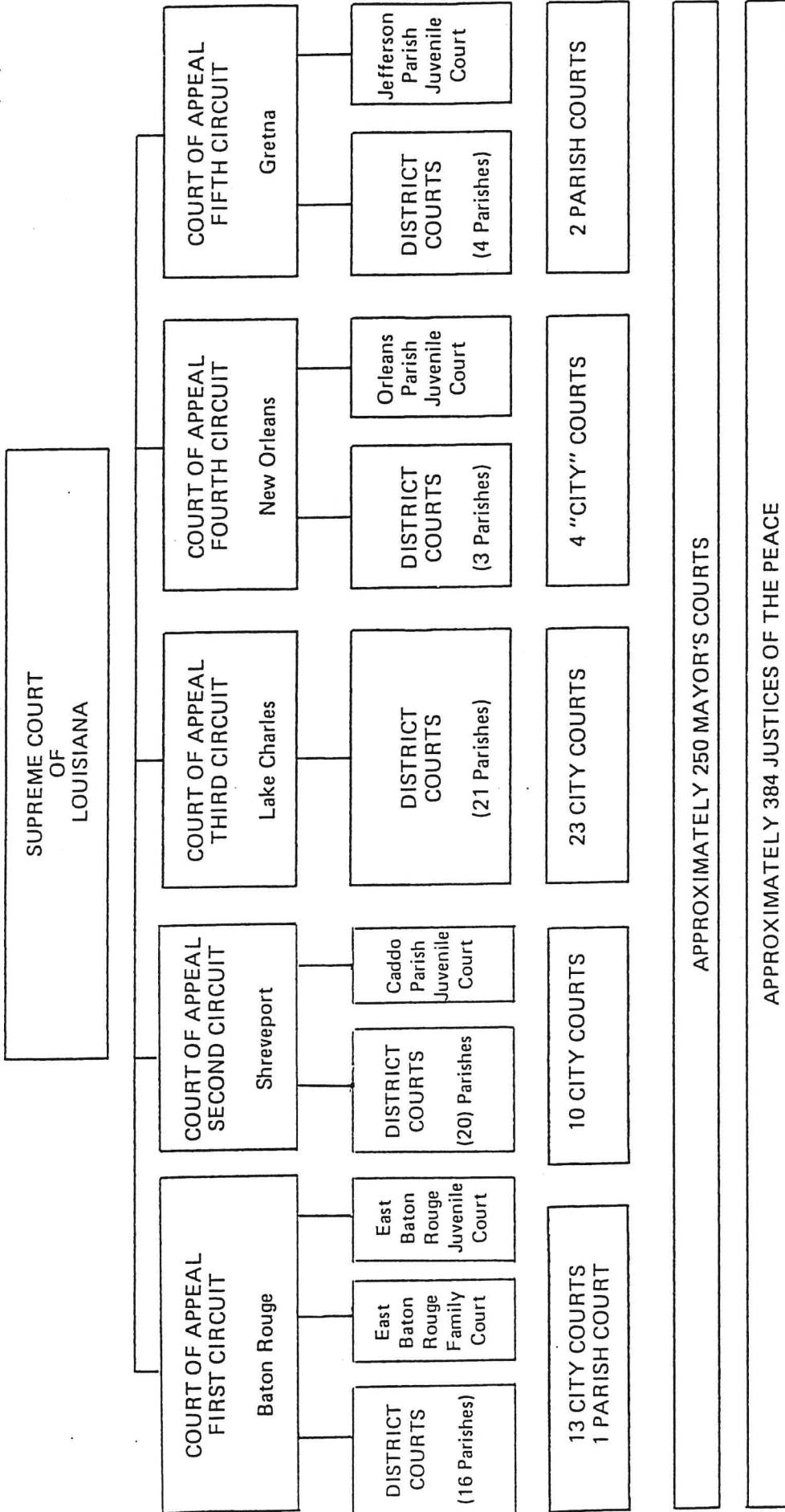
District	Parish	Cases Filed		1991 Juvenile	1991 Civil	1991*** Criminal	1991 Traffic	1991 Total	Jury Trials	
		1989 Total	1990 Total						Civil	Criminal
20	East Feliciana	4,300	4,225	70	820	1,251	1,881	4,022		
	West Feliciana**	2,066	2,224	73	409	1,686		2,168		
	District Totals	6,366	6,449	143	1,229	2,937	1,881	6,190	3	4
21	Livingston	8,505	6,249	474	2,800	1,671	3,330	8,275		
	St. Helena	844	895	33	341	585	414	1,373		
	Tangipahoa	12,420	12,148	798	4,023	2,805	7,022	14,648		
	District Totals	21,769	19,292	1,305	7,164	5,061	10,766	24,296	29	22
22	St. Tammany	20,290	20,999	1,616	5,845	9,163	6,131	22,755		
	Washington	3,978	4,290	252	2,144	1,101	1,976	5,473		
	District Totals	24,268	25,289	1,868	7,989	10,264	8,107	28,228	30	60
23	Ascension*	3,022	2,970	163	2,390	580		3,133		
	Assumption	3,563	3,689	83	894	510	2,711	4,198		
	St. James**	2,783	3,425	42	816	3,267		4,125		
	District Totals	9,368	10,084	288	4,100	4,357	2,711	11,456	21	23
24	Jefferson*	24,061	23,726		16,683	6,340		23,023		
	District Totals	24,061	23,726		16,683	6,340		23,023	76	70
25	Plaquemines**	6,920	5,725	227	1,036	3,671		4,934		
	District Totals	6,920	5,725	227	1,036	3,671		4,934	8	13
26	Bossier	9,124	10,154	766	2,628	1,113	4,836	9,343		
	Webster**	4,754	2,219	529	1,239	746		2,514		
	District Totals	13,878	12,373	1,295	3,867	1,859	4,836	11,857	10	20
27	St. Landry	14,965	12,904	743	3,140	1,331	5,532	10,746		
	District Totals	14,965	12,904	743	3,140	1,331	5,532	10,746	52	53
28	LaSalle	2,101	3,372	140	616	534	1,145	2,435		
	District Totals	2,101	3,372	140	616	534	1,145	2,435	2	4
29	St. Charles	22,721	19,141	767	1,618	1,906	14,205	18,496		
	District Totals	22,721	19,141	767	1,618	1,906	14,205	18,496	10	11
30	Vernon	11,641	11,956	365	1,802	1,131	11,255	14,553		
	District Totals	11,641	11,956	365	1,802	1,131	11,255	14,553	5	5
31	Jefferson Davis	6,756	7,400	290	1,143	636	5,422	7,491		
	District Totals	6,756	7,400	290	1,143	636	5,422	7,491	5	7
32	Terrebonne**	14,982	15,777	1,019	3,408	13,575		18,002		
	District Totals	14,982	15,777	1,019	3,408	13,575		18,002	38	46
33	Allen**	3,040	3,184	230	957	2,391		3,578		
	District Totals	3,040	3,184	230	957	2,391		3,578	2	2
34	St. Bernard**	11,325	11,349	616	2,636	7,747		10,999		
	District Totals	11,325	11,349	616	2,636	7,747		10,999	15	10
35	Grant	3,593	3,808	265	613	296	2,665	3,839		
	District Totals	3,593	3,808	265	613	296	2,665	3,839	3	1
36	Beauregard	3,599	3,372	159	1,049	591	2,136	3,935		
	District Totals	3,599	3,372	159	1,049	591	2,136	3,935	1	6
37	Caldwell**	1,937	1,987	87	429	1,130		1,646		
	District Totals	1,937	1,987	87	429	1,130		1,646	0	0
38	Cameron**	2,777	3,025	39	458	2,598		3,095		
	District Totals	2,777	3,025	39	458	2,598		3,095	10	1
39	Red River**	3,646	2,642	163	387	1,613		2,163		
	District Totals	3,646	2,642	163	387	1,613		2,163	0	0
40	St. John	16,117	17,482	614	1,751	2,195	13,239	17,799		
	District Totals	16,117	17,482	614	1,751	2,195	13,239	17,799		
60	Orleans Civil*							23,874	144	
	Orleans Criminal*							6,767		595
	District Totals	33,626	32,184		23,874	6,767		30,641	144	595
	Statewide Totals	507,647	500,813	23,608	167,602	168,530	179,680	692,599	824	1,354

* Violations of traffic, misdemeanors, and juvenile laws are processed by parish, city or juvenile/family courts.
 ** These courts were unable to separate traffic from criminal filings.
 ***DWI is included in the criminal totals beginning in 1990



LOUISIANA COURT STRUCTURE

January 1, 1992



Number of Justices and Judges:

7	Supreme Court	IN CAPITAL CASES — WHERE THE DEATH PENALTY HAS BEEN
53	Courts of Appeal	IMPOSED — APPEAL IS DIRECTLY TO THE SUPREME COURT
202	District, Family and Juvenile	FROM THE DISTRICT COURT.
73	City and Parish Courts	
<u>335</u>	Total	

