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# NATIONAL CONFERENCE ON FUNCTIONS OF REGISTRAR INSPECTION

23-25 November 2015 (Yoga Classes: Daily 6.00AM to 7.00AM)

## TENTATIVE PROGRAMME SCHEDULE

Programme Coordinator Jyoti Kumari, Research Fellow, National Judicial Academy, India (version Dated 30th October 2015, 11.00AM)

<b>DAY 1</b> <b>23</b> <b>November 2015</b> <b>Monday</b>	<b><u>SESSION 1</u></b> 9:00 AM – 10:00 AM  Objectives & Expectations of the Conference	T E A	<b><u>SESSION 2</u></b> 10:30 AM – 11:30 AM  Inspections- why, where, when, what, how	T E A	<b><u>SESSION 3</u></b> 12:00 PM – 1:00 PM  Inspections- periodicity, methodology, team selection	L U N C H	<b><u>SESSION 4</u></b> 2 : 00 PM – 3 :00 PM  Financial Audit	3:00 PM-04:00 PM  Library Reading	4:00 PM-05:00 PM  Computer Skills Training
<b>DAY 2</b> <b>24</b> <b>November 2015</b> <b>Tuesday</b>	<b><u>SESSION 5</u></b> 9:00 AM – 10:00 AM  Judicial Audit	B R E A K	<b><u>SESSION 6</u></b> 10:30 AM – 11:30 AM  Administrative Audit	B R E A K	<b><u>SESSION 7</u></b> 12:00 PM – 1:00 PM  Compliances of deficiencies/verification/ Follow-up action	B R E A K	<b><u>SESSION 8</u></b> 2:00 PM – 3:00 PM  Time Management	3:00 PM–4:00 PM  <i>Library Reading</i>	4:00 PM – 5:00 PM  <i>Computer Skills Training</i>
<b>DAY 3</b> <b>25</b> <b>November 2015</b> <b>Wednesday</b>	<b><u>SESSION 9</u></b> 9:00 AM – 10:00 AM  Break-out groups on hypothetical situation	B R E A K	<b><u>SESSION 10</u></b> 10:30 AM – 11:30 AM  Organizational Behaviour	B R E A K	<b><u>SESSION 11</u></b> 12:00 AM – 1:00 PM  Feedback and conclusion				

# INSPECTION

(An Article by Hon'ble Shri Justice P.K. Tripathy)

In Article 227 of the Constitution of India (Chapter V) vests in the High Courts the responsibility and power of superintendence over all Courts and Tribunals throughout the territories in relation to which the High Court exercises jurisdiction. Exercise of jurisdiction under Article 227 by the High Court is for dual purposes, viz. Administrative and Judicial. This Article proposes to deal with the administrative function of the High Court, which comprises of :

- (1) Administrative control by calling for the statistics/returns;
- (2) Makes general rules and prescribe forms for regulating the practice and proceedings of courts, and
- (3) Settle the tables of fees to be allowed to

(a) Shariff, Clerks and Officers;

(b) Attorneys, Advocates and Pleaders practicing in courts etc. Such table of fees is not to be inconsistent with the provision of law for the time being in force and the rules made there under, prescribing the table of fees must receive the previous approval of the Governor. Thus, it is by virtue of the provision in Article 227 that the High Court exercises power of superintendence over all Courts and Tribunals functioning within its jurisdiction except the Tribunals constituted by or under any law relating to the Armed Forces. The General Rules and Circular Orders of the High Court of Judicature, Orissa, comprises of two parts, one relating to the "civil side" and the other one is relating to "criminal side". In each of the G.R. & C.O. (Civil and Criminal), provisions have been made relating to the proper way of

functioning of subordinate courts, starting from the stage of prescribing the dress-code upto the method of regulating the proceeding after institution of cases as well as of the Judicial and Administrative matters arising in course of discharge of the duties by the Presiding Officers of the courts and their subordinate staffs. If the provision in G.R. & C.O. is systematically and properly followed by the staff and the officers in course of their discharge of duties both on administrative and judicial side, then that not only brings efficiency to the system but also it helps in regulating the proceedings in systematic and suitable manner and maintains transparency in such functioning. To ensure that, each of such subordinate courts and their chief ministerial officers are required to perform their duties properly and in accordance with law. The G.R. & C.O. both "civil" and "Criminal", provide for various method of inspection. It provides for "annual inspection" of his own record by the Presiding Officers of the Courts, it provides for inspection and verification of the records by the chief ministerial staff and the presiding officer for preparation of returns and submission of statistics to the superior authority and ultimately to the High Court. It provides for inspection by the officers of subordinate courts, by the District Judge in civil side and by the Chief Judicial Magistrate and the Sessions Judge on criminal side. Object of such inspection is to satisfy at the first instance that the work, both Judicial and Administrative, in each of the subordinate courts is conducted strictly according to law and the rules prescribed by the High Court. Another purpose of

such inspection is to find out disposal of the court proceedings and the administrative files in accordance with law and procedure, punctually and efficiently. In that process, if defects and errors are detected, then they are to be corrected after taking note of the relevant provision of law or the rules prescribed by the High Court. In other words, the inspection provided in the G.R. & C.O. intends to educate Judicial Officers and the chief ministerial officers of the manner in which the judicial and administrative files are to be dealt with and to follow such law and the rules, so that both transparency and efficiency are exhibited.

Power of superintendence of the High Court by regular inspection comes over and above the aforesaid rules for inspection by the Presiding Officers of each of the subordinate courts and also by the District and Sessions Judge and the Chief Judicial Magistrate, so as to find out if the subordinate courts and the tribunals were functioning within its jurisdiction are following the law and the rules and discharging their duties as per law and the rules and that too with proper responsibility. The Chief Judicial Magistrate conducts periodical inspection of each of the magisterial courts subordinate to each. He notes the defects and his impression on the manner in which the offices and the magisterial court proceedings are managed by the Presiding Officer and is required to forward the same to the High Court, through the office of the Sessions Judge. In course of such inspection, it is the duty of the Inspecting Officer to correct as many defects as possible and is not relieved of their duty by simply mentioning the defects. On perusal of such inspection note prepared by the Chief Judicial Magistrates and comments made thereon, the Sessions Judge is required to make his own observation about the quality of inspection and lapses and lacuna, if any, in the inspection report. In addition to that, the Sessions Judge is also required to give his comments, if the Chief Judicial Magistrate has wrongly referred to any rules or circular or provision of law or has omitted to do so. He is also required to make his "own assessment" on the notes of inspection submitted by the Chief Judicial Magistrate. The Sessions Judge thereafter forwards the notes of inspection together with his comments to the High Court for approval. On the other hand, when the District and Sessions judge conducts the inspection, his notes of inspection and synopsis of the defects found and the impression he gathers about the officer and the office of the inspected courts to the High Court. In its turn, the High Court, with the aid and assistance of the Special Officer (Special Cell) and the Registrar (Inspection and Enquiry) is required to peruse the inspection notes and gives its comments. On receipt of the same, the officer concerned takes note of the instructions from the High Court and may issue directions to remove the defects. The aforesaid exercise as provided under the rules are provided for in Article 227, which makes it amply clear that, the over all responsibility to ensure that all subordinate courts and tribunals function appropriately, is that of the High Court. Therefore, the High Court not only has to regularly and promptly attend to the notes of inspection forwarded to the High court (Inspection Notes of the Chief Judicial Magistrates and District and Sessions Judges) but also to adhere and to regulate proper and thorough inspection of the courts and tribunals. The past records of the High Court in the inspection wing would indicate that inefficiency, if any, of the

Judicial Officers was being determined on the basis of such inspection notes besides the observations made by the High Court in course of their inspection both on administrative and judicial side. Conducting of inspection in accordance with rule is an important part. The other important aspect is to take proper "follow up action" regarding compliance of defects pointed out in the notes of inspection (if approved by the High Court). Non-compliance in the absence of compelling circumstances or very good reason should be viewed seriously as gross lapses amounting to misconduct. In the present day scenario, callousness has developed in maintaining the court proceedings, a few examples are (i) not giving the serial numbers of the orders, (ii) not giving the case numbers and the page number at the top of the order-sheet, (iii) not properly indexing the L.C.R., while forwarding it to the High Court for reference in Appeals or Revisions, (iv) not properly making inspection of the court Malkhana, Copying Section, process serving unit i.e. the Nizarat and the sections maintaining the accounts and the expenditure etc. Time has perhaps again come for the High Court to see that the practice of adhering to the law and rules is restored by regular inspections. Discipline in the subordinate judiciary in our State is at an appreciable level and that may be maintained by effectively exercising power/obligation of superintendence by the High Court.

## Changing Nature of Indian Judicial Structure



Recent amendments made in the Indian Judicial Structure, though made considerable spaces in national media, the talks revolved round the principle of Judicial Independence and the discrepancies in judicial appointments. The formation of National Judicial Appointments Commission and the enactment of 121<sup>st</sup> Constitutional Amendment Bill 2014, which got its Presidential assent on 31<sup>st</sup> December 2014, were of no substantial importance to social networks neither the issues were analysed in a larger political context by the Indian Anglophone Media. Unfortunately, the new Constitutional amendments had effectively re-positioned the Indian Courts in the current political set-up, changing its status inferior to the parliament. If this was recognized duly, probably, the incidents would have received a better political attention. This is because the manipulation is on the Indian Supreme Court, world's most active court on Human Rights Issues, and it imposes the influence of Indian legislature and bureaucracy, which are ranked high in corruption levels, over the courts.

Related events in the recent history of India, from 2003 – UPA Government's attempt to introduce a Bill regulating Public International Litigation to the latest amendments, tells us that there exists illegitimate higher pressure on the Indian Legislature to suppress the voice of Supreme Court. In 2006, the then government tried to pass Judicial Inquiry Bill 2006, which envisaged National Judicial Council (NJC) to conduct inquiries into allegations of incapacity or misbehavior by High Court and Supreme Court judges. Non-inclusion of Parliamentarians in NJC stalled the Bill. This was partially rectified when new investigatory body was established by the Judicial Standards and Accountability Bill 2010 which was passed on 29th March 2012. The new body, which is called as oversight committee, includes Attorney General of India – necessarily a politically appointed member.

The counter argument of course, are the vital popular calls for Lokpal and the Judicial Standards and Accountability Bill, which reigned over the Indian polity during the Anna Hazare led civil society movements in 2011 and 2012. I would rather say this popular sanction for the Act of 2012 and 121st Amendment Bill 2014 are based upon the beliefs and ideas propounded by the media, which were easily embedded in the troubled legacy of Indian Judiciary, narrating its actions against the neo-liberal, and the theocratic tendencies of the society. This condemnable situation was induced, if not as a part of a pre-designed intact agenda, then as a resultant consequence of formidable oppositions that the Indian Judiciary received from various pluralist fragments of Indian Society. The whole political development can be explained using a four point scale framework.

*(1) Popular Behaviour of Indian Supreme Court and High Courts from the case of [Keshavanda Bharathi](#) to [Lily Thomas v. Union of India \(2013\)](#).* Considering the corruption struck legislature and bureaucracy, the judiciary discharges its function commendably, giving due concern to the competing interests and standpoints regarding socio-economic justice. It believes in an egalitarian society of India. A historical evaluation of Indian Supreme Court judgments will show that it categorically negated the ideas and practice of authoritarianism chronic capitalism, and theocracy, vehemently. The change in attitude of Supreme Court towards Nehru-led and Indira Gandhi-led Governments, the courts' contributions towards environmental jurisprudence and sustainable development, substantiates the above statement. Its non-conventional adjudication of the matters concerning moral and religious issues, had earned strong opposition from cultural wings of the various political organisations.

It can be assertively said that when there is an exceptional sweep by principles of neo-liberalism allotting private participation in every walk of governmental action, Indian Judiciary is hardly carried away. The empirical studies on Indian Supreme Court advocate the idea that it is the most robust court in the world, to respond to human rights issues. [Lily Thomas v. Union of India \(2013\)](#), in which Supreme Court disqualified the convicted representatives from Parliament and Legislative Assemblies, was a recent attack on redundant insider sharing of seats of the assembly.

*(2) Mass media sensitization against the judicial activism juxtaposed with judicial corruption.* If the primary assumption on the populist behaviour of Indian courts is accepted then the question arises why is there a popular notion among the general public that the Judiciary has become an oligarchy without transparency and accountability. The answer lies in the sensitization agenda of

politically owned media corps throwing in figurative remarks on the issues of Chief Justice Mr. K. Veeraswami in 1979, Mr. Justice V. Ramaswami in 1991, A.M. Bhattacharjee in 1995, Ajit Sengupta in 1996, A.S. Anand in 2000, Justice Arun Madan in 2002, Justice Dinakaran, Justice Soumitra Sen, Justice Balakrishnan and others. This is often combined with the first-hand experience of the public tolerating the delayed justice in the lower courts. It is not condemned that the media involvement in judicial corruption is excessive or over sensationalism, but what is abhorrent here is that news against the corruption matters are often placed alongside with instances of judicial activism which involves controversial jurisprudence.

As mentioned earlier, the Supreme Court judgments against practices of capitalism and theocracy, will affect the contrary beliefs of one or other liberalists business associations, political parties and religious sects. Sensationalizing contempt cases against the charismatic political leaders also contributes to the revulsion. The resultant pluralist fragmentation can explain the notion of the public in disbelieving judiciary. One must also take into consideration the fact that the popular media houses of India are mainly owned by powerful corporate houses that often come before the court as defendants in many of the Public Interest litigations.

*(3) Need for judicial standards and the improving the quality of the lower courts, which is disregarded by the 2012 Act.* It is an apparent fact that sub-standards of judicial affairs and the delayed justice, at the lower courts, had resulted in reduced public faith in judiciary. The lower courts are those institutions of judiciary where the people of India have first-hand experience. They seldom know about the affairs of the India's Highest Judiciary situated at Delhi. Given the vastness of the territory, majority of its population have not even seen the building in reality. Interestingly, India has only 24 High courts to deal with 29 states.

What actually required is a space for subjective assessment, quality improvement of the lower court judicial officers and reforms in the judicial standards which gives ample importance to people who come before the courts. Unfortunately, the enacted Judicial Standards and Accountability Act 2012 do not even refer to lower courts. Perhaps the Judicial Auditing System in Philippines combined with introspective reports of the judges, which shall be made published in the year end, may be a good reform. Upon the publication of such reports, people can also approach to a concerned internal forum in Judiciary as to improving the standards of judges or even to impeach them. The Act 2012, but just believes in a politically appointed oversight committee, which can investigate complaints received against higher court judges.

*(4) Political connivance in The Constitutional (121st Amendment) Bill 2014, Judicial Standards and Accountability Act 2012, Judicial Inquiry Bill 2006, and the 2003 attempt to introduce a Bill regulating Public Interest Litigation.* It is interesting to note that the legislative assemblies who faced lot of practical inabilities to pass the Lokpal Bill (it's legitimacy being a separate question), have found no reasonable constitutional objections to formulate Judicial Standards and Accountability Bill 2010 or in enacting it in 2012. The Statute incorporates an Oversight Committee involving political appointments. According to Section 18 of Act, the Attorney General of India who appears before Supreme Court on behalf of Government of India sits in the Oversight Committee as Member to hear complaints on SC judges. Further Section 3(2) contains a crucial restraint on judiciary not to make any "unwarranted comments" on other constitutional bodies or persons. The exclusion of RTI provisions drive in the notion that the Act 2012 is not in



line with new age democratic impulses. Moreover, it must be noted that the Act which lauds judicial standards does not address any, if the question relating to the quality of lower courts or their performance. Perhaps as the objectives of the Act and Section 3 submit, the Act was necessarily meant to restrict the judiciary from speaking ill about the other constitutional bodies and nothing else.

The recent amendment to Article 124 of the Constitution of India incorporates a six member National Judicial Appointments Commission (NJAC) is again a glaring interference with the Judicial Independence. While existing Article 124 empowers the President of India to appoint Judges after consultation with the judges of High Court and Supreme Court, the Amendment Bill makes it mandatory for the President to act upon the recommendation of NJAC.

The new Article 124A mandate that the NJAC shall comprise of the Chief Justice of India, 2 Judges from the Supreme Court appointed on the basis of seniority, Law Minister, and two other eminent personalities who in turn shall be selected by a committee consisting of CJI, Prime Minister of India, and the leader of the opposition or the leader of the single largest party on the opposition side. The language of the legislative text gives the impression of a NJAC comprising of 3 members from the judiciary and 3 members external to the institution of the judiciary; nevertheless, a deep analysis of the text will reveal the prejudiced proportionality of 6:3 political (inclusive of the President of India) and non-political members involved in the process of judicial appointment. It is argued that the Law Minister and Prime Minister are also a part of the existing appointment mechanism as they are the ones who advise the President of India in any such case. Questionably, if this is the level of influence political members have even without the sanction of a written law, then necessarily as it gets penned, the influence will be even greater.

Above all, the proposal of the new Article 124C provides for the Parliament the power to regulate the business of NJAC by way of legislation, as and when required. It's an unconditional, unfettered power that can be delegated. This abridges the constitutional protection given to the mechanism of Judicial Appointments, as earlier the parliament could only change the mechanism by way of Constitutional amendment which is more a lengthy process.

Therefore if one draws a substantive analogy between 2014 Amendment Bill, Act 2012, Judicial Inquiry Bill 2006, and the 2003 attempt to introduce a Bill regulating Public Interest Lawyering, it can be easily inferred that there is always unyielding interest for regulating judiciary as far as their behaviour in writ jurisdiction is concerned. i.e. while acting in the cases where the governing mechanism is involved. The statement of objectives of the Act 2012 makes clear that it is concerned with higher judiciary alone, while the common man in Indian Territory craves for some substantial quality improvement of the local judiciary's work. The indication is that pressure is high on the legislature, be it at the instance of political stake holders, at the interest of the commercial stalwarts, or of the cultural and religious lobbies, to suppress the human rights initiative of the Supreme Court.

If we are to analyze the issue of judicial accountability from the aforesaid perspectives, it can be understood that the actual requirement to satisfy the public call for a better judicial system would be by improving internal framework to improve the qualitative development of judicial officers and to build cohesive sets of judicial standards for which judges shall be accountable to

themselves before the public. Inopportunately, new reforms try to bring in external controls that too, from undesirable sources.

Given the political situation in India, where the newly elected Government of India has announced 100 Smart cities, and has largely projected itself as a promoter of more deregulated business process, rejuvenated manufacturing sector, go-getter modelled land acquisition law, and diluted environmental laws attack on the principles of public participation and the local self-governance, the 121st Amendment Act 2014 can be taken as the latest word on the new imperialism rising in India.

Author - Nithin Ramakrishnan is a fellow at Centre for Economy, Development and Law. The views expressed in the article are in personal capacity and not of the Centre.

**'Identifying the different objectives of 'Inspection' and 'Vigilance'.**

The matter relates to identifying the different objectives of 'Inspection' and 'Vigilance'.

**REGARDING INSPECTION**

As far as the objective of inspection is concerned, it would be apt to quote the relevant provisions of Rules & Orders (Civil) and (Criminal) in this respect. The provisions are being reproduced as under:-

**Rule 566 of High Court Rules & Orders (Civil)** : "The object of inspection is to satisfy the District Judge and through him the High Court that the Courts are functioning properly, that rules are understood and followed and that work is disposed of promptly and regularly. At the same time the inspection offers the District Judge an opportunity of helping and instructing his Civil Judges and of correcting faults in procedure which would not normally require reference in an appellate judgment and full advantage should be taken of this opportunity"..... "Inspection with its opportunities for helping junior Judges and for improving the standard of the judicial administration generally is one of the more important aspects of a District Judge's work, and is an aspect to which he should devote considerable attention. Unhelpful and routine notes are to be strongly deprecated."

**Rules & Orders (Criminal)**

**703** : ..... "An inspection note is not only a commentary on the court inspected but also on the officer inspecting. The important quality is insight and penetration, and attention should be given to the Court's method and

attitude in trying cases rather than to legal points unless there are mistakes of an obvious kind in law or procedure. It is important that when an error or a fault is revealed the way to avoid it should be explained at the same time, to show not only what was done wrong but also how it should have been done and why."

Thus the object of inspection is to satisfy the District Judge and through him, the High Court, that the courts are functioning efficiently and that the work is disposed of promptly and regularly. It also gives opportunity to the District Judge to make remedial measures and correct the faults in the procedure creeping into the work of subordinate judges. District Judge also evaluates as to whether the Judge whose inspection he is carrying out, has not shown undue delay in disposing of the case. The more careful the inspection is, the higher will be the quality of work in Courts. Minor matters should be disposed of in a personal discussion with the judicial officer but all important points should find a place in the inspection report. Various sections such as account section, copying section, record room, library, establishment etc. are required to be inspected to ensure their proper, efficient and corruption free working.

It is quite clear that the standard of work, both of judicial and administrative nature shall witness an enhancement in terms of quality and quantity, if the inspection is carried out as per norms and guidelines.

An approved note about the ambit and scope of "inspection" dated 26-06-1996 (**Flag-A**) prepared by the then Registrar (Vigilance) is submitted for kind perusal.

## **REGARDING VIGILANCE**

**“Vigilance” means to be watchful, to be alert as to what is happening and what may happen.** Role of Vigilance is to protect the Institution from internal dangers which are more serious than external threats. Vigilance is surveillance for the prevention of improper behaviour and conduct of the duty holders. Vigilance is to keep watchful eye on the activities of the court official) to ensure integrity of personnel in dealing with the litigants. It is to ensure clean and prompt administrative action towards achieving efficiency and effectiveness of the court officials in particular and the courts in general.

**The objective of vigilance is identifying places and points of corruption. A vigil over work both judicial and administrative and the conduct and contacts of officials is also an important objective of vigilance.**

**Vigilance administration may be improved by creating a culture of honesty, by greater transparency/openness in administration and speedy disposal of departmental enquiries.**

**The term ‘Vigilance’ is wrongly understood as barely enquiring, fixing responsibility etc. Vigilance is not only punitive but also preventive in nature. Prevention of misconduct is as important function of vigilance as punishment is. The principle behind preventive vigilance is “Prevention is better than cure” and the purpose is to reduce corruption and bring about a higher order of morality in official functioning. Preventive vigilance is nothing but adoption of a package of measures to improve the system so as to**

**eliminate corruption. This can be done by identifying sensitive and corruption prone areas by detection of failure in quality or speed of work.**

**As part of preventive vigilance, a system of maintaining the list of officers of doubtful integrity shall be required to be maintained.** Similar such list of Class-III and Class-IV employees shall also be required to be prepared. **The purpose of maintaining this list is to enable the organization to take such administrative action as is necessary and feasible. The action can be transfer from sensitive place and post, non-sponsoring the names for deputation, refusal of re-employment after retirement etc. The names of officers/officials should be retained in this list for a specified period.**

Instances of preventive vigilance in judiciary may be seen when the High Court issues advise or non recordable warnings to judicial officers in matters in which the impugned acts are not so serious enough to bring them within the ambit of "misconduct". Similarly, circulars issued from time to time, in order to curb undesirable traits/practices, are also instances of preventive vigilance.

When one talks of punitive vigilance, the concept of "misconduct" has to be brought forth. When the impugned act is proven to be misconduct, the delinquent is liable to be punished as per rule 10 of MP. Civil Services Classification Control and Appeal Rules , 1966. The delinquent may be subjected to major/minor penalty as per the nature of misconduct. The term 'misconduct' has although not been defined in M.P. Civil Services Conduct) Rules, 1965, yet, a fair idea can be gathered about the concept of 'misconduct' from

perusal of specific instances of misconduct enumerated from Rule 3-A to Rule 23-A of M.P. Civil Services (Conduct) Rules, 1965 apart from the general Rule 3. It may be seen that amendments in rules have incorporated discourteous behavior and deliberate adjournments as instances of misconduct amongst others.

General rule 3 of M.P. Civil Services (conduct) Rules, 1965 provides that a Government Servant shall maintain at all times, absolute integrity, devotion to duty and do nothing which is unbecoming of a Government Servant. While the expression 'integrity' denotes uprightness or honesty, 'devotion to duty' is faithful service. It must be remembered that ability enables an officer to get promotion but it takes integrity and devotion to duty to keep him there. Integrity or honesty is not a concept or a word, it is a way of life.

**Apart from integrity and devotion to duty, officers/officials must display strong moral character. Law Lexicon defines "Moral Turpitude" as "Anything done contrary to justice, honesty, principle or good morals, an act of baseless, vileness or depravity in the private and social duties".**

**Work ethics of an officer/official should be such which is free from any kind of moral turpitude and employs using one's skill with**

It would be apt to cite the case of "**State of Punjab v. Ram Singh Ex. Constable AIR 1992 SUPREME COURT 2188**" in which it has been held that 'misconduct' may involve moral turpitude, it must be improper or wrong behaviour, unlawful behaviour, willful in character, forbidden act, a transgression of established and definite rule of action or code

of conduct but not mere error of judgment, carelessness or negligence in performance of the duty, the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve.

It may be seen that Rules relating to misconduct are concerning Government servants. Judicial Officers/Officials are although Government servants, yet the standard of conduct expected of them has to be a notch higher than other Government Servants because of sanctity attached to the judicial system as a whole and in order to maintain and enhance reposition of faith in the system amongst the public at large. The Preamble of Bangalore Principles of Judicial Conduct, 2002 underlines the importance of maintenance of high standards of judicial conduct and enjoins the judges to strive to enhance and maintain confidence in the judicial system.

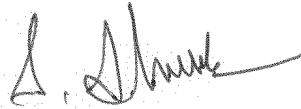
Rules of propriety and conduct for judicial officers have apart from being underlined in the aforementioned Bangalore Principles of Judicial Conduct, 2002, also been emphasized in Restatement of values of judicial life (Code of Conduct), 1999 and D.O. letters / circulars sent out to Judicial Officers from time to time.

### **Inspection and Vigilance-**

It can thus be seen that the objective of 'Inspection' is to periodically monitor the functioning of a Judicial Officer/ Official and propel and guide him in respect of any procedural and legal lapses. It is for correction and guidance of duty-holders.



On the other hand, the objective of 'Vigilance' is keeping a vigil over work, both judicial and administrative as well as the conduct and to identify as to whether the impugned acts of the judicial officer and the court staff comes within the ambit of misconduct as provided under the M.P. Civil Services (Conduct) Rules, 1965.



(SHAIENDRA SHUKLA)  
PRINCIPAL REGISTRAR (VIGILANCE)

**NOTE** – Sentences shown in bold letters are excerpts drawn from a Power Point Presentation available on internet, courtesy site **[www.brbnmpl.co.in](http://www.brbnmpl.co.in)**

**ADMINISTRATION OF DISTRICT COURTS – INSPECTION, DISCIPLINARY PROCEEDINGS,  
ANNUAL CONFIDENTIAL REPORTS – STAFF RECRUITMENT**

by

**Hon'ble Thiru. Justice M. THANIKACHALAM, Former Judge, High Court, Madras**

Lecture delivered on **27<sup>th</sup> March 2011** at **Tamil Nadu State Judicial Academy**  
during Refresher Course for District Judges

Beloved Respected Brother Hon'ble Justice D. Murugesan, other Dignitaries and my dear brother judges assembled here, to one and all my good wishes and happy morning.

At the outset, I must thank the President, Board of Governments, Tamil Nadu State Judicial Academy, Chennai – Hon'ble Justice D. Murugesan and Hon'ble Justice P. Jyothimani, for giving me an opportunity, to stand before you, remembering me, though I had left the service in the year 2007 early.

Dear Brothers, all of you are senior judges of the Tamil Nadu Judicial Service and I feel personally, you may not require any detailed lecture regarding the administration, inspection etc. generally. Whatever may be our capacity, sometimes experience counts much and in this view alone to add, I want to share my experience also with you, since I had served in the Tamil Nadu Judiciary as Inspecting Authorities for more than 10 years.

It is the known principle / fact, that you are the connecting bridge, conduit between the Hon'ble High Court of Judicature at Madras and the Sub-ordinate Judicial Officers, you are responsible for the well administration of the District or ill-administration of the District. An Institution, though you are supposed to pay more concentration on judicial side, requires to flourish, satisfying its needs, there should be a good governance that is a defined, regularized, channelized administration. If the administration cracks or by the indiscipline among us, failed to serve its purpose, then as the administrative Head of the District, you may be held responsible and therefore, you must know your administration. Our administration (Judicial) is entirely different from the administration available in other Departments since we are judicial oriented, answerable to the Hon'ble High Court as well as there is an accountability to the people in rendering social justice, satisfying the aim of the legislation.

**PUNCTUALITY:**

There should be punctuality in coming to the Office and Court. As the head of the Court, when you maintain the punctuality certainly your staff will follow you and if you commit delay, that will be followed under the impression, the Judge may not be available to question. In order to control the deficiency in punctuality, as and when you reach the Office, giving margin for the office time, you should call for the Attendance Register, note down the absentees, if it is persistence, in the days to come, do not hesitate to take action, since as you know 3 days delay attendance will curtail ½ day Casual Leave.

As the administrator of the Office, you should not always delegate or transfer your power, to subordinate namely Sarasdhar or P.A., though you can direct them, to perform the duties. Our system requires, maintenance of so many records, and all the records are inter-connected. Therefore, make it a point, that all the registers are available, if not available, using some other registers, certifying the non-availability.

To have check and fix responsibilities, then to take action against the defaulter, an Office should compulsorily have Office Order, assigning the works, to be performed by the Staff, depending upon cadrewise. The Headministerial Officer or the Sarasdhar as the case may be, should be directed to prepare Running Note

File periodically, say for every month or depending upon the need and work for each branch, noting the deviation, mistakes, omissions etc., and seeing the Running Note, you should give appropriate directions in the Running Note itself for rectification, fixing the time, failure informing, disciplinary proceedings will follow, thereby, you can periodically avoid omissions, commissions, make the records perfect, thereby answering the higher authorities also on seeing the perfect records as and when required.

### **SERVICE REGISTER:**

This register is very important for the Staff, since that alone gives the right and benefits, where alone, we record everything, in respect of Government Servant. It must be verified annually regarding the entries relating to the Government Servant are noted or not, e.g. taking Earned Leave, going on loss of pay, taking Medical Leave, calculating Earned Leave, deductions as and when taken etc., which will enable the Government Servant to know his position then to go freely on his attaining superannuation.

### **TRANSFER:**

Under your control in a District, there are many Courts, many Staffs and some of them may be working in the same place years together, thereby creating vested interest, not attending their legitimate work. As you know, as far as possible, there should be periodical transfers, as per the rules and regulations since no one can claim, that his service is indispensable in a given seat, and you should see, this kind of vested interest should be avoided.

### **CIRCULARS:-**

It is also your duty, whenever encountered with a problem, to rectify the same uniformly, issue periodical Circulars, based upon the rules and regulations, requesting or directing the Staff to follow the rules strictly, serving its purpose.

### **REGISTERS (GENERAL):**

There are many registers, to be maintained as prescribed under Civil Rules of Practice and it may not be possible for me at present to invite you to all the registers with reference to the rules number and its purpose and my request is, to be a very good administrator, first you must know the rules relating to your administration, then automatically everything will be at your palm.

### **INSPECTION:**

As all of you know, though we are in the Computer age still we are following the old system of filling, entering/registering in so many registers, and I understand, there is no change even now. The affected parties namely litigants are entrusting their valuable records, filing their case, trusting us and therefore, it is our great responsibility, to maintain the records properly, not only for the assessment of the concerned judges, but also for the assessment by the appellate judges, since your order is not the final. Unless you maintain the record properly, making necessary entries, including running index for the papers filed, it may not be possible for you to submit the records forthwith, to the appellate authorities and I have seen many cases, appeals were waiting, for the receipt of the records years together, from the lower Courts, which should be avoided.

### **HOW TO AVOID:**

Under the rules, (which I do not remember exactly), there should be annual inspection of every Court, in addition to, surprise inspection as and when required, apart from inspection by the Hon'ble High Court also. You should not take the inspection of the lower Courts, so lightly, as if, it is a holiday or some change, but it should be taken very seriously. There should be preparation of notes prior to your personal inspection, for which, Form is prescribed by the Hon'ble High Court, as per the Civil Rules of Practice and Circular Order, Form No.15, which will give you a great guidelines, about the availability of the registers, how it should be checked etc., For

example, I will illustrate the method of inspection to some extent, which may cover the entire records from the date of inception of the cases, till the termination of the case also:

- (1). Filing of Plaintiff: C.F. Register – Suit Register -  
IA Register – Disposal Register –  
E.A. Register – EP Register – Appeal Register etc., -

(explain the procedure in detail). All the papers which are relevant, orders, including judgments, EP, FS should be recorded in the Suit Register, for which, a separate number is assigned. Therefore, if you take a pending case or a disposed case, having the papers, you can travel all the registers and find out the commissions, omissions, irregularity if any and that will serve effectively the annual inspection.

### **During the annual inspection, you are expected to verify:-**

- (1) Maintenance of all the registers, Permanent Advance, Register, Cheque Issue Register, Cheque Receipt Register, Correspondingly Deposit Register, Repayment Register, Cheque Application Register etc.,

Therefore, you should not satisfy, by the preliminary notes of the annual inspection alone, and you should check it personally also, as said above and based upon this, you should give your remarks, about the performance of the judge concerned or the Office concerned, including Head Ministerial Officer, which will tell up in their administration.

### **POST INSEPTION:**

As inspecting authority, I have seen in many offices, after inspection, things forgotten, which should not be the case. During the inspection, you might have pointed out the dereliction, commission, omission which should be rectified as far as possible, unless, it cannot be rectified for unavoidable reasons. Therefore, all the brother judges are requested to take it serious, regarding the rectification report, that alone will serve the purpose of annual inspection effectively.

On the administrative side as well as, on the judicial side, you have to make necessary inspection, such as whether proper Court fees are collected, pleadings are proper as mandated under C.P.C., question of limitation, to some extent, maintainability of the case also.

Your carrier or your performance is judged by your Judgment that is the “end product” of your labour, which will reflect you and show to others, who are you, what is your capacity and what is your social approach etc., please, avoid entrusting the typing of pleadings to the Stenographers. There also you should endeavor to extract the pleadings briefly. In many Courts, I have seen, issues were obtained, from the parties, typed – avoid. Order 14 mandates the duty on you.

In the preamble of the judgment, say all the prayers sought for, briefly and correspondingly in the operative portion of the judgment, give the details regarding the relief granted, relief negative, grant of interest, costs etc., in detail, instead of saying, Suit decreed as prayed for since it may cause problem in drafting the decree, which is generally done by the Office. Further, until the regular decree is drafted, operative portion may be us as decree to prefer appeal (Vide Order 20). As inspecting authority to make the Sub-ordinate judge to be more sensitive, please inspect the records in this line also.

### **DISCIPLINARY PROCEEDINGS:**

Where there is no discipline, there bound to be mis-management, omission affecting the system itself, as cancer. As the appointing authority, you can take action:

- (1) for inaction or over action and omission – dereliction of Duty, insubordination etc., and even you can suspend under Section 17(e) of the Tamil Nadu Civil Services (Disciplinary and Appeal Rules) depending upon the nature of the offence, when we feel the continuation of the Staff may cause problem in the public interest etc.,

**Minor Punishment, Major Punishment, who can give the punishment:**

Even though the Officer is not an appointing authority, he can also taken action, frame charges and as classified under Tamil Nadu Civil Services Disciplinary and Appeal Rules, within the power of the Enquiry Officer, they can impose punishment, except major punishment, which can be inflicted by the appointing authority alone.

**ANNUAL CONFIDENCE REPORT:**

You are expected to assess the work of your Sub-ordinate Officers including P.A. Sarashdar for whom you should write Annual Confident Report, which guides the higher authorities or even you while considering the promotion and other disciplinary proceedings when the seniority alone is not the criteria and efficiency could be taken. Now, it appears even the mode of assessment prescribed by specific words.

**STAFF RECRUITMENT:**

Your role under this heading appears to be, to my knowledge, is very limited, except the services some posts in basic services like O.A. etc., you have no independent role to recruit the Staff and this also depends upon the person sent from the Employment Exchange.

**T.N.P.S.C. ALLOTMENT:** Junior Assistants, Stenographer and Typist.

**PROMOTION:**

Maintenance of seniority list – explain – circulated to be approved. Temporary appointment – Temporary promotion – relinquishment, VRS.

Whatever I have said, everything depends upon the individual cases, which you –feel

- Realize
- Act
- You are the Master.

Your Superior Officer, your Controlling Officer, your Supervising Authority must be your “conscious” and if you act under its direction, you will be a very good administrator, wonderful judge, liked by one and all, above all, you will be a good man/human and will be the Master of your Court.

“BE BOLD TO BE HONEST”

“BE HONEST TO BE BOLD”

What I said is very little, tempting you, for detail.

Thanking you one and all for patient hearing, and this Academy, its administration for giving me this opportunity.

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**HIGH COURT OF CHHATTISGARH : BILASPUR****NOTIFICATION**No. 1121 /R.V./

Bilaspur dated 05.02.2015

In exercise of the powers vested under Section 23 of the C.G. Civil Courts Act, 1958 and all other enabling powers in this behalf, the High Court of Chhattisgarh makes the following rules for inspection of Subordinate Courts by the Portfolio Judge, in the State of Chhattisgarh:-

**1. Title-** These rules may be called “The Chhattisgarh Inspection of Subordinate Courts (by the Portfolio Judge) Rules, 2015”

**2. Commencement-** It shall come into force from the date of its notification.

**3. Definition-** In these rules, unless the context otherwise requires :-

- I. '**High Court**' means the High Court of Chhattisgarh.
- II. '**Chief Justice**' means the Chief Justice of High Court of Chhattisgarh.
- III. '**Portfolio Judge**' means the Portfolio Judge designated by the Chief Justice for a particular Civil and Sessions division.
- IV. '**Registrar General**' means the Registrar General High Court of Chhattisgarh
- V. '**Registrar (Inspection and Enquiry)**' means the Registrar (Inspection and Enquiry) of High Court of Chhattisgarh.
- VI. '**District and Sessions Judge**' means District and Sessions Judge appointed under Rule 5 of C.G. Civil Court Act, 1958 and under Section 9 of the Code of

Criminal Procedure, 1973.

- VII. '**Prescribed**' means prescribed by these rules.
- VIII. '**Presiding Officer**' means the Judicial Officer presiding over a Subordinate Court.
- IX. '**Subordinate Court**' means a Court subordinate to the High Court exercising Civil or Criminal Jurisdiction.
- X. '**Proforma**' means proforma A, B, and C prescribed under these rules.

#### **4. Schedule of Inspection:-**

- (a) Inspection of Subordinate Courts shall be the subject of Inspection branch of the High Court Registry [which shall be under the control of Registrar (Inspection & Enquiry)] however if required, some floating staff may be taken from other branches by order of the Hon'ble the Chief Justice from time to time.
- (b) Process for inspection shall be initiated by the Inspection Branch after obtaining orders from the Portfolio Judge concerned.
- (c) Tentative schedule of inspection shall be drawn and submitted by the inspection branch before Portfolio Judge concerned, for approval.
- (d) The schedule of inspection approved by the Portfolio Judge concerned, shall be submitted to the Chief Justice for perusal/approval. It shall thereafter be notified to all concerned well in advance.
- (e) The programme for inspection of Portfolio Judge should be sent at an early date preferably before **four weeks** from the date of inspection of Portfolio Judge for the purpose of inspection of Subordinate Courts.
- (f) An inspecting team will visit the concerned District for inspection within the period of **one week** before the visit of Portfolio Judge.
- (g) District and Sessions Judge shall furnish the following statements before **two**

**weeks** from the date of inspection:-

1. List of the Judicial Officers working in the concerned Civil District establishment.
  2. Statements of employees (Class-III and Class-IV) who retired since one year from the services.
  3. Whether any matter is pending regarding payments of retiral benefits and number of pending departmental proceedings against the employees with their present status.
  4. History sheet of old cases (5 Civil and 5 Criminal cases) in Proforma-C.
  5. Statement of year wise pendency and disposal of both civil and criminal cases of the current year.
  6. Work done statement of all the Judicial Officers including District and Sessions Judge/Family Court Judge/Special Judge under SC and ST (Prevention of Atrocities) Act, 1989.
  7. Percentage of recovery of fines in criminal cases.
  8. Percentage of disposal of Civil and Criminal cases of each Court.
  9. Whether the monthly meeting of the Judicial Officers were regularly held to discuss and take steps for disposal of old cases, cases pertaining to senior citizen. The details thereof along with minutes of such meetings.
  10. Statements in respect of copying section, Nazarat, Record Room and Account Section.
- (h) The Portfolio Judge may call for and peruse the service record of the Judicial Officers of the concerned District and records of atleast five disposed of contested Civil and Criminal cases for perusal to have an idea of the capabilities, manner of performing Judicial work and knowledge of the Judicial Officers.

### **5. Inspection:-**



- (a) Ordinarily, every Subordinate Court shall be inspected by the Portfolio Judge **once in every year**. However, surprise inspection may be carried out at any time.
- (b) On the day of commencement of inspection the cash-in-hand lying in the subordinate Court shall be checked and verified in the first instance.
- (c) Inspection shall be conducted so as to cover all the aspects specified in the Proforma A, B and C. In addition it may include such aspect as specified by the Portfolio Judge in his discretion.

#### **6. Inspection Note:-**

- (a) The inspection party shall maintain notes of relevant points noticed during inspection.
- (b) On completion of ground work for inspection, the inspection party shall prepare a draft inspection note, in accordance with the Proforma-A so as to include therein all the points noticed during inspection, for perusal of the Portfolio Judge.
- (c) Before the visit of Portfolio Judge the draft inspection note shall be submitted for perusal by the Registrar (Inspection & Enquiry).

**7. Inspection by the Portfolio Judge:-** All matters concerning inspection of Subordinate Court shall be within the discretion of the portfolio Judge and shall include *inter-alia* amongst following others :-

- (a) In order to form an opinion and make observation regarding functioning of Subordinate Court on Judicial and Administrative side and to ascertain problems, if any, the Portfolio Judge may visit the Court and its office and meet the presiding officer, the staff and the bar.
- (b) As far as practicable, procedural defect(s), if any, noticed during inspection shall be pointed out and necessary guidelines or instructions to remove the same shall

be issued then and there.

### **8. Inspection Report:-**

- (a) The inspection report shall be prepared by the Portfolio Judge in accordance with the prescribed Proforma-B and shall include the guidelines or instructions, if any, issued during inspection and shall be placed before the Chief Justice for perusal and orders.
- (b) The defects and deficiencies, if any, noticed during inspection, shall be conveyed to the Presiding Officer of the concerned Subordinate Court, for rectification and compliance and if, the Subordinate Court inspected is a Court other than the District and Sessions Judge, also to the District and Sessions Judge of the District for information and necessary action.

### **9. Procedure for Compliance**

- (a) On receipt of communication from the High Court under Rule 8(b) above, the Presiding Officer of the Subordinate Court inspected, shall take appropriate step for removal and rectification of the defects and deficiencies and compliance of the guidelines and instructions issued thereunder.
- (b) The compliance report shall be submitted to the Registrar General/Registrar (Inspection & Enquiry) within **30 days** from the receipt of the communication from the High Court and if, the report pertains to the Subordinate Court other than the Court of District and Sessions Judge, it shall be forwarded through the concerned District and Sessions Judge, along with his parawise comments thereon.
- (c) On receipt of the compliance report and the comments, under clause (b), of the above rule, the Registrar General/Registrar (Inspection & Enquiry) shall after

scrutiny, cause the same to be placed before the Portfolio Judge for perusal and orders.

**10. Interpretation**-If any question arises as to interpretation of these rules, the decision of the High Court shall be final.

**11. Amendment**: -The High Court may make amendment in these rules as may be deemed necessary.

**12. Power to relax**: -Where the High Court is satisfied that the operation of any of these rules cause undue hardship in any particular case or class, it may for the reasons to be recorded in writing dispense with or relax the particular rule to such extent and subject to such exception and condition as may be deemed necessary.

**13. Residuary Powers**:- Nothing contained in these rules shall be deemed to affect the powers of the High Court to make such orders from time to time as it may deem fit in regard to all matters incidental or ancillary to these rules not specifically provided for herein or in regard to matters as have not been provided for or not sufficiently provided for or for removal of any difficulty which may arise in giving effect to any of the provisions of these rules.

**14. Savings**:- All the relevant Orders/Circulars earlier issued by the High Court of Chhattisgarh for inspection of Subordinate Courts with regard to proceedings made or proceedings held to be taken on, shall be deemed to have been made under the provisions of these Rules.

**Arvind Singh Chandel**

Registrar (Vigilance) & Registrar

(Inspection & Enquiry) -cum-

Secretary Rule Making committee

**PROFORMA (A)**

**PART-I**

**GENERAL**

<b>Sr. No.</b>	<b>Subject</b>	<b>Observation</b>
1.	Whether there is sufficient accommodation for the Court and office? If not, What steps have been taken by District & Sessions Judge.	
2.	Whether books/journals have been provided in accordance with the fixed standards for the residential library and court library, bound and kept safely and cleanly and bears the Accession numbers?	
3.	Whether there is proper sitting arrangement for the Presiding Officer, Staff, Bar Members and Litigant public in the Court building? If not, What steps have been taken by District & Sessions Judge.	
4.	Whether the Court is properly staffed according to the sanctioned strength? In case any post(s) is/are lying vacant so what steps have been taken by District &	

Sessions Judge.

5. Whether the Members of the Staff are punctual in attending office in the Court?
6. Whether the ratio of disposal commensurate with the institutions?
7. Whether there is any complaint on behalf of the witness returned without/examination after making him/them to wait till late hours in the day? action taken thereon?
8. Whether proper accounts of Civil Deposit, Diet Money, Office expenses and other funds are being prepared and cash book properly maintained ? Whether the accounts tally with the last balance?

**PART-II**  
**CIVIL**

9. Whether the files and Register(s) pertaining to Civil Cases are maintained properly, and the entries made in the relevant columns of the Register?
10. Whether decree sheets are being prepared promptly and drawn in

accordance with the rules?

**Part-III**  
**CRIMINAL**

11. Whether the fine imposed are being realised and deposited in the treasury on the same day or next day?
12. What steps are being taken in case of defaults in payment of fine where no alternative punishment is awarded?

**Part IV**  
**COPYING AGENCY**

13. Whether the petitions/ complaints/ memos /applications are properly stamped and the stamps are cancelled and punches as per the rules? The time taken in supply of copies. Whether the copies of Judgment/Orders are being supplied within prescribed period.
14. Number of pending applications.
15. Accounts Checking, whether found in excess of the permissible amount.

**16. Stock of Court Fees Stamp.****Part-V**  
**NAZARAT**

17. Whether the Nazir/ Naib Nazir/ Sale Amin is an experienced hand, has deposited the security in the treasury?
18. Whether the work amongst Bailiffs and process-servers is properly distributed?
19. Whether the Process Servers and Bailiffs are detained for any Official duty other than his normal duty. Whether diet money for disbursement to the witnesses on the spot is being given to them and are being so disbursed.
20. Whether precepts from other Districts are being disposed of promptly.
21. Whether the Civil deposit accounts reconcile with the Treasury and certificate of Treasury Officer are being obtained regularly as per rules?

**Part VI**  
**Malkhana**

22. Whether sufficient place is available for keeping the properties ?
23. Whether the received properties are being arranged and maintained properly?
24. Whether the disposal of the received properties are being done properly?
25. How many properties have been disposed of within a year? (from 01 April to 31 March of the financial year)
26. Whether the orders of Courts are being complied with timely regarding disposed of properties?

**Part VII**  
**CONSIGNMENT OF FILES**

27. Whether there are racks, cupboards for safe keeping of the files/records provided in record room ?
28. Whether the decided files are being



consigned to the record room within time and name as per our rule bearing R.R. (Record Room) numbers are kept in a separate file after duly entering such numbers in the relevant Registrar ?

29. Whether there are arrears of decided files for consignment ? If yes, name of the Court and Presiding Officer.
30. Whether requisitions received in Record Room are being attended to promptly?
31. Whether Register(s) are being maintained in the courts/ Nazarat /Malkhana /Copying / Library?

**PROFORMA (B)**  
**THE INSPECTION NOTE OF THE INSPECTION OF THE SUBORDINATE COURT**  
**CONDUCTED BY THE PORTFOLIO JUDGE**

1. Name of the Portfolio Judge \_\_\_\_\_
2. Name and designation of the \_\_\_\_\_  
 Presiding Officer of the Court  
 Inspected
3. Number of Judicial Officers \_\_\_\_\_  
 posted in the District
4. Date of inspection \_\_\_\_\_
5. Date of last inspection \_\_\_\_\_

**PART-I**

**GENERAL**

<b>Sr. No.</b>	<b>Subject</b>	<b>Observation</b>
1.	Whether there is sufficient accommodation for the Court and office? If not, steps taken for acquiring land or construction of building. Directions / suggestion of the Hon'ble Judge, if any.	
2.	Whether books/journals have been provided in accordance with the fixed standards for the residential library and court library, bout and kept safely and cleanly and bears the Accession numbers?	
3.	Whether there is proper sitting	

arrangement for the Presiding Officer, Staff, Bar Members and Litigant public in the Court building? Orders / directions / suggestions, if any,

4. Whether the Court is properly staffed according to the sanctioned strength? In case any post (s) is/are lying vacant, verify the steps taken to fill-up the same and passed orders/directions.
5. Whether the Presiding Officer and the Members of the Staff are punctual in attending office in the Court?
6. Whether the ratio of disposal commensurate with the institutions?
7. Whether there is any complaint on behalf of the witness returned without/examination after making him/them to wait till late hours in the day? action taken thereon?
8. Whether proper accounts of Civil Deposit, Diet Money, Office expenses and other funds are being prepared and cash book properly maintained ? Whether the accounts tally with the last balance?

**PART-II**  
**CIVIL**

9. Whether the files and Register(s) pertaining to Civil Cases are maintained properly, and the entries made in the relevant columns of the Register?
10. Whether decree sheets are being prepared promptly and drawn in accordance with the rules?
11. Whether the Presiding Officer shows interest in curbing unnecessary adjournments and follow the procedure with regard to restoration of cases dismissed in default?
12. Whether the old cases are being disposed of on priority basis?
13. Opinion on critical examination of two Civil Judgments.

**Part-III**  
**CRIMINAL**

14. Whether the fine imposed are being realised and deposited in the treasury on the same day or next day?
15. What steps are being taken in case of defaults in payment of fine where no alternative

punishment is awarded?

16. Whether the Presiding Officer has been Vigilant in disposal of oldest Criminal cases, disposal of bail application and supply of copies of order(s) free of cost where-ever required by law?
17. Whether witnesses are promptly examined or adjournments granted without examining witnesses who are present?
18. Any other material fact, discrepancy or complaint coming to the notice of the Hon'ble Judge uring inspection.

**Part IV**  
**COPYING AGENCY**

19. Whether the petitions/ complaints/ memos /applications are properly stamped and the stamps are cancelled and punches as per the rules? The time taken in supply of copies. Whether the copies of Judgment/Orders are being supplied within prescribed period.
20. Number of pending applications.

**Part-V**  
**NAZARAT**

21. Whether the Nazir/ Naib Nazir/ Sale Amin is an experienced hand, has deposited the security in the treasury?
22. Whether the work amongst Bailiffs and process-servers is properly distributed?
23. Whether the Process Servers and Bailiffs are detained for any Official duty other than his normal duty. Whether diet money for disbursement to the witnesses on the spot is being given to them and are being so disbursed.
24. Whether precepts from other Districts are being disposed of promptly.
25. Whether the Civil deposit accounts reconcile with the Treasury and certificate of Treasury Officer are being obtained regularly as per rules?
26. Any other material fact, discrepancy etc, or complaint coming to the notice of the Hon'ble to the notice of the Hon'ble Judge, during inspection.

**Part IV**  
**CONSIGNMENT OF FILES**

27. Whether there are racks, cupboards for safe keeping of the files/records provided in record room ?
28. Whether the decided files are being consignment to the record room within time and name as per our rule bearing R.R. (Record Room) numbers are kept in a separates file after duly entering such numbers in the relevant Registrar ?
29. Whether there are arrears of decided files for consignment ? If so, reasons for the same and directions/suggestions thereon. If yes, name of the Court and Presiding Officer.
30. Whether requisitions received in Record Room are being attended to promptly?
31. Whether Register(s) are being maintained in the courts/ Nazarat /Malkhana /Copying / Library?

**PROFORMA - C**  
**HISTORY SHEET OF OLD CASES**

The Court of \_\_\_\_\_

Case No. \_\_\_\_\_

1. Date of Institution \_\_\_\_\_
2. Date of Admission/Registration \_\_\_\_\_
3. Date of appearance of defendants/respondents/accused person/opposite party \_\_\_\_\_
4. Date of filing written statement/rejoinder supply of police paper to accused and commitment. \_\_\_\_\_
5. Date of framing issues/charge \_\_\_\_\_
6. First date of hearing before Presiding Officers \_\_\_\_\_
7. Period of pendency with progress made before each Presiding Officers \_\_\_\_\_

By order of Hon'ble the High Court

Sd/-  
(Arvind Singh Chandel)  
Registrar (Vigilance) and Registrar  
(Inspection & Enquiry)-cum-Secretary,  
Rule Making Committee



**QUESTIONNAIRE FOR ANNUAL INSPECTION BY  
HON'BLE ADMINISTRATIVE JUDGE OF CIVIL, CRIMINAL  
AND SPECIAL COURTS AND TRIBUNALS.**

**PART - I                                    INSPECTIONS AND AUDIT**

1. What was the last date of inspection made by the Hon'ble Judge of High Court and what are objections and discrepancies still outstanding?
2. A- On what dates the District and Sessions Judge has inspected the subordinate courts and offices during the current year? Give list.
2. B - On what date the District Judge inspected jail along with District Magistrate and the Superintendent of Police in compliance of the order of the Hon'ble the Chief Justice?
3. Whether the inspection notes of the District and Sessions Judge indicate that they are thorough, effective and constrictive in approach?
4. A - Whether the C.J.M. / C.M.M. has inspected the Courts of Magistrates, Jail, the Police Malkhana and the allied offices etc.? If yes, Give details and if No , specify the reasons.
- B - Whether the C.J.M./C.M.M. has inspected Nari Niketan? Give details and whether any shortcoming noted is pending for compliance?
- C - Whether the C.J.M./C.M.M. has inspected Bal Sudhar Grih? Give details and whether any shortcoming noted is pending for compliance?
5. Whether the District and Sessions Judge has examined inspection notes of the C.J.M./C.M.M. and has given any useful guidance to the Magistrates and C.J.M./C.M.M.?
6. Whether all the other judicial officers have regularly and effectively inspected their offices and submitted their inspection notes to the District and Sessions Judge?
7. Whether compliance of any inspection note still pending at any level? Give reasons, if any.
8. What was the last date of inspection by the Inspector of Stamp and Registration and whether any objection raised therein is still pending for compliance and if so, give reasons.

9. Whether the Inspector of Government Offices has also inspected the offices of the Courts? Give details.
10. Whether any objection raised in such report is still pending for compliance? If so, give reasons.
11. Whether the Officer-in-charge of various departments and central offices have regularly inspected and submitted their inspection report to the District and Sessions Judge? Give details.
12. Whether any objection raised or discrepancy pointed out in such inspection notes is pending for compliance? If so, give reasons.
13. What are the last date of audit of the accounts by the Audit Party of the Accountant General?
14. What are the objections raised in the report of the last Audit Party and whether the replies to the objection have been sent to and accepted by the Accountant General? Is there any objection outstanding?
15. Whether any special audit of the accounts has ever been ordered by the High Court and the Government? If so, whether any discrepancy was found and still existing? If not, whether any special audit is called for at present?

**PART - II**

**BUILDINGS AND COMPOUNDS**

1. Whether the Court building is government building or on lease?
2. If on lease, is there any lease deed properly executed and registered and when it is going to expire?
3. Whether the building is sufficient, spacious or congested?
4. Whether there is any building under construction or sanctioned or proposed? What is the present position?
5. Whether the compound has got boundary wall, proper gate, inside roads, lawns and trees etc.? Whether the Lavatories for officers, staff and ladies and the general public are separate?
6. Whether the facilities for witness- shed, canteen, drinking water, vehicle parking etc. are actually available and properly maintained?
7. Whether there are commercial shops? Are they auctioned every year or after a specified period and whether the rent is revised periodically on renewal?
8. A - Whether there are proper and adequate arrangements for the protection of the building, offices, courts and records from the fire?
8. B - Is there any intestate property in the possession of the Nazir and has it been kept in double lock after entering in Register Form No.-40.
9. Whether the building is properly electrified, both inside and outside and whether the security lights are available and whether electric fittings are proper and safe?
10. Whether the buildings require any normal or special repairs? If so, what is the position of funds made available and how the funds utilised? If no fund have been provided, steps if any taken there for.
11. Whether there is any alternative arrangement for providing electricity during working hours? Availability of Generators ? Whether all the courts and offices are connected with the Generator or not?

12. Whether the building under construction are being regularly looked after by the District Judge or by such an Additional District Judge as nominated by the District Judge?
13. What are the security arrangements for the building and compound during night and working hours?
14. Whether the Court campus is clean and proper man power is available in the Judgeship to keep the campus neat and clean?
15. Whether electric fans and lighting arrangements have been made in the litigants-sheds and verandas where litigants wait outside the courts?
16. Whether any plan for construction of additional building or shifting to other building etc. has been submitted to the High Court/Government and what is its up-to-date progress?
17. What is the general condition of the maintenance of the building and the compound? Is the campus free from water logging, mud and dust?
18. How many residential flats have been made available to the Judicial Officers and the subordinate staff?
19. How the residential buildings are being maintained and what is the general condition of maintenance of the residential buildings?
20. Is there any building, the possession of which has not yet been given by the construction agency to the District Judge? If so, what are the reasons thereof and what steps have been taken to take the possession?
21. What is the position relating to the need and availability, payment of rentals and maintenance of lawyers chambers existing in the Court compound?
22. Whether there is any encroachment of Government land in the possession of the judicial department either in the Court or in the residential compound? If so, what proceedings have been and are being taken to remove encroachment?

**PART - III**

**ESTABLISHMENT MATTERS**

1. How many courts are lying vacant since what time?
2. How many courts have been transferred to other districts (the date of transfer be given)?
3. If any demand for creation of court was ever made? If so, what progress has been made in that regard? Whether the matter is pending with the High Court/Government?
4. What is the sanctioned strength of employees under the administrative control of the District Judge (the government order sanctioning the posts either temporary or permanently to be specified) or the Presiding Officer of the Court, Special Court or Tribunal?
5. How many permanent, temporary or adhoc employees are working against sanctioned posts (to be specified individually) and how many daily wagers are working?
6. When last regular recruitment was made for filling up the sanctioned posts?
7. What is the present position of the select list and how many vacant posts continued to exist?
8. How many employees are under suspension and the period thereof ?
9. The pendency of criminal cases against the employees and their involvement in criminal activities? If any.
10. Whether the records relating to selection and appointment of the staff including class III and IV are maintained and preserved in order or not?
11. How many preliminary and disciplinary enquiries are pending and what is the progress? Give details.
12. In how many cases Efficiency Bar of the employees has not been sanctioned? State reasons also.
13. How many representations and appeals are pending against suspension, minor punishment, super-cession, efficiency bar, and withholding/release of annual increments etc.? Give details.

14. (a) In how many cases applications for sanction of leave, encashment of leave and medical leave etc. are pending? Give details and reasons.
  - (b) Whether leave account of all types of leave of all the employees of the Judgeship have been maintained and has been regularly produced before the officer concerned for perusal/inspection?
  - (c) Is leave account of Gazetted officers (S.A.O. and Civil Judge (J.D.) of the ordinary scale) being kept correctly and properly?
15. Whether the service books of the employees have been maintained up to date, right from the inception of service of the employee with proper verification by the competent officer? If not, give reasons.
16. (a) Whether the personal file of each official and inferior staff has been opened and regularly maintained?
  - (b) Whether documents consisting of his application for recruitment or appointment, certificates of age and education, appointment order, permanent address etc. have been kept and arranged in order?
17. (a) Whether the G.P.F. passbooks of the employees are being maintained up-to-date? Whether account slips of G.P.F. have been given to the employees? If not, give reasons.
  - (b) Whether advances, temporary or permanent, have been entered in the G.P.F. passbooks of the employees and the amount of said advance are being regularly deducted from the salary of the employees and being regularly recorded in the G.P.F. passbooks or relevant records ?
  - (c) Whether any advance has been sanctioned in violation of guidelines, given for sanction of G.P. F. advance?
18. Whether the character rolls of the employees are being maintained up-to-date and whether the adverse entries have been duly communicated to the concerned official and whether any representation received against adverse remarks is pending on the date of inspection (Specify the cases with proper reasons)? If not, give reasons.
19. (a) Whether the seniority list of the Class III and Class IV employees have been prepared in accordance with the relevant service rules and the directions of the High Court and kept in order properly? If not, give reasons.



23. Whether promotion claims, leave applications and complaints etc. have been timely decided? If not, give details and reasons.
24. Whether Screening Committee for compulsory retirement has been constituted and working? Give details.
25. Have annual entries for the last year been given to the entire staff and officers ?
26. (a) Are the Service Books of the officials of the Judgeship countersigned every five years and are the leave accounts and other entries in the Service Books complete?  
  
(b) Have the entries of encashment leave been made in the Service Book of those who have taken encashment leave during the last one year?
27. Is the pay of the officials and Class IV employees being disbursed on the first of every month and if not, why?



**PART - IV GOVERNMENT PROPERTIES AND EQUIPMENTS**

1. Whether the stock register and register of perishable items have been maintained regularly and whether physical verification of each item has been annually made and the registers have been checked and signed by the Officer-in - Charge, Nazarat besides the certificate of the official making the physical verification?
2. What was the last date of physical verification of each item and whether the compliance of the rules and High Court circular has been properly made?
3. What is the total number of tables, almirahs, chairs, book-shells, racks, stools, benches, photocopier machines, cyclostyle machines, typewriters, desert-coolers, water coolers, ceiling fans, pedestal fans, table fans, telephones, intercom phone etc.?
4. Whether stock balance register of furniture and other items and dead stock register have been maintained?
5. Whether all the articles of furnitures, equipments and machines have been assigned specific number and have been maintained in proper condition?
6. Whether the polishing & painting of the furnitures, equipments and machines have been done? If so, on what date or does it require to be done?
7. How many typewriters, photo copy machine, cyclostate machines, desert coolers, water coolers, ceiling fans and table fans etc. are in working condition and how many require repair and replacement?
8. How many telephones have been sanctioned and how many telephones are in working order and how many telephones have been kept under safe-custody? Give details.
9. Give the names of officers at whose residence the telephones have been installed or shifted? Whether there a register of bills of telephone and broadband facility has been maintained?
10. Give details of the charges of telephone bills and cell phones in respect of each such officer during current financial year (from 1<sup>st</sup> April to 31<sup>st</sup> March).

11. Whether the excess amount of the charges of the telephone bills have been paid by and are realised from the officer concerned and whether any such payment is outstanding? Give details.
12. Whether a register has been maintained separately to indicate the furnitures and equipments supplied to the judicial officers at his residence at the time of his posting to the district and receive back or shifted in the name of the successor occupying the same residence under his written acknowledgement?
13. Is there any report of the theft of any government property mentioned above? If so, what proceedings have been and are being taken in this regard?
14. Whether there is any register maintained for the moveables like the curtains, chiks, canvas, pardas, table cloths, tumblers and surahies, jugs, mirrors etc. at the places where they are supplied?
15. Whether the furnitures, curtains, crockeries etc. have been issued/supplied to the officers and offices and entries have been made in the stock inventory registers? Is there any requirement of officers and offices pending? Give reasons for non supply.
16. Whether the moveables aforesaid are being properly maintained, white-washed and replaced in accordance with rules and circular orders of the High Court?
17. Whether there are unserviceable items of furnitures, equipments and stationery (Raddi) or any other dead stock which requires public auction? If so, what steps have been taken and whether the proper certificates declaring the items as unserviceable and if any sanction have been given by the competent authority?
18. Whether any tree in the compound of the Court or residential block requires falling and public auction? If so, give details and steps taken so far?
19. (a) See records relating to Staff Car of D.J. and Pool Cars including its log books, allotment and movement etc.?  
(b) Whether the entries of the log books tally with the fuel purchase vouchers and maintenance vouchers etc.?
20. Whether the required deposits are being regularly made in respect of use of official vehicles provided to the D.Js./officers and proper record is maintained thereof?

21. Whether stock register and supply register relating to computers and its accessories have been maintained properly?
22. Whether log books of generators and records relating to purchase and use of its fuel have been maintained properly?

**PART - V**

**BUDGET AND FINANCIAL MATTERS**

1. What are the allocation of funds under each item of expenditure for the current year?
2. What is the progress of expenditure incurred under each item of expenditure?
3. Whether the monthly statements of expenditure have been regularly sent? If so, give details and if not, give reasons.
4. What are the proposals under head 'New Demands' made for the next year? Give details and reasons.
5. Whether the estimates of budget for the next financial year have been sent on due date or afterwards? Give details and also reasons for delay in the submission of estimates.
6. Whether the estimate of budget have been prepared on realistic basis and all kinds of requirements envisaged for the next financial year have been taken into account and if so, what is the increase in the estimates for the next year over the sanctioned budget of the current year.
7. Whether the estimates including provisions for not only annual repairs but also for special repairs of residential and office buildings and the compounds and for regular repairs of the electrical installation, typewriters, desert coolers, water coolers, photo copy machines, Lifts, motor vehicles and for payments of tames of electricity water and sanitary charges have been made? If not, give reasons and point out the official responsible.
8. Whether the savings and expenditure of the previous financial year were reported to High Court every year? If not, give reasons and point out the official responsible.
9. Why the budget sanctioned for the previous year had not been utilised within time? Give details and reasons.
10. Whether the savings under each item of expenditure were surrendered by the due date? If not, give reasons.
11. Whether the purchase of furniture and other equipment has been made in accordance with the store purchase rules or at government contract rate or from the local market? If not, give reasons.

12. Whether the items purchases have been properly verified with reference to prescribed standards of quality and dimensions by the purchasing authority in this behalf? Whether defective items were replaced or not?
13. Whether the work of annual repairs and special repairs of the buildings and compound has been carried out in accordance with the Government Orders and High Court circulars? If not, give reasons and point out the official responsible.
14. Whether the requisitions for house building advance and for motor car vehicles advance needed by the ministerial staff and officers have been sent in prescribed proformas on due dates to the Finance Department of the Government? If not, give details and reasons.
15. Whether the applications for sanction of house building advance and motor car vehicles advance received from the ministerial staff and officers have been properly registered and arranged in accordance with the Government Orders and High Court circulars?
16. Whether the house building advance and motor car vehicles advance has been sanctioned to the applicants in time? If so give details thereof.
17. Whether the formalities consequent upon the sanction and withdrawal of the house building and motor vehicle advance have been complied with in every case and the executed and registered documents have been safely kept in proper custody? If not, give reasons.
18. Whether the instalments for repayment of house building advance, motor vehicles advance or advance of salary have been regularly deducted?
19. Whether T.A. advance or other kind of advance is outstanding against any employee? If yes, the reasons for non-adjustment of outstanding amount against any employee be given.
20. Is there any loss of fund in government account, appropriate account or in the Civil Courts deposits? If so, was it immediately reported to the Accountant General? If not, give reasons.
21. If there is any case of embezzlement and/or theft of public money? Give details and steps taken.

22. Whether the bills of electricity charges, water charges, sanitary charges, telephone charges, purchase of stationery, furniture and other equipment, books and news papers etc. have been regularly paid on the due date? If not, give details and reasons.
23. Whether the amount of cash in hand of the Central Nazir and balance of permanent advance or the Cashier on the date of inspection is justified under the rules, Government Orders and the circulars of the High Court? If not, give reasons and steps taken. Check some entries from the Day Book and Cash Book from every month.
24. Has any amount in excess of the permanent advance been spent from civil deposits? If so, how much and why?
25. Whether the officials dealing with the cash have submitted their security and whether the securities are proper and sufficient and have been safely kept in the custody of the competent authority?
26. Whether the amount of fines realised by the Criminal Courts has been regularly and daily remitted to the Treasury through State Bank by proper challans?
27. Whether the receipt books of fines in each Criminal Court has been properly maintained?
28. Whether the daily Cash Book has been duly and regularly maintained by the official concerned and daily checked, verified and signed by the Drawing and Disbursing Officer? If not, give reasons and details.
29. Whether the account books and registers in respect of the Government money prescribed by the Government rules and High Court circulars have been maintained regularly by the officials and checked by the superior officers in accordance with the rules and circular orders? If not, give reasons and details.
30. Whether the registers relating to the Civil Court official concerned are duly checked by the Presiding Officers? If not, give details and reasons.
31. What is the position relating to the pendency and disposal of the applications for repayment of Civil Court deposits and applications for refund of Government money from public account and applications for refund of deposits of security?

32. Whether the registration fees of lawyers, clerks, rental of chambers, residences, shops, licence fee of the Government land etc. are properly being realised and accounted for? If not, give reasons and details.
33. Whether plus minus memos are being regularly submitted with proper certificate of verification from the Treasury and to the Accountant General by 15<sup>th</sup> of next month? If not, give reasons and steps taken.
34. What is the position of refund of lapse deposits? If any, whether lapse deposits have been reported to Accountant General? If no, give reasons.
35. Is there any case of doubt or excess payment, repayment or refund of any amount to any person? If so, what steps have been taken to recover?
36. Whether the salary and arrear bills of the staff and officers are being regularly prepared and amount disbursed on the due date without any delay? If not, give details and reasons.
37. Whether the schedules of Provident Fund, Income Tax, Group Insurance Scheme etc. are being properly prepared and submitted along with bills and whether these deductions of each official have been properly registered? If not, give details and reasons.
38. Whether there is any claim of any official pending in regard to the payment of Group Insurance Scheme? If so, give details.
39. What is the amount of imprest money (Permanent Advance) sanctioned by the Government? Does it require increase of the amount? If so, give reasons.
40. A- Whether the account of deposition charges realised from parties by the readers has been properly maintained by him and the Nazir and whether the amount of savings is being regularly remitted to the Savings Bank Account of State Bank in the name of the District Judge by the due date? If not, give reasons.  
  
B- Whether the amount of depositions has been properly utilized? Is there any violations of any directions of the Courts? Whether any permission for utilization was ever obtained from the court?  
  
C- Whether registers are maintained in every court about depositions in accordance with the Circular Letters.

41. Whether the bills/vouchers of various expenditures have been properly kept on guard-file and Cash Book has been properly maintained in respect of the amount of fund?
42. Whether the Register No. 35 and 37 have been properly maintained in respect of various deposits and expenditures?



**PART - VI**            **MISC. AMINISTRATIVE MATTERS**  
**AMINISTRATIVE OFFICE**

1. Whether surprise visits have been frequently made by the District & Sessions Judge or the Presiding Officers of the Court or Special Court or the Tribunal? If so, on what dates?
2. Whether the grievance redressal directions are being followed by the District Judge contained in C.L. no. 38/Xf-21 dated 26.2.1977 and whether any follow up action for the redressal of the complaints received has also been taken?
3. Whether the District Judge and the other Judicial Officers are following the instructions contained in C.L. no. 55/VIIIh-37/Admin. (G) dated 2.11.1988 with a view to improve the working in the subordinate court?
4. Whether the monthly meetings are being regularly held and the minutes thereof have been regularly maintained and the follow up action has been taken?
5. Whether the meetings of the Monitoring Cell are being regularly held and the District Magistrate and the Superintendent of Police are personally attending these meetings and then minutes book of these meetings has been properly maintained and whether follow up action has been taken by the District Magistrate and the Superintendent of Police and the Chief Judicial Magistrate? If not, give reasons.
6. What measures have been taken to prevent chances of corruption and malpractices, if any, and whether the instructions contained in the High Court's circular letters are being strictly followed?
7. Whether the custody of the 2<sup>nd</sup> key of Currency Chest is being given daily to an Authorised Officer and whether record thereof has been regularly maintained?
8. Whether the register of articles of value deposited in all cases (Form no. 57-A) has been properly maintained up-to-date and kept in the custody of the Nazir?
9. Whether the Register of the opening and closing of the Courts and offices has been properly maintained up-to-date?
10. Whether the Judicial Officers are wearing up proper Court Dress while presiding over the Courts?

11. Whether the commissions are being properly distributed by the Court on the basis of approved list of Commissioner and proper record thereof is being maintained up-to-date?
12. Whether appointment of Amicus Curiae is properly made on the basis of approved list of Amicus Curiae for the year?
13. Whether the Oath Commissioners appointed by the District Judge are functioning properly and charging prescribed fee?
14. Whether there is any complaint by or against the Oath Commissioner? If so, what action has been taken?
15. Whether the District & Sessions Judge has transferred to other courts bail matters and admission matters frequently or rarely? Give reasons in either case.
16. Whether complaints containing allegations of corruption, malpractice, bad behaviour and conduct have been received against any officer? If so, what action has been taken?
17. Whether any question of Parliament and State Legislature are pending? If so, who is responsible for delay?
18. Whether the D.O. Letters received from the High Court and the Government are being properly and separately registered and follow up action is being taken, if any? If not, give reasons.
19. Whether the Register of receipts and the Register of Despatch are being properly and regularly maintained up-to-date?
20. Whether the officials on their appointment, the Amins and the Accounts Clerks are being imparted regular training and refresher courses arranged at the district level or in any Government Institute or Schools? If not, give reasons.
21. Whether proper distribution of work between the Administrative Officer, Sadar Munsarim, Second Clerk, Assistant Clerk, Sessions Clerk, Suit Clerks, Execution Clerk, Miscellaneous Clerk and all other officials has been properly done by written orders?
22. Whether the officials working at a particular post for more than three years have been interchanged or reshuffled? If not, give reasons.
23. What is the date of last inter transfer of the officials?

24. Is the Dak from the Post Office being received in a locked bag and being opened in the presence of the Presiding Officer or the Sadar Munsarim and whether its proper record is being maintained?
25. Whether the statements and returns required to be submitted monthly, quarterly and annually by various courts and offices are being received in time? If not, give list giving the names of courts and offices and the dates of receipt showing reasons for the delay.
26. Whether the statement and returns monthly, quarterly and annually are being submitted to the Hon'ble High Court, Accountant General, U.P. and the Government etc. in time on the required dates and if not, give details of the delayed statements and reasons.
27. Is a Despatch Book in Form no.-66 for local dak being properly maintained? (Rule 445 General Rules (Civil) Part-I)
28. Are letters properly classified and files opened proper heads and letters properly arranged and marked? (Rules 429, 430, 433 and 434 General Rule (Civil) Part-I)
29. Are the closed files kept in bundles and pending files kept in correspondence press? (Rules 437 and 438 General Rule (Civil) Part-I)
30. Has file index been properly maintained about the files entered? (Rule 439 General Rule (Civil) Part-I)
31. (a) Is register for G.L.s and G.O.s maintained in form no.-62 and kept in separate Gaurd files? (Rule 44 of General Rule (Civil) Part-I)  
  
(b) Are copies of important C.L.s, G.O.s being issued to other courts and are all other C.L.s, G.L.s and G.O.s circulated to all the Court?
32. Are separate files being maintained for correspondence originating from High Court circular? Rule 443 General Rule (Civil) Part-I.
33. Is the weeding of the administrative correspondence up-to-date? When was the last weeding done? Rule 449 General Rule (Civil) Part-I.
34. (a) Whether a register in Form no.-24 of all the requisitions received from the Hon'ble High Court is being maintained properly?

- (b) How many requisitions received from the Hon'ble High Court have remained uncomplined and for how long? To which courts these were sent and when? Have any reminders been sent?
35. How many cases for reconstruction of records on account of loss of files are pending and with whom and for what period?
  36. Is Establishment Order Book maintained? Rule 246 General Rule (Civil) Part-I.
  37. Are applications for leave being put up before the District Judge for orders promptly and orders passed communicated to the employees concerned promptly?
  38. Whether the Appendix Register under Rule 631 of the General Rule (Civil) is maintained in Form-B as provided in Stationery Civil Courts Ministerial Establishment Rule 1947 and observance of Rules 628 to 632, in this regard is strictly adhered to?
  39. Whether the register of date of increment and G.P.F. of the employees is maintained?
  40. Whether the ledger and pass-book relating to G.P.F. Account has been maintained up-to-date?
  41. Whether the Register regarding the reading of General Rules Civil and Criminal by the Officers on their first appointment, is maintained and certificates from Officers are obtained and compiled in the file as required under Rules 643 and 652 of the General Rules (Civil).
  42. Whether register of pending files as required under Rule 444(2) of the General Rules (Civil) is maintained and compliance and direction given under the Rules are strictly adhered to?
  43. Whether the list of returns and reports as required under Rule 444(1) of the General Rules (Civil) is posted by the side of the Administrative office and District Judge's Chamber as required under Rule 290 of the General Rules (Civil)?
  44. Whether register in form no.-76 for proceedings taken in execution of the orders received from the High Court as required under Rule 400(13) of the General Rules (Civil)?
  45. Whether any register of inspection of the work of the Oath Commissioner by some Addl. District Judge nominated by the District Judge is maintained?

46. Whether any register relating to the Family Pension is opened? How many employees during the year under inspection, died in harness?
47. Whether the sons or the daughters of the deceased have given employment? Whether any matter relating to appointment under Dying in Harness Rules is pending? Reasons for delay in disposal of the matter.
48. Whether any vindictive attitude has been resorted to in making frequent transfer of Officer, officials by the District Judge?
49. Whether reports are made promptly of the loss of records as required under Rule 216 of the General Rules (Civil) to District Judge and High Court as well?
50. Whether the lost record has been reconstructed? If not, reasons for delay.
51. Number of enquiries relating to lost of record pending? Reason for delay.
52. Whether the staff is competent and is of good reputation? Whether any of the members of the staff has nexus with the criminals and mafias etc.?

**PART - VII**

**LIBRARY**

1. Name of the Officer-in-Charge, Library and date from which he is incharge. ?
2. Whether the Officer-in-Charge, Library inspected the Library quarterly and inspection notes have been complied with? (Prepare statement in Proforma-I)
3. Name of the Librarian and since when? Is he trained?
4. Is the Library room in good order with sufficient space and furniture?
5. Are all the books entered in the catalogue as prescribed by rule 450, General Rules (Civil) read with Notification No. 10/VIIIb-272 dated 13.01.1964 and properly classified in accordance with rule 451, General Rules (Civil)?
6. Has the Librarian stamped, put seal of the Court as required and affixed 'Government Property' labels on each book? [Rule 453, General Rules (Civil)].
7. Has a certificate as to condition of books in the Library been sent to the Registrar General, High Court, every year? If so, quote the date [Rule 453 (3) General Rules (Civil)].
8. Has there been any loss of any book from the Library in the current year? If so, has the loss been reported and what action taken? [Rule 453 (4 and 6) and 456, General Rules (Civil)].
8. A. How many books not exceeding Rs. 25/- and reported to be missing have been recovered from the catalogue?
9. Do lawyers including Government Advocates and penal lawyers use the Library? If so, is there sufficient space to accommodate, lawyers to sit there and read law books and journals? [Rule 452 and 454, General Rules (Civil)].
10. Have books been supplied to courts individually? If so, has any entry been made in the register showing books supplied to each Court? [Rule 457, General Rules (Civil)].
11. Whether books issued temporarily to an officer are returned before the close of the day? If not, give instances. [Rule 454, General Rules (Civil)].
12. Have books been issued to lawyers on slip, to be taken out of the Library? [Rule 454, General Rules (Civil)].

13. Has any book remained out side the Library for more than three months? If so, were quarterly lists of such books submitted to the District Judge as required by rule 455, General Rules (Civil)?
13. A. What action has been taken by the District Judge on submission of the quarterly list of books remained out of Library for more than 3 months?
14. Are correction slip received in the Library regularly? If not, why? If no correction slips have been received, what steps have been taken to procure them?
15. (a) Have all corrections and amendments in various Acts from time to time promptly been incorporated in all copies of the relevant Acts and rules etc.? (C.L. No. 120/K-34 dated 08/13.12.1951, G.O. No.-7 dated 05.06.1984 and C.L. No.-13 dated 20.12.1902).
- (b) Whether any register for correction slips and amendments received is maintained?
16. Whether all necessary books and enactments have been supplied to all the courts including diglot editions? [Rule 457, General Rules (Civil)].
17. What are immediate requirements of books and enactments etc. for various courts and the Central Library and what amount is required?
18. Whether there are sufficient number of English and Hindi dictionaries approved by the Hindi Department of U.P. Government or Central Government of Bhasha Vibhag and sufficient copies supplied to each Court?
19. Whether register for journals is being maintained and whether all the journals are being received regularly?
20. Whether important Notifications, Acts and Bills are being placed before the District Judge by the Librarian?
21. Whether journals, gazettes and extra-ordinary gazettes are being circulated?
22. Whether the price of the books lost or journals lost has been realised or any inquiry started?

23. Are there unbound books in the Library requiring binding? If so, what steps have been taken to get them bound? (C.L. No.-55-K dated 19.04.1952 and C.L. No.-LB-12 dated August 1976).
23. A. Whether the binding of valuable books is carried after obtaining previous sanction of the High Court?
23. B. How many books during the year of inspection have been bound by engaging local binders in terms of Rule 458 of the General Rules (Civil)?
24. Whether gazettes have been bound and maintained as required by rule 461 General Rules (Civil)? (C.L. No.-77/VIIIb-119 dated 11.09.1956).
25. Has the weeding of books taken place in the Library? If so, when? If not, are there any books in the Library which may require weeding in view of the rule 465, General Rules (Civil), rules 462 to 464, General Rules (Civil) read with C.L. No.-5 dated 13.01.1959).
26. Whether the bills of books purchased and subscribed during the previous year have been paid and grant fully utilized?
27. Whether indents for stationery and non-saleable forms have been received from various courts in time and whether a consolidated indent has been submitted in time? State Form No.- 173. [Rule 512, General Rules (Civil)].
28. Whether all the required stationery and forms have been received? If not, what are the items not received and if any reminder has been issued?
29. Whether the stationery being supplied is sufficient for the judgeship? If not, how much more is required?
30. Is the stock of paper and stationery in accordance with the entries in the Stationery Register on physical checking?
31. Whether guard file of inspection notes is being maintained?
32. Whether any sale of non-official publications and official publications are made in accordance with Rule 465 of General Rules (Civil)?
33. Whether the Registrar General, High Court on 1<sup>st</sup> January is informed of the condition of books in the Library?



**PROFORMA - I**

Name of Officer	Quarter ending	Date of Inspection	Date of submission to District Judge after compliance
1	2	3	4

34. Whether the grants issued by the High Court for purchase of books, payment of subscriptions of journals and binding of books has been properly utilized and vouchers/bills have been properly kept on record and the register of grant and its utilization is properly maintained?
35. Whether the journals received in the library are regularly circulated among the Officers?

PART - VIII

NAZARAT

1. Whether Cash Book is being maintained in separate sets Court-wise as required under 280 (1) & 92 of G.R.C. or generally a single Cash Book is in use for the whole Judgeship?
2. Whether in the maintenance of Cash Book Rules 314, 317, 318 and 326 of G.R.C. are observed?
3. Whether Administrative Officer grants weekly Certificate in the prescribed form in the Cash Book as required under Rule 326 of G.R.C.?
4. Whether Pass-Book (Form No. 42), Register of Petty Receipts Form and payments (Form No. 43), Register Form No. 35, Register Form No. 37 are maintained court wise as required under Rule 280 of the G.R.C.? Whether in the maintenance of these registers compliance of Rules 288, 289, 294, 295 and 325 of G.R.C. are made?
5. Whether statement of deposits from outlying Courts are received daily at the Head Quarter in Form No. 51 and 52 as required under Rule 315 of G.R.C.?
6. Whether in the maintenance of Day Book (Form No. 58) Rules 355, 359 and 360 of G.R.C. are observed? Is it laid before Presiding Officer every day for examination and initial as required under Rule 362 of G.R.C.?
7. Whether Money Order Register in Form No. 6 as required under Rule 290 of G.R.C. is maintained?
8. Whether Register of Fine, Stamp Duty and penalty realised is maintained in form No. 39?
9. Whether Register of contingent grant in Form No. 13 (State Form) as prescribed by the Financial Hand Book Vol. V Part I has been maintained?
10. Whether the Register of Stationery Form No. 59 to show the expenditure of fixed stationery grant is maintained?
11. Whether the Register of Bicycles is maintained showing amount incurred in its repairs?
12. Whether the grant has been utilised for the same purpose or circumvented and spend for any other thing?

13. Whether work assigned to the contractor is made after getting an agreement executed in prescribed Form on Stamp paper of the value as prescribed under Sub Section 5 of Section 2 of Indian Stamp Act which is chargeable as Stamp duty under Article 15 of Schedule 1-B of Stamp Act?
14. Whether bill of quantity of work to be done got executed by the contractor?
15. Whether payments to the contractor are made in cash or through Bank Draft?
16. Whether compliance of para 307, 308, 310, 311 and 312 of F.H.B. Vol. V Part I are made in execution of work assigned to the contractor?
17. (a) Whether the work distributed between the Nazir and the Assistant Nazirs is sufficient for each of them or any one official working with dates as well as their duties.  
  
(b) Whether proper and sufficient securities have been furnished by each of them and whether the securities have been verified? [Chapter XXIII rules 541 to 548 General Rules (Civil)].
18. (a) Whether the cash in hand of the Nazir at the time of the inspection tallies with the entries in the Cash Book and the Day Book? Whether the Cash Book and the Day Book are posted upto-date?  
  
(b) Whether the cash box is being deposited in the Treasury and received back daily alongwith register in Form No. 57? [Rule 351 General Rules (Civil)].  
  
(c) Whether the cash in hand of the Nazir is more than half the security at the time of the inspection and has the cash in hand during last one year been generally less than half of the security? (Check some entries from the Day Book and Cash Book from every month).
19. (a) Whether account has been maintained for the compensation received in Motor Accident Claim cases?  
  
(b) Whether the account has been opened in the Bank?  
  
(c) Whether the amount has been deposited in the account without delay?  
  
(d) Whether the interest accrued on the amount of compensation received deposited in D.J.'s account is paid to the claimants?

- (e) Whether the amount kept deposited in FDRs and proper record is maintained thereof?
  - (f) Whether any complaints have been received regarding release of amount in forms of claimants?
20. (a) How many vouchers are pending preparing bills for submission to the Treasury and for what amount? (Give the details giving dates of vouchers.)
- (b) How many days generally are taken by the Nazir to prepare bills after expenditure?
21. (a) Whether all the saleable forms are available and if not, have the recoupment orders been sent to the Superintendent, Printing & Stationery for the forms sold?
- (b) Is the permanent advance of saleable forms sufficient? If not, is there any move for enhancement of the permanent advance?
- (c) Since when the Superintendent, Printing & Stationery has not sent recoupment of saleable forms? Have any steps been taken?
22. (a) Whether the excess amount in the hands of the Nazir, when it exceeds half of the security, is being remitted to the Treasury or Bank as a Misc. Deposit? When amount was last sent? [Rule 317, General Rules (Civil)].
- (b) Whether the Nazir or the Assistant Nazirs concerned are preparing a list of payable balances of Register Form No. 43 in form no. 47 and affixing the same on the notice board every week? [Last para of rule 294, General Rules (Civil)].
23. (a) How many repayment applications are pending for reports and for how many days? How many of them are pending on account of non-receipt of advice list and general number?

**PROCESS SERVING STAFF AND SERVING OF PROCESSES**

24. (a) What is the strength of the Process Servers? Is it in excess of the requirement in the light of rule 123, General Rules (Civil)-750 processes per Process Server and one urgent process equal to 3 processes?
- (b) How many posts are lying vacant and for what period?
- (c) Whether Process Servers remain properly dressed and wear badges, belts and satchels? [Rule 124, General Rules (Civil)]?

25. (a) Whether the Nazir maintains a list of inhabited places and a map of the entire district showing beats therein? [Rule 129, General Rules (Civil)].
- (b) Whether the beats have been divided properly leaving a central beat within five miles radius? [Rule 130, General Rules (Civil)].
26. (a) Whether process within five miles radius are issued daily and returned within 24 hours after serving? [Rule 131, General Rules (Civil)].
- (b) Whether dates for issue of processes for each beat outside five miles radius limit have been fixed and processes issued on those dates? [Rule 130, General Rules (Civil)].
- (c) Whether processes are being issued fairly?
- (d) Whether diet money paid to the Process Servers is properly entered in Register No. 105 and 43? (Check some entries comparing with the entries in these registers and diary of the Process Servers).
- (e) Whether processes are returned after service in time or are returned beyond time and without seeking extension?
- (f) Are all the Process Servers able to give personal service upto 75% ? If not, how many are below the standard and what action has been taken against them? Examine the register of percentage of personal service in light of C.L. No.-95/Vic-4 dated 20.09.1951 and also got monthly statement prepared in the prescribed form as given in this C.L..
27. (a) Have the godowns and dead stock been checked by the Officer-in-charge within one year of the inspection?
- (C.L. No.- 107 dated 17.10.1952)
28. Whether proper reports are given on the process served and are duly attested by the Nazir/Deputy Nazir?
29. Whether the process executed have been sent to the courts/offices concerned on the same day? If not, why?
30. Whether the Process Servers sent in beats are sent after fixing a date and time of their returning back in Nazarat?

**PART - IX**

**RECORD ROOM**

1. Name of Officer-in-charge, Record Room, date from which he is incharge.
2. Has the Officer-in-charge, Record Room, inspected in every quarter and compliance made? (Give details in proforma-I).
3. Whether the inspections made are effective and thorough and short comings, if any?
4. What is the strength of the Record Room staff? Is the staff over-worked? Is the distribution of work among the A.R.K s. even? (Give details in proforma I-A).
5. Whether there are adequate arrangements for extinguishing fire? [Appendix 21, General Rules (Civil), Part-II]. Whether fire-extinguishers are in working order? When those were last tested? Whether the condition of electrical wiring and installations in the Record Room is safe and satisfactory?
6. Whether the staff posted in the Record Room has been given training to use the fire extinguishers?
7. Whether the fire extinguishers are functional and its refills have been renewed? See record.
8.
  - (a) Whether records are kept in separate racks for each Court? [Rule 110 General Rules (Criminal) and Rule 179, General Rules (Civil)].
  - (b) Whether different colours for Bastas of different courts have been assigned? If so, give details. [Rule 194 General Rules (Civil) last para].
  - (c) How many Bastas require re-colouring, re-labelling or replacement? Whether some record is in the loose conditions and is not kept in the respective Bastas?
  - (d) Whether bundles have been properly labelled giving details or records? [Para 2 of Rule 194, General Rules (Civil)].
  - (e) Whether records in bundles have been kept in accordance with date of institution in the Court of first instance and serial register no. and according to Rule 192, General Rules (Civil)? [Rules 180 and 194, General Rules (Civil)].

9. (a) Whether dates for consignment of records and registers from various courts to the Record Room have been fixed and whether records are being received within time? (Civil) and 108, General Rules (Criminal).
  - (aa) Whether the arrangement of the Criminal record is in accordance with Rules 114 and 115 of the General Rules (Criminal)?
  - (aaa) Whether the records of the Magistrates' Courts are arranged police station-wise and of the Court of Sessions according to the date of decision as required under Rules 115 of General Rules (Criminal)?
  - (b) Whether registers are also being consigned by various courts according to Rules within the time prescribed? If not, since when the registers have not been received and from which court?
  - (c) Whether records and registers are accompanied by list and invoice and lists are being properly stitched? Rules 182, 184 and 190 General Rules (Civil) and 109, General Rules (Criminal).
  - (d) How many Goshwaras are kept unbound? Give number of courts and the years for which Goshwaras have not been bound.
  - (e) Are sufficient number of decided records and registers being retained by the Court concerned? If so, are reasons given in the accompanying list and requisitions sent? How many of these are retained on account of non-preparation of decrees? (Para 3 of Rule 181, General Rules (Civil). Each A.R.K. to give statement for 3 months preceding the date of inspection in proforma II-A).
  - (f) Whether certificate of consignment are being submitted by Munsarim of each Court to the District Judge by 28<sup>th</sup> of every month? Name of the courts from which the certificate have not been received during the last one year [Para 2 of Rule 181 General Rules (Civil)].
10. (a) Whether monthly consignments have been examined and second punching done within one month from the date of receipt and certificate given? [Rules 187, 188, 189 and 191 of General Rules (Civil) and Rule 111, General Rules (Criminal)].
  - (b) Whether there are any arrears for examination with any A.R.K. or Record Keeper? If so, give details in proforma-III.

- (c) How many defective (Badar) files were found during checking? Give details in proforma-IV.
  - (d) Whether the defective files are being corrected in accordance with Paras 2 and 3 of Rule 188, General Rules (Civil)?
  - (e) How many defective files are pending for correction in Record Room or various courts and for how much time? Give figure in proforma IV.
  - (f) Whether examination of records is properly done in light of Rules 142, 150, 153, 157, 159, 181 and 187 and G.Ls. and C.Ls. reproduced on pages 547-553 of the Circulars of the Hon'ble High Court? (Take out a few records from bundles of each A.R.K. and examine them in light of Rules 187, 188 and 191 of General Rules (Civil))
  - (g) Whether examined records have been restored to the bundles the same day or next day of examination? In case of arrears give details of records received last month in proforma V.
  - (h) Whether records received back from the Copying Department or Appellate Courts or other Courts are restored as soon as they are received?
  - (i) Whether the files of miscellaneous cases and papers received, are being restored to the proper records? [Rule 193, General Rules (Civil) and 112, General Rules (Criminal)]
11. (a) Whether all the records and registers required to be weeded upto the date of inspection, have been weeded? If in arrears, give details in proforma VI and VII. Whether the weeding register has been maintained upto date properly?
- (b) Whether records have been weeded in accordance with Rules 193 to 201, General Rules (Civil) and Rules 127 to 184 of General Rules (Criminal)?
- [Some weeded records and registers should be taken out checked for compliance of Rules 199, 200 and 201 of General Rules (Civil)].
- (c) Whether any record has been weeded out before due date?
- (d) Whether Rules regarding requisition of bills under Appendix 14 and Rule 209 of General Rules (Civil) are strictly complied with?
- (e) Whether register of return of documents (Form 71) is maintained as required under Rule 400 of General Rules (Civil)?



- (f) Whether Repayment Application Register is maintained and is placed once in a week before the Officer-in-charge?
  - (g) Whether the A.R.K., D.R.K. and R.K. maintain Karguzari Register?
  - (h) Whether the restoration work is upto date or in arrears? If so, the reason therefore?
12. (a) How many ordinary requisitions from courts for records have been complied with more than a week delay during the year under inspection? Give details of such requisitions in proforma VIII for the last three months.
- (b) How many urgent requisitions from courts and requisitions from Copying Department have been complied with after more than 24 hours during the year under inspection? (Give details of such requisitions in proforma VIII for the last three months.)
- (c) In how many cases records had not been sent at all?
- (d) How many requisitions are pending for compliance with each A.R.K. and Record Keeper? (Give dates of the three oldest requisitions.)
- (e) Are entries of Register Form No. 24 being properly made in accordance with Rules 211, 212 and 214, General Rules (Civil) for civil records and in Form No. 5 in accordance with Rule 130, General Rules (Criminal) for criminal records? (Check some continuous 25 entries from the registers.)
13. (a) How many records have not been returned from various courts for more than a year and from how many courts? Has any action taken by the Record Keeper and the A.R.K. concerned?
- (b) Have the quarterly lists been prepared and sent to the courts concerned and received back after verifications? (Give information in proforma IX).
14. Has monthly statement provided by para 2 of Rule 210 General Rules (Civil) been submitted? If so, on what dates during the last one year?
15. Whether the applications for inspection and search are satisfactory? (Give comparative figures in proforma X).
16. Whether guard file for inspection notes is being maintained?

17. Whether any observations or instructions at the last inspection have remained unattended to? If so, furnish reasons therefor.
18. Whether any matter for reconstruction of lost/destroyed records is pending? Status thereof?
19. Status of reconstruction of weeded records and number of requisitions of higher courts for transmission of records are pending. [Rules 195-201A and chapter VIII of G.R. (Civil)]
20. Whether the repayments and other applications received after disposal relating to decided records are properly placed on the concerned records? Check some.
21. What is the Status of records relating to Criminal Trials, in the matters pending before higher courts or pending execution?

**PROFORMAS FOR INSPECTION OF RECORD ROOM**

**PROFORMA – I**

Name of Officer	Quarter ending	Date of inspection	Date of submission to the District Judge
1	2	3	4

**PROFORMA – I-A**

SI. No.	Designation	Name	Date from which working	Courts and work allotted	Remarks
1	2	3	4	5	6

**PROFORMA – II**

Name of A.R.K. : .....

Name of Court	Nature of cases	Due date for consignment	Date of actual consignment				Remark
			Jan.	Feb.	March	Etc.	

**PROFORMA – II- A**

Name of Courts : .....

No. of decided records for consignment	No. of records consigned	No. of records detained		No. of registers not consigned with reasons
		On account of non-preparation of decree	for other reasons	
January				
February				
March				

**PROFORMA – III**

**STATEMENT OF ARREARS OF EXAMINATION**

Name of court	Name of month of Basta	Nature of the records	Date of receipt	No. of files received	No. of files examined with time	No. of files remained unexamined	Reasons for arrears of examinations
1	2	3	4	5	6	7	8

**PROFORMA – IV**

**STATEMENT OF BADAR FILES**

Name of Court	Name of the cases	No. of files received and examined	No. of defective files	Date on which files sent to the court concerned for removing defects	No. of files received with date of receipt
1	2	3	4	5	6

**PROFORMA – V**

Name of court	Nature of the cases	No. of files lying unreturned to the bundles	Date of examination	Remarks
1	2	3	4	5

**PROFORMA – VI**

**STATEMENT OF WEEDING**

Name of court	Nature of cases	Name of natthis	How far due	How far done	How much in arrears	Remarks
1	2	3	4	5	6	7

**PROFORMA – VII**

**STATEMENT OF BOOKS AND REGISTERS**

Name of court	Description of register or book	Period upto which register or registers received in record room	How far due	How far done	How much in arrears	Remarks
1	2	3	4	5	6	7

**PROFORMA – VIII**

SI. No. of A.R.K. Register	SI. No. of R.K. Register	Date of receipt of requisitions in Record Room	Date by which record required	Date of Compliance	Remarks
1	2	3	4	5	6

**PROFORMA – IX**

Name of A.R.K.	Date due in first quarter ending March	Date of sending quarterly list with name of Court	Date of return of quarterly list by the Court concerned
1	2	3	4

**PROFORMA – X**

.....			
...			
<b>From</b> .....	<b>to</b> .....	<b>From</b> .....	.....
<b>to</b> .....			
<b>No.</b> .....	<b>Amount</b> .....	<b>No.</b> .....	.....
<b>Amount</b> .....			
<b>Inspection applications</b>			
<b>Search applications</b>			

**Note :** Give figures for Civil and Criminal separately.

**PART - X**                      **CIVIL COPYING DEPARTMENT**

1. Who is the Officer-in-charge of the Copying Department and date from which he is in charge. ?
2. Has the Officer-in-charge inspected the Copying Department every quarter? Give details in Proforma-I and comment.
3. Name of the Head Copyist and since when?
4. Is the staff over-manned or under manned? [Rules 269 and 270, General Rules (Civil)]
5. Check the almirah and the box of the Head Copyist and examine all the prepared copies, rejected applications and folios etc. and comment after getting statements in form no. III, IV, VI prepared.
6. How many Typewriters (Hindi/English) are allotted to the Copying Department and how many are out of order and since when? Are the Typewriters being fully utilised?
7. Whether Register Form No. 31 is properly maintained and entries of urgent and ordinary applications being made in red and blue-black ink? [Rule 265, General Rules (Civil)].
8. Does the Munsarim or the Head Copyist comply with the provisions of Rule 254(a) at the time of presentation of application for copies?
9. Are urgent and ordinary copies being prepared within 24 hours and within a week respectively and if not, what is the average duration for these copies? (Give separate average for the last three months preceding the date of inspection).
10. Give number of pending urgent and ordinary applications in Proforma-II (Discuss reasons of delay in disposal of 12 applications mentioned in the last column).
11. Whether printed forms for preparation of decrees and formal orders are being used for issue of copies? If not, why ? [Last para Rule 257, General Rules (Civil)].
12. (a) Are copies of judgments in appeals, sessions trials and revisions being received from various courts concerned? In how many cases these copies have not been received? Quote the number of cases with name of courts of which copies were not received.

- (b). Whether the copies of orders and judgments prepared by Computer are obtained by access to the computer of the court concerned?
13. Whether copies involving more than 1500 words are being prepared without realising the excess fees? If so, in how many cases during the last two months?
14. Are copies of payment being prepared on stamp papers? [Rule 255, General Rules (Civil)].
15. (a) In how many cases free copies have been issued to any other person except prisoner, Government Law Officer and Heads of Departments of the Government of India, any High Court in India or any other authority exercising similar jurisdiction, any court subordinate to the High Court at Allahabad or any particular Court in any foreign country? Check applications for inspection [Rules 248, 251 and 252 G.R. (Civil)].
- (b) How many free copies prepared on applications under Rules 248, 251 and 252, General Rules (Civil) read with G.O. No. 113 dated 05.12.1985 and C.L. No. 75/VIII-a-51 dated 03.12.1960 remained undelivered within the prescribed time during one year period preceding the date of inspection?
16. (a) Whether unused stamp in cases of rejected applications are being returned within 30 days after intimation to the applicant or his counsel and if unreturned stamp are being destroyed and necessary entry made in register form no. 31? Give details of such applications in Proforma III in respect of rejected applications during the period of three months one month prior to the date of inspection (Rule 254, paras V to IX).
- (b) Examine some rejected applications to see if reports and orders are correct.
17. Whether copies remaining undelivered after 15 days of the notice are being disposed off after obtaining orders of the Judge? Send a statement prepared in Proforma-IV. Examine pending undelivered copies with the Head Copyist on the date of inspection as well as the entries in Register Form No.-31 in respect of undelivered copies at least for three months, one month prior to the date of inspection? [Para 2 of Rule 260, G.R. (Civil)].
18. Whether copies are being prepared legibly, accurately, properly noting the number of words correctly and are being properly certified as true copies duly and legibly signed by the Copyist and Head Copyist? Check some of the copies pending with the Head Copyist undelivered, preferably prepared

before the date of intimation of the inspection and prepared by each Copyist with G.L. No. 29/A dated 1.8.1929, G.L. No. 43 dated 10.8.1934, C.L. No. 59/Ve-65 dated 22.9.1950 and C.L. No. 41/Ve-65 dated 6.5.1957.

19. Whether the consolidated register of Karguzari and distribution of work in Form No. 33-A referred to in Rule 268 is being put up before the Officer-in-charge Copying Department fortnightly (G.L. No. 6/A-17(1) dated 1.11.1935 as amended by G.L. No. 7/A-2(1) dated 27.1.1936).
20. Are records being received in and returned back from the Copying Department within 24 hours of the sending of the application or the preparation of the copy? Get a statement prepared in proforma VI. [Rules 246, 254(a) para 3 and (b) (ii) G.L. No. 3/Ve-81 dated 27.2.1952].
21. Whether strict rule of priority is being maintained by the Head Copyist? (Examine some two days in the Register Form no.-31). In how many cases rule of priority has been deviated? Examine some of the matters.
22. Are provisions of Rules 250 and 253 being followed in the case of applications for copies by strangers or in cases under hearing?
23. (a) Whether copies of maps and registers etc. are being prepared after preparing estimates and whether registers in Form no. 28 and 29 are maintained?  
(b) Whether copies of maps and registers etc. are being prepared by the Copyist or by some Special Copyist?
24. Whether fortnightly statements (Progress Report) are being maintained and put up before the District Judge?
25. (a) Whether the Copyists are maintaining a register of Karguzari in Form no.-33 properly?  
(b) Whether the Copyists are giving their karguzari according to the prescribed standard? Check work done of some of them and the work shown too have been done?
26. Whether rejected applications are sent to the court concerned or the record room soon after rejection?
27. Whether the Head Copyist maintains a guard file of :  
(i) Inspection Notes (ii) for orders of the District Judge (iii) for C.L. and G.L. and (iv) for orders of the Officer-in-charge, Copying Department?

28. Does the Head Copyist work intelligently and in a business like manner?
29. Whether attendance register as required under Rule 8 and 539(10) of the General Rules (Civil) is maintained?
30. Whether register of Casual Leave and application files are maintained? [as required under rule 410 of G.R. (Civil)].
31. Whether Special Casual Leave for more than 4 days were granted against Rule 461 of General Rules (Civil)?
32. Whether copies of General Rules (Civil) and General Rules (Criminal) are supplied and are up-to-date in terms of Rule 643(c) of General Rules (Civil)?
33. Whether applications for leave are attended to in accordance with Rule 640 of General Rules (Civil)?
34. Whether entries made in Col. Nos. 7 and 8 of Register (Form No.-31) are verified by the Record Keeper at the end of every week?
35. Whether any register in break in serials in Form No. 31-B are required under Rule 267(B) of General Rules (Civil) is maintained?
36. Whether any breakage in serial has been made without obtaining orders of Officer-in-charge? Has any irregularity been committed in obtaining orders of breakage of serials?
37. Whether a Distribution Register (Form 31 A) as required under Rule 267-A of General Rules (Civil) is maintained? Whether entries made in col. 8 tally with the words given by the Copyist in his Karguzari Register (Form No. 33)?
38. Whether notice in Form No. 30 is displayed on the notice board as required under Rule 260 of General Rules (Civil)?
39. Whether any Estimate Register is maintained for the supply of copies in Form No. 28 as required under Rule 258 – Para 2 of General Rules (Civil)?
40. Whether copies prepared by the Copyist/Typist are signed by them and true copy by the Head Copyist, mentioning number of words and value of stamps?
41. Whether copies reflects the dates of application etc. in words and figures?



42. Whether Copyists/Typists are charging standard of work according to Rule 267 of the General Rules (Civil)?
43. Whether method of counting of words done by Copyist/Typist is in accordance with procedure laid down in Rule 268 of General Rules (Civil) and G.L. No. 43 dated 10.8.1934.
44. Whether Typists have been allowed to work as Copyists? If so, the reasons therefor.
45. Whether proper record is maintained for preparation of copies by photo copier machine?
46. Whether proper account has been maintained for the amount deposited for issuance of copies by photo copier machine?
47. Whether the copies applied through photo copier machine are issued on the next day? Check some matters.

**PROFORMA – I**

Name of Officer	Quarter ending	Date of inspection	Date of submission to the District Judge
1	2	3	4

**PROFORMA – II**

Sl. No.	No. of Urgent Applications pending	No. of Ordinary Applications pending
1	2	3

**PROFORMA – III**

Particular of Applications	Date of disposal	Cost of Folio	Date of return	Date of destroy
1	2	3	4	

**PROFORMA – IV**

Sl. No.	No. of Applications	Date of Notice	Date of consignment
1	2	3	4

**PROFORMA – VI**

Sl. No.	Name of Copyist	Particular of Application	Date of sending application to the concerned court	Date of receiving of record	Date of preparation of copy	Date of returning back of the record
1	2	3	4	5	6	7

**PART - XI                      CRIMINAL COPYING DEPARTMENT**

1. Name of the officer in charge and date from which he is incharge. ?
2. Has the Officer-in-charge inspected the Copying Department every quarter? Give details in Proforma-I and comment?
3. Name of the Head Copyist and since when?
4. Is the staff over-manned or under-manned?
5. Check the almirah and the box of the Head Copyist and examine all the prepared copies and the pending case diaries.
6. How many Typewriters (Hindi/English) are allotted to the Copying Department and how many are out of order and since when? Are the Typewriters being fully utilised?
7. How many case diaries are pending for preparation of copies of statements and documents?
8. Whether copies are being prepared legibly, accurately and properly?
9. Whether the Register of Karguzari maintained by Copyist and register of distribution of works maintained by Head Copyist are being properly maintained?
10. Whether fortnightly statement of progress of copying work is being submitted to the Officer-in-charge?
11. Whether the copies of case diary of criminal cases which are exclusively triable by the Court of Sessions and if under trial prisoners are being prepared on priority basis and in chronological order?
12. Whether the copies are being prepared in a systematic manner?
13. Does the Head Copyist works intelligently and in a business like manner?
14. Whether the Copyists are giving sufficient karguzari? Check the work done of some days and the work shown by the Copyists.
15. Whether copies are prepared by photo copier machine and proper record is maintained for the copies so prepared?

**PROFORMA – I**

<b>Name of Officer</b>	<b>Quarter ending</b>	<b>Date of inspection</b>	<b>Date of submission to the District Judge</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>

**PART - XII**

**AMINS**

1. Name of the Officer-in-charge Amins and date from which he is in charge. ?
2. Has the Officer-in-charge inspected the work of Amins? (Proforma-I).
3. How many posts of Amins in I-Grade and II-Grade are sanctioned for the district and who are the Amins working on these posts and since then? (Proforma-II).
4. Are the Amins qualified and satisfy the condition laid down in Rule 522 General Rules (Civil)?
5. Have the Amins furnished security? If so, of what amount and whether it is sufficient? [Rule 541 G.R. (Civil)].
6. Are there any other officials in the judgeship who have received training of Amins? Give their names and year of training.
7. Have circles of Amins been divided into beats and dates fixed for each beat? Give details [Rule 527, General Rules (Civil)].
8. Have Amins been supplied the necessary instruments for their work? [Rule 523, General Rules (Civil)].
9. (a) Are the Amins substituting their weekly programme to those writs they execute? [Rule 531, General Rules (Civil)].  
(b) Are the Amins planning their tour in accordance with Rule 527(c), General Rules (Civil) and fix sufficient work every day?
10. How many Parwanas are pending with the Amins unexecuted on the date of inspection? (Give details beat-wise three oldest Parwanas of each beat in Proforma II-A with reason).
11. How many Parwanas were received by the Amins for execution during the year under inspection and how many of them were returned unexecuted (Give list of unexecuted Parwanas in Proforma-III).
12. In how many writs, the Amin has made attachments, auction sale, survey commissions successfully?

13. In how many cases the Amin sought extension for execution of the Parwanas during the year under inspection?
14. What is the percentage of parwanas returned unexecuted during the year under inspection? (give comparative figures in Proforma-IV for the current year and the corresponding previous year).
15. Give the number of writs returned unexecuted according to the following classification during the year under inspection:
  - (i) For shortage of time or late receipt.
  - (ii) Sudden increase in work.
  - (iii) Due to absence of the decree holder or his representative or due to unwillingness of the decree holder to get the writ executed.
  - (iv) Due to nature of work and labour involved.
  - (v) Due to stay orders from the courts issuing the writ or from the appellate courts.
  - (vi) For want of Police help.
  - (vii) Incomplete particulars in the writ.
  - (viii) For want of self addressed P.C. of D.H.
  - (ix) For want of requisite material.
  - (x) On account of unjustified and lame excuses.
16. Whether the Amins have sufficient work to do? If not, are their services being utilized in the office some where else?
17. Are the Amins over-loaded with work and the work is being evenly distributed? Is any additional help required? [Rule 524, General Rules (Civil)].
18. Are the Amins taking proper interest in executing Survey Commissions and execute the same in accordance with the instructions contained in Rule 533, General Rules (Civil)?
19. Are the Amins submitting monthly statements with proper certificate of the work done as required by Rule 535, General Rules (Civil)? Is that statement being submitted to the District Judge after scrutiny by the Officer-in-charge by the 10<sup>th</sup> of the next month [Rule 536, General Rules (Civil)]?
20. Whether the Amins are maintaining registers in Form No. 107, 108, 109 and 110 properly and make entries in the Cash Register immediately? [Rules 335 and 407, General Rules (Civil)].

- A. Check entries made in Form No. 107, 114 from register in Form No. 106 maintained in each court.
  - B. Whether separate books in each Court relating to T.A. Bills of Amins and their peons are maintained as required under Rule 336 of General Rules (Civil)?
21. How many movable properties are lying attached for more than a year? (Give details in Proforma-V).
  22. In how many cases, he released movable properties on the spot during the year under inspection?
  23. Whether the Amin is issuing Payment Orders in Form No.-III in case of sale immovable property? [Rule 33, General Rules (Civil)].
  24. Whether the Amin is issuing receipt for cash payment received by him ? [Rule 333, General Rules (Civil)].
  25. Whether the Amin is paying the cash amounts received by him into the treasury through pass book Form no.-112 the same day or latest the next day and sending the extracts of the pass book to the courts concerned? [Rules 337 and 338, General Rules (Civil)].
  26. Whether the Amins are submitting weekly returns in Form no. 113 and 114 to the courts concerned and the same are being checked by the Munsarim of the courts concerned? [Rule 339 and 340, General Rules (Civil)].
  27. Whether poundage money is being realised on all the sales conducted by the Amin? [Rule 369, 371 and 373, General Rules (Civil)].
  28. Is fee for Amin being realized in accordance with Rules 375, 376, 377 and 378, General Rules (Civil) read with notification no.-99/VIIIb-135 dated 23.3.1959 and correction slip 27 dated 9.6.1992?
  29. Has the Amin given priority to some writs over the others received earlier with permission or without permission of the Officer-in-charge? Was there any justification for giving such priority?
  30. Dose the Amin exercise his discretion properly in accepting bids in public auctions?

31. Does the Amin take interest and pain in his work? Is he methodical and systematic?
32. What is the opinion of Presiding Officers of various courts about the quality of his work and conduct? (It may be obtained confidentially from various Officers).
33. Whether guard file for inspection notes is being maintained?
34. Whether any observations or instructions at the last inspection have remained unattended? If so, furnish reasons there for.

**PROFORMA – I**

Name of Officer	Quarter ending	Date of inspection	Date of submission to the District Judge
1	2	3	4

**PROFORMA – II**

Name of circle	Name of Amin	Grade I or II	Date from which he was posted in the circle	Date from which working as Amin	Date of confirmation	Remarks
1	2	3	4	5	6	7

**PROFORMA – II-A**

Name of Amin	Name of beat	Number of pending parwanas	Date of 03 oldest of each beat	Reason for delay if first date of return expired
1	2	3	4	5

**PROFORMA – III**

Sl. No.	Circle beat	Name of court	No. of writ with description	Date of receipt	Date fixed for return	Date fixed for execution	Date of return	Extended date if extension sought	Reasons for returning unexecuted	Remarks
1	2	3	4	5	6	7	8	9	10	11

**PROFORMA – IV**

Period	Number of Parwanas received	Parwanas executed	Percentage
1	2	3	4
01.01.20... to 01.12.20... (Previous Year)			
01.01.20... to 01.12.20... (Current Year)			

**PROFORMA – V**

Sl. No. of Reg. No.-109	Date of attachment	Name of beat	Suit No. & court	Execution case no.	Name of parties
1	2	3	4	5	6

**PART - XIII**

**CIVIL COURTS**

1. Give the name(s) of the Presiding Officer who worked since the last inspection with duration.
2. Whether the quarterly inspection by the Presiding Officer has been made and submitted to the District Judge after compliance? Give details in Proforma-I.
3. Whether the staff is adequate or under manned and whether the distribution of work is even and proper? Give the names of the members of the staff with posts and duration.
4. What is the territorial jurisdiction, pecuniary jurisdiction and other jurisdiction being exercised by the Presiding Officer?
5. Is the weekly cause list being posted on each Saturday and are all the cases for a particular day and adjourned cases within the same are entered therein in proper columns? [Rule 16, G.R. (Civil) Part I].
6.
  - (a) What is the number of pendency of all types of cases on the first day of the month of the inspection and the corresponding day last year? Give details in Proforma-II and also give reasons for increase or decrease.
  - (b) Give the number and date of institution of ten oldest cases of each type in the remarks column of Proforma-II.
  - (c) Give an year wise break-up of pending files of Regular Suits, Appeals, Revisions, Execution Cases as well as Miscellaneous Cases shown in Proforma-II in comparative form for both the dates.
7.
  - (a) How many contested cases have been decided by the Officer during the last one year?
  - (b) Give the year wise break-up of all the contested cases decided of all types.
  - (c) How many cases were decided ex-parte or in default and what is the percentage of these cases to the contested cases?
  - (d) How many cases were decided otherwise?
8.
  - (a) In order to tide over the problem of old cases, every Subordinate Court shall give history sheet of five oldest cases of each category (e.g. Sessions Cases, Appeals, Revisions, Suits, Miscellaneous Cases, Execution Cases, Police Cases, Complaints etc.) in following points and particular attention be given for taking firm steps :-

**HISTORY SHEET OF OLDEST CASES**

**IN THE COURT OF .....**

**CASE NO. ....**

1. Date of institution :
  2. Date of admission/registration :
  3. Date of appearance of Defendants/Respondents/  
accused persons/opposite party :
  4. Date of filing written statement/rejoinder/  
supply of police paper to accused and commitment :
- (state reason of delay, if any,  
mention if interlocutory matter intervened)
5. Date of framing issues/charge :
  6. First Date of hearing :
  7. Period of pendency with progress made  
before each presiding officer :

- (b) Statement of disposal by the Presiding Officers of the Judgeship during the period of inspection in the following proforma :-

**Statement of the disposal by the Presiding Officers of the Judgeship from ..... to .....**

Sl. No.	Name of Presiding Officer	Actual work done by P.O.	Cases disposed of		Total no. of cases disposed of	Witnesses examined		Total witnesses examined	Remarks
			Contested	Uncontested		Contested	Uncontested		
1	2	3	4	5	6	7	8	9	10
1.									
2.									

- (c) Statement of the disposal of the cases monthwise in following proforma:-

**STATEMENT OF THE DISPOSAL OF THE COURT**  
**OF .....**

Month & Year	Actual work done by the PO.	Cases disposed of		Total no. of cases disposed of	Witnesses examined		Total
		Contested	Uncontested		Contested	Uncontested	
1	2	3	4	7	8	9	10
January .....							
February .....							
TOTAL							

- (d) Reason of pendency of cases since more than five years in following proforma:-



**REASON OF PENDENCY OF CASE OF THE COURT**  
**OF.....**

Sl. No.	Case No.	Reason of pendency	Step taken by the present Presiding Officer with date of last order
1	2	3	4

- (e) Statement of cases relating to Legal Service Act during one year in the following proforma :-

**STATEMENT OF CASES RELATING TO LEGAL SERVICE ACT**

**W.E.F. .... TO .....**

Sl. No.	No. of cases instituted	No. of cases disposed of	No. of cases pending	Reason for pendency	Remarks
1	2	3	4	5	6

9. (a) Is the Presiding Officer's diary and the Reader's diary properly maintained? Are the dates to which cases are adjourned, the purpose for which fixed and the work done on that day, entered in the diary? [Rules 40 and 18-A, G.R. (Civil)].
- (b) Are all the cases entered in the diary of Presiding Officer and the Reader have been carried forward for the next date fixed ?
- (c) Are the cases fixed for particular days in the diary of the Presiding Officer in such a manner as to facilitate hearing of all the cases fixed on that day and disposal of old cases?
- (d) Are cases taken strictly in accordance with priority rule and are also entered in the diary in that manner?
- (e) Does the Presiding Officer fix and does sufficient work on each day?
- (f) Are cases taken up day to day or are unnecessarily adjourned?
- (g) Are the witnesses present on a particular day examined before adjournment?
- (h) Are arguments heard promptly and judgments pronounced with 30 days of the first hearing of arguments?
- (i) Are cases adjourned for sufficient reasons by passing detailed order?

- (j) Are decrees prepared in time and in accordance with Rule 98 G.R. (Civil)?
- (k) How many cases are adjourned in a week on the personal ground of the counsel, for no time and on account of no objection by the opposite party?

**NOTE:** For answers to the above questions, a complete statement of work fixed and done datewise for full one week (Monday to Saturday) two weeks before the notice of inspection should be got prepared in Proforma-III and a statement in Proforma-IV in respect of all the contested decided cases in the month preceding the month in which instruction of inspection has been given.

- (l) Whether decrees are being prepared in light of instructions contained in C.Ls. reproduced on pages 391, 393 to 395 of circular letters and Orders 20 Rule 21 C.P.C. and Rule 98, G.R. (Civil)?
10. Are the parties and witnesses being examined in suits before framing issues? (Give a statement in Proforma-V for the same week in note above).
  11. Whether notices of appointment of guardian are issued to minors also when the age of the minor is more than 12 years?
  12. (a) Whether Commissioners submit reports within the time allowed? If not, how much time is taken generally and whether extensions are sought?  
  
(b) How many oldest cases are lying in undisposed on account of non-submission of report by the Commissioner for more than three months and for how long? What action has been taken against Commissioner?  
  
(c) Whether Amins are submitting survey reports within time or are seeking extension?
  13. Whether the judicial records are properly maintained by the officials and all the papers have been indexed according to the provisions of Chapter V of G.R. (Civil)?
  14. Whether all the registers have been prepared on proper forms and all the cases have been properly entered there in?
  15. In how many cases order of ad-interim injunctions, granted, have been confirmed on final disposal of injunction applications?

16. (a) How many suits have been stayed by the Court under section 10 C.P.C.? Give details in the given proforma.

Details of the case	Court under whose order the case is lying stayed	Date of stay order and particulars of the case in which the stay order was passed	Whether any enquiry was made? If so, give date of enquiries made during the last one year
1	2	3	4

- (b) Whether full particulars of the connected case with name of the court and copy of pleadings of that case were given by the parties?
- (c) Has the fact of stay communicated to the Court in which the connected proceeding is pending?
- (d) Has any attempt been made to know the stage and the result of the connected proceeding?
17. How many suits, execution cases and miscellaneous cases have been stayed by the appellate courts and High Court or the records have been sent to them? Give a list in the prescribed Proforma-VI. Has any inquiry been made during the last three months?
18. Whether the proceedings by which trial court matters are stayed or in which records are called for, are disposed of expeditiously to enable the courts to proceed with pending matters?
19. Are the decided records consigned on the dates fixed? If not, what is the arrear?
20. Whether the number of inspections and search applications is satisfactory? Give comparative statement in prescribed Proforma-VII.
21. How many requisitions from other court including Hon'ble High Court and the Copying Department are pending on the date of inspection and for how many days?
22. Examine some records of each category and examine the files detailed in statements-III and IV from the point of view of compliance of the following provisions of law and rules and other matters mentioned hereinafter :

- (i) Order 3 rule 8 C.P.C.
  - (ii) Compliance of
    - (a) Order 3 rule 2.
    - (b) Order 3 rules 3, 4 and 5.
    - (c) Order X rules 1 to 4
    - (d) Order XIV rules 1 to 5.
  - (iii) Service of process by substituted service.
  - (iv) Rules 2, 3, 4, 6, 10, 11, 14, 15, 16, 17, 18 (for checking efficiency of the Munsarim).
  - (v) Order 7 rules 3, 7, 14, 15, 16, 17, 19, 20, 23 and order 8 rules 11 and 12.
  - (vi) Order 13 rules 4, 5, 6, 7 and 8.
  - (vii) Summoning witnesses under order 16 C.P.C.
    - (a) Promptness and delay in issue of processes.
    - (b) Contents of issue of summons to produce documents.
    - (c) Mode of service.
  - (viii) Appointment of guardians of minors or lunatics, as plaintiffs or defendants.
  - (ix) Attachment orders and temporary injunctions or stay order.
    - (a) Compliance of promptness and delay in putting applications for orders.
    - (b) Promptness and delay in issuing processes.
23. Checking of compliance of Rules 31, 35, 37, 41, 42, 44, 45, 51, 52, 56 to 61, 142 to 156, 150 and 155 to 159, General Rules (Civil) in the above files or some of them.
24. (a) Whether the conduct of Presiding Officer is judicious and he is intelligent in handling the cases?
- (b) Whether he exercises efficient supervision on the day to day working of his officials?
- (c) The manner of framing issues.
- (d) Whether interests of minors and persons of in-sound mind are properly looked after?

### EXECUTION

25. What is the number of execution cases pending over six months?
26. What is the total number of execution cases disposed of and the number of infructuous applications? What is the proportion of infructuous applications to the total of cases disposed of during one year preceding the date of inspection?

27. Are the orders in the Hindi order sheet of the execution cases passed by the Presiding Officer himself? [Rule 163, General Rules (Civil)].
28. Whether proper dates for service of proclamation and sale are fixed?
29. Are the writs of attachment and sale promptly issued to the Amin within three days of the order and property entered in register Form No.-106?
30. Whether the execution cases remained pending due to want of steps for more than a week?
31. Examine some oldest execution cases and some cases more than a year old for :
- (a) Checking compliance of orders passed, issue of processes i.e. notices, precepts, seal warrants etc. with particular reference to compliance of rules 166, 167, 169, 172, 173 of General Rules (Civil) and compliance of G.O. No. 3020/10-0-20 dated 4<sup>th</sup> September, 1920 and G.L. No. 10/VIIIh-19 dated 12.9.1951 as well as compliance of orders of the Hon'ble High Court contained in various C.Ls. and G.Ls. reproduced on pages 273 to 275 of circular letters of the Hon'ble High Court.
- (b) Checking of execution and return of parwanas of attachment and sale by Amins extension of time, ground for return of un-executed parwanas and reports of the process servers etc.
32. Whether the execution cases are regularly fixed in the Diary of the Presiding Officer and taken up on regular basis?
33. Whether the writs are issued to Amin without any delay and are being executed actually in execution cases?

**PROFORMA FOR INSPECTION OF CIVIL COURTS**

**PROFORMA – I**

Name of Officer	Quarter ending	Date of inspection	Date of submission to District Judge
1	2	3	4

**PROFORMA – II**

<b>SI. No.</b>	<b>Name of case</b>	<b>Pending on 20.... (Current Year)</b>	<b>Pending on 20.... (Previous Year)</b>	<b>No. and dates of ten oldest case</b>	<b>Remarks</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>

**PROFORMA – III**

<b>No. of cases</b>	<b>Name of Parties</b>	<b>Nature of cases</b>	<b>Purpose</b>	<b>Work done</b>	<b>Remarks</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>

PROFORMA - IV

No. of cases	Name of Parties	Nature of suit	Date or dates on which evidence was recorded	Date of hearing of arguments	Date fixed for judgement	Actual date of delivery of judgement	Date of preparation of decree	Date of signing of decree by PO.	Date of certification of decree and judgement to the L.C.	Remark
1	2	3	4	5	6	7	8	9	10	11

**PROFORMA – V**

No. of Suit	Name of Parties	Nature of cases	Date of framing issue	Date of examination of parties and witnesses
1	2	3	4	5

**PROFORMA – VI**

Details of the case	Court under whose order the case is lying stayed	Date of stay order and particulars of the case in which the stay order was passed	Whether any enquiry was made? If so, give date of enquiries made during the last one year
1	2	3	4

**PROFORMA – VII**

Inspection/ Search Applications	From.....to.....		From.....to.....	
	No.	Amount	No.	Amount
1	2	3	4	5
Inspection Applications				
Search Applications				



**PART - XIV CRIMINAL COURTS OF MAGISTRATES**

1. Give the name(s) of the Presiding Officer who worked since the last inspection with duration.
2. Whether the quarterly inspection by the Presiding Officer has been made and submitted to the District Judge after compliance? Give details in Proforma-I.
3. Whether the staff is adequate or under manned and whether the distribution of work is even and proper? Give the names of the members of the staff, posts and duration.
4. What is the territorial jurisdiction and other jurisdiction being exercised by the Presiding Officer?
5. Whether the Presiding Officer exercises summary powers?
6. (a) What is the number of pendency of all types of cases on the first day of the month of the inspection and the corresponding day last year? Give details in Proforma-II and also give reasons for increase or decrease.  
  
(b) Give the number and date of institution of ten oldest cases of each type in the remarks column of Proforma-II and also give reasons for increase.  
  
(c) Give yearwise break-up of pending cases of each type in Proforma-II and comparative form for both the dates.  
  
(d) Give the total number of Special Act cases, e.g. D.I.R., M.V. Act, Excise Act, Arms Act, Gambling Act etc., in two columns more than 6 months old and more than a year old.
7. (a) How many contested cases have been decided by the Officers during the last one year?  
  
(b) Give the yearwise break-up of all the contested cases decided of all types.
8. What are the institutions, disposals and pendency of the year under inspection as well as for the previous year?
9. (a) What are the institutions, disposals and pendency of the cases for the one year period covered by the inspection? (Details shown in Proforma-II).

- (b) In order to tide over the problem of old cases, every Subordinate Court shall give history sheet of five oldest cases of each category (e.g. Sessions Cases, Appeals, Revisions, Suits, Miscellaneous Cases, Execution Cases, Police Cases, Complaints etc.) in following points and particular attention be given for taking firm steps :-

**HISTORY SHEET OF OLDEST CASES**

**IN THE COURT OF .....**  
**CASE NO. ....**

1. Date of institution :
2. Date of admission/registration :
3. Date of appearance of Defendants/Respondents/accused persons/opposite party :
4. Date of filing written statement/rejoinder/supply of police paper to accused and commitment :  
  
(state reason of delay, if any, mention if interlocutory matter intervened)
5. Date of framing issues/charge :
6. First Date of hearing :
7. Period of pendency with progress made before each presiding officer :

- (c) Statement of disposal by the Presiding Officers of the Judgeship during the period of inspection in the following proforma :-

**Statement of the disposal by the Presiding Officers of the Judgeship from ..... to .....**

Sl. No.	Name of Presiding Officer	Actual work done by P.O.	Cases disposed of		Total no. of cases disposed of	Witnesses examined		Total witnesses examined	Remarks
			Contested	Uncontested		Contested	Uncontested		
1	2	3	4	5	6	7	8	9	10
1.									
2.									

- (d) Consolidated statement of percentage of conviction and acquittal in Criminal Cases by the Magisterial Courts in the following proforma and also the details of the cases in which all the witnesses of the fact stand hostile. It should also be mentioned that what steps were taken including the examination of the hostile witnesses by the Presiding Officer and initiating action against hostile witnesses:-



- (h) Statement of cases relating to Legal Service Act during one year in the following proforma :-

**STATEMENT OF CASES RELATING TO LEGAL SERVICE ACT**

**W.E.F. .... TO .....**

Sl. No.	No. of cases instituted	No. of cases disposed of	No. of cases pending	Reason for pendency	Remarks
1	2	3	4	5	6

10. Are endorsement of admission and denial obtained from the accused or his counsel on the documents filed and relied upon by the prosecution? (Section 294 Cr.PC.)
11. (a) Are Surrender and Bail Applications disposed off the same day and orders communicated to the Superintendent of Jail immediately? Give details for one week (to be specified) in Proforma-IV.
- (b) If bail applications are not being disposed off on the same day? Give reasons, if any.
- (c) Reasons for non-disposal of pending bail applications before the Magistrates on the same day as per the directions of Hon'ble Apex Court vide Court's Letter No. 6835/2011/Admin. G-II Section dated 21.04.2011?
- (d) Are verification of status of sureties by advocates accepted? If so, upto what amount?
- (e) Whether the bail bonds are being accented the very day they are furnished? State three cases within the month of inspection when this was not done and why?
- (f) Whether release orders are being dispatched to the Jail authorities the same days? State three cases of the quarter in which this was not done and why?
- (g) Whether during the quarter under review bails were granted by the Magistrate in any case exclusively triable by the Court of Sessions? If so, particulars be given.
12. Are the F. I.Rs. received, initialled and dated by the Presiding Officer and entered in the register?
13. (a) Are the statements of the complaints being recorded the same day under section 200 Cr.PC.? (Submit statement in Proforma-IV A).

- (b) Are the statements of complainant under section 200 Cr.P.C. recorded by the Presiding Officer himself?

14. Examine the Fine Register and State : ---

- (a) Is register of fine correctly maintained and the amounts entered by the Presiding Officer in his own hand and initialled? [Rule 71, 79 and 82 G.R. (Criminal)].
- (b) Are receipts of fine immediately issued and signatures of the person, obtained on the counterfoil? [Rule 79 G.R. (Criminal)].
- (c) Is the realization of fine communicated to the Superintendent, Jail immediately? [Rule 77 G.R. (Criminal)].
- (d) Are the amounts of fine received sent to the Treasury immediately or to the Nazarat the same day? [Rule 76 G.R. (Criminal)].
- (e) What is the total amount of fine pending recovery on the date of inspection and what are 5 oldest items?
- (f) What steps have been taken for the recovery of the outstanding fine?
- (g) How much fine and how many items have been stayed from the appellate courts? Give a list.
- (h) How much amount is fit to be written off being irrecoverable? What efforts have been made for its recovery?
- (i) Is the Fly-leaf of check receipt book being completed and the fine receipt book sent to the Treasury for checking every month? [Rule 85 G.R. (Criminal)].
- (j) Whether the amount of fine has been verified from the Treasury, up-to-date?
- (k) Are refund vouchers prepared promptly? [Rule 81 G.R. (Criminal)].
- (l) Is proper certificate being appended at the end of each month after due verification of fine, to the pending items of fine?
- (m) Whether any amount of fine, has been written off during the year? If so, on valid reasons.
- (n) Whether any amount of fine is liable to be written off and is continued to be shown in the fine register? If yes, why?

15. (a) Is the Presiding Officers' diary properly maintained? Are the dates to which cases are adjourned? The purpose for which fixed, the work done on that day, entered in the diary? [Rule 5-8 G.R. (Criminal)].
- (b) Are the cases fixed for particular days in the diary of the Presiding Officer in such a manner as to facilitate hearing of all the cases fixed on that day and disposal of old cases?
- (c) Are cases taken strictly in accordance with priority rule and are also entered in the diary in that manner?
- (d) Does the Presiding Officer fix and does sufficient work on each day?
- (e) Are cases taken up day to day or unnecessarily adjourned?
- (f) Are the witnesses present on a particular day examined before adjournment?
- (g) How many cases are adjourned in a week on the personal ground of the counsel, for no time and on account of no objection by the opposite party?
- (h) Are judgments delivered promptly within 14 days from the close of arguments? Are arguments heard soon after the close of the evidence? (Give statement in Proforma-III for last two months before the inspection).
- (i) Whether the judgments are delivered on the date fixed or are being postponed for any valid reason?
- (j) Have adjournments been frequently granted? Are they granted on sufficient grounds and reasons for adjournments are noted in the order sheet?
- (k) How many witnesses are summoned by the court every day on average? How many of them are examined and discharged and how many are ordered to come again?
- (l) Whether cases had to be adjourned for non-receipt of process within time? State three cases in which necessary steps were taken by the Presiding Officer.
- (m) Whether cases had to be adjourned for non-attendance of accused? State three cases and the steps taken by the Presiding Officer to ensure attendance.

- (n) Whether cases had to be adjourned for non-attendance of prosecution witnesses? State three cases in which this delay took place, its frequency and the steps taken to ensure attendance.
- (o) Whether cases were adjourned for want of time or otherwise despite availability of the prosecution witnesses, without examining them? State three cases setting out the reasons for not examining such witnesses.
- (p) Whether cases were frequently adjourned on any other ground or grounds, if so, what are the justifications?

**NOTE :-**

For answers to the above questions a complete statement of work fixed and done datewise for full one week (Monday to Saturday) two weeks before the notice of inspection should be got prepared on Proforma-V. One more statement in Proforma-III be also got prepared for all contested cases of the month previous to the month in which notice of inspection is given.

- 16. (a) Whether the procedure prescribed under section 206 Cr.P.C. for disposal of petty offences is scrupulously being followed or not?
- (b) Whether the registers of petty offences have been properly maintained in Form no. 9 and 45 or not?
- (c) How many petty offence cases are pending for want of attendance of accused? Whether the process has been issued in time or not?
- 17. Is proper use being made of the provisions of sections 203, 239 and 258 of Cr.P.C.? How many cases under these provisions disposed off during the last one year preceding the inspection?
- 18. How many cases have been compounded during the last one year?
- 19. (a) In how many cases benefit of sections 3 and 4 of the Probation of Offenders Act has been given during the year under inspection?
- (b) Whether the benefit of sections 3 and 4 of the Probation of Offenders Act has been given to the accused in any case relating to economic offence, accident cases and serious offence cases, where probation is not admissible?

20. Out of the contested cases, how many cases ended in acquittal and how many in conviction and their percentage during the last one year?
21. Whether the Magistrate has summary powers? If so, in how many cases the powers have been exercised?
22. In how many cases accused have been discharged at the stage of charge?
23. Whether the Magistrate has been effectively disposing off the applications concerning disposal of case property under Chapter XXXIV Cr.P.C. and how many applications are pending undisposed off and reasons thereof?
24. Has register of requisition of records in Form No.-5 as amended been maintained? [Rule 130 G.R. (Criminal)].
25. Whether free copies are issued to the accused in cases of convictions immediately? If not, is rule 146 G.R. (Criminal) complied with?
26. In how many cases compensation and costs have been awarded during the last one year and what amounts?
27. (a) How many cases are stayed under orders of the appellate court or the High Court? (Give details in a Proforma Statement-VI). Whether any enquiries were made and when was the last reminder sent?  
  
(b) Whether the skeleton files are prepared and maintained where original files have been requisitioned by the superior Courts and enquiries are regularly been made therein?
28. Whether the number of Inspection and Search applications is satisfactory? Give the comparative figures in Proforma-VII.
29. Whether monthly, quarterly, annual statements have been submitted in time? If not, how much delay? Give a detailed list of those statements submitted late in Proforma-VIII.
30. Examination of Criminal files (2) oldest of each category as given below : -
  - (I) Police challani cases :
    - (a) Inquiry cases
    - (b) Warrant trials
    - (c) Summon trials
    - (d) Summary trials



(II) Complaint cases :

- (a) Inquiry cases
- (b) Warrant trials
- (c) Summon trials
- (d) Summary trials

**NOTE :**

These files have to be checked especially on the point of compliance of orders passed by the Court, on the point of issue of summons, notices and warrants to the accused and witnesses, execution of personal bonds, existence of bail with reference to Rules 22, 23, 26, 27, 29 and 61 of General Rules (Criminal).

**31. PERIODICAL RETURNS :**

- (a) Whether a list of periodical returns, yearly, six monthly, quarterly and monthly and so on is maintained in the Court and is the same upto-date?

**32. When examining records as in 30, the following points would also be noted :**

- (a) Whether remands are being properly given?
- (b) With whom the remand papers are kept?
- (c) Whether the files are properly maintained and all the papers are indexed according to Chapter IV of G.R. (Criminal)?
- (d) Whether appropriate and correct charges are framed?
- (f) Whether appropriate sentences are passed?

**33. (a) In how many applications under section 156 (3) Cr.P.C., the investigation has been ordered and how many of them have been treated as complaint during the year?**

- (b) Whether the applications under section 156 (3) Cr.P.C. have been disposed off by proper and speaking orders?

**34. Whether the orders under section 203 or 204 Cr.P.C. are properly passed after conducting proper enquiry under sections 200 and 202 Cr.P.C. in complaint cases without any delay? Examine some cases.**

**35. (a) Whether the amount of bail is fixed by the Magistrates properly and not in arbitrary manner?**

- (b) Whether the verification of sureties is made in appropriate cases only?

- (c) Whether the verification of sureties from Revenue Authorities and Police is obtained without any delay? Examine some cases.
36. (a) Whether final reports are disposed off after giving notice to the complainant/first informant?
- (b) How many final reports are pending undisposed off?
- (c) Whether final reports are disposed off by reasoned orders without any delay?
37. Number of cases relating to Cyber Laws, hacking of I.T. etc. and their progress?
38. (a) Get a statement of consignment of records during the last three months prepared in Proforma-IX and comment about the arrears.
- (b) Whether consignment of records is made on due date and any unconsigned record is pending?
39. Whether the unconsigned records of cases involving petty offences have been weeded out and a proper register for weeding of such records is duly maintained?

**PROFORMA – I**

Name of Officer	Quarter ending	Date of Inspection	Date of submission to District Judge
1	2	3	4

**PROFORMA – II**

SI. No.	Nature of Cases	Pending	Pending	Number and dates of 10 old cases
(I)	Police Challani Cases: (a) Inquiry cases (b) Warrant trials (c) Summon trials (d) Summary trials (e) Petty cases			
(II)	(a) Inquiry cases (b) Warrant trials (c) Summon trials (d) Summary trials (e) Petty trials			

**PROFORMA – III**

No. of cases	Name of parties	Nature of offence of section and Act	Date or dates on which evidence was recorded	Date of hearing of arguments	Date fixed for judgments	Actual date of delivery of judgment	Remarks
1	2	3	4	5	6	7	8

**PROFORMA – IV**

DETAILS OF DISPOSAL OF BAIL APPLICATION DURING .....				
Particulars of cases	Section of offences	Date of application	Date of disposal	Date of communication to the Superintendent of Jail
1	2	3	4	5

**PROFORMA-IV A**

SI. No.	Case No.	Name of Parties	Date of Complaint	Date of recording statement U/s 200 Cr.PC.
1	2	3	4	5

**PROFORMA – V**

No. of cases	Name of parties	Section and Act or nature of offence	Purpose	Work done	Remarks
1	2	3	4	5	6

**PROFORMA – VI**

Details of the case	Court under whose order the case is lying stayed	Date of stay order and particulars of the case in which the stay order was passed	Whether any enquiry was made? If so, give date of enquiries made during the last one year
1	2	3	4

**PROFORMA – VII**

Inspection/ Search Applications	From.....to.....		From.....to.....	
	No.	Amount	No.	Amount
1	2	3	4	5
Inspection Applications				
Search Applications				

**PROFORMA – VIII**

Details of Statement	Due date	Date on which submitted
1	2	3

**PROFORMA – IX**

Month	No. of files decided	No. of files consigned	No. of Badar files received	No. of files returned after removing defects	No. of files not returned after removing defects with reasons
			Date of receipt	Date of return	
1	2	3	4	5	6

**PART - XV**

**SESSIONS COURTS**

1. Give the list of Courts doing sessions work and the names of their Presiding Officers.
2. What is the number of Sessions Trial pending in each Sessions Court.
3. Give the consolidated statement of the Sessions Trials pending in all the courts in a chronological order. Give the list of oldest 10 Sessions Trials pending in each Court of the Sessions Division.
4. How many Sessions Trials have been stayed under orders of the High Court and the Supreme Court? Give details.
5. Whether the position of stay order is being inquired into after 3 months and a note thereof is being made in the order sheet of the Sessions Trial?
6. Give a list of Sessions Trial in which one or more accused persons are in jail and give reasons as to why Sessions Trials are being held up.
7. (a) Are the witnesses being examined in Session Trials continuously till the examination of a witness is completed?  
(b) Is the hearing of Sessions Trials done on day to day basis?
8. Are the judgments and order in Session Trials are being pronounced promptly and within the prescribed time?
9. How many Criminal Revisions and Criminal Appeals are pending in each Session Court? Give the complete statement of the pending revisions and appeals yearwise.
10. Are the registers relating to Sessions Trials, Criminal Revisions and Criminal Appeals are being maintained properly and up-to-date?
11. (a) Are the records of Sessions Trials requisitioned by the High Court or the Supreme Court being transmitted without reminders?  
(b) Whether the skeleton files are maintained in the cases to hear records of requisitioned by the High Court and Supreme Court and regular enquiries are being made in such matters?

12. (a) In order to tide over the problem of old cases, every Subordinate Court shall give history sheet of five oldest cases of each category (e.g. Sessions Cases, Appeals, Revisions, Suits, Miscellaneous Cases, Execution Cases, Police Cases, Complaints etc.) in following points and particular attention be given for taking firm steps :-

**HISTORY SHEET OF OLDEST CASES**

**IN THE COURT OF .....**  
**CASE NO. ....**

- 1. Date of institution :
- 2. Date of admission/registration :
- 3. Date of appearance of Defendants/Respondents/accused persons/opposite party :
- 4. Date of filing written statement/rejoinder/supply of police paper to accused and commitment :
- (state reason of delay, if any, mention if interlocutory matter intervened)
- 5. Date of framing issues/charge :
- 6. First Date of hearing :
- 7. Period of pendency with progress made before each presiding officer :

- (b) Statement of disposal by the Presiding Officers of the Judgeship during the period of inspection in the following proforma :-

**Statement of the disposal by the Presiding Officers of the Judgeship from ..... to .....**

Sl. No.	Name of Presiding Officer	Actual work done by P. O.	Cases disposed of		Total no. of cases disposed of	Witnesses examined		Total witnesses examined	Remarks
			Contested	Uncontested		Contested	Uncontested		
1	2	3	4	5	6	7	8	9	10
1.									
2.									

- (c) Consolidated statement of percentage of conviction and acquittal in Sessions Cases by the Sessions Judge of Sessions Division in the following proforma and also the details of the cases in which all the witnesses of the fact stand hostile. It should also be mentioned that what steps were taken including the examination of the hostile witnesses by the Presiding Officer and proceedings initiated against hostile witnesses :-



13. Whether certified copy of judgment and orders are being provided promptly to the accused persons who are convicted and sentenced? If not, give reasons.
14. Whether the Sessions Judge or Additional Sessions Judge have ever inspected the jail? If so, give details.
15. Whether Amicus Curie for the accused are being appointed on the basis of the approved list of the Amicus Curie?
16. Give the list of Sessions Trials decided by the Judge in the year of inspection in which the prosecution witnesses become hostile.
17. Give the list of Sessions Trials decided by the Judge in the year of inspection in which the prosecution witnesses were not declared hostile and the entire evidence of prosecution and defence were recorded showing how many sessions trials resulted in acquittal and how many resulted in conviction?
18. Whether any action has been taken against the complainant and witnesses who have turned hostile?
19. Whether the Presiding Judge is conducting the Sessions Trials efficiently and properly?
20. In how many appeals of revisions the case has been remanded back to the trial court? Whether the remand is proper?
21. Whether the bail and admission work is done by the Sessions Judge himself or is frequently transferred to some Additional District & Sessions Judge?



**PART - XVI**

**FAMILY COURTS**

1. Give the name of the Presiding Officer who worked since last inspection with duration.
2. Whether the staff is adequate or under manned and whether the distribution of work is even and proper? Give the names of the staff, post and duration?
3. (a) What is the number of pending files of all types of cases on the first day of the month of inspection and the corresponding day last year? Give details in the Proforma and also give reasons for increase or decrease?

Sr. No.	Nature of cases	Pending on	Pending on	No. and date of institution of 10 oldest cases
1	2	3	4	5

- (b) Give number and date of institution of 10 oldest cases in the column No. 5 of the Proforma in forgoing question and give reasons for its pendency.
- (c) Give year wise break up of pending files of each types of cases shown in the Proforma in forgoing question in comparative form for both the dates.
4. (a) How many contested cases have been decided by the Officer during the last one year?
- (b) Give yearwise break up of all the contested cases decided of all types.
- (c) How many cases were decided ex-parte or in default or otherwise and what is the percentage of these cases to the contested cases?
5. (a) In order to tide over the problem of old cases, every Subordinate Court shall give history sheet of five oldest cases of each category (e.g. Sessions Cases, Appeals, Revisions, Suits, Miscellaneous Cases, Execution Cases, Police Cases, Complaints etc.) in following points and particular attention be given for taking firm steps :-

**HISTORY SHEET OF OLDEST CASES**

**IN THE COURT OF .....**

**CASE NO. ....**

1. Date of institution :
2. Date of admission/registration :
3. Date of appearance of Defendants/Respondents/  
accused persons/opposite party :
4. Date of filing written statement/rejoinder/  
supply of police paper to accused and commitment :

(state reason of delay, if any,  
mention if interlocutory matter intervened)

5. Date of framing issues/charge :
6. First Date of hearing :
7. Period of pendency with progress made  
before each presiding officer :

(b) Statement of disposal by the Presiding Officers of the Judgeship during the period of inspection in the following proforma :-

**Statement of the disposal by the Presiding Officers of the Judgeship from ..... to .....**

Sl. No.	Name of Presiding Officer	Actual work done by P.O.	Cases disposed of				Total no. of cases disposed of	Witnesses examined		Total witnesses examined	Remarks
			Civil		Criminal			Contested	Uncontested		
			Contested	Uncontested	Contested	Uncontested					
1	2	3	4		5		6	7	8	9	10
1.											
2.											

(c) Statement of the disposal of the cases Month-wise and Act-wise in following proforma:-

**STATEMENT OF THE DISPOSAL OF THE COURT OF .....**

Month & Year	Actual work done by the P.O.	Cases disposed of				Total no. of cases disposed of	Witnesses examined		Total
		Civil		Criminal			Contested	Uncontested	
		Contested	Uncontested	Contested	Uncontested				
1	2	3	4	5	6	7	8	9	10
January .....									
February .....									
<b>TOTAL</b>									

(d) Reason of pendency of cases since more than five years in following proforma:-

**REASON OF PENDENCY OF CASE OF THE COURT**  
**OF.....**

Sl. No.	Case No.	Reason of pendency	Step taken by the present Presiding Officer with date of last order
1	2	3	4

- (e) Statement of cases relating to Legal Service Act during one year in the following proforma :-

**STATEMENT OF CASES RELATING TO LEGAL SERVICE ACT**  
**W.E.F. .... TO .....**

Sl. No.	No. of cases instituted	No. of cases disposed of	No. of cases pending	Reason for pendency	Remarks
1	2	3	4	5	6

6. Is the weekly cause list being pasted on each Saturday and all the cases for a particular day and adjourned cases within the same are entered therein proper columns?
7. Are the diaries of Presiding Officer and the reader properly maintained? Are the dates to which the cases are adjourned, the purpose for which fixed and the work done on that day entered in the diary? [Rules 40 and 18A of G.R. (Civil)]
8. Whether the judicial records are properly maintained by the officials and all the papers have been indexed according to the provisions of Chapter V of G.R. (Civil)?
9. Whether all the registers have been prepared on proper forms and all the cases have been properly entered therein?
10. How many suits, execution cases and miscellaneous cases have been stayed by the appellate Courts or the records have been sent to them? Give a list in the prescribed Proforma-I. Have any inquiries been made during the last three months?
11. Whether the service of notice/summons in the cases is effective and no delay is caused due to service of notice? Examine some cases.
12. Are the decided records consigned on the dates fixed? If not, what is the arrear?

13. Whether the number of inspections and search applications is satisfactory? Give comparative statement in prescribed Proforma-II.
14. The status of requisitions from other courts and copying departments and duration of their pendency, if any.
15. Are the judgments/orders passed within 15 days of hearing arguments and the judgments are not adjourned or refixed for arguments in a routine manner?
16. (a) Are the cases for recovery of maintenance allowance are regularly taken up and effective steps are taken to realise the amount of maintenance due?  
  
(b) Whether the amount of maintenance, realised or deposited in court is actually paid to the claimant and proper receipts are kept on record? Examine some cases.  
  
(c) Whether interim maintenance is awarded in maintenance cases and is being paid to the petitioners by the opposite parties?
17. Are decrees in civil family dispute cases being prepared diligently and proper notice is given to the party's counsel without any delay?
18. Whether the Presiding Officer is making genuine efforts himself or through counsellor for reconciliation before beginning of the trial?

**PROFORMA – I**

Details of the case	Court under whose order the case is lying stayed	Date of stay order and particulars of the case in which the stay order was passed	Whether any enquiry was made? If so, give date of enquiries made during the last one year
1	2	3	4

**PROFORMA – II**

Inspection/ Search Applications	From.....to.....		From.....to.....	
	No.	Amount	No.	Amount
1	2	3	4	5
Inspection Applications				
Search Applications				

**PART -XVII**

**JUVENILE JUSTICE BOARD**

1. Give the names of the Presiding Officer and the members of the board, who worked since the last inspection with duration.
2. Whether the staff is adequate or under manned and whether the distribution of work is even and proper? Give the names of the members of the staff, posts and duration.
3. (a) What is the number of pending files of all types of cases on the first day of the month of the inspection and the corresponding day last year? Give in the Proforma and also give reasons for increase or decrease.

Sr. No.	Nature of cases	Pending on	Pending on	No. and date of institution of 10 oldest cases
1	2	3	4	5

- (b) Give the number and date of institution of ten oldest cases of each type in the remarks column of Proforma and also give reasons for increase.
- (c) Give yearwise break-up of pending files of each type of cases shown in Proforma and comparative form for both the dates.
4. (a) How many contested cases have been decided by the Officers during the last one year?
- (b) Give the yearwise break-up of all the contested cases decided of all types.
5. What are the institutions, disposals and pendency of the year under inspection as well as for the previous year?
6. (a) In order to tide over the problem of old cases, every Subordinate Court shall give history sheet of five oldest cases of each category (e.g. Sessions Cases, Appeals, Revisions, Suits, Miscellaneous Cases, Execution Cases, Police Cases, Complaints etc.) in following points and particular attention be given for taking firm steps :-

**HISTORY SHEET OF OLDEST CASES**

IN THE COURT OF .....  
CASE NO. ....

- 1.Date of institution :
- 2.Date of admission/registration :

3.Date of appearance of Defendants/Respondents/  
accused persons/opposite party :

4.Date of filing written statement/rejoinder/  
supply of police paper to accused and commitment :

(state reason of delay, if any,  
mention if interlocutory matter intervened)

5.Date of framing issues/charge :

6.First Date of hearing :

7.Period of pendency with progress made  
before each presiding officer :

(b) Statement of disposal by the Presiding Officers of the  
Judgeship during the period of inspection in the following  
proforma :-

**Statement of the disposal by the Presiding Officers of the  
Judgeship from ..... to .....**

Sl. No.	Name of Presiding Officer	Actual work done by P.O.	Cases disposed of				Total no. of cases disposed of	Witnesses examined		Total witnesses examined	Remarks
			Civil		Criminal			Contested	Uncontested		
			Contested	Uncontested	Contested	Uncontested					
1	2	3	4		5		6	7	8	9	10
1.											
2.											

(c) Consolidated statement of percentage of conviction and  
acquittal in the cases by the Magistrate in the following  
proforma and also the details of the cases in which all the  
witnesses of the fact stand hostile. It should also be  
mentioned that what steps were taken including the  
examination of the hostile witnesses by the Magistrate and  
initiating action against hostile witnesses:-

**CONSOLIDATED STATEMENT OF PERCENTAGTE OF  
CONVICTION & ACQUITTAL IN THE CASES BY THE  
MAGISTRATE W.E.F. ....**

Sl. No.	Details of the court	Total no. of judgment delivered	Total no. of conviction	Percentage of conviction	Total no. of acquittal	Percentage of acquittal	Remarks
1	2	3	4	5	6	7	8

(d) Statement of the disposal of the cases month-wise in  
following proforma:-

**STATEMENT OF THE DISPOSAL OF THE COURT  
OF .....**

Month & Year	Actual work done by the P.O.	Cases disposed of		Total no. of cases disposed of	Witnesses examined		Total
		Contested	Uncontested		Contested	Uncontested	
1	2	3	4	5	6	7	8
January .....							
February .....							
TOTAL							

- (e) Reason of pendency of cases since more than five years in following proforma:-

**REASON OF PENDENCY OF CASE OF THE COURT OF.....**

Sl. No.	Case No.	Reason of pendency	Step taken by the present Presiding Officer with date of last order
1	2	3	4

- (f) Consolidated statement of under trial Juveniles of the Judgeship in the following proforma :-

**CONSOLIDATED STATEMENT OF UNDER TRIAL JUVENILES ON  
..... OF THE JUDGESHIP OF.....**

Sl. No.	Details of the Court	Total No. of prisoners on .....	Total No. of U.T. prisoners on .....	Under Trial in Jail								Remarks
				One month	Two months	Three months	Sixth months	One year	Over one year	Over two years	Over three years	
1	2	3	4	5	6	7	8	9	10	11	12	13

7. Are endorsement of admission and denial obtained from the accused or his counsel on the documents filed and relied upon by the prosecution? (section 294 Cr. P. C.)
8. (a) Are Surrender and Bail Applications disposed off the same day and orders communicated to the Superintendent of Jail/Superintendent, Juvenile Observation Home immediately? Give details for one week (to be specified) in following Proforma :-

**PROFORMA**

DETAILS OF DISPOSAL OF BAIL APPLICATION DURING .....				
Particulars of cases	Section of offences	Date of application	Date of disposal	Date of communication to the Superintendent of Jail
1	2	3	4	5

- (b) Are the Bail Applications not being disposed off on the same day? Give reasons, if any.
- (c) Reasons for non-disposal of pending Bail Applications same day as per directions of Hon'ble Apex Court vide Court's Letter No. 6835/2011/Admin. G-II Section dated 21.04.2011.
- (d) Are verification of status of sureties by advocates accepted? If so, upto what amount?

- (e) Whether the bail bonds are being accepted the very day they are furnished? State three cases within the month of inspection when this was not done and why?
  - (f) Whether release orders are being dispatched to the Jail/Juvenile Observation Home the same day. State three cases of the quarter in which this was not done and why?
  - (g) Whether the bond of guardian/parents of the juvenile is being properly filed for his release on bail?
9. (a) Whether the amount of bail is fixed by the Board properly and not in arbitrary manner?
- (b) Whether the verification of sureties is made in appropriate cases only?
- (c) Whether the verification of sureties from Revenue Authorities and Police is obtained without any delay? Examine some cases.
10. Whether the procedure prescribed for declaration as juvenile under section 7A of the Juvenile Justice (Care and Protection of Children) Act, 2000 is being observed by the Board? If not, give reasons.
11. Whether the sitting of the Juvenile Board is made in the premises of Juvenile Board?
12. Whether the condition of juvenile home and facilities of living, education and sports are properly provided to the inmates therein?
13. Examine the Fine Register and State : ---
- (a) Is register of fine correctly maintained and the amounts entered by the Presiding Officer in his own hand and initialled? Rule 71, 79 and 82 C.R. (Criminal).
  - (b) Are receipts of fine immediately issued and signatures of the person, obtained on the counterfoil? [Rule 79 G.R. (Criminal)].
  - (c) Is the realization of fine communicated to the Superintendent, Jail immediately? [Rule 77 G.R. (Criminal)].
  - (d) Are the amounts of fine received sent to the Treasury immediately or to the Nazarat the same day? [Rule 76 G.R. (Criminal)].



- (e) What is the total amount of fine pending recovery on the date of inspection and what are 5 oldest items?
  - (f) What steps have been taken for the recovery of the outstanding fine?
  - (g) How much fine and how many items have been stayed from the appellate courts? Give a list.
  - (h) How much amount is fit to be written off being irrecoverable? What efforts have been made for its recovery?
  - (i) Is the Fly-leaf of check receipt book being completed and the fine receipt book sent to the Treasury for checking every month? [Rule 85 G.R. (Criminal)].
  - (j) Whether the amount of fine has been verified from the Treasury, up-to-date?
  - (k) Are refund vouchers prepared promptly? [Rule 81 G.R. (Criminal)].
  - (l) Is proper certificate being appended at the end of each month after due verification of fine, to the pending items of fine?
  - (m) Whether any amount of fine has been written off during the year? If so, on valid reasons or not?
  - (n) Whether any amount of fine is liable to be written off and is continued to be shown in the fine register? If yes, why?
14. (a) Is the Presiding Officer's diary properly maintained? Are the dates to which cases are adjourned? The purpose for which fixed, the work done on that day, entered in the diary? [Rule 5-8 G.R. (Criminal)].
- (b) Are the cases fixed for particular days in the diary of the Presiding Officer in such a manner as to facilitate hearing of all the cases fixed on that day and disposal of old cases?
  - (c) Are cases taken strictly in accordance with priority rule and are also entered in the diary in that manner?
  - (d) Does the Presiding Officer fix and does sufficient work on each day?
  - (e) Are the witnesses present on a particular day examined before adjournment?

- (f) How many cases are adjourned in a week on the personal ground of the counsel, for no time and on account of no objection by the opposite party?
- (g) Are judgments delivered promptly within 14 days from the close of arguments? Are arguments heard soon after the close of the evidence? Give statement in following Proforma for last two months before the inspection :-

**PROFORMA**

No. of cases	Name of parties	Nature of offence of section and Act	Date or dates on which evidence was recorded	Date of hearing of arguments	Date fixed for judgments	Actual date of delivery of judgment	Remarks
1	2	3	4	5	6	7	8

- (h) Whether the judgments are delivered on the date fixed or are being postponed on any valid reasons?
- (i) Have adjournments been frequently granted? Are they granted on sufficient grounds and reasons for adjournments are noted in the order sheet?
- (j) How many witnesses are summoned by the court every day on average? How many of them are examined and discharged and how many are ordered to come again?
- (k) Whether cases had to be adjourned for non-receipt of process within time? State three cases in which necessary steps were taken by the Presiding Officer.
- (l) Whether cases had to be adjourned for non-attendance of accused? State three cases and the steps taken by the Presiding Officer to ensure attendance.
- (m) Whether cases had to be adjourned for non-attendance of prosecution witnesses? State three cases in which this delay took place, its frequency and the steps taken to ensure attendance.
- (n) Whether cases were adjourned for want of time or otherwise despite availability of the prosecution witnesses, without examining them? State three cases setting out the reasons for not examining such witnesses.
- (o) Whether cases were frequently adjourned on any other ground or grounds, if so, what are the justifications?

**NOTE :-**

For answers to the above questions a complete statement of work fixed and done datewise for full one week (Monday to Saturday) two weeks before the notice of inspection should be got prepared on following Proforma-A. One more statement in following Proforma-B be also got prepared for all contested cases of the month previous to the month in which notice of inspection is given.

**PROFORMA – A**

No. of cases	Name of parties	Section and Act or nature of offence	Purpose	Work done	Remarks
1	2	3	4	5	6

**PROFORMA - B**

No. of cases	Name of parties	Nature of offence of section and Act	Date or dates on which evidence was recorded	Date of hearing of arguments	Date fixed for judgments	Actual date of delivery of judgment	Remarks
1	2	3	4	5	6	7	8

15. In how many cases accused have been discharged at the stage of charge?
16. Whether free copies are issued to the accused in cases of convictions immediately? If not, is rule 146 G.R. (Criminal) complied with?
17. (a) How many cases are stayed under orders of the appellate Court or the High Court? (Give details in a Proforma given below). Whether any enquiries were made and when was the last reminder sent?

**PROFORMA**

Details of the case	Court under whose order the case is lying stayed	Date of stay order and particulars of the case in which the stay order was passed	Whether any enquiry was made? If so, give date of enquiries made during the last one year
1	2	3	4

- (b) Whether the skeleton files are prepared and maintained where original files have been requisitioned by the superior Courts and enquiries are regularly been made therein?

18. Whether the juveniles in conflict with law have been kept in Observation Homes/Special Homes with classification of their age in accordance with the provisions of section 8 and 9 of the Juvenile Justice (Care and Protection of Children) Act, 2000?
19. Whether any juvenile has been detained in the Observation Home without giving information to the parents/guardians in accordance with the provisions of section 13 of the Juvenile Justice (Care and Protection of Children) Act, 2000?
20. Examine the file of cases relating to Inquiry in various cases, pending being oldest in the Board.

**Note :-**

These files have to be checked especially on the point of compliance of orders passed by the Court, on the point of issue of summons, notices and warrants to the accused and witnesses, execution of personal bonds, existence of bail with reference to Rules 22, 23, 26, 27, 29 and 61 of General Rules (Criminal).

21. (a) Whether the Board has concluded the inquiry under section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2000 within the stipulated time? If not, give reasons.
- (b) Whether the C.J.M./C.M.M. has reviewed the pendency of cases in the Board at every six months in accordance with the provisions of section 14 (2) of the Juvenile Justice (Care and Protection of Children) Act, 2000?
22. In how many cases, the Board has obtained social investigation reports on juveniles in conflict with law before passing any orders under section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2000?
23. In how many cases, the juveniles have not been found fit to be sent/detained in Special Homes due to seriousness of offence committed by him or due to their conduct and behaviour being not in their interest or in the interest of other juveniles to send a Special Home and what orders have been passed for them [section 16 of the Juvenile Justice (Care and Protection of Children) Act, 2000]?
24. When examining records **as in 18**, the following points would also be noted :
  - (a) Whether remands are being properly given?
  - (b) With whom the remand papers are kept?
  - (c) Whether the files are properly maintained and all the papers are indexed according to Chapter IV of G.R. (Criminal)?
  - (d) Whether appropriate and correct charges are framed?
  - (f) Whether appropriate sentences are passed?

25. (a) Get a statement of consignment of records during the last three months prepared in following Proforma and comment about the arrears.

**PROFORMA**

Month	No. of files decided	No. of files consigned	No. of Badar files received	No. of files returned after removing defects	No. of files not returned after removing defects with reasons
			Date of receipt	Date of return	
1	2	3	4	5	6

- (b) Whether consignment of records is made on due date and any unconsigned record is pending?

**PART - XVIII**

**MORNING/EVENING COURT**

1. Whether the Morning/Evening Court(s) is/are functioning in the Judgeship of ..... and how many?

2. The Name of Presiding Officer(s) and Jurisdiction in the following proforma :-

Sl. No.	Name of Presiding Officer(s)	Designation	Date of posting
1	2	3	4

3. What is the working hours fixed for court(s)?

**Answers of the following points be also obtained :-**

1. Give the name of the present Presiding Officer and date of his posting in the court.
2. Give the name of the predecessor Presiding Officer and period of his posting.
3. Whether the staff is adequate or under manned and whether the distribution of work is even and proper? Give the names of the members of the staff with posts and duration.
4. What is the jurisdiction being exercised by the Presiding Officer?
5. Is the weekly cause list being posted on each Saturday and are all the cases for a particular day and adjourned cases within the same are entered therein in proper columns? [Rule 16 G.R. (Civil) Part-I].
6. Give the details of the Quarterly Inspection of the court made during the inspection year in the following proforma :-

**PROFORMA-I**

Name of Officer	Quarter ending	Date of inspection	Date of submission to District Judge
1	2	3	4

7. (a) What is the number of pending files of all types of cases on the first day of the month of the inspection and the corresponding day last year? Give details in Proforma-II and also give reasons for increase or decrease.

- (b) Give the number and date of institution of ten oldest cases of each type in the remarks column of proforma-II.
- (c) Give an year-wise break-up of pendency of the cases Act-wise as per the jurisdiction prescribed in the Morning/Evening Rules, 2011 shown in Proforma-II in comparative form for both the dates?

**PROFORMA-II**

Sl. No.	Name of case	Pending on	Pending on	No. and dates of ten oldest cases	Remarks
1	2	3	4	5	6

8. (a) How many contested cases have been decided by the Officer during the last one year?
- (b) Give the year-wise break-up of all the contested cases decided of all types.
- (c) How many cases were decided ex-parte or in default and what is the percentage of these cases to the contested cases?
- (d) How many cases were decided otherwise?
9. (a) Is the Presiding Officer's diary and the Reader's diary properly maintained? Are the dates to which cases are adjourned, the purpose for which fixed and the work done on that day, entered in the diary? [Rules 40 and 18-A of G.R. (Civil)].
- (b) Are all the cases entered in the diary of Presiding Officer and the Reader have been carried forward for the next date fixed?
- (c) Are the cases fixed for particular days in the diary of the Presiding Officer in such a manner as to facilitate hearing of all the cases fixed on that day and disposal of old cases?
- (d) Are cases taken strictly in accordance with priority rule and are also entered in the diary in that manner?
- (e) Does the Presiding Officer fix and does sufficient work on each day?
- (f) Are cases taken up day to day or are unnecessarily adjourned?
- (g) Are the witnesses present on a particular day examined before adjournment?

- (h) Are arguments heard promptly and judgments pronounced within prescribed time?
- (i) Are cases adjourned for sufficient reasons by passing detailed order?
- (j) Are decree prepared in time and in accordance with rule?
- (k) How many cases are adjourned in a week on the personal ground of the counsel, for no time and on account of no objection by the opposite party?

**NOTE:** For answers to the above questions, a complete statement of work fixed and done datewise for full one week (Monday to Saturday) of any 02 weeks, as directed by the Administrative Judge should be got prepared in Proforma-III and a statement in Proforma-IV in respect of all the contested decided cases in the month preceding the month in which instruction of inspection has been given.

**PROFORMA – III**

No. of cases	Name of Parties	Nature of cases	Purpose	Work done	Remarks
1	2	3	4	5	6

**PROFORMA - IV**

No. of cases	Name of Parties	Nature of suit	Date or dates on which evidence was recorded	Date of hearing of arguments	Date fixed for judgment	Actual date of delivery of judgment	Date of preparation of decree	Date of signing of decree by P.O.	Date of certification of decree and judgment to the L.C.	Remarks
1	2	3	4	5	6	7	8	9	10	11

- (l) Whether decrees are being prepared?
10. Are the parties and witnesses being examined in suits before framing issues? (Give a statement in proforma V).

**PROFORMA – V**

No. of cases	Name of Parties	Section and Act or nature of offence	Purpose	Work done	Remarks
1	2	3	4	5	6



- 10 A. How many Suits referred/references, made under Section 89 and sub-rule (1A) of Order X of C.P.C.? The details be provided in the following Proforma-VI :

**PROFORMA -VI**

Case Number	Name of Parties	Stage of the case	Date of Order passed in the case	Present Status of the case	Remarks
1	2	3	4	5	6

11. Whether the judicial records are properly maintained by the officials and all the papers have been indexed according to the provisions?
12. Whether all the registers have been prepared on proper forms and all the cases have been properly entered therein?
13. Are the decided records consigned on the dates fixed? If not, what is the arrear?
14. Whether the number of inspections and search applications is satisfactory? Give comparative statement in following Proforma :-

Inspection/ Search Applications	From.....to.....		From.....to.....	
	No.	Amount	No.	Amount
1	2	3	4	5
Inspection Applications				
Search Applications				

15. How many requisitions from other court including Hon'ble High Court and the Copying Department are pending on the date of inspection and for how many days?
16. (a) Whether the conduct of Presiding Officer is judicious and he is intelligent in handling the cases?
- (b) Whether he exercises efficient supervision on the day to day working of his officials?
- (c) Whether the disposal as per norms prescribed in the Morning/Evening Court Rules, 2011 is being given by the Presiding Officer of the court?
17. Whether the honorarium is paid to the Judicial Officer and members of the staff working in the court as per Morning/Evening Court Rules, 2011?
18. Whether the facility of Generator for supply of electricity has been provided to the concerned courts?

**PART- XIX**

**GENERAL**

1. Give the year-wise comparative statement of the institution, disposal and pendency of all kinds of Civil and Criminal cases for last two years prior to the year of inspection.
2. Give the statement of out-turn of Judicial Officers showing the number of each type of cases disposed off after contest year-wise during the period of the last six months prior to the month of inspection.
3. Give the statement of out- turn of each Judicial Officer according to prescribed standards showing separately the Civil and Criminal work disposed off during previous quarters of the months of inspection. With work details e.g. without trial, with contest/full trial, Ex-parte Admission of Claims/Compromised by arbitration.
4. Give statement of cases in which either copy of judgment of order or records of the case has not been received after the decision of the High Court or whether mere decree has been received without record up to the last month prior to the date of inspection.
5. Give the statement of cases of each kind stayed by the orders of the High Court or Supreme Court and date of stay order.
6. Give the statement of cases wherein orders of remand or the remitting of issues or taking of additional evidence have been passed by the Appellate Court in the sessions division during the last quarter of the year of inspection.
7. Give the statement of total number of revisions Civil and Criminal filed and rejected summarily during the year of inspection.
8. Give the list of transfer applications received in Civil and Criminal cases against the Judicial Officers and nature of orders passed therein during the year of inspection.
9. Give the statement of cases in Civil and Criminal cases, Revisions and Appeals in which judgments were reserved by each court prior to the date of inspection.
- 10 - A. Statement of injunction application filed, injunction granted ex-parte with dates, injunction refused and confirmed after hearing both parties during the year under inspection generally how much time is taken in disposal of objections filed against ex-parte injunctions orders including date of disposal.

- B. Statement of total amount of fine imposed and realised during the year under inspection with full details e.g. outstanding at the beginning of the year, imposed, realised, remitted, stayed by High Court or any superior Court, levy warrants issued for the realisable amount.
  - C. How many S.T./Crl. Appeals/Civil Appeals/Civil Revisions and Criminal Revisions were decided jointly by one judgment during the year under inspection?
  - D. How many warrants of proclamation and attachment u/s 82/83 Cr.P.C. were issued simultaneously during the year under inspection?
  - E. How many second/third bail applications were entertained in the Court with result during the year under inspection?
11. Whether all the Judicial Officers are punctual in attending their Courts and sitting in proper court dress and for full working hours?
12. Whether the amount of fine received/recovered and the fine register is maintained properly in accordance with the provisions of Chapter IX of G.R. (Criminal)?
13. Whether directions contained in Amrawati's case and Lal Kamendra's case are followed in deciding the bail applications?
14. (a) How many Motor Accident Claim cases are pending? (Yearwise pendency and disposal)
- (b) Whether compensation awarded in Motor Accident Claim cases is based on bills, vouchers and proper disability certificates in injury cases and proper evidence of income and dependency in death cases?
15. Whether the Computer Systems have been installed in every court of the Judgeship and whether the concerned officials are working on the Computer Systems?



**LEGAL AID**

7. In how many cases legal aid was provided during the financial year and how many person were benefited?
8. How many visits to Jail have been made during financial year. Give details with dates.
9. How many visits to women protection home were made during the financial year. Give details with dates.
10. Whether District Legal Aid Clinics are functioning effectively? How many legal aid clinics were organized during the financial year and how many people were benefited from it?
11. How many Legal Literacy Camps were organized during the financial year and how many people were benefited from it?
12. How many visits to juvenile home have been made during financial year. Give details with dates.

**OTHER MODE OF A.D.R.**

13. Give detail of cases disposed of with the help of Arbitration, Conciliation & Judicial Settlement.

**PART- XXI      COMPUTERIZATION PROGRAMME AND  
VIDEO CONFERENCING**

1. Whether the Computer Centre has been established in District and Outlying Court?
2. Whether the entire Judgeship has been connected with Server Room via LAN (Local Area Network) is properly functioning?
3. Whether WAN (Wide Area Network) connectivity is established and functioning properly?
4. Whether the quarterly inspection of Computer Centre is being made by the Nodal Officer (Computers) and the compliance reports have been submitted timely? Give Details?

Quarter	Date of inspection	Date of submission of Compliance Report
1 <sup>st</sup> Quarter		
2 <sup>nd</sup> Quarter		
3 <sup>rd</sup> Quarter		
4 <sup>th</sup> Quarter		

5. Whether the annual inspection of Computer Section has been made and whether the Compliance Report has been submitted in time?
6. Whether any Officer (Nodal Officer) has been deputed at the Judgeship to look after the e-Court Project and monitor the development in the Computerization Programme in the District and outlying courts, if any?
7. Whether the Computer Hardware has been provided in each and every court and offices of District Judgeship and are in working condition? Give Details?

Sr. No.	Court Name	Numbers of Hardware provided	Types of Hardware	Hardware Working or not?

8. Whether the earthing is properly installed in the judgeship for the smooth functioning of computer hardware?
9. Whether the feeding of cases (Core and Periphery) is being done in the judgeship? Give Details?

Court Name	Core and Periphery wise	Status of Fedeed case

10. Whether preparation of cause lists and other work relating to court are efficiently being done in Computers by the officials concerned?
11. Whether the work in Administrative Office, Accounts Section and other departments of the Judgeship is done on Computers by the officials?
12. Whether Computer Laptops and Broadband facility has been provided to all the Judicial Officers, posted in the District Judgeship? If not, give the details of Judicial Officers who have not been provided Laptops and Broadband facility. Give Details?

Sr. No.	Name of Judicial Officers	Laptop Provided or not?	Broadband Facility Provided or not? (Give reasons)

13. Whether the Generator provided under e-court project is functioning smoothly?
14. Whether the e-mails received in the Judgeship are checked daily by the official concerned and how many times in a day?
15. Whether Video Conferencing facility is available in the Judgeship and is connected with the Jails of the Districts?
16. Whether remands of accused, who are in jail, are extended through Video Conferencing? Give Details?

Sr. No.	Number of accused	Remand extended through VC or not?

17. Whether statements of witnesses are being recorded through Video Conferencing?
18. Whether the Judicial Officer and the Officials have received basic training in Computer ? Give Details?

Sr. No.	Number of Judicial Officer trained in Computer	Number of Officials trained in Computer

19. Whether the training in new software Ubuntu Version 12.0.4 has been given to the Judicial Officers ? Give Details ?

Sr. No.	Number of Judicial Officer trained in Ubuntu ver 12.0.4	Number of Judicial Officer not training in Ubuntu ver 12.0.4 ? Give reasons?

- 20. Whether all Judicial Officers of Judgeship are maintaining their e-mail IDs ?
- 21. Whether the services, which have to be initiated through CIS, are being initiated in the judgeship?
- 22. Whether Services are being initiated through computers for the Litigants? Give Details?

Sr. No.	Types of Services	Service Level (Parameter)	Difficulties in Service Initiation (If any) Please mention

- 23. Whether the monthly, quarterly, half yearly and annual reports of institution, pendency and disposal of cases are being generated through computers?
- 24. Whether the infrastructure (tables, chairs etc.) for computerization is proper or lacking?
- 25. Whether there are any obsolete/damaged/unworking Computer hardware are lying undisposed off in the judgeship? Give Details?

Sr. No.	Types of Hardware items	No. of the hardware items which are obsolete/damaged/ unworking

- 26. Any other information to be provided?



**PART- XXII**      **PENDENCY OF THE CASES AT A GLANCE**  
**OF THE JUDGESHIP OF .....**

**LIST OF ILLUSTRATIVE CASES**

<b>Sl. No.</b>	<b>Types of cases</b>	<b>Number of pending cases</b>
1	Session Trial	
2	Warrant Trial	
3	Arms Act	
4	Family related cases	
5	Cases 138 N.I. Act	
6	Summon Trial	
7	L.D.A.	
8	Traffic Challan	
9	A.T.O. Challan	
10	Cases under Municipal Corporation Act	
11	Forest Act	
12	Excise Act	
13	Labour Act	
14	Cases under Entertainment Act	
15	Factory Act	
16	Drug Act	
17	Wild Life Act	
18	Insecticide Act	
19	PN.D.T. Act	
20	I.T. Act	
21	Prevention of Cruelty to Animal Act	
22	Fire Brigade Act	
23	Mining Act	
24	Others Act	
25	Cases under N.D.P.S. Act	
26	Final Report	
<b>27</b>	<b>Total Number of Cases</b>	

**Note :** The type of cases mentioned above is only illustrative, the category of the cases be added or deleted according to the type of the cases pending in District Judgeship.

**PART - XXIII**

**SHORTCOMINGS AND SUGGESTIONS/ RECOMMENDATIONS**

**Shortcomings -**

**Suggestions/Recommendations/Proposals**

**Signature** : .....

**Name** : .....

**Inspecting Judge** : .....

**Place -**

**Date -**



Office of the Inspector General  
U.S. Department of Justice



# **Audit of the United States Marshals Service Annual Financial Statements Fiscal Year 2014**

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**KPMG LLP**  
Suite 12000  
1801 K Street, NW  
Washington, DC 20006

## **Independent Auditors' Report on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards***

Inspector General  
U.S. Department of Justice

Director  
United States Marshals Service  
U.S. Department of Justice

We have audited, in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*, the consolidated financial statements of the U.S. Department of Justice United States Marshals Service (USMS), which comprise the consolidated balance sheets as of September 30, 2014 and 2013, and the related consolidated statements of net cost and changes in net position, and the combined statements of budgetary resources for the years then ended and the related notes to the consolidated financial statements, and have issued our report thereon dated November 4, 2014. Also, as discussed in Note 17 to the consolidated financial statements, the USMS has elected to change its capitalization thresholds for real property, and personal property, effective October 1, 2013. Our opinion is not modified with respect to this matter.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the USMS's consolidated financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 14-02. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests of compliance disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 14-02.

We also performed tests of its compliance with certain provisions referred to in Section 803(a) of the *Federal Financial Management Improvement Act of 1996* (FFMIA). Providing an opinion on compliance with FFMIA was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests of FFMIA disclosed no instances in which the USMS's financial management systems did not substantially comply with the (1) federal financial management system requirements, (2) applicable federal accounting standards, and (3) application of the United States Government Standard General Ledger at the transaction level.



**U.S. Department of Justice**  
**United States Marshals Service**  
**Combined Statements of Budgetary Resources**  
**For the Fiscal Years Ended September 30, 2014 and 2013**

<b>Dollars in Thousands</b>	<b>2014</b>	<b>2013</b>
<b>Budgetary Resources:</b>		
Unobligated Balance, Brought Forward, October 1	\$ 156,392	\$ 101,959
Recoveries of Prior Year Unpaid Obligations	56,907	42,537
Other Changes in Unobligated Balance	(383)	46,940
Unobligated Balance from Prior Year Budget Authority, Net	212,916	191,436
Appropriations (discretionary and mandatory)	3,138,888	3,045,350
Spending Authority from Offsetting Collections (discretionary and mandatory)	99,771	86,010
<b>Total Budgetary Resources</b>	<b>\$ 3,451,575</b>	<b>\$ 3,322,796</b>
<b>Status of Budgetary Resources:</b>		
Obligations Incurred (Note 14)	\$ 3,153,418	\$ 3,166,404
Unobligated Balance, End of Year:		
Apportioned	253,814	126,660
Unapportioned	44,343	29,732
Total Unobligated Balance - End of Year	298,157	156,392
<b>Total Status of Budgetary Resources:</b>	<b>\$ 3,451,575</b>	<b>\$ 3,322,796</b>
<b>Change in Obligated Balance:</b>		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, October 1	\$ 458,721	\$ 537,767
Obligations Incurred	3,153,418	3,166,404
Outlays, Gross (-)	(3,088,085)	(3,202,913)
Recoveries of Prior Year Unpaid Obligations (-)	(56,907)	(42,537)
Unpaid Obligations, End of Year	467,147	458,721
Uncollected Payments:		
Uncollected Payments from Federal Sources, Brought Forward, October 1 (-)	(19,669)	(160,071)
Change in Uncollected Customer Payments from Federal Sources	1,301	140,402
Uncollected Customer Payments from Federal Sources, End of Year	(18,368)	(19,669)
Memorandum (non-add) Entries:		
Obligated balance, Start of Year	\$ 439,052	\$ 377,696
Obligated balance, End of Year	\$ 448,779	\$ 439,052
<b>Budgetary Authority and Outlays, Net:</b>		
Budgetary Authority, Gross (discretionary and mandatory)	3,238,659	3,131,360
Less: Actual Offsetting Collections (discretionary and mandatory)	101,072	226,412
Change in Uncollected Customer Payments from Federal Sources (discretionary and mandatory)	1,301	140,402
Budget Authority, Net (discretionary and mandatory)	<b>\$ 3,138,888</b>	<b>\$ 3,045,350</b>
Outlays, Gross (discretionary and mandatory)	\$ 3,088,085	\$ 3,202,913
Less: Actual Offsetting Collections (discretionary and mandatory)	101,072	226,412
Agency Outlays, Net (discretionary and mandatory)	<b>\$ 2,987,013</b>	<b>\$ 2,976,501</b>

**United States Marshals Service**

The accompanying notes are an integral part of these financial statements.



**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

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**Note 1. Summary of Significant Accounting Policies (continued)**

- b. Employees hired January 1, 2013 through December 31, 2013 are covered by the Federal Employees Retirement System-Revised Annuity Employees (FERS-RAE) System. The USMS contributes 9.6 percent of the gross pay for regular employees and 24.0 percent of the gross pay for law enforcement officers.
- c. Employees hired after January 1, 2014 are covered by the Federal Employees Retirement System – Further Revised Annuity Employees (FERS-FRAE) System. For employees covered by FERS-FRAE, USMS contributes 9.6 percent of the gross pay for regular employees and 24.0 percent for law enforcement officers

For those employees covered by the FERS, FERS-RAE and FERS-FRAE, a TSP account is automatically established, and the USMS is required to contribute an additional 1.0 percent of gross pay to this account and match employee contributions up to an additional 4.0 percent of gross pay. No Government contributions are made to the TSP accounts established by the CSRS employees. The USMS does not report CSRS or FERS assets, accumulated plan benefits, or unfunded liabilities, if any, which may be applicable to its employees. Such reporting is the responsibility of the Office of Personnel Management (OPM). Statement of Federal Financial Accounting Standards (SFFAS) No. 5, *Accounting for Liabilities of the Federal Government*, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. Refer to Note 13, Imputed Financing from Costs Absorbed by Others, for additional details.

**P. Federal Employee Compensation Benefits**

The FECA provides income and medical cost protection to cover Federal civilian employees injured on the job, employees who have incurred a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. The total FECA liability consists of an actuarial and an accrued portion as discussed below.

**Actuarial Liability:** The U.S. Department of Labor (DOL) calculates the liability of the Federal Government for future compensation benefits, which includes the expected liability for death, disability, medical, and other approved costs. The liability is determined using the paid-losses extrapolation method calculated over the next 37-year period. This method utilizes historical benefit payment patterns related to a specific incurred period to predict the ultimate payments related to that period. The projected annual benefit payments are discounted to present value. The resulting Federal Government liability is then distributed by agency. The Department's portion of this includes the estimated future cost of death benefits, workers' compensation, medical, and miscellaneous cost for approved compensation cases for its employees. The Department's liability is further allocated to the component reporting entities based on actual payments made to the FECA Special Benefits





**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

**Note 5. Inventory and Related Property**

As of September 30, 2014 and 2013	2014	2013
Inventory:		
Operating Materials and Supplies Held for Current Use	\$ 3,182	\$ 2,860

**Note 6. General Property, Plant and Equipment, Net**

Based upon early implementation of DOJ Financial Management Policy Memorandum (FMPM) 13-12, *Capitalization of General Property, Plant, and Equipment and Internal Use Software*, the USMS revised its method for reporting capitalization of real property; personal property; and internal use software which caused a decrease in the PP&E balance by \$69,710, as described in Note 17.

As of September 30, 2014				
	Acquisition Cost	Accumulated Depreciation	Net Book Value	Useful Life
Construction in Progress	\$ 20,408	\$ -	\$ 20,408	N/A
Aircraft	50,218	(19,194)	31,024	7-25 years
Boats	123	(37)	86	5-15 years
Vehicles	13,547	(11,228)	2,319	5-10 years
Equipment	12,536	(5,689)	6,847	5-15 years
Leasehold Improvements	401,604	(248,031)	153,573	12 years
Total	\$ 498,436	\$ (284,179)	\$ 214,257	

During the fiscal year ended September 30, 2014, the USMS purchased \$25,127 in capitalized property from Federal Sources and \$9,346 from the Public.

As of September 30, 2013				
	Acquisition Cost	Accumulated Depreciation	Net Book Value	Useful Life
Construction in Progress	\$ 42,229	\$ -	\$ 42,229	N/A
Aircraft	39,609	(14,760)	24,849	7-25 years
Boats	-	-	-	5-15 years
Vehicles	35,282	(24,003)	11,279	5-10 years
Equipment	51,876	(33,101)	18,775	5-15 years
Leasehold Improvements	481,165	(296,809)	184,356	12 years
Total	\$ 650,161	\$ (368,673)	\$ 281,488	

During the fiscal year ended September 30, 2013, the USMS purchased \$21,680 in capitalized property from Federal Sources and \$35,102 from the Public.

The USMS has no restrictions on the use or convertibility of general PP&E.

***United States Marshals Service***

These notes are an integral part of the financial statements.



**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

**Note 13. Imputed Financing from Costs Absorbed by Others (continued)**

For the Fiscal Years Ended September 30, 2014 and 2013	2014	2013
Imputed Inter-Departmental Financing		
Treasury Judgment Fund	\$ 1,478	\$ 596
Health Insurance	24,121	25,504
Life Insurance	106	109
Pension	22,545	15,465
Total Imputed Inter-Departmental	\$ 48,250	\$ 41,674

**Note 14. Information Related to the Statement of Budgetary Resources**

**Apportionment Categories of Obligations Incurred:**

	Direct Obligations	Reimbursable Obligations	Total Obligations Incurred
For the Fiscal Years Ended September 30, 2014			
Obligations Apportioned Under			
Category A	\$ 3,068,736	\$ 84,672	\$ 3,153,408
Category B	10	-	10
Total	\$ 3,068,746	\$ 84,672	\$ 3,153,418
For the Fiscal Years Ended September 30, 2013			
Obligations Apportioned Under			
Category A	\$ 3,055,276	\$ 110,955	\$ 3,166,231
Category B	173	-	173
Total	\$ 3,055,449	\$ 110,955	\$ 3,166,404

The apportionment categories are determined in accordance with the guidance provided in Part 4 “Instructions on Budget Execution” of OMB Circular A-11, *Preparation, Submission and Execution of the Budget*. Category A represents resources apportioned for calendar quarters. Category B represents resources apportioned for other time periods; for activities, projects, and objectives or for combination thereof.

**Status of Undelivered Orders:**

Undelivered Orders (UDO) represent the amount of goods and/or services ordered, which have not been actually or constructively received. This amount includes any orders which may have been prepaid or advanced but for which delivery or performance has not yet occurred.

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# U.S. DEPARTMENT OF JUSTICE

## UNITED STATES MARSHALS SERVICE

OTHER INFORMATION  
(UNAUDITED)



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**U.S. Department of Justice  
United States Marshals Service  
Combined Schedules of Spending  
For the Fiscal Years Ended September 30, 2014 and 2013**

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<b>Dollars in Thousands</b>	<b>2014</b>	<b>2013</b>
-----------------------------	-------------	-------------

**What Money is Available to Spend?**

Total Resources	\$ 3,451,575	\$ 3,322,796
Less: Amount Available but Not Agreed to be Spent	253,814	126,660
Less: Amount Not Available to be Spent	44,343	29,732
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,153,418</b>	<b>\$ 3,166,404</b>

**How was the Money Spent?**

Personnel Compensation and Benefits		
1100 Personnel Compensation	\$ 549,357	\$ 499,395
1200 Personnel Benefits	235,838	238,596
Other Program Related Expenses		
2100 Travel & Transportation of Persons	19,944	14,242
2200 Transportation of Things	824	2,226
2300 Rent, Communications, and Utilities	240,685	245,027
2400 Printing and Reproduction	343	314
2500 Other Contractual Services	1,975,655	2,024,376
2600 Supplies and Materials	35,796	38,028
3100 Equipment	91,531	37,387
3200 Land and Structures	3,081	65,546
4200 Insurance Claims and Indemnities	364	1,267
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,153,418</b>	<b>\$ 3,166,404</b>

**Who did the Money go to?**

For Profit	\$ 1,700,786	\$ 1,427,877
Government	788,355	997,299
Employees	549,357	737,991
Other	114,920	3,237
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,153,418</b>	<b>\$ 3,166,404</b>

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*The Department of Justice Office of the Inspector General (DOJ OIG) is a statutorily created independent entity whose mission is to detect and deter waste, fraud, abuse, and misconduct in the Department of Justice, and to promote economy and efficiency in the Department's operations. Information may be reported to the DOJ OIG's hotline at [www.justice.gov/oig/hotline](http://www.justice.gov/oig/hotline) or (800) 869-4499.*



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**U.S. Department of Justice  
United States Marshals Service  
Management's Discussion and Analysis (Unaudited)**

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Data is accessible to all districts and updated as new information is collected. As such, there may be a lag in the reporting of data, which will result in revised performance data.

## **ANALYSIS OF SYSTEMS, CONTROLS, AND LEGAL COMPLIANCE**

### **USMS Major Systems**

**ARGIS:** The USMS property management system. It is an Oracle database that has been in service since 2000, and has approximately 378 users.

**Justice Unified Telecommunications Network (JUTNet):** The backbone infrastructure that supports all the systems that operate within the USMS.

**Unified Financial Management System (UFMS):** The USMS migrated the Standardized Tracking, Accounting and Reporting System (STARS) functions to the DOJ UFMS in FY 2013. UFMS now serves as the primary financial management system of the USMS with integrated funds control, financial management, and procurement functions in a single system.

**JPATS Management Information System (JMIS):** Draws information from multiple JPATS-specific programs and databases in order to produce financial and managerial information.

**Justice Detainee Information System 10 (JDIS 10):** JDIS 10 combines all the information from JDIS and Warrant Information Network (WIN) and contains the new module "Suspicious Activities, Assaults, Incidents, and Deaths" module (SAID). JDIS 10 has been designed to automate and integrate the information captured during the prisoner booking process and subsequent USMS custody details, with warrant and investigative information utilized to track fugitives and enables the use of new technology for photo and fingerprint capture equipment, while continuing to support existing legacy equipment.

### **The Federal Managers' Financial Integrity Act of 1982**

The Federal Managers' Financial Integrity Act of 1982 (FMFIA) provides the statutory basis for management's responsibility for and assessment of internal accounting and administrative controls. Such controls include program, operational, and administrative areas, as well as accounting and financial management. The FMFIA requires Federal agencies to establish controls that reasonably ensure obligations and costs comply with applicable law; funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures are properly recorded and accounted for to maintain accountability over the assets. FMFIA also requires agencies to annually assess and report on the internal controls that protect the integrity of Federal programs (FMFIA § 2) and whether financial management systems conform to related requirements (FMFIA § 4).

Guidance for implementing FMFIA is provided through OMB Circular A-123, *Management's Responsibility for Internal Controls*. In addition to requiring agencies to provide an assurance statement on the effectiveness of programmatic internal controls and conformance with financial systems requirements, the Circular requires agencies to provide an assurance statement on the effectiveness of internal control over financial reporting. The Department requires components to provide both of the assurance statements in order to have the information necessary to prepare the agency assurance statements.



**U.S. Department of Justice  
United States Marshals Service  
Management's Discussion and Analysis (Unaudited)**

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**FMFIA Assurance Statement**

The USMS management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of FMFIA. In accordance with OMB Circular A-123, the USMS conducted its annual assessment of the effectiveness of internal controls to support effective and efficient programmatic operations, reliable financial reporting, and compliance with applicable laws and regulations (FMFIA § 2). The USMS also assessed whether its financial management systems conform to financial system requirements (FMFIA § 4). Based on the results of this assessment, the USMS can provide reasonable assurance that its internal control over financial reporting was operating effectively as of June 30, 2014, and the assessment identified no material weaknesses or reportable conditions in the design or operations of the controls.

**Internal Controls Program**

USMS management continues to support and commit resources to Departmental component internal control programs. The objective of the USMS's internal control program is to provide reasonable assurance that operations are effective, efficient, and comply with applicable laws and regulations; financial reporting is reliable; and assets are safeguarded against waste, loss, and unauthorized use. USMS management identifies issues of concern through a network of oversight councils and internal review teams. These include the USMS Office of Inspections, the Department's OMB Circular A-123 Senior Assessment Team, and the Justice Management Division's Internal Review and Evaluations Office, and Quality Control and Compliance Group. USMS management also considers reports issued by the Office of the Inspector General in its evaluation of internal control.

The USMS commitment to management excellence, accountability, and compliance with applicable laws and regulations is evidenced by efforts to establish reasonable controls and make sound determinations on corrective actions.

**Federal Financial Management Improvement Act of 1996 (FFMIA)**

The Federal Financial Management Improvement Act of 1996 (FFMIA) was designed to improve Federal financial and program managers' accountability, provide better information for decision-making, and improve the efficiency and effectiveness of Federal programs. FFMIA requires agencies to have financial management systems that substantially comply with Federal financial management systems requirements, applicable Federal accounting standards, and application of the U.S. Standard General Ledger (USSGL) at the transaction level.

**FFMIA Compliance Determination**

The USMS's financial management systems complied substantially with Federal financial management systems requirements, applicable Federal accounting standards, and application of the U.S. Government Standard General Ledger at the transaction level as of September 30, 2014.



**U.S. Department of Justice  
United States Marshals Service  
Management's Discussion and Analysis (Unaudited)**

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## **POSSIBLE FUTURE EFFECTS OF EXISTING EVENTS AND CONDITIONS**

USMS financial statements document existing, currently known events, conditions and trends. Through the agency financial transactions, one can learn how the USMS has used its appropriated resources to meet its strategic goals.

Current trends, including an increased focus on illegal immigration and the operation of UFMS may alter the need and management of resources by the USMS in order to fulfill its law enforcement mission in FY 2014 and beyond.

### **Illegal Immigration**

Illegal immigration has become a key issue across the country as many states have recently passed laws that will increase the demand on law enforcement to apprehend and adjudicate persons living in the country illegally. As a key agency involved in Southwest Border law enforcement activities, the USMS will play a pivotal role in the evolving legal environment.

### **Financial Management**

The USMS transitioned to UFMS during the first quarter of FY 2013. UFMS enables program managers to streamline and standardize financial business processes that provide timely financial, budget, and acquisitions data. UFMS provides real-time tracking of the status of funds, along with the seamless integration of spending against budgets and plan. End-to-end visibility through the entries request-to-pay lifecycle is significantly improved, as is monitoring and oversight of projects by tracking costs incurred against reimbursable agreements. Productivity improvements are realized with automated routing and approvals. During FY 2014, the USMS migrated to UFMS version 2.2, which provided additional system functionality and increased financial management capabilities.

## **IMPROPER PAYMENTS INFORMATION ACT OF 2002, AS AMENDED**

In accordance with OMB Circular A-123, Appendix C, *Requirements for Effective Estimation and Remediation of Improper Payments*, and the Departmental guidance for implementing the Improper Payments Elimination and Recovery Act (IPERA), the Department implemented a top-down approach to assess the risk of significant improper payments across all five of the Department's mission-aligned programs, and to identify and recapture improper payments through a payment recapture audit program. The approach promotes consistency across the Department and enhances internal control related to preventing, detecting, and recovering improper payments. Because of the OMB requirement to assess risk and report payment recapture audit activities by agency programs, the results of the Department's risk assessment and recapture activities are reported at the Department-level only.

In accordance with the Departmental approach for implementing IPERA, the USMS assessed its activities for susceptibility to significant improper payments. The USMS also conducted its payment recapture audit program in accordance with the Departmental approach. The USMS provided the results of both the risk assessment and payment recapture audit activities to the Department for the Department-level reporting in the FY 2014 Agency Financial Report.



**U.S. Department of Justice  
United States Marshals Service  
Management's Discussion and Analysis (Unaudited)**

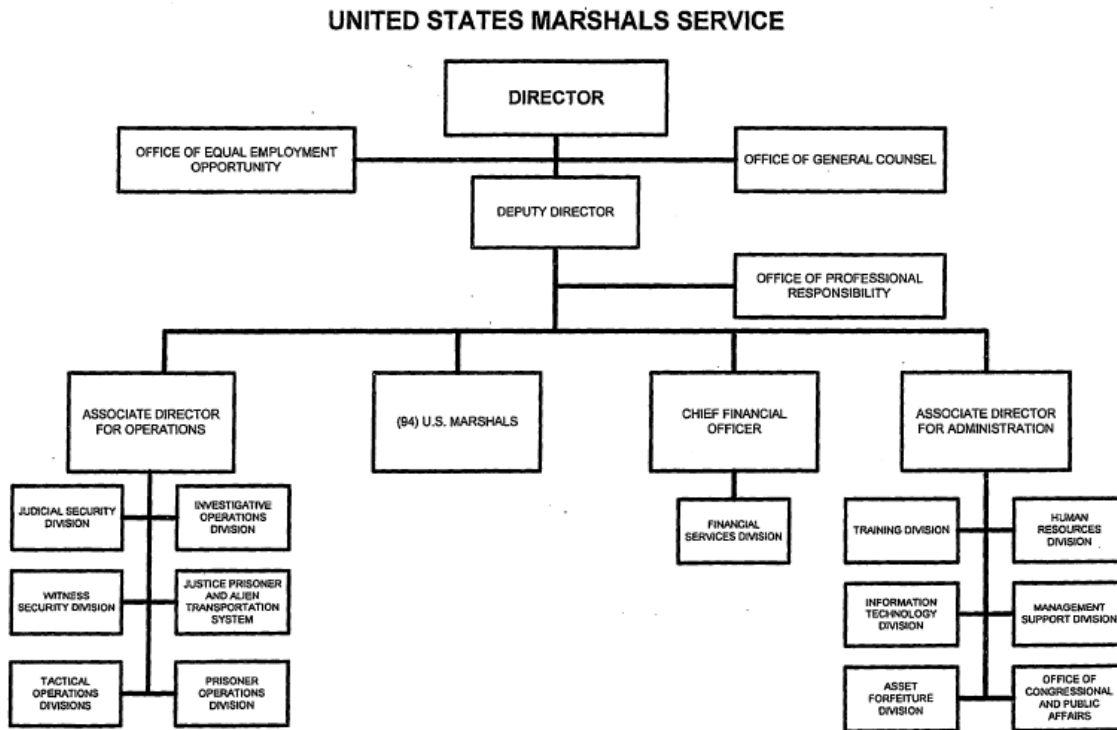
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**LIMITATIONS OF THE FINANCIAL STATEMENTS**

- USMS financial statements have been prepared to report the financial position and results of agency operations, pursuant to the requirements of 31 U.S.C. 3515(b).
- While the statements have been prepared from the books and records of the USMS in accordance with U.S. generally accepted accounting principles for Federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.
- The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.



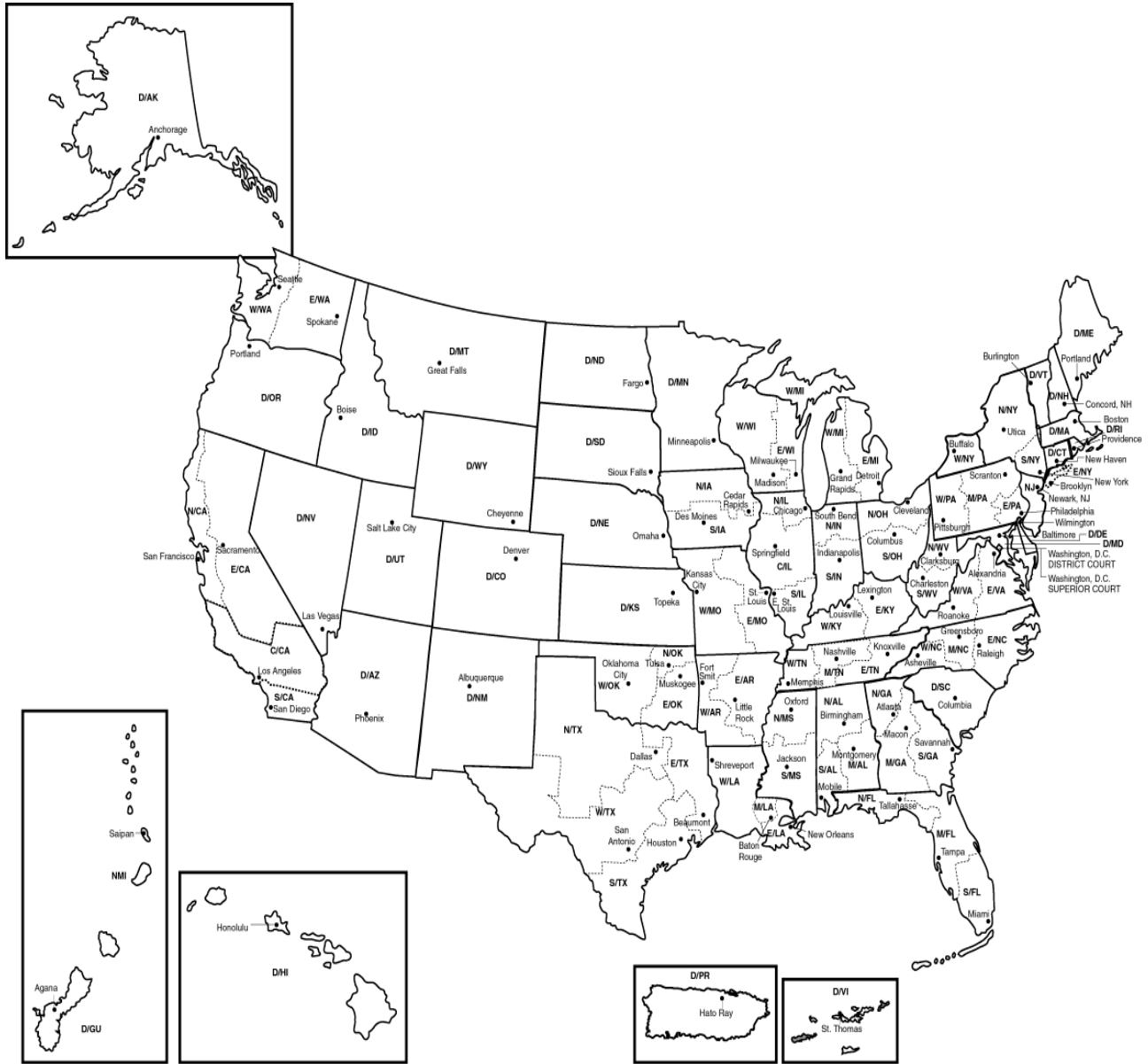
U.S. Department of Justice  
United States Marshals Service  
Management's Discussion and Analysis (Unaudited) – Attachment 1





**U.S. Department of Justice  
United States Marshals Service  
Management's Discussion and Analysis (Unaudited) – Attachment 2**

**THE 94 USMS DISTRICT OFFICES**



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# **U.S. DEPARTMENT OF JUSTICE**

## **UNITED STATES MARSHALS SERVICE**

### INDEPENDENT AUDITORS' REPORTS



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**KPMG LLP**  
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Washington, DC 20006

## **Independent Auditors' Report on the Financial Statements**

Inspector General  
U.S. Department of Justice

Director  
United States Marshals Service  
U.S. Department of Justice

We have audited the accompanying consolidated financial statements of the U.S. Department of Justice United States Marshals Service (USMS), which comprise the consolidated balance sheets as of September 30, 2014 and 2013, and the related consolidated statements of net cost and changes in net position, and the combined statements of budgetary resources for the years then ended, and the related notes to the consolidated financial statements.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditors' Responsibility***

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 14-02, require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.



Independent Auditors' Report on the Financial Statements  
Page 2

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

***Opinion on the Financial Statements***

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Department of Justice United States Marshals Service as of September 30, 2014 and 2013, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

***Emphasis of Matters***

As discussed in Note 17 to the consolidated financial statements, the USMS has elected to change its capitalization thresholds for real property, and personal property, effective October 1, 2013. Our opinion is not modified with respect to this matter.

***Other Matters***

***Required Supplementary Information***

U.S. generally accepted accounting principles require that the information in the Management's Discussion and Analysis, and Required Supplementary Information sections be presented to supplement the basic consolidated financial statements. Such information, although not a part of the basic consolidated financial statements, is required by the Federal Accounting Standards Advisory Board who considers it to be an essential part of financial reporting for placing the basic consolidated financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic consolidated financial statements, and other knowledge we obtained during our audits of the basic consolidated financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

***Other Information***

Our audits were conducted for the purpose of forming an opinion on the basic consolidated financial statements as a whole. The Combined Schedule of Spending is presented for purposes of additional analysis and is not a required part of the basic consolidated financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the basic consolidated financial statements, and accordingly, we do not express an opinion or provide any assurance on it.



***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated November 4, 2014 on our consideration of the USMS's internal control over financial reporting and our report dated November 4, 2014 on our tests of its compliance with certain provisions of laws, regulations, and contracts, and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the USMS's internal control over financial reporting and compliance.

KPMG LLP

November 4, 2014

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**KPMG LLP**  
Suite 12000  
1801 K Street, NW  
Washington, DC 20006

## **Independent Auditors' Report on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards***

Inspector General  
U.S. Department of Justice

Director  
United States Marshals Service  
U.S. Department of Justice

We have audited, in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*, the consolidated financial statements of the U.S. Department of Justice United States Marshals Service (USMS), which comprise the consolidated balance sheets as of September 30, 2014 and 2013, and the related consolidated statements of net cost and changes in net position, and the combined statements of budgetary resources for the years then ended, and the related notes to the consolidated financial statements, and have issued our report thereon dated November 4, 2014. Also, as discussed in Note 17 to the consolidated financial statements, the USMS has elected to change its capitalization thresholds for real property, and personal property, effective October 1, 2013. Our opinion is not modified with respect to this matter.

### **Internal Control over Financial Reporting**

In planning and performing our audit of the consolidated financial statements as of and for the year ended September 30, 2014, we considered the USMS's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the consolidated financial statements, but not for the purpose of expressing an opinion on the effectiveness of the USMS's internal control. Accordingly, we do not express an opinion on the effectiveness of the USMS's internal control. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses



Independent Auditors' Report on Internal Control over Financial Reporting  
Based on an Audit of Financial Statements Performed in  
Accordance with *Government Auditing Standards*  
Page 2

or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Exhibit I presents the status of prior years' findings and recommendations.

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and the results of that testing, and not to provide an opinion on the effectiveness of the USMS's internal control. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the USMS's internal control. Accordingly, this communication is not suitable for any other purpose.

KPMG LLP

November 4, 2014



**EXHIBIT I**

**STATUS OF PRIOR YEAR'S FINDINGS AND RECOMMENDATIONS**

As required by *Government Auditing Standards* issued by the Comptroller General of the United States, we have evaluated whether the USMS has taken appropriate corrective action to address findings and recommendations from the prior year's financial statements audit that could have a material effect on the financial statements or other financial data significant to the audit objectives. The following table provides the Office of the Inspector General report number where the deficiencies were reported, our recommendation for improvement, and the status of the previously identified significant deficiencies and recommendations as of the end of fiscal year 2014.

Report	Significant Deficiency	Recommendation	Status
Annual Financial Statements Fiscal Year 2013 Report No. 14-11	Recording and Reporting the Status of Budgetary Resources and Related Expenses Control Needs Improvement	<b>Recommendation No. 1:</b> Utilize resources at Headquarters to provide assistance to the District Offices that have a history of untimely completion of the quarterly open obligation certification.	Completed <sup>1</sup>
		<b>Recommendation No. 2:</b> Reinforce policies and procedures and provide training to individuals responsible for recording obligations, non-payroll expenses, accruals, and deobligations within the financial management systems.	Completed <sup>1</sup>
		<b>Recommendation No. 3:</b> Develop and implement policies around MIC (Itemized Receipt) accrual transactions that require management approval and require that Headquarters review significant obligations in order to prevent the District Offices and Program Offices from incorrectly recording the obligation, expense, and necessary accruals.	Completed
		<b>Recommendation No. 4:</b> Continue efforts to improve the reporting of funding balances at District Offices and Program Offices to enable District Offices and other decision makers to record expense, undelivered order, and accrual transactions in a timely and accurate manner.	Completed

Independent Auditors' Report on Internal Control over Financial Reporting  
 Based on an Audit of Financial Statements Performed in  
 Accordance with *Government Auditing Standards*  
 Page 4

Report	Significant Deficiency	Recommendation	Status
	Financial Reporting Controls Need Improvement	<b>Recommendation No. 5:</b> Develop and implement formal policies and procedures at an appropriate level of precision to prevent or detect and correct significant errors in financial reporting.	Completed
		<b>Recommendation No. 6:</b> Restrict users from being able to both prepare and review journal entries created in the general ledger.	Completed

<sup>1</sup>Sufficient progress has been made in addressing this finding and the related recommendation such that the remaining risk of misstatement no longer merits the attention by those charged with governance. Therefore, the condition has been downgraded to a deficiency in internal control.



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## **Independent Auditors' Report on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards***

Inspector General  
U.S. Department of Justice

Director  
United States Marshals Service  
U.S. Department of Justice

We have audited, in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*, the consolidated financial statements of the U.S. Department of Justice United States Marshals Service (USMS), which comprise the consolidated balance sheets as of September 30, 2014 and 2013, and the related consolidated statements of net cost and changes in net position, and the combined statements of budgetary resources for the years then ended and the related notes to the consolidated financial statements, and have issued our report thereon dated November 4, 2014. Also, as discussed in Note 17 to the consolidated financial statements, the USMS has elected to change its capitalization thresholds for real property, and personal property, effective October 1, 2013. Our opinion is not modified with respect to this matter.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the USMS's consolidated financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 14-02. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests of compliance disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 14-02.

We also performed tests of its compliance with certain provisions referred to in Section 803(a) of the *Federal Financial Management Improvement Act of 1996* (FFMIA). Providing an opinion on compliance with FFMIA was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests of FFMIA disclosed no instances in which the USMS's financial management systems did not substantially comply with the (1) federal financial management system requirements, (2) applicable federal accounting standards, and (3) application of the United States Government Standard General Ledger at the transaction level.



Independent Auditors' Report on Compliance and Other Matters  
Based on an Audit of Financial Statements Performed in  
Accordance with *Government Auditing Standards*  
Page 2

**Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of compliance and the results of that testing, and not to provide an opinion on the USMS's compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the USMS's compliance. Accordingly, this communication is not suitable for any other purpose.

KPMG LLP

November 4, 2014

# U.S. DEPARTMENT OF JUSTICE

## UNITED STATES MARSHALS SERVICE

PRINCIPAL FINANCIAL STATEMENTS  
AND  
RELATED NOTES



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**U.S. Department of Justice  
United States Marshals Service  
Consolidated Balance Sheets  
As of September 30, 2014 and 2013**

<b>Dollars in Thousands</b>	<b>2014</b>	<b>2013</b>
<b>ASSETS (Note 2)</b>		
Intragovernmental		
Fund Balance with U.S. Treasury (Note 3)	\$ 759,137	\$ 610,946
Accounts Receivable (Note 4)	10,872	15,992
Other Assets (Note 7)	1,701	6,052
Total Intragovernmental	<u>771,710</u>	<u>632,990</u>
Accounts Receivable, Net (Note 4)	114	130
Inventory and Related Property (Note 5)	3,182	2,860
General Property, Plant and Equipment, Net (Note 6)	214,257	281,488
Other Assets (Note 7)	184	184
<b>Total Assets</b>	<b><u>\$ 989,447</u></b>	<b><u>\$ 917,652</u></b>
<b>LIABILITIES (Note 8)</b>		
Intragovernmental		
Accounts Payable	\$ 59,977	\$ 44,845
Accrued Federal Employees' Compensation Act Liabilities	16,164	17,207
Other Liabilities (Note 10)	5,605	4,687
Total Intragovernmental	<u>81,746</u>	<u>66,739</u>
Accounts Payable	162,780	213,150
Actuarial Federal Employees' Compensation Act Liabilities	103,274	103,024
Accrued Payroll and Benefits	22,156	20,855
Accrued Annual and Compensatory Leave Liabilities	43,307	42,572
Other Liabilities (Note 10)	12,203	15,440
<b>Total Liabilities</b>	<b><u>\$ 425,466</u></b>	<b><u>\$ 461,780</u></b>
<b>Contingencies and Commitments (Note 11)</b>		
<b>NET POSITION</b>		
Unexpended Appropriations - All Other Funds	\$ 480,555	\$ 299,299
Cumulative Results of Operations - All Other Funds	83,426	156,573
<b>Total Net Position</b>	<b><u>\$ 563,981</u></b>	<b><u>\$ 455,872</u></b>
<b>Total Liabilities and Net Position</b>	<b><u>\$ 989,447</u></b>	<b><u>\$ 917,652</u></b>

*United States Marshals Service*

The accompanying notes are an integral part of these financial statements.



**U.S. Department of Justice  
United States Marshals Service  
Consolidated Statements of Net Cost  
For the Fiscal Years Ended September 30, 2014 and 2013**

**Dollars in Thousands**

	FY	Gross Costs			Less: Earned Revenues			Net Cost of Operations (Note 12)
		Intra-governmental	With the Public	Total	Intra-governmental	With the Public	Total	
<b>Goal 1:</b>	<b>2014</b>	\$ 21,480	\$ 77,133	\$ 98,613	\$ -	\$ -	\$ -	\$ 98,613
	<b>2013</b>	\$ 37,872	\$ 42,396	\$ 80,268	\$ -	\$ -	\$ -	\$ 80,268
<b>Goal 2:</b>	<b>2014</b>	65,262	229,916	295,178	-	-	-	295,178
	<b>2013</b>	79,516	164,286	243,802	-	-	-	243,802
<b>Goal 3:</b>	<b>2014</b>	532,778	2,140,198	2,672,976	54,199	3,655	57,854	2,615,122
	<b>2013</b>	492,089	2,350,380	2,842,469	52,811	4,941	57,752	2,784,717
<b>Total</b>	<b>2014</b>	<u>\$ 619,520</u>	<u>\$ 2,447,247</u>	<u>\$ 3,066,767</u>	<u>\$ 54,199</u>	<u>\$ 3,655</u>	<u>\$ 57,854</u>	<u>\$ 3,008,913</u>
	<b>2013</b>	<u>\$ 609,477</u>	<u>\$ 2,557,062</u>	<u>\$ 3,166,539</u>	<u>\$ 52,811</u>	<u>\$ 4,941</u>	<u>\$ 57,752</u>	<u>\$ 3,108,787</u>

- Goal 1 Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law  
 Goal 2 Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law  
 Goal 3 Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels

***United States Marshals Service***

The accompanying notes are an integral part of these financial statements.





U.S. Department of Justice  
United States Marshals Service  
Consolidated Statements of Changes in Net Position  
For the Fiscal Years Ended September 30, 2014 and 2013

Dollars in Thousands	2014	2013
<b>Unexpended Appropriations</b>		
Beginning Balances	\$ 299,299	\$ 259,570
<b>Budgetary Financing Sources</b>		
Appropriations Received	2,727,800	2,853,383
Appropriations Transferred-In/Out	410,705	436,713
Other Adjustments	-	(197,806)
Appropriations Used	(2,957,249)	(3,052,561)
<b>Total Budgetary Financing Sources</b>	<u>181,256</u>	<u>39,729</u>
<b>Unexpended Appropriations</b>	<u>\$ 480,555</u>	<u>\$ 299,299</u>
<b>Cumulative Results of Operations</b>		
Beginning Balances	\$ 156,573	\$ 169,455
Adjustments		
Changes in Accounting Principles (Note 17)	(69,710)	-
Beginning Balances, as Adjusted	<u>86,863</u>	<u>169,455</u>
<b>Budgetary Financing Sources</b>		
Appropriations Used	2,957,249	3,052,561
<b>Other Financing Sources</b>		
Transfers-In/Out Without Reimbursement	(23)	1,670
Imputed Financing from Costs Absorbed by Others (Note 13)	48,250	41,674
<b>Total Financing Sources</b>	<u>3,005,476</u>	<u>3,095,905</u>
<b>Net Cost of Operations</b>	<u>(3,008,913)</u>	<u>(3,108,787)</u>
<b>Net Change</b>	(3,437)	(12,882)
<b>Cumulative Results of Operations</b>	<u>\$ 83,426</u>	<u>\$ 156,573</u>
<b>Net Position</b>	<u>\$ 563,981</u>	<u>\$ 455,872</u>

*United States Marshals Service*

The accompanying notes are an integral part of these financial statements.



**U.S. Department of Justice**  
**United States Marshals Service**  
**Combined Statements of Budgetary Resources**  
**For the Fiscal Years Ended September 30, 2014 and 2013**

<b>Dollars in Thousands</b>	<b>2014</b>	<b>2013</b>
<b>Budgetary Resources:</b>		
Unobligated Balance, Brought Forward, October 1	\$ 156,392	\$ 101,959
Recoveries of Prior Year Unpaid Obligations	56,907	42,537
Other Changes in Unobligated Balance	(383)	46,940
Unobligated Balance from Prior Year Budget Authority, Net	212,916	191,436
Appropriations (discretionary and mandatory)	3,138,888	3,045,350
Spending Authority from Offsetting Collections (discretionary and mandatory)	99,771	86,010
<b>Total Budgetary Resources</b>	<b>\$ 3,451,575</b>	<b>\$ 3,322,796</b>
<b>Status of Budgetary Resources:</b>		
Obligations Incurred (Note 14)	\$ 3,153,418	\$ 3,166,404
Unobligated Balance, End of Year:		
Apportioned	253,814	126,660
Unapportioned	44,343	29,732
Total Unobligated Balance - End of Year	298,157	156,392
<b>Total Status of Budgetary Resources:</b>	<b>\$ 3,451,575</b>	<b>\$ 3,322,796</b>
<b>Change in Obligated Balance:</b>		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, October 1	\$ 458,721	\$ 537,767
Obligations Incurred	3,153,418	3,166,404
Outlays, Gross (-)	(3,088,085)	(3,202,913)
Recoveries of Prior Year Unpaid Obligations (-)	(56,907)	(42,537)
Unpaid Obligations, End of Year	467,147	458,721
Uncollected Payments:		
Uncollected Payments from Federal Sources, Brought Forward, October 1 (-)	(19,669)	(160,071)
Change in Uncollected Customer Payments from Federal Sources	1,301	140,402
Uncollected Customer Payments from Federal Sources, End of Year	(18,368)	(19,669)
Memorandum (non-add) Entries:		
Obligated balance, Start of Year	\$ 439,052	\$ 377,696
Obligated balance, End of Year	\$ 448,779	\$ 439,052
<b>Budgetary Authority and Outlays, Net:</b>		
Budgetary Authority, Gross (discretionary and mandatory)	3,238,659	3,131,360
Less: Actual Offsetting Collections (discretionary and mandatory)	101,072	226,412
Change in Uncollected Customer Payments from Federal Sources (discretionary and mandatory)	1,301	140,402
Budget Authority, Net (discretionary and mandatory)	<b>\$ 3,138,888</b>	<b>\$ 3,045,350</b>
Outlays, Gross (discretionary and mandatory)	\$ 3,088,085	\$ 3,202,913
Less: Actual Offsetting Collections (discretionary and mandatory)	101,072	226,412
Agency Outlays, Net (discretionary and mandatory)	<b>\$ 2,987,013</b>	<b>\$ 2,976,501</b>

**United States Marshals Service**

The accompanying notes are an integral part of these financial statements.



**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
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**Note 1. Summary of Significant Accounting Policies**

**A. Reporting Entity**

The United States Marshals Service (USMS) is an entity of the Department of Justice (DOJ) and functions to facilitate the following DOJ strategic goals as presented in the DOJ Strategic Plan:

- Goal I: “Prevent Terrorism and Promote the Nation’s Security Consistent with the Rule of Law”
- Goal II: “Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law”
- Goal III: “Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels”

The financial statements of the USMS have been prepared to reflect the activity of these core functions from operations in all 94 Districts and Headquarters. The FY 2013 President’s Budget merged the Office of Federal Detention Trustee (OFDT) into the USMS organizational structure. USMS designated OFDT to be aligned under the USMS’s Prisoner Operations Division (POD) to better align detention resources with existing operations.

The USMS receives funding needed to support its programs through Congressional appropriations. Both annual and multi-year appropriations are used, within statutory limits, for operating and capital expenditures. The USMS appropriations include Salaries and Expenses, Construction, and Federal Prisoner Detention (FPD). The USMS also receives an appropriation transfer from the Administrative Office of the U.S. Courts (AOUSC) for court security. The USMS also has a Revolving Fund called the Justice Prisoner and Alien Transportation System (JPATS).

**B. Basis of Presentation**

These financial statements have been prepared from the books and records of the USMS in accordance with United States generally accepted accounting principles issued by the Federal Accounting Standards Advisory Board (FASAB) and presentation guidelines in the Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*. These financial statements are different from the financial reports prepared pursuant to OMB directives, which are used to monitor and control the use of USMS budgetary resources. To ensure that the USMS financial statements are meaningful at the entity level and to enhance reporting consistency within the Department, Other Assets and Other Liabilities as defined by OMB Circular A-136 have been disaggregated on the Balance Sheet. These include Advances and Prepayments with the Public, Accrued Federal Employees’ Compensation Act (FECA) Liabilities, Accrued Payroll and Benefits, and Accrued Annual and Compensatory Leave Liabilities.

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***United States Marshals Service***

These notes are an integral part of the financial statements.



**U.S. Department of Justice  
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**Note 1. Summary of Significant Accounting Policies (continued)**

**C. Basis of Consolidation**

The consolidated/combined financial statements include the accounts of the USMS. All significant proprietary intra-entity transactions and balances have been eliminated in consolidation. The Statements of Budgetary Resources are combined statements for the fiscal years (FY) ended September 30, 2014 and 2013, and as such, intra-entity transactions have not been eliminated.

**D. Basis of Accounting**

Transactions are recorded on the accrual and budgetary bases of accounting. Under the accrual basis, revenues are recorded when earned and expenses are recorded when incurred, regardless of when cash is exchanged. Under the budgetary basis, however, funds availability is recorded based upon legal considerations and constraints. As a result, certain line items on the proprietary financial statements may not equal similar line items on the budgetary financial statements.

**E. Non-Entity Assets**

Non-entity assets are comprised of deposit funds, which temporarily hold receipts for service of process fees and seized assets of pending civil cases.

**F. Fund Balance with U.S. Treasury**

Fund Balance with U.S. Treasury (FBWT) is the aggregate amount of the entity's accounts with the U.S. Treasury for which the entity is authorized to make expenditures and pay liabilities. FBWT also includes Other Fund Types (deposit funds). These deposit funds are non-entity assets for which the entity is not authorized to make expenditures and pay liabilities. The Revolving Fund is a separate account involving reimbursement for JPATS prisoner movements.

**G. Accounts Receivable**

The USMS has amounts owed from other Federal agencies and with the public based on services provided. The Accounts Receivable with the public is stated net of allowance for uncollectible accounts. During FY 2014, USMS established an allowance account based on management's review of current business processes.

**H. Inventory and Related Property**

Operating materials include materials and supplies used for the repair of airplanes. The USMS utilizes the first-in, first-out (FIFO) method as the basis for valuation of these items.



**U.S. Department of Justice  
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**Note 1. Summary of Significant Accounting Policies (continued)**

**I. General Property, Plant, and Equipment**

DOJ Financial Management Policy Memorandum (FMPM) 13-12, *Capitalization of General Property, Plant, and Equipment, and Internal Use Software*, was issued in FY 2013 with an effective date for reporting periods ending after September 30, 2014. Early implementation of the policy's increased capitalization thresholds was encouraged beginning October 1, 2012. For financial statement purposes, the primary changes relate to the capitalization thresholds for real property, including leasehold improvements; personal property; and internal use software which resulted in a decrease to the overall PP&E balance.

Below are the capitalization thresholds:

Type of Property	FY 2014 Thresholds	FY 2013 Thresholds
Real Property	\$250	\$100
Personal Property	\$50	\$25
Aircraft	\$100	\$100
Internal Use Software	\$5,000	\$5,000

Except for land, all general PP&E will be capitalized when the cost of acquiring or improving the property meets the thresholds noted in the table above and has a useful life of two or more years. Land is capitalized regardless of the acquisition cost. Except for land, all general PP&E is depreciated or amortized, based on historical cost, using the straight-line method over the estimated useful life of the asset, which range from 2 to 25 years. Land is never depreciated. Other equipment is expensed when purchased or included in inventory if used for the repair of airplanes. Normal repairs and maintenance are expensed as incurred.

**J. Advances and Prepayments**

Advances and Prepayments consist of intragovernmental advances provided to Federal Prison Industries, Inc., for the equipping of vehicles and equipment, and the Federal Aviation Administration for aircraft maintenance. Advances provided to the public include travel advances issued to Federal employees for relocation travel costs.

**K. Liabilities**

Liabilities represent the amount of monies, or other resources, that are likely to be paid by the USMS as the result of a transaction or event that has already occurred. However, no liability can be paid by the USMS absent proper budget authority. Liabilities for which an appropriation has not been enacted are classified as Liabilities Not Covered by Budgetary Resources, and there is no certainty that corresponding future appropriations will be enacted.



**U.S. Department of Justice  
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**Note 1. Summary of Significant Accounting Policies (continued)**

The USMS maintains liabilities with the Public for deposit funds, which temporarily hold receipts for service of process fees and seized assets of pending civil cases. These are included as a part of Other Liabilities with the Public on the Balance Sheet.

**L. Contingencies and Commitments**

The USMS is party to various administrative proceedings, legal actions, and claims. The Balance Sheet includes an estimated liability for those legal actions where management and the Chief Counsel consider adverse decisions “probable” and amounts are reasonably estimable. Legal actions where management and the Chief Counsel consider adverse decisions “probable” or “reasonably possible” and the amounts are reasonably estimable are disclosed in Note 11, Contingencies and Commitments. However, there are cases where amounts have not been accrued or disclosed because the amounts of the potential loss cannot be estimated or the likelihood of an unfavorable outcome is considered “remote”.

**M. Annual, Sick, and Other Leave**

Accrued Annual and Compensatory Leave Liabilities are expected to be paid from future years' appropriations. Federal employees' annual leave is accrued as it is earned, and the accrual is reduced annually for actual leave taken and increased for leave earned. Each year, the accrued annual leave balance is adjusted to reflect the latest pay rates. Sick leave is expensed as taken.

**N. Interest on Late Payments**

The USMS on occasion incurs interest penalties on late payments. All such interest penalties are paid to the respective vendor in accordance with the guidelines mandated by the Prompt Payment Act, (P.L. 97-177), as amended.

**O. Retirement Plans**

With few exceptions, employees of the Department are covered by one of the following retirement programs:

1. Employees hired before January 1, 1984, are covered by the Civil Service Retirement System (CSRS). The USMS contributes 7.0 percent of the gross pay for regular employees and 7.5 percent for law enforcement officers.
2. Employees hired January 1, 1984 or later are covered by the Federal Employees Retirement System (FERS).
  - a. Employees hired January 1, 1984 through December 31, 2012, are covered by the FERS. The USMS contributes 11.9 percent of the gross pay for regular employees and 26.3 percent for law enforcement officers.



**U.S. Department of Justice  
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**Note 1. Summary of Significant Accounting Policies (continued)**

- b. Employees hired January 1, 2013 through December 31, 2013 are covered by the Federal Employees Retirement System-Revised Annuity Employees (FERS-RAE) System. The USMS contributes 9.6 percent of the gross pay for regular employees and 24.0 percent of the gross pay for law enforcement officers.
- c. Employees hired after January 1, 2014 are covered by the Federal Employees Retirement System – Further Revised Annuity Employees (FERS-FRAE) System. For employees covered by FERS-FRAE, USMS contributes 9.6 percent of the gross pay for regular employees and 24.0 percent for law enforcement officers

For those employees covered by the FERS, FERS-RAE and FERS-FRAE, a TSP account is automatically established, and the USMS is required to contribute an additional 1.0 percent of gross pay to this account and match employee contributions up to an additional 4.0 percent of gross pay. No Government contributions are made to the TSP accounts established by the CSRS employees. The USMS does not report CSRS or FERS assets, accumulated plan benefits, or unfunded liabilities, if any, which may be applicable to its employees. Such reporting is the responsibility of the Office of Personnel Management (OPM). Statement of Federal Financial Accounting Standards (SFFAS) No. 5, *Accounting for Liabilities of the Federal Government*, requires employing agencies to recognize the cost of pensions and other retirement benefits during their employees' active years of service. Refer to Note 13, Imputed Financing from Costs Absorbed by Others, for additional details.

**P. Federal Employee Compensation Benefits**

The FECA provides income and medical cost protection to cover Federal civilian employees injured on the job, employees who have incurred a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. The total FECA liability consists of an actuarial and an accrued portion as discussed below.

**Actuarial Liability:** The U.S. Department of Labor (DOL) calculates the liability of the Federal Government for future compensation benefits, which includes the expected liability for death, disability, medical, and other approved costs. The liability is determined using the paid-losses extrapolation method calculated over the next 37-year period. This method utilizes historical benefit payment patterns related to a specific incurred period to predict the ultimate payments related to that period. The projected annual benefit payments are discounted to present value. The resulting Federal Government liability is then distributed by agency. The Department's portion of this includes the estimated future cost of death benefits, workers' compensation, medical, and miscellaneous cost for approved compensation cases for its employees. The Department's liability is further allocated to the component reporting entities based on actual payments made to the FECA Special Benefits



**U.S. Department of Justice  
United States Marshals Service  
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**Note 1. Summary of Significant Accounting Policies (continued)**

Fund (SBF) for the three prior years as compared to the total Department's payments made over the same period.

The FECA actuarial liability is recorded for reporting purposes only. This liability constitutes an extended future estimate of cost, which will not be obligated against budgetary resources until the FY in which the related funds are billed to the USMS. The cost associated with this liability may not be met by the USMS without further appropriation action.

**Accrued Liability:** The accrued FECA liability owed to the DOL is the difference between the FECA benefits paid by the FECA SBF and the agency's actual cash payments to the FECA SBF.

For example, the FECA SBF will pay benefits on behalf of an agency through the current year. However, most agencies' actual cash payments to the FECA SBF for the current FY will reimburse the FECA SBF for benefits paid through a prior FY. The difference between these two amounts is the accrued FECA liability.

**Q. Intragovernmental Activity**

Intragovernmental costs and exchange revenue represent transactions made between two reporting entities within the Federal Government. Costs and earned revenues with the Public represent exchange transactions made between the reporting entity and a non-Federal entity. The classification of revenue or cost as "intragovernmental" or "with the Public" is defined on a transaction-by-transaction basis. The purpose of this classification is to enable the Federal Government to prepare consolidated financial statements, not to match Public and intragovernmental revenue with the costs incurred to produce Public and intragovernmental revenue.

**R. Revenues and Other Financing Sources**

The USMS receives funding needed to support its programs through appropriations. Appropriations are recognized as a financing source when the funding is appropriated. The USMS also reports revenue earned for services performed on a reimbursable basis with other Federal agencies and components of the DOJ. The revenue for these services is earned when the work is performed. Moreover, the USMS reports appropriations transferred from other Federal entities as a financing source.





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**Note 1. Summary of Significant Accounting Policies (continued)**

**S. Funds from Dedicated Collections**

Statement of Federal Financial Accounting Standards (SFFAS) No. 27, *Identifying and Reporting Earmarked Funds*, as amended by SFFAS No. 43 *Funds from Dedicated Collections: Amending Statement of Federal Financial Accounting Standards 27, Identifying and Reporting Earmarked Funds*, defines funds from dedicated collections as being financed by specifically identified revenues, provided to the Government by non-Federal sources, often supplemented by other financing sources, which remain available over time. These specifically identified revenues and other financing sources are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the Government's general revenues. The three required criteria for a fund from dedicated collections are:

1. A statute committing the Federal Government to use specifically identified revenues and/or other financing sources that are originally provided to the Federal Government by a non-Federal source only for designated activities, benefits or purposes;
2. Explicit authority for the funds to retain revenues and/or other financing sources not used in the current period for future use to finance the designated activities, benefits or purposes; and
3. A requirement to account for and report on the receipt, use, and retention of the revenues and/or other financing sources that distinguishes the fund from the Federal Government's general revenues.

The USMS does not currently have funds that meet the definition of funds from dedicated collections.

**T. Allocation Transfer of Appropriations**

The USMS is a party to allocation transfers with another Federal agency as a receiving (child) entity. Allocation transfers are legal delegations by one department of its authority to obligate budget authority and outlay funds to another department. Generally, all financial activity related to these allocation transfers (e.g., budget authority, obligations, outlays) is reported in the financial statements of the parent entity, from which the underlying legislative authority, appropriations and budget apportionments are derived. An exception to this general rule affecting the USMS includes the funds transferred from the Judicial Branch to the USMS for court security costs. Per OMB guidance, the USMS will report all activity relative to these allocation transfers in the USMS financial statements.

The USMS uses these allocation transfers to pay for costs associated with the protective guard services – Court Security Officers at United States courthouses and other facilities housing Federal court operations. These costs include their salaries (paid by contracts), equipment, and supplies. The allocation transfers occur periodically throughout the FY.



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**Note 1. Summary of Significant Accounting Policies (continued)**

**U. Tax Exempt Status**

As an agency of the Federal Government, the USMS is exempt from all income taxes imposed by any governing body whether it be a Federal, state, commonwealth, local, or foreign government.

**V. Use of Estimates**

The preparation of financial statements requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

**W. Reclassifications**

The FY 2013 financial statements were reclassified to conform to the FY 2014 Departmental and OMB financial statement presentation requirements. The reclassifications had no material effect on total assets, liabilities, net position, changes in net position or budgetary resources previously reported.

**X. Subsequent Events**

Subsequent events and transactions occurring after September 30, 2014 through the date of the auditors' opinion have been evaluated for potential recognition or disclosure in the financial statements. The date of the auditors' opinion also represents the date that the financial statements were available to be issued.

**Note 2. Non-Entity Assets**

As of September 30, 2014 and 2013	2014	2013
Intragovernmental		
Fund Balance with U.S. Treasury	\$ 12,203	\$ 15,497
Total Non-Entity Assets	12,203	15,497
Total Entity Assets	977,244	902,155
Total Assets	<u>\$ 989,447</u>	<u>\$ 917,652</u>



**U.S. Department of Justice  
United States Marshals Service  
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**Note 3. Fund Balance with U.S. Treasury**

As of September 30, 2014 and 2013		
	2014	2013
<b>Fund Balances</b>		
Revolving Funds	\$ 23,920	\$ 28,261
General Funds	723,016	567,183
Other Fund Types	12,201	15,502
Total Fund Balances with U.S. Treasury	<u>\$ 759,137</u>	<u>\$ 610,946</u>
<b>Status of Fund Balances</b>		
Unobligated Balance - Available	\$ 253,814	\$ 126,660
Unobligated Balance - Unavailable	44,343	29,732
Obligated Balance not yet Disbursed	448,779	439,052
Other Funds (With)/Without Budgetary Resources	12,201	15,502
Total Status of Fund Balances	<u>\$ 759,137</u>	<u>\$ 610,946</u>

Other Fund Types and Other Funds (With)/Without Budgetary Resources include non-entity assets. Non-entity assets are comprised of deposit funds, which temporarily hold receipts for service of process fees and seized assets of pending civil cases.

**Note 4. Accounts Receivable, Net**

As of September 30, 2014 and 2013		
	2014	2013
<b>Intragovernmental</b>		
Accounts Receivable	\$ 10,872	\$ 15,992
<b>With the Public</b>		
Accounts Receivable, Net	799	130
Allowance for Uncollectible Accounts	(685)	-
Total With the Public	<u>114</u>	<u>130</u>
Total Accounts Receivable	<u>\$ 10,986</u>	<u>\$ 16,122</u>

Intragovernmental receivables are based on services provided to other Federal agencies for activities such as inmate transportation, anti-gang trainings, execution of warrants, provision of housing and payments of medical bills for Federal detainees. Receivables reported With the Public include transportation of prisoners and other incidental employee activities. These customers are typically state and local government agencies who need assistance to securely transfer inmates and entity employees impacted from policy interpretation corrective actions.



**U.S. Department of Justice**  
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**Note 5. Inventory and Related Property**

As of September 30, 2014 and 2013	2014	2013
Inventory:		
Operating Materials and Supplies		
Held for Current Use	\$ 3,182	\$ 2,860

**Note 6. General Property, Plant and Equipment, Net**

Based upon early implementation of DOJ Financial Management Policy Memorandum (FMPM) 13-12, *Capitalization of General Property, Plant, and Equipment and Internal Use Software*, the USMS revised its method for reporting capitalization of real property; personal property; and internal use software which caused a decrease in the PP&E balance by \$69,710, as described in Note 17.

As of September 30, 2014				
	Acquisition Cost	Accumulated Depreciation	Net Book Value	Useful Life
Construction in Progress	\$ 20,408	\$ -	\$ 20,408	N/A
Aircraft	50,218	(19,194)	31,024	7-25 years
Boats	123	(37)	86	5-15 years
Vehicles	13,547	(11,228)	2,319	5-10 years
Equipment	12,536	(5,689)	6,847	5-15 years
Leasehold Improvements	401,604	(248,031)	153,573	12 years
Total	\$ 498,436	\$ (284,179)	\$ 214,257	

During the fiscal year ended September 30, 2014, the USMS purchased \$25,127 in capitalized property from Federal Sources and \$9,346 from the Public.

As of September 30, 2013				
	Acquisition Cost	Accumulated Depreciation	Net Book Value	Useful Life
Construction in Progress	\$ 42,229	\$ -	\$ 42,229	N/A
Aircraft	39,609	(14,760)	24,849	7-25 years
Boats	-	-	-	5-15 years
Vehicles	35,282	(24,003)	11,279	5-10 years
Equipment	51,876	(33,101)	18,775	5-15 years
Leasehold Improvements	481,165	(296,809)	184,356	12 years
Total	\$ 650,161	\$ (368,673)	\$ 281,488	

During the fiscal year ended September 30, 2013, the USMS purchased \$21,680 in capitalized property from Federal Sources and \$35,102 from the Public.

The USMS has no restrictions on the use or convertibility of general PP&E.

***United States Marshals Service***

These notes are an integral part of the financial statements.



**U.S. Department of Justice  
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**Note 7. Other Assets**

As of September 30, 2014 and 2013	2014	2013
Intragovernmental		
Advances and Prepayments	\$ 1,701	\$ 6,052
Other Assets With the Public	184	184
Total Other Assets	<u>\$ 1,885</u>	<u>\$ 6,236</u>

Other Assets With the Public is comprised of a collection of historical items such as jewelry, badges, and a carpet. The collection was appraised in November 2002 to provide the USMS with a basis for these items.

**Note 8. Liabilities not Covered by Budgetary Resources**

As of September 30, 2014 and 2013	2014	2013
Intragovernmental		
Accrued FECA Liabilities	\$ 16,164	\$ 17,207
Other Unfunded Employment Related Liabilities	40	30
Total Intragovernmental	<u>16,204</u>	<u>17,237</u>
With the Public		
Actuarial FECA Liabilities	103,274	103,024
Accrued Annual and Compensatory Leave Liabilities	<u>43,307</u>	<u>42,572</u>
Total With the Public	<u>146,581</u>	<u>145,596</u>
Total Liabilities not Covered by Budgetary Resources	162,785	162,833
Total Liabilities Covered by Budgetary Resources	<u>262,681</u>	<u>298,947</u>
Total Liabilities	<u>\$ 425,466</u>	<u>\$ 461,780</u>

Liabilities not Covered by Budgetary Resources result from the receipt of goods and services, or the occurrence of eligible events, for which appropriations, revenues, or other financing sources necessary to pay the liabilities have not yet been made available through Congressional appropriation.



**U.S. Department of Justice  
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**Note 9. Leases**

The majority of office space occupied by the USMS is either owned by the Federal Government or is leased by GSA from commercial sources. The rental cost is based on the square footage occupied at the commercial rate per square foot which is negotiated by GSA along with appropriate GSA fees. USMS is not committed to continue paying rent to GSA beyond the period occupied, provided that proper advance notice to GSA is made and unless the space occupied is designated as unique to USMS operations. However, it is expected USMS will continue to occupy and lease office space from GSA in future years, and lease charges will be adjusted annually to reflect operating costs incurred by GSA. As of September 30, 2014, estimated future minimum lease payments due under noncancelable operating leases are as follows:

Future Noncancelable Operating Lease Payments	
<u>Fiscal Year</u>	<u>Land and Buildings</u>
2015	35,072
2016	34,011
2017	31,901
2018	30,624
2019	30,587
After 2019	<u>186,711</u>
Total Future Noncancelable Operating Lease Payments	<u>\$ 348,906</u>

**Note 10. Other Liabilities**

As of September 30, 2014 and 2013		
	<u>2014</u>	<u>2013</u>
<b>Intragovernmental</b>		
Employer Contributions and Payroll Taxes Payable	\$ 5,542	\$ 4,641
Other Post-Employment Benefits Due and Payable	23	16
Other Unfunded Employment Related Liabilities	<u>40</u>	<u>30</u>
Total Intragovernmental	<u>5,605</u>	<u>4,687</u>
<b>With the Public</b>		
Liability for Nonfiduciary Deposit Funds and Undeposited Collections	<u>12,203</u>	<u>15,440</u>
Total Other Liabilities	<u>\$ 17,808</u>	<u>\$ 20,127</u>

Non-current liabilities consist of future employee related expenses, such as accrued retirement contributions, life insurance, and retiree health benefits.



**U.S. Department of Justice  
United States Marshals Service  
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**Note 11. Contingencies and Commitments**

Contingencies include various administrative proceedings, legal actions, and claims related to contract disputes and employee and prisoner claims; see Note 1.L for more details. The USMS does not currently have pending legal actions where management and the Chief Counsel consider adverse decisions “probable” or “reasonably possible” and the amounts are reasonably estimable.

**Note 12. Net Cost of Operations by Suborganization**

	Suborganizations					Eliminations	Consolidated
	Justice Prisoner and Alien Transportation System	Court Security	Federal Prisoner Detention	All Other Funds			
For the Fiscal Years Ended September 30, 2014							
Goal 1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law							
Gross Cost	\$ -	\$ -	\$ -	\$ 98,613	\$ -	\$ -	\$ 98,613
Net Cost of Operations	-	-	-	98,613	-	-	98,613
Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law							
Gross Cost	-	-	-	295,178	-	-	295,178
Net Cost of Operations	-	-	-	295,178	-	-	295,178
Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels							
Gross Cost	47,279	396,050	1,411,438	852,209	(34,000)		2,672,976
Less: Earned Revenue	52,722	-	4,582	34,550	(34,000)		57,854
Net Cost of Operations	(5,443)	396,050	1,406,856	817,659	-		2,615,122
Net Cost of Operations	\$ (5,443)	\$ 396,050	\$ 1,406,856	\$ 1,211,450	\$ -	\$ -	\$ 3,008,913

	Suborganizations					Eliminations	Consolidated
	Justice Prisoner and Alien Transportation System	Court Security	Federal Prisoner Detention	All Other Funds			
For the Fiscal Years Ended September 30, 2013							
Goal 1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law							
Gross Cost	\$ -	\$ -	\$ -	\$ 80,268	\$ -	\$ -	\$ 80,268
Net Cost of Operations	-	-	-	80,268	-	-	80,268
Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law							
Gross Cost	-	-	-	243,802	-	-	243,802
Net Cost of Operations	-	-	-	243,802	-	-	243,802
Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels							
Gross Cost	54,843	402,176	1,472,674	944,471	(31,695)		2,842,469
Less: Earned Revenue	47,627	-	-	41,820	(31,695)		57,752
Net Cost of Operations	7,216	402,176	1,472,674	902,651	-		2,784,717
Net Cost of Operations	\$ 7,216	\$ 402,176	\$ 1,472,674	\$ 1,226,721	\$ -	\$ -	\$ 3,108,787



**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

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**Note 13. Imputed Financing from Costs Absorbed by Others**

**Imputed Inter-Departmental Financing Sources** are the unreimbursed (i.e., non-reimbursed and under-reimbursed) portion of the full costs of goods and services received by the USMS from a providing entity that is not part of the U.S. Department of Justice. In accordance with SFFAS No. 30, *Inter-Entity Cost Implementation Amending SFFAS 4, Managerial Cost Accounting Standards and Concepts*, the material Imputed Inter-Departmental financing sources recognized by the USMS are the cost of benefits for the Federal Employees Health Benefits Program (FEHB), the Federal Employees' Group Life Insurance Program (FEGLI), the Federal Pension plans that are paid by other Federal entities, and any un-reimbursed payments made from the Treasury Judgment Fund on behalf of the USMS. The Treasury Judgment Fund was established by the Congress and funded at 31 U.S.C. 1304 to pay in whole or in part the court judgments and settlement agreements negotiated by the Department on behalf of agencies, as well as certain types of administrative awards. Interpretation of Federal Financial Accounting Standards Interpretation No. 2, *Accounting for Treasury Judgment Fund Transactions*, requires agencies to recognize liabilities and expenses when unfavorable litigation outcomes are probable and the amount can be estimated and will be paid by the Treasury Judgment Fund.

SFFAS No. 5, *Accounting for Liabilities of the Federal Government*, requires that employing agencies recognize the cost of pensions and other retirement benefits during their employees' active years of service. SFFAS No. 5 requires OPM to provide cost factors necessary to calculate cost. OPM actuaries calculate the value of pension benefits expected to be paid in the future, and then determine the total funds to be contributed by and for covered employees, such that the amount calculated would be sufficient to fund the projected pension benefits. For employees covered by CSRS, the cost factors are 32.8 percent of basic pay for regular, 56.4 percent law enforcement officers, 24.4 percent regular offset, and 48.8 percent law enforcements offset. For employees covered by FERS, the cost factors are 15.1 percent of basic pay for regular and 33.3 percent for law enforcement officers. For employees covered by FERS, FERS-RAE and FERS-FRAE, the cost factors are 15.7 percent of basic pay for regular and 33.9 percent for law enforcement officers.

The cost to be paid by other agencies is the total calculated future costs, less employee and employer contributions. In addition, the cost of other retirement benefits, which include health and life insurance that are paid by other Federal entities, must also be recorded.

**Imputed Intra-Departmental Financing Sources** as defined in SFFAS No. 4, *Managerial Cost Accounting Concepts and Standards for the Federal Government*, are the unreimbursed portion of the full costs of goods and services received by the USMS from a providing entity that is part of the U.S. Department of Justice. Recognition is required for those transactions determined to be material to the receiving entity. The determination of whether the cost is material requires considerable judgment based on the specific facts and circumstances of each type of good or service provided. SFFAS No. 4 also states that costs for broad and general support need not be recognized by the receiving entity, unless such services form a vital and integral part of the operations or output of the receiving entity. Costs are considered broad and general if they are provided to many, if not all, reporting components and not specifically related to the receiving entity's output. The USMS does not have any imputed intra-departmental costs to be recognized.

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***United States Marshals Service***

These notes are an integral part of the financial statements.





**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

**Note 13. Imputed Financing from Costs Absorbed by Others (continued)**

For the Fiscal Years Ended September 30, 2014 and 2013		
	<u>2014</u>	<u>2013</u>
Imputed Inter-Departmental Financing		
Treasury Judgment Fund	\$ 1,478	\$ 596
Health Insurance	24,121	25,504
Life Insurance	106	109
Pension	22,545	15,465
Total Imputed Inter-Departmental	<u>\$ 48,250</u>	<u>\$ 41,674</u>

**Note 14. Information Related to the Statement of Budgetary Resources**

**Apportionment Categories of Obligations Incurred:**

	<u>Direct Obligations</u>	<u>Reimbursable Obligations</u>	<u>Total Obligations Incurred</u>
For the Fiscal Years Ended September 30, 2014			
Obligations Apportioned Under			
Category A	\$ 3,068,736	\$ 84,672	\$ 3,153,408
Category B	10	-	10
Total	<u>\$ 3,068,746</u>	<u>\$ 84,672</u>	<u>\$ 3,153,418</u>
For the Fiscal Years Ended September 30, 2013			
Obligations Apportioned Under			
Category A	\$ 3,055,276	\$ 110,955	\$ 3,166,231
Category B	173	-	173
Total	<u>\$ 3,055,449</u>	<u>\$ 110,955</u>	<u>\$ 3,166,404</u>

The apportionment categories are determined in accordance with the guidance provided in Part 4 “Instructions on Budget Execution” of OMB Circular A-11, *Preparation, Submission and Execution of the Budget*. Category A represents resources apportioned for calendar quarters. Category B represents resources apportioned for other time periods; for activities, projects, and objectives or for combination thereof.

**Status of Undelivered Orders:**

Undelivered Orders (UDO) represent the amount of goods and/or services ordered, which have not been actually or constructively received. This amount includes any orders which may have been prepaid or advanced but for which delivery or performance has not yet occurred.



**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

**Note 14. Information Related to the Statement of Budgetary Resources (continued)**

As of September 30, 2014 and 2013	2014	2013
UDO Obligations Unpaid	\$ 231,494	\$ 182,187
UDO Obligations Prepaid/Advanced	1,701	6,052
Total UDO	\$ 233,195	\$ 188,239

**Legal Arrangements Affecting Use of Unobligated Balances:**

Unobligated balances represent the cumulative amount of budget authority that is not obligated and that remains available for obligation based on annual legislative requirements and other enabling authorities, unless otherwise restricted. The use of unobligated balances is restricted based on annual legislation requirements and other enabling authorities. Funds are appropriated on an annual, multi-year, and no-year basis. Appropriated funds shall expire on the last day of availability and are no longer available for new obligations. Unobligated balances in unexpired fund symbols are available in the next FY for new obligations unless some restrictions have been placed on those funds by law. Amounts in expired fund symbols are not available for new obligations, but may be used to adjust previously established obligations.

**Statement of Budgetary Resources vs. the Budget of the United States Government:**

The reconciliation as of September 30, 2014 is not presented, because the submission of the Budget of the United States Government (Budget) for FY 2016, which presents the execution of the FY 2014 Budget, occurs after publication of these financial statements. The Department of Justice Budget Appendix can be found on the OMB website (<http://www.whitehouse.gov/omb/budget>) and will be available in early February 2015.

For the Fiscal Year Ended September 30, 2013: (Dollars in Millions)				
	Budgetary Resources	Obligations Incurred	Distributed Offsetting Receipts	Net Outlays
Statement of Budgetary Resources (SBR)	\$ 3,323	\$ 3,166	\$ -	\$ 2,977
Funds not Reported in the Budget				
Expired Funds	(29)	(9)	-	-
USMS Court Security Funds	(411)	(397)	-	(414)
Budget of the United States Government	\$ 2,883	\$ 2,760	\$ -	\$ 2,563

The Court Security Funds are transfer appropriations from the Judiciary Branch (See Note 1.T). These transfers are accomplished through Nonexpenditure Transfer Authorizations.

***United States Marshals Service***

These notes are an integral part of the financial statements.



**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

**Note 15. Reconciliation of Net Cost of Operations (proprietary) to Budget (formerly the Statement of Financing)**

For the Fiscal Years Ended September 30, 2014 and 2013	2014	2013
Resources Used to Finance Activities		
Budgetary Resources Obligated		
Obligations Incurred	\$ 3,153,418	\$ 3,166,404
Less: Spending Authority from Offsetting Collections and Recoveries	156,678	128,547
Obligations Net of Offsetting Collections and Recoveries	2,996,740	3,037,857
Net Obligations	2,996,740	3,037,857
Other Resources		
Transfers In/Out Without Reimbursement	(23)	1,670
Imputed Financing from Costs Absorbed by Others (Note 13)	48,250	41,674
Net Other Resources Used to Finance Activities	48,227	43,344
Total Resources Used to Finance Activities	3,044,967	3,081,201
Resources Used to Finance Items not Part of the Net Cost of Operations		
Net Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered but not Yet Provided	(41,283)	27,307
Resources That Fund Expenses Recognized in Prior Periods (Note 16)	(1,043)	(744)
Budgetary Offsetting Collections and Receipts That do not Affect Net Cost of Operations	4,013	-
Resources That Finance the Acquisition of Assets	(34,795)	(56,900)
Other Resources or Adjustments to Net Obligated Resources That do not Affect Net Cost of Operations	(142)	1,670
Total Resources Used to Finance Items not Part of the Net Cost of Operations	(73,250)	(28,667)
Total Resources Used to Finance the Net Cost of Operations	\$ 2,971,717	\$ 3,052,534
Components of Net Cost of Operations That Will not Require or Generate Resources in the Current Period		
Components That Will Require or Generate Resources in Future Periods (Note 16)	\$ 1,011	\$ 9,760
Depreciation and Amortization	29,490	40,793
Revaluation of Assets or Liabilities	165	238
Other	6,530	5,462
Total Components of Net Cost of Operations That Will not Require or Generate Resources in the Current Period	37,196	56,253
Net Cost of Operations	\$ 3,008,913	\$ 3,108,787

***United States Marshals Service***

These notes are an integral part of the financial statements.



**U.S. Department of Justice**  
**United States Marshals Service**  
**Notes to the Financial Statements**  
**Dollars in Thousands, Except as Noted**

**Note 16. Explanation of Differences Between Liabilities not Covered by Budgetary Resources and Components of Net Cost of Operations Requiring or Generating Resources in Future Periods**

Liabilities that are not covered by realized budgetary resources and for which there is no certainty that budgetary authority will be realized, such as the enactment of an appropriation, are considered liabilities not covered by budgetary resources. These liabilities totaling \$162,784 and \$162,833 on September 30, 2014 and 2013, respectively, are discussed in Note 8, Liabilities not Covered by Budgetary Resources. Decreases in these liabilities result from current year budgetary resources that were used to fund expenses recognized in prior periods. Increases in these liabilities represent unfunded expenses that were recognized in the current period. These increases along with the change in the portion of exchange revenue receivables from the Public, which are not considered budgetary resources until collected, represent components of current period net cost of operations that will require or generate budgetary resources in future periods. The changes in liabilities not covered by budgetary resources and receivables generating resources in future periods are comprised of the following:

For the Fiscal Years Ended September 30, 2014 and 2013	2014	2013
Resources that Fund Expenses Recognized in Prior Periods		
Decrease in Accrued Annual and Compensatory Leave Liabilities	\$ -	\$ (686)
Other		
Decrease in Accrued FECA Liabilities	(1,043)	-
Decrease in Other Unfunded Employment Related Liabilities	-	(58)
Total Other	<u>(1,043)</u>	<u>(58)</u>
Total Resources that Fund Expenses Recognized in Prior Periods	<u>\$ (1,043)</u>	<u>\$ (744)</u>
Components of Net Cost of Operations That Will Require or Generate Resources in Future Periods		
Increase in Accrued Annual and Compensatory Leave Liabilities	\$ 735	\$ -
(Increase)/Decrease in Exchange Revenue Receivable from the Public	16	(101)
Other		
Increase in Actuarial FECA Liabilities	250	9,407
Increase in Accrued FECA Liabilities	-	454
Increase in Other Unfunded Employment Related Liabilities	10	-
Total Other	<u>260</u>	<u>9,861</u>
Total Components of Net Cost of Operations That Will Require or Generate Resources in Future Periods	<u>\$ 1,011</u>	<u>\$ 9,760</u>



**U.S. Department of Justice  
United States Marshals Service  
Notes to the Financial Statements  
Dollars in Thousands, Except as Noted**

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**Note 17. Change in Accounting Principle**

Based upon early implementation of DOJ Financial Management Policy Memorandum (FMPM) 13-12, *Capitalization of General Property, Plant, and Equipment and Internal Use Software*, the USMS revised its capitalization threshold for Internal Use Software in 2013, however because the USMS did not have any capitalized Internal Use Software, the new policy did not result in a reduction to the assets for Property, Plant and Equipment for FY 2013. For FY 2014, the USMS revised its capitalization threshold for real property and personal property. This policy is preferable because it increases the efficiency and cost effectiveness of the USMS property management efforts while maintaining a system of internal controls.

The change in accounting principle caused a \$69,710 reduction in overall Property, Plant and Equipment balance for FY 2014, and the pre-FY 2014 effects are recognized in the beginning balances of Cumulative Results of Operations on the Consolidated Statements of Changes in Net Position. The effect of the new policy reduced the USMS assets for Property, Plant and Equipment as illustrated in the table below:

<b>Type of Property</b>	<b>Asset Adjustment Value 2014</b>
Real Property	\$ 45,883
Personal Property	\$ 23,827
Internal Use Software	\$ -
<b>Total</b>	<b>\$ 69,710</b>

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# U.S. DEPARTMENT OF JUSTICE

## UNITED STATES MARSHALS SERVICE

REQUIRED SUPPLEMENTARY  
INFORMATION  
(UNAUDITED)





**U.S. Department of Justice  
United States Marshals Service  
Required Supplementary Information  
Combining Statement of Budgetary Resources  
Broken Down by Major Appropriation  
For the Fiscal Year Ended September 30, 2014**

Dollars in Thousands

2014

	Salaries & Expense	Court Security	Construction	Justice Prisoner and Alien Transportation System	Total
<b>Budgetary Resources:</b>					
Unobligated Balance, Brought Forward, October 1	\$ 129,849	\$ 13,372	\$ 823	\$ 12,348	\$ 156,392
Recoveries of Prior Year Unpaid Obligations	46,020	9,632	1,078	177	56,907
Other Changes in Unobligated Balance	(7,499)	7,116	-	-	(383)
Unobligated Balance from Prior Year Budget Authority, Net	168,370	30,120	1,901	12,525	212,916
Appropriations (discretionary and mandatory)	2,712,449	416,639	9,800	-	3,138,888
Spending Authority from Offsetting Collections (discretionary and mandatory)	46,059	494	411	52,807	99,771
<b>Total Budgetary Resources</b>	<b>\$ 2,926,878</b>	<b>\$ 447,253</b>	<b>\$ 12,112</b>	<b>\$ 65,332</b>	<b>\$ 3,451,575</b>
<b>Status of Budgetary Resources:</b>					
Obligations Incurred (Note 14)	\$ 2,671,498	\$ 427,778	\$ 9,767	\$ 44,375	\$ 3,153,418
Unobligated Balance, End of Year:					
Apportioned	228,444	2,068	2,345	20,957	253,814
Unapportioned	26,936	17,407	-	-	44,343
Total Unobligated Balance - End of Year	255,380	19,475	2,345	20,957	298,157
<b>Total Status of Budgetary Resources:</b>	<b>\$ 2,926,878</b>	<b>\$ 447,253</b>	<b>\$ 12,112</b>	<b>\$ 65,332</b>	<b>\$ 3,451,575</b>
<b>Change in Obligated Balance:</b>					
Unpaid Obligations:					
Unpaid Obligations, Brought Forward, October 1	\$ 318,611	\$ 84,667	\$ 37,302	\$ 18,141	\$ 458,721
Obligations Incurred	2,671,498	427,778	9,767	44,375	3,153,418
Outlays, Gross (-)	(2,625,012)	(395,826)	(10,505)	(56,742)	(3,088,085)
Recoveries of Prior Year Unpaid Obligations (-)	(46,020)	(9,632)	(1,078)	(177)	(56,907)
Unpaid Obligations, End of Year	319,077	106,987	35,486	5,597	467,147
Uncollected Payments:					
Uncollected Payments from Federal Sources, Brought Forward, October 1 (-)	(17,437)	-	-	(2,232)	(19,669)
Change in Uncollected Customer Payments from Federal Sources	1,704	-	-	(403)	1,301
Uncollected Customer Payments from Federal Sources, End of Year	(15,733)	-	-	(2,635)	(18,368)
Memorandum (non-add) Entries:					
Obligated balance, Start of Year	\$ 301,174	\$ 84,667	\$ 37,302	\$ 15,909	\$ 439,052
Obligated balance, End of Year	\$ 303,344	\$ 106,987	\$ 35,486	\$ 2,962	\$ 448,779
<b>Budgetary Authority and Outlays, Net:</b>					
Budgetary Authority, Gross (discretionary and mandatory)	2,758,508	417,133	10,211	52,807	3,238,659
Less: Actual Offsetting Collections (discretionary and mandatory)	47,763	494	411	52,404	101,072
Change in Uncollected Customer Payments from Federal Sources (discretionary and mandatory)	1,704	-	-	(403)	1,301
<b>Budget Authority, Net (discretionary and mandatory)</b>	<b>\$ 2,712,449</b>	<b>\$ 416,639</b>	<b>\$ 9,800</b>	<b>\$ -</b>	<b>\$ 3,138,888</b>
Outlays, Gross (discretionary and mandatory)	\$ 2,625,012	\$ 395,826	\$ 10,505	\$ 56,742	\$ 3,088,085
Less: Actual Offsetting Collections (discretionary and mandatory)	47,763	494	411	52,404	101,072
<b>Agency Outlays, Net (discretionary and mandatory)</b>	<b>\$ 2,577,249</b>	<b>\$ 395,332</b>	<b>\$ 10,094</b>	<b>\$ 4,338</b>	<b>\$ 2,987,013</b>





**U.S. Department of Justice  
United States Marshals Service  
Required Supplementary Information  
Combining Statement of Budgetary Resources  
Broken Down by Major Appropriation  
For the Fiscal Year Ended September 30, 2013**

Dollars in Thousands

2013

	Salaries & Expense	Court Security	Construction	Justice Prisoner and Alien Transportation System	Total
<b>Budgetary Resources:</b>					
Unobligated Balance, Brought Forward, October 1	\$ 46,637	\$ 13,117	\$ 930	\$ 41,275	\$ 101,959
Recoveries of Prior Year Unpaid Obligations	23,312	18,282	581	362	42,537
Other Changes in Unobligated Balance	65,346	(18,406)	-	-	46,940
Unobligated Balance from Prior Year Budget Authority, Net	135,295	12,993	1,511	41,637	191,436
Appropriations (discretionary and mandatory)	2,638,591	396,966	9,793	-	3,045,350
Spending Authority from Offsetting Collections (discretionary and mandatory)	36,367	638	514	48,491	86,010
<b>Total Budgetary Resources</b>	<b>\$ 2,810,253</b>	<b>\$ 410,597</b>	<b>\$ 11,818</b>	<b>\$ 90,128</b>	<b>\$ 3,322,796</b>
<b>Status of Budgetary Resources:</b>					
Obligations Incurred (Note 14)	\$ 2,680,404	\$ 397,225	\$ 10,995	\$ 77,780	\$ 3,166,404
Unobligated Balance, End of Year:					
Apportioned	110,394	3,606	312	12,348	126,660
Unapportioned	19,455	9,766	511	-	29,732
Total Unobligated Balance - End of Year	129,849	13,372	823	12,348	156,392
<b>Total Status of Budgetary Resources:</b>	<b>\$ 2,810,253</b>	<b>\$ 410,597</b>	<b>\$ 11,818</b>	<b>\$ 90,128</b>	<b>\$ 3,322,796</b>
<b>Change in Obligated Balance:</b>					
Unpaid Obligations:					
Unpaid Obligations, Brought Forward, October 1	\$ 378,099	\$ 120,124	\$ 35,346	\$ 4,198	\$ 537,767
Obligations Incurred	2,680,404	397,225	10,995	77,780	3,166,404
Outlays, Gross (-)	(2,716,580)	(414,400)	(8,458)	(63,475)	(3,202,913)
Recoveries of Prior Year Unpaid Obligations (-)	(23,312)	(18,282)	(581)	(362)	(42,537)
Unpaid Obligations, End of Year	318,611	84,667	37,302	18,141	458,721
Uncollected Payments:					
Uncollected Payments from Federal Sources, Brought Forward, October 1 (-)	(151,085)	-	-	(8,986)	(160,071)
Change in Uncollected Customer Payments from Federal Sources	133,648	-	-	6,754	140,402
Uncollected Customer Payments from Federal Sources, End of Year	(17,437)	-	-	2,232	(19,669)
Memorandum (non-add) Entries:					
Obligated balance, Start of Year	227,014	120,124	35,346	(4,788)	377,696
Obligated balance, End of Year	301,174	84,667	37,302	15,909	439,052
<b>Budgetary Authority and Outlays, Net:</b>					
Budgetary Authority, Gross (discretionary and mandatory)	2,674,958	397,604	10,307	48,491	3,131,360
Less: Actual Offsetting Collections (discretionary and mandatory)	170,015	638	514	55,245	226,412
Change in Uncollected Customer Payments from Federal Sources (discretionary and mandatory)	133,648	-	-	6,754	140,402
<b>Budget Authority, Net (discretionary and mandatory)</b>	<b>\$ 2,638,591</b>	<b>\$ 396,966</b>	<b>\$ 9,793</b>	<b>\$ -</b>	<b>\$ 3,045,350</b>
Outlays, Gross (discretionary and mandatory)	\$ 2,716,580	\$ 414,400	\$ 8,458	\$ 63,475	\$ 3,202,913
Less: Actual Offsetting Collections (discretionary and mandatory)	170,015	638	514	55,245	226,412
<b>Agency Outlays, Net (discretionary and mandatory)</b>	<b>\$ 2,546,565</b>	<b>\$ 413,762</b>	<b>\$ 7,944</b>	<b>\$ 8,230</b>	<b>\$ 2,976,501</b>

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# U.S. DEPARTMENT OF JUSTICE

## UNITED STATES MARSHALS SERVICE

OTHER INFORMATION  
(UNAUDITED)



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**U.S. Department of Justice  
United States Marshals Service  
Combined Schedules of Spending  
For the Fiscal Years Ended September 30, 2014 and 2013**

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<b>Dollars in Thousands</b>	<b>2014</b>	<b>2013</b>
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**What Money is Available to Spend?**

Total Resources	\$ 3,451,575	\$ 3,322,796
Less: Amount Available but Not Agreed to be Spent	253,814	126,660
Less: Amount Not Available to be Spent	44,343	29,732
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,153,418</b>	<b>\$ 3,166,404</b>

**How was the Money Spent?**

Personnel Compensation and Benefits		
1100 Personnel Compensation	\$ 549,357	\$ 499,395
1200 Personnel Benefits	235,838	238,596
Other Program Related Expenses		
2100 Travel & Transportation of Persons	19,944	14,242
2200 Transportation of Things	824	2,226
2300 Rent, Communications, and Utilities	240,685	245,027
2400 Printing and Reproduction	343	314
2500 Other Contractual Services	1,975,655	2,024,376
2600 Supplies and Materials	35,796	38,028
3100 Equipment	91,531	37,387
3200 Land and Structures	3,081	65,546
4200 Insurance Claims and Indemnities	364	1,267
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,153,418</b>	<b>\$ 3,166,404</b>

**Who did the Money go to?**

For Profit	\$ 1,700,786	\$ 1,427,877
Government	788,355	997,299
Employees	549,357	737,991
Other	114,920	3,237
<b>Total Amounts Agreed to be Spent</b>	<b>\$ 3,153,418</b>	<b>\$ 3,166,404</b>

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## JUDICIAL PROCESS AUDIT

The most important understanding of the judicial process requires us to think about more than formal law and procedure. The first question which often comes in one mind after analysing the topic is what do you exactly mean by critical analysis of judicial process? Is it merely a statement of criticism or something beyond the imagination of one's thinking? However, if we closely analyse our present topic, then all the doubts become crystal clear because sixty two years after independence, the entire judicial system is on the verge of collapse. While the superior courts have earned praise from citizens for intervening in citizen's concerns raised through public interest petitions, only those with resources or cunning can hope to get ordinary justice. Over three crore cases are presently pending in various courts. In most cases, citizens have little hope of getting justice in their lifetime. Corruption and abuse of court processes are rampant.

**So, what exactly Judicial process is?**

*Everything done by judge in the process of delivery of justice is called Judicial Process .It basically confines itself to the study of "is" to "ought" of the law.*

*Or,*

*Judicial process is basically "whole complex phenomenon of court working" and what went wrong with this phenomenon is the issue in my current project.*

**1 The judiciary is one of the pillars on which the edifice of the constitution is built. It is the guiding pillar of democracy, what is happening inside it is a fascinating study. Its logbook shows that often the judgments of the Apex court degenerated into a dismal failure. There are many self inflicted wounds. This is the story of 59 years of the Supreme Court.**

Speaking of the Supreme Court of United States of America, Jackson J., of the court said,

"we are final, not because we are infallible, we are infallible because we are final." The judgments of the Supreme Court are final but not infallible. They require constructive criticism, especially to take them out of the morass of alien concept and ideas foreign to the land and culture. The Supreme Court is virtually the proverbial ivory tower, with the judges sitting on the top. Disturbed by some of its judgments, Pt. Nehru once said in a diatribe, "judges of the Supreme Court sits on ivory towers, far removed from ordinary men and know nothing about them." The Supreme Court is sometimes said to be beyond the reach of a common person.

Now, a question arises;

What is justice? Is an age long question since the beginning of civilization? It is an elusive term. What appears justice to one person and from one viewpoint may be injustice to another or in another prospective. We cannot have such elusive concept as a yardstick. There must always be some objectives test to form a foundation of just society. Jurisprudence formulates that test as "justice according to rules"[1]. Therefore, W. Freidmann said, "justice is an irrational concept". He concludes that justice as a generally valid concept is the goal to which every order aspires as a "purposeful enterprise".

The question arises as to what actually went wrong to judicial process in India? Because the

Supreme Court, instead of searching and basing its judgments on first principles or fundamentals of jurisprudence has sometimes has taken a shortcut by resorting to the supposed fiat of article 142. This article was employed as a tool to pass final decisions, apart from and without recourse to the law of the land. The concept of expanding universe is not confined to astronomy alone. There is fast expanding judicial firmament. The expansion of judicial world sometimes reads on fields occupied and reserved for others. It is very necessary that Supreme Court act with self restraint. Let us remember the adage, “power corrupts and absolute power corrupts absolutely”.

There are certain questions which are needed to be answered in the working of judicial process, like

1. What is the need of Court fees?
2. Why advocates are needed?
3. Why we are bound to pay advocate fees when they are called as officers of court?
4. Why we have chosen adversarial process of justice?
5. What is wrong with this system?
6. Is there any justification of having Limitation Act which is pro British legislation?

### **Critical analysis of the present system of Judicial Process**

#### 3.1 An introductory analysis of Indian judicial process:

A vision of equal, expeditious and inexpensive justice for India’s millions, a passion for effective delivery of social justice for the victimized masses and a mission of constitutional fulfilment through a dynamic rule of law geared to democratic values, operated by a fearless judicial personnel with a positive people oriented jurisprudence broad based an access to a sensitive, streamlined, functional jurisprudence- that is the command of the Preamble to the [Constitution](#) and the categorical imperative of [Article 39-A](#). Our socialist Republic now hungers for human justice through human law and staggers towards nowhere since courts have lost their credibility and are writing their own obituary through retiring chief justices. Today judicial justice has come to a grinding halt, the judicature has caricatured itself and the Bench and the Bar, alas, have become a law unto themselves, Indian humanity having alienated itself from the feudal forensic system and the cult of the robbed process. If all the judges and [lawyers](#) of India pull down the shutters of their law shops nationwide, injustice may not anymore escalate, if at all, litigative waste of human and material resources may be obviated.[2]

Now, a situation arises that the entire Indian justice system is now under severe threat. With the police force that has been condemned by everyone as being incompetent and corrupt, with the prosecution system that is inept and selective and a judiciary that is corrupt where is the room for justice in the Indian context?

Indian Judicial system has collapsed totally. Be it the justice delivery system existent in criminal side or civil side, there is no hope for justice for common man. Entire fabric has been exploited and doomed. The condition of Indian judicial system worsened so much that Attorney General of India, Mr. Soli Sorabjee remarked, “Criminal Justice system in India is on the verge of collapse owing to inordinate delay in getting judicial verdict and many a potential litigant seem to take recourse to a parallel mafia dominated system of 'justice' that has sprung up in metros like Mumbai, Delhi etc”.

"Hamlet's lament about the laws delays still haunts us in India and the horrendous arrears of cases in courts is a disgraceful blot on our legal system, especially the criminal justice delivery system," Striking an alarm bell, Sorabjee said: "criminal justice system is on the verge of collapse. Because Justice is not dispensed speedily, people have come to believe that there is no such thing as justice in courts.

"This perception has caused many a potential litigant who has been wronged to settle out of court on terms which are unfair to him or to secure justice by taking the law into his own hands or by recourse to a parallel mafia dominated system of 'justice' that has sprung up in metropolitan centres like Mumbai.

"The gravity of this development cannot be underestimated. Justice delayed will not only be justice denied, it will be the rule of law destroyed," he said

The Attorney General said the time has come to ask, "Have the ideals of justice, liberty, equality and fraternity proclaimed in the preamble in grandiloquent language been realised in the working of the [Constitution](#) during the last 53 years? Have we redeemed our tryst with destiny? Have fundamental rights been merely in the realm of empty rhetoric or have become living realities for the people of India." [3]

Apart from that there are number of question which requires answer in the working of judicial process, like;

1. What is the need of Court fees?
2. Why advocates are needed?
3. Why we are bound to pay advocate fees when they are officers of court?
4. Why we have chosen adversarial process of justice?
5. What is wrong with this system?
6. What is the use of locus standi?
7. Why are we bound to pay process fee?
8. Are these provisions violative of [Article](#) 14 of the [Constitution](#)? If yes, then why there is nobody to take reformative steps?

Mutual appreciation of society of judges and advocates constitute extra constitutional power and this lead to imbalance of power spectrum in society. What we need is, whatever the SC said, don't take it as gospel of God. We should be able to discover the truth; we should be able to analyze that whether the particular question is in conformity with Fundamental Rights. We should have the ability to identify what is wrong, where? Now, the analysis of governmental functioning is "the executive is failing, the legislature is failing and the judiciary has failed."

[Article](#) 13(2) clearly provided "the state shall not make any law which take away or abridges the rights conferred by this part and any law made in contravention of this clause shall, to the extent of the contravention, be void."

Now, question arises, who is the custodian of this right? The answer is President of India under [Article](#) 60 and Governor under [Article](#) 159. President is not bound to sign the Bill which is unconstitutional, as an obligation is imposed under [Article](#) 60 that he shall preserve, protect and

defend the constitution and the law. There has to be unity of command to direct state and we have President and Governor for that purpose. [Article 14](#) compels every functionary including the judges to decide according to the provisions of the [Constitution](#).

**According to professor Burgess, the idea of complete constitution is like this:**

1. Amending power of the [Constitution](#) given under [Article 368](#) of the [Constitution](#).

2. Liberty: consist in three modules:

- i. Declaration of liberty
- ii. Guarantee of liberty
- iii. Suspension of liberty under [Article 358](#) and [359](#)

3. [Organs of Governmental power: legislature, executive and judiciary.](#)

Professor Bluntschli, added one more,

Presidential form of government has power to choose policy, what he required is only support from legislature.

If one analyze the recent opinion of CJI that judges are not bound to disclose their assets. What the CJI trying to do? He is just claiming unequal protection of law which is not guaranteed under [Article 14](#) of the constitution as he is attempting to take more protection of law; therefore, the equality clause is violated by the judges.

Education and economic development are the only two methods mentioned of correctness under [Article 46](#) of the [Constitution](#). But in the recent decision of SC regarding reservation policy for weaker section of the society is totally a blunder created by it. Nobody has grievance that the weaker section of society should prosper, but it does not mean robbing upper strata of society of their opportunities and development. Forward section of society cannot be pulled down to promote weaker section of the society. The basic funda is “unless there is capacity building from primary level, reservation does not help.”

The answer of all the grievances are given under [Article 14](#) of the [Constitution](#) but the judiciary lost the beauty of this particular [Article](#) through classification. By and large Courts failed to deliver complete justice. [Article 14](#) talks of restitutive justice and restitutive justice has the touchstone of time count. Moreover, procedural complexities should not hamper the way to justice. As lay down by SC that if you move the High court under [Article 226](#) then you can come to SC only under [Article 136](#). What is this nonsense? Is it the denial to the people that by way of procedural complexities they cannot enforce their rights against the wrong doer? It is highly unconstitutional. Nobody can forfeit your right to move to SC under [Article 32](#) if you exhaust your first remedy under [Article 226](#), because it is violative to the protection given under [Article 14](#). What is wrong here is the manner of working, system is good enough to lead to equality.

**The following are some of the shortcomings of the present day Judicial system:**

3.2 procedural hurdles in Access to Justice:

Procedural laws are not merely a body of rules meant for facilitating the dispensation of justice on substantive questions. It also represents the value choices of the makers of law. What are their priorities- facilitating access to justice or creating hurdles to access to justice? The answer better

understood by everybody. From institution of a suit to the execution of a decree, it is the onus of private individuals, not the government. The lacuna is due to the adversarial process of justice system. Under the said model, there is no duty of the court to ascertain the truth. Adopting an adversarial system leads to number of hurdles in access to justice, especially procedural hurdles in access to justice.

As already mentioned, it does not reflect the fundamental policy choices made in the [Constitution](#) of India. Instead it reflects the values chosen by the colonial masters, the British, who were least interested in the plight of Indians and thus placed several hurdles in access to justice by prescribing several technicalities. Though the Supreme Court has said that “procedure is hand-maiden to the substantive rights of the parties”, the practical working of this hand-maiden leads to the perception that the handmaiden has had her revenge by overpowering the queen, i.e., the substantive laws. Procedural laws prescribe the procedure for enforcement of substantive laws however procedural laws have been used, time and again, to defeat substantive rights. [4]

#### • **Cost of litigation:**

(Order IX, R2, R5, Order XVI, R2 of CPC) the most disadvantageous feature of judicial process is its cost. The costly nature of litigation compels parties to abandon just claims and defences. The cost of litigation consist of court fees, process fees, advocate fees and the principle of the losing party paying the cost of litigation. This cost system is peculiar to British administration. It was British who imposed such fees for reducing filing of frivolous claims. The motive for this was delay and denial of access to the Courts and also to extract money from the people. In independent India, we followed the same legislation i.e. The Court Fees Act of 1870. Apart from that parties are required to pay process fees like for filing of plaints, written statements, issuing summons and issuing copy of judgment and decree.

Thus, the access to justice in India depends on the financial capabilities of the parties that is unconstitutional and encourages inequality between the parties. Here, ethical count is defeated.

#### • **Court fees:**

With the institution of the suit, a court fee has to be paid. As per Section 35 of CPC, the costs of and incidents of all suits shall be in discretion of the Court and the Court has the full authority to determine the extent of costs. As per Order IX R 2 of CPC, a suit can be dismissed if the summons has not been served upon the defendant in consequence of the failure of the plaintiff to pay the Court fee or postal charges[5]. Court Fee is a colonial baggage being carried by the Indian Courts till today. The policy of selling justice is against the constitutional scheme[6]. When seen in the light of the power spectrum as elucidated by Prof. Julius Stone in his book[7], the aspects of power relations in charging a fee for rendering justice is all on negative side. Court fee is low on ethical spectrum as it is against the basic premises of the foundation of a welfare state as envisaged in the [Constitution](#). Since a multitude of citizens are involved in civil litigation process, the head count component is quite high and so is the interest affected component as civil cases cover a broad ambit of interests. The Court fee, being a hurdle in access to justice, has a large degree of influence in discouraging honest litigants who do not have sufficient financial resources to pay the fee from approaching the courts. Since the non-payment of court fee can result in dismissal of the suit, it is very high on coercion band.

The judicial dicta on entry fee hurdle in access to justice are quite interesting. In **Central Coal Fields Ltd. V. Jaiswal Coal Co.**, AIR 1980 SC 2125 observed that effective access to justice is one of the basic requirements of a system and high amount of court fee may amount to sale of justice. The Court observed that

“It is more deplorable that the culture of the magna carta notwithstanding, the Anglo-American forensic system and currently free India’s court process – shall insist on payment of court fee on such a profiteering scale without corrective expenditure on the administration of civil justice that the levies often smack of sale of justice in the Indian Republic where equality before the law is a guaranteed constitutional fundamental and the legal system has been directed by [Article](#) 39A “to ensure that opportunities for securing justice are not denied to any citizen by reason of economic.....disabilities”.

It is submitted that sale of justice whether for a penny or for a pound is a sale[8]. The basic premise for accessing the court for redressal of an injury is that the State is liable to protect to individual and having failed to do so, it should redress the injury. For this no fee can be charged. It is a settled principle of law that no one can profit from their own wrong. Thus State ought not and cannot profit from its own lapse in performance of duty.

Later in **Secy. to Govt. of India v P.R. Sriramulu**, 1996 (1) SCC 345, the Court pointed out that it could not be disputed that the administration of justice is a service which the State is under an obligation to render to its subjects. However, yet again, the Court failed to declare the Court Fee Act as unconstitutional.

#### • **Advocate fees:**

A question now arises, what is the need of advocate fees? Perhaps William Shakespeare is correct when he said, “the first thing we do, let’s kill all the [lawyers](#).”

The money power and influence power comes into play, thus the principle of equality as envisaged under [Article](#) 14 stands violated. The adversarial system does not impose a positive duty on judges to discover the truth; he merely plays a passive role. However under Section 57(1) of the Indian Evidence Act, a judge is presumed to know every law, then he is the best person to discover the truth, then why at all, he needed the help of advocates?

Advocates are considered to be the officer of the Court under Advocates Act, they are regarded to assist the Court in the administration of justice. Then why parties are required to pay advocate fees? It is clear cut violative of [Article](#) 14, as the court is required to administer justice without the aid of advocates. Even if you want advocates then go for public advocates aided and supported by states. In the process of delivery of justice there is no parity of power. There is need for rethinking or revamping whole judicial system. Time count is very important to determine the scope of [Article](#) 14.

#### • **The law of Limitation: (Order VII R6 CPC)**

The Limitation Act of 1963 provides for the specific period for a person to effectuate his rights. This bars the remedy after certain period of time but the rights subsists. The Act was passed

during British in the year 1793 and was amended and consolidated later. The same was adopted by Independent India, the effect of this is that it denies justice after a period of time, thus invalidating and defeating the time spectrum as a person is denied for his right after certain period of time, thereby denying interest spectrum as interests of such persons who cannot approach to Court thus, their interests get affected and influence of laws, on such aggrieved persons was unable to give remedy. Limitation act basically does not defeat right but basically the remedy is denied. [Article 14](#) guarantees moment to moment protection because the idea of justice under article 14 is restitutive justice. Sanction for prosecution abridges away my right to file suit. If any aggrieved person failed to file suit within limitation time, then wasn't it is the duty of the court to take judicial notice of this as clearly provided under [Article 57\(1\)](#) of Indian Evidence Act.

• **Arrears of cases:**

Because delay in legal proceedings, there is huge backlog of cases which are pending, and it take approximately 20 years for a case to be disposed off, this snail pace speed of dispensation of cases throughout the years is effecting the ethical count, as justice delayed is justice denied and also adversely affecting the time count spectrum and interest spectrum is affected when litigant suffer throughout the years.

• **Selection of judges:**

As far as selection of judges is concerned, according to the text of the [Constitution](#), President has the power to appoint judges, he has discretion to choose and he can consult the Chief Justice of India as well as senior most judges of Supreme Court in matter of appointment. But the SC in *SP Gupta and others V. Union Of India* [9] held that consultation by CJI means his consent. If consultation means consent then the power spectrum shifted from the President to CJI, and it is entirely wrong interpretation of the [Constitution](#). [10]

The judges are selected according to the political loyalties acceptable to the ruling party. Genetic engineering from the political angle is made secretly operational in the case of judges, and then at the performance level agrarian laws are struck down, welfare measures are whittled down and progressive projects meet thier judicial water loo. [11]

There no system for disciplining corrupt judges. Impeachment is next to impossible. One cannot even register an FIR against a judge taking bribes openly without the prior permission of the Chief Justice of India.

Added to all these immunity to judiciary is the power of contempt of Court, which can be used by the judiciary to stifle public criticism, or even an honest evaluation of the judiciary. This threat of contempt has prevented a frank discussion or a healthy debate on the functioning of judiciary. The judiciary recommended that the Chief Justice should be the final word in deciding whether any information about the Court should be given out or not. Most [High Courts](#) have not even appointed a public information officer under the RTI Act. The Delhi [High Court](#) has framed rules which prohibit the release of non judicial information about the court, such as purchases and appointments. All this has ensured that the judiciary becomes a law unto itself, totally non transparent, and accountable to none.

What we need is the reformative method of selection of judges. Advocates should not be allowed to become judges nor should be the practise any criteria for the selection of judges.

When one has to analyze the law, analyze the constitutionality of law, because every judicial process is constitutional specific.

There are numerous instances of cases where SC wrongly interpret the provision of [Constitution](#) like Joshi V. Madhya Bharat where it was held that place of birth is relevant or in Balaji V. State of Mysore case[12] where caste was given prominence. Here, court indirectly held that caste and religion is important which is wholly unconstitutional. By upholding pro government attitude, courts are cheating the citizens who belong to socially advantageous sections of society but are economically backward enough not to get an opportunity of education. Reservation in the matter practised today cannot lead to the fulfilment of [Article](#) 45. We should make the quest to achieve all this on the bedrock of [Article](#) 14. Judges have to act strictly in accordance with law, on the matter of Judicial process, the duty of the court is to ascertain the law and apply it and judge the fact in the light of that law, here court has no power to legislate. There is nothing like judges made law.

### **3.2 failure of Supreme Court to interpret the [Constitution](#) through erroneous decisions**

The constitution has conferred a very wide jurisdiction on SC of India. It shows that the [Constitution](#) makers placed great confidence in the sagacity and the wisdom of those who were to exercise such enormous power. When any court is vested and is invested with wide jurisdiction, it necessary follows that the court must exercise that jurisdiction with utmost care and caution. When power is conferred on constitutional machinery, it is always to be understood by the functionary as a duty; others may view it as power. When the functionary is a judicial restraint, he must be extra careful, lest he may appear to be carried away by emotion or bias. Self imposed discipline and judicial restraint should be his armament; otherwise there is the fear that he may not be viewed as impartial. It is difficult to draw the line but one can say, without fear of contradiction that the power must be exercised with restraint and should not appear to be an immature impulse. In a democratic set up, when the [Constitution](#) confers wide powers and jurisdiction on any institution, the constitutional functionaries exercising those powers are in effect called upon to perform certain duties and functions and, therefore, they must carry out those obligations with great care and caution. The constraint and restraint of judicial office demand a self imposed discipline in the exercise of the power and jurisdiction conferred by the [Constitution](#). There can, therefore, be no doubt that the jurisdiction must be exercised responsibly, and with restraint and circumspection.

### **Some of the heavily criticized judgments of SC are:**

In, [Chiranjeet Lal Chowdhary V. Union of India](#)[13]

The SC abdicated its power in the hands of the executive and laid down the Doctrine “constitutionality of Statute” in which the petitioner has to prove the unconstitutionality of the statute and court assumes its constitutionality. This judgment defeats all the bands of the power spectrum, as it is unethical on the part of the Court to presuppose the constitutionality of the statute without looking into its essence so it clearly violates the power principle. This approach affects the interest, influence, head count and time bands of the power spectrum, because the interests of the majority of people are affected by his approach and an individual is entrapped in



dilatory legal battle for justice.

In, [Mohini Jain V. State of Karnataka](#)[14]

The petitioner applied in a medical college in Karnataka but the college was charging an exorbitant amount as capitation fees. The petitioner filed a case in a court, it took the court five years to settle the case and the verdict of the case was that “the case of Mohini Jain may be considered for admission” it took the court 5 long year to decide the case. During these years, the petitioner would have successfully completed MBBS and even after the lapse of 5 years admission to her is not guaranteed.

Apathy of enforcement machinery and judicial process towards the seekers of justice can be viewed from the condition of the poor victims of Bhopal Gas Leak Disaster[15]which took a toll of 15000 people. 25 years had passed to that ghastly incident, still now victims are fighting for compensation, which fails to measure up the damage caused to them. The decision of the court was passed in the year 1991 but the decision has not been enforced for such a long time. This delay in the execution of the judgment is affecting the time count of the power spectrum as justice has no importance if it is not time bound and justice by the court without being enforced remains incomplete.

In, [AK Gopalan V. State of Madras](#)[16]

The SC attenuated the concept of “personal liberty” in [Article 21](#), by narrowly interpreting it without reading it in conjunction with [Article 19](#), and hence said “personal liberty” means nothing more than the liberty of the physical body- freedom from arrest and detention from false imprisonment. This interpretation has given a carte Blanche power in the hands of the executive to interfere with the fundamental rights of the citizens. This case defeats all the counts of the power spectrum as it lies at the higher end of the coercion band.[17]

In, [Maneka Gandhi V. Union Of India](#)[18]

Instead of dealing with fundamental question of law, the case was decided on the assurance given by Government of India that her passport will be returned back. No question of law was decided. So, can we cite this case as precedent? Which is merely decided on Government assurance? Now a question may arise, what went wrong with SC? Here, court failed to administer justice according to law as it failed to laid down any law. Court ought to say that public officer should be prosecuted under s.166 of the IPC for impounding justice, and then it will act as a deterrent to other officers. What was lost in this case is the opportunity to lay down any law. Policy control becomes duty of court under judicial process.

The answer is very simple yet SC failed to understand it. It is failing to respect [Article 14](#). The SC must bear in mind that the power is given for the performance of duties and functions. They have been granted immunity only for the purpose of doing justice fearlessly, but SC failed to understand this notion of power. It exercises power arbitrarily.

3.3 Indian Judiciary: Tyranny or Activism.....is it accountable to anyone?

What exactly is Indian judiciary? Is it accountable to anyone? These are certain questions which require immediate and remedial answers. Peeved at judiciary donning the role of Executive in several cases, Somnath Chatterjee warned of ‘serious implications’ if this trend continued,

asserting no one should behave as a 'super organ' of the State. Chatterjee said 'nowadays' there have been 'umpteen' cases where judiciary had "intervened in the matters entirely within the domain of the executive, including policy decisions despite the [Constitution](#) according pre-eminent position to the Legislature. [19]

The judiciary, the principal system present in all the societies created, mainly to fight injustice, lawlessness and uphold what is just, right and fair. This system if personified as a human being tends to become corrupt and decay or like any normal human being is born with some imperfections.

These imperfections have off late become the setbacks of the judiciary. Some call the judiciary the temple of fairness and others call it the temple of loopholes. Judiciary is one pious system which has the inherent right to award capital punishment .It has the legal power to bring death to the law breakers; it can punish, isolate and take away the right to a pleasant social life.

### **The Setbacks in Indian judiciary can be broadly divided in the following ways:**

1. Corruption
2. Extent of corruption
3. Delay
4. Other areas of concern like shortage of judges and staffs, lack of infrastructure and funds, political interference, accessibility, misuse of power etc.

### **EXTENT OF CORRUPTION**

#### **Let us see the extent of corruption in judiciary:**

- 13.37 percent of total households in the country had interacted at least once with the judicial department in the last one year. This means, nearly 2.73 crore households had interacted with the judiciary to get one or the other service
- Nearly 47.32 percent of those interacting with the judiciary had actually paid bribes. This works out to 6.32% of the total households, (approx. 129 lakhs)
- The average amount of bribe paid to the judiciary was estimated to be Rs. 2095/- (Rs. 2181/- for Urban households, and Rs. 1942/- for Rural households). Therefore the total monetary value of the bribe paid in the last one year works out to Rs. 2630/- crores.[20]
- There was a variation in the amount of bribe paid depending up on the nature of work. On an average bribe for a getting a favourable judgment was Rs. 2939/- while the average bribe paid for getting case listed was Rs. 799/-[21]

There is always a conflict between judicial activism and judicial restraint, the latter jurisprudence adheres by and large, to a legal positivist approach while the former is basically having realist approach.[22]

The word judicial activism, judicial overreached, judicial credibility sounds to be quite synonymous to judicial review and judicial creativity, until and unless the judiciary works with its full competency and honesty. The judges should not in any manner fail to police themselves. It was Hon'ble Speaker Mr. Somnath Chatterjee who had marked that the M.P.'s are working

hard to destruct the democracy. But after the happening of several cases of corruption of the judges it's hard to say the judiciary is working with its full credibility. A learned judge of today marks that when we had joined the judiciary there were less than 20% of corrupt judges and when the time comes towards his retirement after serving the nation for more than three decades he with tears in his marks that today we have more than 80% of corrupt judges in the system. It's shameful for the nation when we see a sitting Supreme Court Judge involved in the Ghaziabad case, when we see a Chief Justice of a certain [High Court](#) as among one of the most corrupt judges in the system. It was the then Hon'ble President Mr. A.P.J. Abdul Kalam, who had refused to elevate such a judge but sooner or later he was there. The Indian Judiciary has become a den of corruption. The extortion of litigants has become a regular business of today's judicial servants. The whole money extorted from the litigants is being collected with the Reader of the court. From this booty, lunch is being served for the Judiciary; their monthly households are met. The remaining booty is being distributed among the staff of the judge. The litigants should be protected from this exploitation by the system. It should be the judges who should police themselves without any kind of discrimination on any basis. The real question lies in, whether such a judicial system goes towards a reign of tyranny or just activism. As far as the system is working towards nation building and in national interest it cannot be called as a tyranny but as judicial creativity. Judicial activism can be called as quite synonymous to judicial credibility or creativity. Where judiciary is known as the paterfamilias of the organs of the government and the nation, it should work for the welfare of the nation and its citizens, in order to protect the rights of the citizens. And such a system should not be obsolete in nature; changes, reformations are must for a better today and tomorrow, with a balanced amount of checks over each other.

#### 3.4 Indian Judiciary On the verge of total collapse:

Indian judiciary has become a decaying institution that has no internal mechanisms or will or strength to adapt to the changing times. The judiciary has become almost a law unto itself, answerable to none and under no pressures to reform or change with time. Indian judiciary started as an extension of the colonial regime. British set up a poor copy of the British judicial system as Indian judicial system. The judges (generally British in pre-independence India) were the symbol of imperial power and all the systems and procedures of the court were intended to humiliate the natives. Even after Indians were appointed as judges, any contact between judges and the common people was discouraged. The concept of jury was anathema since it would have involved the local people in decision making process.

Procedures in Indian courts have not changed much during the post-independence period. The pre-independence practice of humiliation of the natives at the courts continues till today. The concept that an accused is innocent till proved guilty and must be treated with due respect and dignity finds no place in Indian courts where only the judge has honour and only the advocates are learned. The alienation of the common man in India with the judicial system leads to his feeling that the court-room is an alien-land almost like a war field where the common notions of morality and ethics have no place. It is not unusual to see in Indian courts persons who are otherwise respectable and God-fearing submit false affidavits and make statements that have no relation to facts. It is often said that 'All is fair in love and war.' In India this gets extended to the court-room where technicalities rather than truth and morality rule. This has led to the Indian courts becoming graveyards of justice instead of being temples of justice. The absence of any relationship between the judiciary and the academic community has weakened both institutions

in India. Legal education is in a pathetic state in almost all states of India. For most students, getting admission to a course in law is the last option after they have lost all hopes of entering any other profession. It is not unusual to meet qualified practicing [lawyer](#)s who cannot even draft an application. Such [lawyer](#)s depend on the typists sitting in the court premises to draft all documents for them and keep accumulating years of 'experience' that enables them to rise to become senior advocates or even judges.[23]

According to recent survey[24] Indian judiciary is 466 behind schedule giving us a picture of completely collapsed system.

The whole system from lower court to Supreme Court is on the verge of total collapse. The whole judicial process or the judicial working of India is blinking. The condition of the subordinate courts where most litigants seek relief- especially the poor and the weak, is deplorable. There are confusion, pollution and corruption making proceedings insufferable and inaudible. To make matter worse in some courts, Delhi's Tiz Hazari complex, two or three cases are simultaneously. One by the bench clerk on the left, the other by another clerk on the right and the third the real robbed person, each engaging two advocates in the adversarial system! Truly, litigation at the lower levels is often 'a tale told by an idiot full of sound and fury signifying nothing'! Alas, the case goes on and at long last the verdict comes, (God knows when)?

The present day judiciary is a lawless law in action with no active social philosophy which is the functional essence of the [Constitution](#). There is no criterion for selection, apart from success at the Bar and/or community factor and/or political connection and/or nexus with [High Court](#) judges. There is no manner of public accountability procedure, grievance reported by the public, no monitoring or periodic performance audit and its annual reportage and public discussion by concerned organs. On top of these, ant serious criticism of the cloistered judiciary is contempt of court which legitimates as inhibitive culture against exposure of 'robbed' misconduct. No systematic method of the public to report and no open means of proceeding by any authority against a judge whole culpable indiscipline deserve investigation, inquiry and action upon proof.

Another fruitful source of pollution of law and justice in the ordinary Courts is the insufficient facilities for the Bench to catch up with the march of law and the social dimensions of legal developments.

**Long ago Lord Macaulay wrote:**

“What is administered is not law but a kind of rule and capricious equity. I asked an able and excellent Judge lately returned from India how one of our zilla courts would decide several legal questions of great importance—questions not involving consideration of religion or caste—mere questions of commercial law. He told me that it was a mere lottery.”

“If Justice is a human right, and it is, then easy and inexpensive access to judicial justice is a fundamental precondition.”

Rigid procedural laws and price tag for crucial entry by way of court-fee are inhibitions which run counter to the concept of equal justice and lead to jurisprudence of obstructive technicalities. Simplification of laws of procedure is as easy as it is imperative. The Civil and Criminal

Procedure Codes are complicated and arcane for common apprehension. They promote dilatory zigzagging and expensive paper logging. Processual sophistries and forensic casuistries are generated by the forms and formularies prescribed in these legislative mystiques and lacunose techniques.

There is an English jingle about legal drafting which applies a fortiori to Indian law making:

*“I’m the parliamentary draftsman  
I compose the country’s laws  
And of half the litigation  
I’m undoubtedly the cause.”*

The judicial Church of India needs a powerful protestant movement with constructive intent. A planned process of development in necessitous and the planning commission must set up a Judicial Wing for reform which is the need of the hour.

The pathology of the higher judiciary must be frankly diagnosed and the displeasure of the souls on the High Bench should not detract from the identification of the disease. Experiments with untruth and playing hide and seek with the grave issues on the alibi that if judges are exposed institutional demoralization may weaken societal credibility are escapist and disingenuous. Should we conceal the shocking shortcomings of the court system from the sovereign people of the Republic merely to keep up false appearances of justice incorporated?[25] As Anatole France put it, that “justice is the means by which established injustices are sanctioned”.

Extreme critics including some jurists and social activists told that “for much too long the law persons—judges, [lawyers](#) and jurists- everywhere in the world successfully managed to convince the people of the truth of their lies concerning the nature of the judicial process.”

The court is dead; long live the court, is a slogan of despair. This shall not be. Many of the rulings of the court in a la Land Reform Cases, Privy Purse case, Bank Nationalization Case, Golaknath Case and cases for nocturnal bail for the nouveau riche et al has shaken institutional credence, the Bhopal Gas Victim case sent shock wave adverse to the court vis a vis its social justice stance. The voices and noises raised then by the jurists, sceptics, critics, social scientists and investigative journalists shut down the myth of judicial justice and brought out the truth of its contrary slant.

In the words of Lore Hewart;

“It is not merely of some importance but it is of fundamental importance that justice should not only be done, but should manifestly undoubtedly be seen to be done.”

A judge is judged by high standards since the judiciary is people’s fiduciary, and what might be ignored in a politician is regarded as ignoble as a judge.[26] The whole structure of our judicial process is crumbling.

Special note was taken of the fact that in many cases the judiciary is playing a regressive role and implementing by judicial fiats the government's economic agenda, together with other anti-democratic, anti-secular and anti-people measures. We have seen cases in which the government found it hard to implement its regressive measures, and the judiciary came to its rescue with pronouncements that are not open to challenge. Moreover, arbitrary references to contempt of court, and the Supreme Court's ruling in Veeraswami's case that corruption cases against a judge cannot be investigated without the chief justice of India's permission, have given the judges immunity that is being widely abused.[27]

Judicial reforms in India: need of the hour

Today nothing retards the Indian mind more than the paralysis of the Indian justice system. This paralysis obstructs all attempts for greater social mobility and change within Indian society. While public consciousness of rights has grown enormously, the justice system obstructs popular aspirations. The failed justice system keeps India fragmented and in a constant battle against anarchy. India's judicial system is today obsolete and grossly unfair to majority of the population.[28]

What is lacking in the present working of the Judicial Process is the effective judicial reform programmes need to address institutional, organisational and individual dimensions in a comprehensive, systematic and holistic manner. Development and implementation of judicial reform initiatives for enhancing justice will require justice oriented approach based on the new understanding of the definition of justice. It should be defined as "standard of human conduct which includes, at the core, the following five norms:

- Freedom
- Equality
- Dignity
- Equity and
- Fairness.

The goal of the judiciary should therefore be defined as securing human conduct consistent with acceptable normative standards. To achieve this goal, the content (what) and methodology (how) of judicial reform programmes will also need a new approach that addresses not only "bits and pieces" of judicial systems, but rather the following six critical variables that determine the quality of a justice system. These critical variables, referred to here as the "judicial reform hexagon", cover the institutional, organisational and human dimensions of judicial reform in a comprehensive, systematic and holistic manner. The judicial reform hexagon consists of:

- Role and responsibility of courts.
- Organisational efficacy of the judicial system.
- Knowledge of law of judges and counsel.
- Judicial method including skills and practise.
- Effective management of process and people.
- The demand side-access to justice.[29]

What are the possible methods for reforming this collapsed structure of judicial process? What is required? Do we need whole restructuring of the working of judicial process or there is a need to adopt other mode of justice delivery system?

These are some of the measures which are recommended to answer the above questions:

The constitution only furnishes a framework in which different organs of the state, including the judiciary, have to function. Nevertheless, the law making power rests with the legislative wing of the state. When once a law has been validly made in exercise of legislative power that is binding on every citizen as well as the executive and the judiciary. The court cannot administer justice in accordance with their subjective perceptions. They are as much bound by law of the land as any other person. Although article 12 does not expressly refer to judiciary being an organ of the state, it is certainly bound by article 14 of the constitution. [Article](#) 142 cannot be resorted to circumvent the law by the Supreme Court.

However, the Supreme Court, instead of searching and basing its judgments on first principles or fundamentals of jurisprudence has sometimes has taken a shortcut by resorting to the supposed fiat of article 142. This article was employed as a tool to pass final decisions, apart from and without recourse to the law of the land.

The concept of expanding universe is not confined to astronomy alone. There is fast expanding judicial firmament. The expansion of judicial world sometimes reads on fields occupied and reserved for others. It is very necessary that Supreme Court act with self restraint. Let us remember the adage, “power corrupts and absolute power corrupts absolutely”.

#### Arrears Eradication Scheme

Govt. of India, Ministry of Law and Justice has created a fast track courts which is limited only to the Session Court Cases and also having practical problems which restrict it to work in all states. To overcome this problem the Committee is in favour of working out an Arrears Eradication Scheme for the purpose of tackling all the cases that are pending for more than 2 years on the appointed day.

#### Use of technology

1. A review of court record handling and introduction of modern tracking methods can help eliminate much of the petty corruption, existing in lower courts.
2. Technology can be used to help layman understand laws and information on citizens' rights, spelling out in simple language how to start a business, protect land rights or get a divorce. (e.g. Vietnam, Your Lawyer CD ROMs)
3. Practical measures should be adopted, such as computerization of court files. Experience from

Karnataka suggests that the computerization of case files helps in reducing immensely the workload of the single judge. It also speeds up the administration of justice.

4. A video recording of all the proceedings in the courts should be maintained.

### Burden of Proof

In India, Adversarial System is followed so the standard of proof laid down by our courts following the English precedents is beyond reasonable doubt in criminal cases. It is suggested that it is difficult to prove for the prosecution that the accused person is guilty beyond reasonable doubt. In several other countries Inquisitorial System is followed where the standard of proof preponderance of probabilities is on the accused. It is suggested that now the time has come to change the Adversarial System into Inquisitorial System. It also recommended that the burden of proof should be of degree which lies in-between the beyond reasonable doubt.

### **Reducing the Gap**

1. Judges need to be more responsive.
2. They must be subjected to a judicial review.
3. They are obliged by the law to give reasons for decisions, i.e., it must be speaking order which complied with the mandate of [Article 14](#).
4. They must write judgment and not merely announce it. There have been instances when judgments were written after a long gap.
5. They must follow a code of conduct.
6. There must be regular inspections.

### **Associations to check Corruption**

1. The law societies and bar associations must also be encouraged to take stern action against their members who indulge in corrupt activities.
2. Set up a public watch body, comprising of persons of unimpeachable integrity, to keep an eye on the judges and the judicial system.
3. Review and public hearing of certain type of cases which are pending for long.

### **Recruitment**

1. High court judges are now drawn from either the Bar or subordinate judiciary. Firstly, an Indian Judicial Service (IJS) should be created. Judges may then be appointed through nationwide competitive examination. These officials could form the backbone of the subordinate judiciary at the level of District Judges.

2. Most of the [High Court](#) Judges can then be drawn from this cadre of competent District Judges.



3. There should be periodic training programs for judicial officers by practitioners, [lawyers](#) and senior judicial officers. Secondly, the proposed National Judicial Commission (NJC) should have the powers not only to recommend appointments, but also to remove judges in higher courts.

### **Justice Delivery System In France or inquisitorial mode of justice:**

The justice delivery system in France is the best. If imitation can be regarded as indication of approval, the popularity and acceptance of French Judicial System present such an approval in the higher degree.

Courts in France like any other Court which follows inquisitorial system moves on the presumption of “Guilty until proven innocent”. The presiding Judge actively, often vehemently and acidly, participate in the court room questioning of witnesses as well as the accused- who cannot invoke the Anglo Saxon privilege of refusing to take the stands on the grounds of possible self incrimination i.e. he does not have a right to maintain silence which is given in adversarial system. The judge of the court combines the power of the prosecutor and a magistrate but he is not a member of a prosecution per se. His function is to determine truth on behalf of the state, with aid of the police. The powers of the judge are very broad which helps him to reveal the truth. He may call witnesses and pester them. The whole process, from the starting of trial, investigation, examination of witnesses, thier testimony, judges play a very important role because they themselves assist in all the procedures.

Therefore, it can be said that criminal court in France is investigative rather than the battle between two opposing parties, which happens in adversarial system. According to one legal authority such battles denote a bitter adversary duel rather than a disinvested investigation.

Administrative Justice in France: in administrative Courts such as Conseil d’Etat at litigation, the proceedings are markedly more inquisitorial. Most of the procedure is conducted in writing, the plaintiff writes the court, which asks explanations from the concerned administration or public service, which answers; the court then may ask further details from the plaintiff. When the case is sufficiently complete, the law suits open in courts; however, parties are not required to attend the court in appearance.

French justice delivery system has become envy of the world. As the Sanskrit shloka goes “yukti uktam” which means “useful idea can come from anywhere”. Then a question arise, what’s wrong in taking idea from France?[30]

### **4.1 judicial Process under the Indian [Constitution](#)**

Judicial process is basically the path or the method of attaining “justice”. Justice is the approximation of the ‘is’ to ‘ought’. Judicial power is involved in the legal ordering of facts and is under the obligation to approximate ‘is’ with the ‘ought’. This ordering is nothing but the

performance of administrative duties. Supremacy of law implies that it is equally applied and nobody is above the law. Everyone is equal in the eyes of law so that a level playing field is created in order to strengthen parity of power.

Indian [Constitution](#) adopted this principle in the form of [Article](#) 14 and the Preamble which provide equality of status and opportunity. Thus, [Constitution](#) ensures to establish parity of power which requires that every person must be on the same plane. The wording of [Article](#) 14 made it an 'umbrella' [Article](#) under which all other rights, both constitutional and statutory, find protection. This is so because all laws treat every individual with equality and the protection of laws is extended to all without any discrimination, then all other rights are automatically enforced. This duty to extend equality before the law and equal protection of the laws has been cast on the state.

[Article](#) 256 makes it obligatory upon the executive of every state to ensure compliance with the law made by Parliament and any existing law which applies in that state. The Union executive is empowered to give such directions to a state as may appear necessary to ensure the compliance of the laws by the state executive. Thus, according to [Article](#) 256, it is the duty of the executive to ensure compliance with the laws and that too in a manner that satisfies the mandate of [Article](#) 14.

[Article](#) 256, is in fact, the reflection of the true tradition of the Rajadharma Principles which regarded it the responsibility of the executive to deliver justice through affirmative executive action to ensure strict compliance with the applicable law. [Article](#) 256 states the whole mechanism to ensure the implementation of every law by the executive power. It thus, envisages the delivery of justice through administrative mode. The administrative mechanism of providing justice as promised under [Article](#) 14 is provided in [Article](#) 256. It is well established that the judiciary is the outcome of the dissatisfaction of the working of the administrative machinery. The need for a dispassionate judgment of the executive action has given rise to judiciary. Essentially, the judiciary while resolving disputes is ensuring implementation of laws. Thus, its functions are basically administrative in nature. Law is always based on the policy when the judiciary implements or reverse the action of the executive, thus, judiciary acts as a policy controller. This view has been endorsed by Karl Lowenstein who held that adjudication is basically execution.[31]

But the present Indian judicial system is by all accounts unusual. The proceedings of the Courts are extra ordinary dilatory and comparatively expensive. A single issue is often fragmented into a multitude of court actions. Execution of the judgment is haphazard, the [lawyer](#) seem both incompetent and unethical; false evidence is often commonplace; and the probity of judges is habitually suspect. Above all, the courts often fail to bring the settlement of disputes that give rise to litigation. The basic reason for this state of affairs is that present mode of access to justice through courts operating in India is based on Adversarial legalism. This is where the power

structure given in the [Constitution](#) has been distorted. As per [Article](#) 53(1) the executive of the power vested in the President, who has taken the oath to preserve, protect and defend the [Constitution](#).

Therefore, we can say that effective justice dispensation through the Courts requires three elements: access to courts, effective decision making by judges, and the proper implementation of those decisions because the primary responsibility of judiciary is policy control and dispute resolution is only incidental to it.

## **Conclusion and Suggestions**

### *How to reform our judicial process*

In today's era, it becomes crystal clear that our judicial process is on the verge of total collapse. The adversarial system which Indian legal system follows has failed to answer the test of [Article](#) 14 read with [Article](#) 256 as it is required party must do everything from paying court fees to execute the decree which actually is the task of the state.

[Constitution](#) is the supreme law of the land governing conduct of government and semi governmental institutions and their affairs.

In ancient India king is the fountain head of justice. Sage Yajnavalkya declared that "the king, divested of anger and avarice, and associated with the learned should investigate judicial proceedings conformably to the sacred code of laws". In ancient India, legal procedure is governed by the principles of Rajadharma. All the Dharmas merged into the philosophy of 'Rajadharma' and it was paramount Dharma. It is a classic example of trans-personalized power system.

The adversarial system lacks dynamism because it has no lofty ideal to inspire. It has not been entrusted with a positive duty to discover the truth in the inquisitorial system. When the investigation are perfunctory and ineffective. Judges seldom take any initiative to remedy the situation. During the trial, the judges do not bother if relevant evidence is not produced and passive role as they don't have any duty to search for the truth. As the prosecution has to prove the case beyond reasonable doubt, the system appears to be skewed in favour of the accused. It is therefore, necessary to strengthen the adversarial system by adopting with suitable modifications some of the good and useful features of the inquisitorial system.

### **How to reform judicial process?**

An epilogic thought repeating what has been said earlier may be needed to strength my submission that the court will commit blunder if it does not guard its reputation more seriously. A post script in this prospective, may drive home my point, treating the Bench and the Bar as a complex agency of public justice. A learned Judge mild in his words, who retired last year from

the Supreme Court, wrote with restraint to a former colleague of his still on the [High Court](#), what makes poignant reading: “the judiciary is sinking. The destruction is from within; it is for judges like you to restore the fast disappearing credibility of the [High Courts](#) and the Apex court.”

Equal protection of the laws is the fundamental right of the citizen which has a forensic dimension and procedural projection. The obligation of every court from the summit to base is to afford the same facility for hearing of case to the rich and the poor, to the dubious billionaire to the bonded labourer. Now, there exists a mutual appreciation of society between judges and advocates which led to the failure of justice delivery system. The judiciary is the fiduciary of people’s justice and has accountability to the country for scrupulously equal judicial process.

The crisis is not resolved by some martyrs from the class of advocates courting displeasure by exposure of oblique events but by a people’s movement which will compel the judges and advocates against the privatisation of judicial process. Your monopoly obligates accountability and if there is culpability it cannot be gagged by contempt proceedings. In our system, both the robe and the gown must remember is that the court is what the court does. The new dimension of justice delivery and new vision of alternative justicing will have to be explored and executed if the first promise of the [Constitution](#) were to be actualised. Therefore, today, in adversarial system of justice, what we need to reform are:

• **Court fees to be abolished:**

The purpose of justice is delivering the promise of law and hence the role of state is not merely limited to establish the judicial institutions but also to fulfil the expectations of the people which they attached to the state while conferring role and seat of power. To charge fees for justice is like sealing the promise of law and flouting the constitutional duty of state to provide justice to the people at thier door step, merely laying down the foundations of judicial shops and washing thier hands of from the process of justice delivery is not warranted on the part of the state. To get revenue for the enforcement of rights and to charge it in rigorous ways, failure to pay would entail the justice not access able to because one cannot afford it in terms of money, is the misery and apathy, the courts in India are continuing with. The proper course would be abolition of court fee because it seriously undermines the parity of power principles as it places the richer one in advantageous position which offends the spirit of [Constitutional](#) goals.

• **Advocate fees to be abolished:**

As it is clearly provided under the provisions of Advocates Act that advocates are the officers of the Court, then why the clients are bound to pay hefty fees to [lawyers](#) for contesting thier cases. There should be provision for public advocates which are available to everyone and should be paid by state.

· **Selection of Judges:**

CJI committed blunder when in one of the most controversial case he held that consultation by CJI means his consent. Here, by this observation the power of President is reduced to zero and whole spectrum of power given under the constitution is disturbed. The judges should be appointed by President only with the consultation of CJI and not by his consent.

Moreover, the provision of advocates becoming judges after certain required years of practise should be abolished. Judges and advocates are different profession and they should not be intermingled. There should not be any mutual appreciation of society.

· **Adversarial system to be abolished:**

The present adversarial system should be abolished and replaced with inquisitorial system of justice. Judicial process is essentially deductive reasoning and it is to tell authoritatively what law is. The judge should take judicial notice of all the law. The judge is to investigate the case before him, by approximating 'is' to the 'ought', after the parties present thier case.

By virtue of [Article](#) 14 r/w 256, there should be an affirmative action by the policy implementing organ. It should protect the citizen with thier affirmative action, just like the ancient Indian system. The present Indian legal system is continuing the colonial legacy where the ends justify the means, but since now, we are living under the umbrella of a controlling [Constitution](#), the means should justify the ends.

· **The Limitation Act should be struck down:**

The Limitation Act should be stuck down as unconstitutional since it is violative of [Article](#) 14. Under [Article](#) 14 there is no distinction between state action and private action. If any person fundamental rights are infringe, how can the state fix a time limit to curtail the right to move the court for justice. It cannot withstand the test of [Article](#) 14, or the six counts of the power spectrum. Hence, Limitation Act, doctrine of Delay and Laches and procedural hassles are undoubtedly unconstitutional.

· **Judges should not have any immunity:**

The judges should not have any immunity because the functions of a judge is twofold; the judicial function is only to state authoritatively what law is. All others are administrative functions. The fundamental law is the [Constitution](#) and it is the only supreme authority. If judges committed any negligence or there is dereliction of duty on thier part, then such judges should be punished under Section 166 of the IPC because they are the public officers and hence liable for punishment for negligence of duty.

According to Rajadharma principles, the king himself is liable to be punished for an offence, one thousand times more penalty than what would be inflicted on an ordinary citizen. Perhaps, it is

high time that this principle is getting working especially as under the [Constitution](#) none is above the law and there is no immunity for crime. If judges of the Superior Court in China and Japan can be prosecuted and punished for violations of law, why not in India which has a basic structure command to ensure equal subjection of all to the law.

· **Delays should be avoided:**

The delays in our legal system are well known. There 30 million cases pending in various Courts. The average time span for dispute to be resolved through the court system is about 20 years. Litigation has become a convenient method for avoiding prompt retribution by many people on the wrong side of law. The Bible says that the path to hell is paved with good intention. The legal system is meant to punish the criminal and to protect the law abiding citizens. Many a time, the criminal exploits the legal process itself to escape punishment.

· **Supreme Court to have Benches throughout the country:**

[Article](#) 130 of the [Constitution](#) provides that the SC shall sit in Delhi or in such other place or places, as the CJI may with the approval of President. From time to time appoint. This provision of the constitution has not been applied so far. If the SC has a seat on other places, that is seat in every state then it will be relief to the aggrieved and justice will be assessable to them, which will result in reduction of cost of litigation and will cause less hardship to the litigant.

· **No presumption should be raised in favour of anyone:**

The presumption is always in the favour of constitutionality of statute, and it is a gross misapplication of a justice as it tends to presume the preponderance of power in favour of one party and tilts the balance unjustly. This totally upset the balance of parity of power, which is ensured through the guarantee of “equal protection of laws” under [Article](#) 14 as well as [Article](#) 13 (2) and (3) of the [Constitution](#), respectively. The burden of justifying the constitutional validity of the law as well as the fact that the state action was in accordance with such law should be on the state, and not on the person who challenges its constitutional validity. Asking the injured party to prove the wrong or injury suffered destroyed the guarantee of equal protection of laws. Such an opinion of the part of court is extremely low on the ethical count of the power spectrum.

· **Judges should play active and not passive role while deciding cases:**

[Article](#) 14 of the Indian [Constitution](#) made it obligatory on the state to provide justice to all at the door step. Thus, the Indian [Constitution](#) necessarily envisages inquisitorial mode. So, the judges should go a mile extra in deciding cases as the judges supervising the cases are independent and are bound by law to direct thier inquiries either in favour or against the guilt of any suspect and play an active role while deciding cases.

· **Accountability of Judges:**

In India, the judiciary is separate and independent organ of the state. The legislature and the executive are not allowed by the constitution to interference in the functioning of the judiciary. The functioning of the judiciary is independent but it doesn't mean that it is not accountable to anyone. In a democracy the power lies with the people. The judiciary must concern with this fact while functioning. The high courts have the power of control over the subordinate courts under article 235 of the constitution of India. The high courts have the power of control over the subordinate courts under [Article](#) 235 of the [Constitution](#) of India. The SC has no such power over High court. The CJ of High courts/ India have no power to control or make accountable other judges of the Court.

· Reluctant approach of Supreme Court to accept petition under [Article](#) 32:

The rule made by SC under article 145 laying down the procedure to be followed by the SC in performing its functions involves lot of technicalities. It is the duty of the SC to grant relief under [Article](#) 32 and it is mandatory as it is obvious from the word “the Supreme Court shall” in [Article](#) 32. But the SC is reluctant to perform its functions.

To conclude one can say that whatever may be the system the procedural laws must be minimum, simple and must be litigant friendly.

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[1] Choudhary V.K.S., “The Ivory Tower: 51 years of Supreme Court of India”, Universal Law Publication Pvt. Ltd. 2002 Edition, P: 12.

[2] Krishna Iyer, V.R.; Justice At Cross Roads; Deep And Deep publications; Chapter: 8 Glasnost and Perestroika for Judicial India; p:128.

[3] Rao, H.S.; Indian Justice System on the Verge of Collapse; www.expressindia.com; Thursday, June 12, 2003.

[4] Lowenfeld is perhaps right when he points out that when we observe procedural laws, “we see not procedural solutions to substantive problems, but procedural obstacles that may or may not have been installed on purpose.” Lowenfeld, Andreas F, Elements of Procedure : Are they Separately Portable, American Journal of Comparative Law, Vol 45, 1997, pg 1.

[5] A plaintiff is supposed to pay the cost of serving summons. This is another lacuna and a procedural hurdle as it is the duty of the State to serve summons.

[6] As per [Article](#) 256 of the [Constitution](#), the executive power of every State shall be so exercised as to ensure compliance with the laws made by the Parliament and any existing laws which apply in that State. Since it is the States which have the real contact with the citizens, ensuring compliance with every law is the responsibility of the State. It is pertinent to mention here that under the Indian Contracts Act a contract is also treated as law binding the parties entering the contract. Since it is the State's duty to ensure compliance with law, any violation of law signifies lapse of duty on the part of the State. To rectify this lapse, the Courts are supposed to restore status quo ante. Charging entry fee to a rectification mechanism like Courts is incomprehensible as it is not in the interest of the private individuals only that law should be adhered to but also incumbent on the Government that laws should be properly complied with.

[7] Chapter 13, pg 598-99

[8] The Court in the given case further observed that  
“The State, and failing it someday, the Court, may have to consider from the point of view of policy and constitutionality, whether such an inflated price for access to Court is just or legal.” The above observation is flawed on two premises:

- (a) Courts are a part of the State under [Article](#) 12 of the [Constitution](#);
- (b) Access to justice should not be put up for sale, whether on inflated or deflated prices.

[9] AIR 1982 SC 149; (1981) 2 SCJ 85

[10] Landmark judgments, Universal Law Publishing Co. 2008, P:45.

[11] Krishna Iyer, V.R.; Justice At Cross Roads; Deep And Deep Publications; Chapter-8; “Glasnost And Perestroika for Judicial India” P:135.

[13] AIR 1954 SC 41

[14] AIR 1992 SC1858

[15] AIR 1992 SC 248

[16] AIR 1950 SC 27

[17] Pandey, J.N.; [Constitutional](#) Law Of India; Central Law Agency;42ed,2005; PP:364.

[18] AIR 1978 SC 597

[19] Is Judiciary Accountable to Anyone? [www.expressindia.com](http://www.expressindia.com); posted on April 26, 2007.

[20] India Corruption Study, to improve governance, Voll.II (Corruption on Judiciary), as study conducted by the Centre of Media Studies, <http://www.cmsindia.org/cms/events/corruption.pdf>.

[21] Bala Nikit, Set Back In Indian Judiciary; [www.indlawnews.com](http://www.indlawnews.com); posted at Sunday, july 19, 2009.

[22] Abraham J. Henry; the Judiciary; The Supreme Court In Governmental Process; Brown And Benchmark Publications; 9th Ed. P:77.

[23] Joshi, V.T. and Anil Chawla; Indian Judiciary and The Review Of The [Constitution](#) Of India; [Article](#) available on [www.indlawnews.com](http://www.indlawnews.com)

[24] International Business Times; [Article](#) can be read on <http://in.ibtimes.com/articles/20090214/hidh-court-delhi.htm>. Posted on 14 Feb 2009.

[25] Krishna Iyer,V.R.; Justice At Cross Roads; Deep And Deep Publications; Chapter-8 “Glasnost And perestroika for Judicial India”;PP:129-133.

[26] Ibid; PP: 138-141.

[27] People’s Democracy (weekly); Towards the Movement for Judicial Reforms; Vol:XXVII, NO.33; August 17,2003.

[28] INDIA:Without Drastic Justice Reforms Republic is Meaningless; [Article](#) posted by Asian Human Rights Commission; Jan 25,2007.

[29] Asia Pacific Judicial Reform Forum; Searching For Success In Judicial Reforms; article by Mohan Gopal, Development and Implementation Of Reforms Initiatives to Ensure Effective Judiciaries; Oxford University Press, 2009; P:46.

[30] Ideas for reforms are taken from the reading material provided by T.Devidas.

[31] Karl Lowenstein has written book “Political Power and the Governmental Process”, published by The University of Chicago Press.



## **Judicial Process Audit**

*The articles under this heading deal with judicial institutions and processes. Closely related are Adjudication and Judiciary.*

[I. Introduction](#) *J. W. Peltason*

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[II. Comparative Aspects](#) *Max Gluckman*

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[III. Judicial Administration](#) *Delmal Karlen*

### **BIBLIOGRAPHY**

## **I. INTRODUCTION**

The judicial process is a set of interrelated procedures and roles for deciding disputes by an authoritative person or persons whose decisions are regularly obeyed. The disputes are to be decided according to a previously agreed upon set of procedures and in conformity with prescribed rules. As an incident, or consequence, of their dispute-deciding function, those who decide make authoritative statements of how the rules are to be applied, and these statements have a prospective generalized impact on the behavior of many besides the immediate parties to the dispute. Hence the judicial process is both a means of resolving disputes between identifiable and specified persons and a process for making public policies.

### **Development of the concept**

For centuries hundreds of writers in thousands of articles and books have tried to determine what is the essence of the judicial or adjudicatory process, what distinguishes it from the legislative and administrative processes. During the last several centuries this exercise in political taxonomy has taken on special urgency and normative concerns. For under the doctrine of separation of powers it became improper for legislatures to engage in the judicial process—issuance of bills of attainder, for example—or for judges to assume functions that are thought to be within the scope of the legislative process.

The classic doctrine of separation of powers divided the world of political activity into the three familiar divisions based both on what was thought to be the behavior of political actors and on what were thought to be the requirements for the maintenance of liberty. The judiciary was assigned the function of applying the laws that the constitution makers and the legislatures had created and that the administrators enforced.

Today political analysts have abandoned these categories in favor of a continuum. At one pole is the legislative process for making law (formulating norms) and at the other the administrative

and judicial processes for administration or applying the law (individualizing the norm). (These categories are analytic, and the activities are not necessarily performed by agencies with corresponding labels.) As to the distinction between the administrative and judicial, some writers—such as Hans Kelsen and Otto Kirchheimer—insist that these processes cannot be distinguished functionally and that it is more or less a historical accident whether some disputes are assigned to what are known as courts whereas others are assigned to what are known as administrative agencies. Others, such as Roscoe Pound, insist that the difference grows out of the fact that administrators are not obliged to make their decisions by following prescribed procedures or in accord with legal doctrines. Administration is seen by these writers as power and discretion, whereas adjudication is rational and controlled. The dispute here is but a facet of an ever-recurring discussion to which we will return later.

### **The orthodox theory**

According to what is variously called the “mechanical,” “slot-machine,” “photographic,” “formalistic,” “conceptual,” or “orthodox” theory of the judicial process, judges, like doctors or scientists, are trained technicians who apply their specialized knowledge to discover answers to legal disputes. Judging is to be sharply distinguished from politics. Political forces determine what the rules are; the judge merely applies the given rules to the facts. If the judges come across a novel situation for which there is no agreed upon rule, by a process of analogy and logic they discover what rule should be applied; to this extent, and to this extent only, they may be said to create rules. Some commentators have even gone further: to them the judicial process is a self-contained world with its own dynamics and is totally divorced from the political system. And even those who recognize that legal rules and judicial decisions are related to the political community insist that the judges and the law they apply are neutral among competing interests within the community. The judge is a spokesman for the more enduring values of the society, not merely the wishes of those who are for the moment governing it. As the noted English barrister Sir Carleton Kemp Allen phrased it:

Our law has had its political vicissitudes, and at certain periods of its history it has been threatened with degradation into an instrument of government; it might, indeed, have suffered that dismal fate but for the resistance of men like Sir Edward Coke. But today there is nothing more repellent to Anglo-Saxon legal instinct than the corruption of law by political “ideology.” (Allen [1927] 1964, p. 56)

### **The realists’ criticism**

This formalistic conception of the judicial process has always been questioned. But beginning toward the end of the last century, and with great zeal in this century, there has been a mounting criticism of it. The attack has come from many sources and from many different writers. The skeptics represent a wide variety of different kinds of analyses, many of which contradict one another, and it is difficult to present the skeptics’ views as a consistent whole. They are often grouped together under the label of “legal realists,” although at times this appellation is reserved for a smaller number of American writers of the 1920s and 1930s. Using the term “realists” in its broadest sense to include all who are skeptical of the traditional analysis, we might mention three of the major assertions:

(1) Legal rules do not determine judicial decisions. “The theory that rules decide cases seems for a century to have fooled, not only library-ridden recluses, but judges” (Llewellyn 1934, p. 7). “[The] half explanatory, half apologetic reference to the judge’s subservience to the law is at best a playful protective device; at worst it testifies to his unwillingness to understand his own role in the social process” (Kirchheimer 1961, p. 187).

The point here—and about it there remains much confusion—is not that there are no legal rules or that there is always uncertainty as to what the law requires. The skepticism relates to the extent to which rules determine judicial decisions. There are rules, for example, conferring jurisdiction on courts and making their decisions authoritative. Clearly understood laws govern the great bulk of human transactions; most men know what they must do if they wish the contracts they make to be valid and enforceable by courts. Most legal conflicts do not give rise to litigation, since the law provides relatively precise answers to most questions without the necessity of bringing the matter before a judge. Furthermore, often the judge is not asked which rule should be applied but what happened, that is, to determine who did what to whom. And in other instances, especially at the trial level, the judge’s function is to legitimize a transaction by applying a rule about which there is no dispute. No judge is likely to make a decision in such a case contrary to the widely accepted rule; if he did so his decision would not long survive, and he would be unmasked as an incompetent. In this sense he has no discretion, and the rule does provide a guideline.

However, when a judge must resolve a conflict and there is a dispute as to which rule should be applied, the traditional explanation of the judicial process is misleading. According to this explanation judges look to past precedents or to constitutions, statutes, or codes and find the proper rule to resolve the dispute. But there are conflicting precedents and an infinite variety of factual situations to which the uncertain precedents can apply. Nor do constitutions, statutes, and codes provide certain guidelines. “Much of the jurisprudence of this century has consisted of the progressive realization (and sometimes the exaggeration) of the important fact that the distinction between the uncertainties of communication by authoritative example (precedent), and the certainties of communication by authoritative general language (legislation) is far less firm than this naive contrast suggests” (Hart 1961, p. 123).

(2) The formal theory of interpretation and the fiction of legislative intent are methods of “paying lip service to the prevailing myth of statutory interpretation and to the equally mythical notion that judicial legislation is both unconstitutional and improper... Attempts to hide that fact [of the creative function of statutory interpretation] behind a cloak of verbiage are fatuous at best. And the judicial creative activity applies, to some degree at least, to all statutes” (Miller 1956, p. 34).

Judges do and must make law. But this is not to say that when judges make law they are acting improperly, for such lawmaking is inherent in their function. A judge may be neutral between the parties to a lawsuit and dedicated to the principles of his craft, but he must choose; and the difference between one judge’s choice and another’s does not stem from any difference in their technical knowledge of the law, but from their differing response to the conflicting values which the case presents.

To recognize that judges make law is not to conclude that they are “free” to make any laws they wish; and while one strand of the realist ferment emphasizes the choice-making, creative role of the judge, another searches for the variables that condition and restrict that choice.

(3) The decisions are not personal choices of the judges, accidental, arbitrary, or divorced from the rest of the political system. Although some American realists of the 1930s seemed to suggest that judicial rulings were determined by the personality traits of the jurists—which some was labeled the “breakfast-food theory” of jurisprudence—most writers have concluded that to add personality to precedent does not substantially advance our understanding of the judicial process.

Statutory directions, traditional procedures, the demands of the judicial role, and the organizational and political connections between the judicial process and the political system set limits to and give a direction to judicial decision making.

Underlying much of the work of the realists is the view that since judges must inevitably choose between competing values, awareness of the fact that they are making such choices, some knowledge on which to base these choices, and concern for the social consequences of the choice are desirable.

During the 1920s and the 1930s the American legal realists emphasized empiricism and attacked formal legal concepts, and they made what seemed to be sharp distinctions between the “is” and the “ought.” But there was no agreement among them whether judicial or any other values could be established by objectively demonstrable standards. A relativist position toward value questions did not—and does not—necessarily follow from a realist analysis of the judicial process, although many critics of realism have so charged. It is true that many realists, especially those writing prior to World War II, were skeptical that judges were any better equipped than legislators or administrators to determine these value questions. And they felt that many judges had too simple-minded a conviction that they had some special insight into justice.

The realist “ferment” of the 1920s and 1930s had important political consequences, especially in the United States. At the time American, English, and Canadian judges were striking down or restricting the scope of social welfare legislation, were generally hostile to positive government relating to economic matters, and were not particularly zealous in protecting civil liberties. The judges looked askance upon administrative agencies and wherever possible insisted that decisions of administrators be subject to review by judges.

During the 1920s and 1930s realists were critical of the particular policy choices the judges were then making. Legal realism became a tool to attack judicial decisions and to reduce the role of the judges. Within the context of the realist analysis the statement that the judges were making policy did not necessarily carry any critical content for, as realism taught, such policy making is inherent in the judicial process. But the “forward-looking scholar” (who was most likely to be abreast of the thinking in the neighboring discipline) found grist aplenty in the current product of the appellate courts to disapprove and to ‘show up’ as being by no means inherent in the scheme of our law” (Llewellyn 1960, p. 13). Realism tore off the mask of detachment behind which judges, consciously or more likely without understanding what they were doing, manipulated legal symbols in behalf of their own limited concepts of the public interest. And in addition to

furnishing ammunition with which to attack the laissez-faire judicial decision in the 1930s, realism had strong overtones critical of judicial restraints on political and legislative majorities. Not surprisingly, liberals tended toward a realist evaluation of the judicial process, to favor restrictions on the scope of judicial authority, and to be critical of the courts as policy instruments.

On the other side conservatives not surprisingly used the orthodox explanations of the judicial process to defend the restrictive judicial rulings, to urge judicial control of legislative and administrative agencies, and to stress the desirability of judicial checks on popularly elected and politically accountable decision makers. Although conceding that some judges might act improperly and permit their own political predispositions to influence their rulings, the conservatives contended that these were exceptions. Proper judges merely applied the law as given to them by the constitution, the legislatures, or past judicial decisions. The judicial decisions under attack, they argued, were not to be considered either as conservative or liberal, either proemployer or antiworker, but in accord with eternal verities. And, the conservatives argued, to suggest that judicial decisions reflected the judges own economic and social views was dangerously misleading, destroyed public confidence in the courts, and undermined the concept of an independent nonpolitical judiciary.

The post-1945 period. By the end of World War II these attitudes toward the judicial process began to alter. Within the democratic nations, especially the United States and England, judges—many of whom had been educated in the period of the realist ferment—were now supporting government regulation of the economy and at the same time protecting civil liberties. At least in the United States, this alteration in the stance of the federal judges seemed to be based on political factors making it probable that this liberal tone would have stability. For the first time in American history conservatives, who now had a louder voice within legislative chambers than they had within judicial halls, were raising doubts about the desirability of judicial restraints on legislators and administrators. Still clinging to the concepts of mechanical jurisprudence, the conservatives charged that the judges were making decisions based on “sociology” and not on law. On the other side, liberals began to repudiate some of the conclusions drawn from realism and, building on more orthodox explanations of the judicial process, to defend judicial review as a device to protect and keep open the democratic processes. In 1960 the major leader of the realist ferment wrote, “jurisprudence [in the 1930s] promptly became a football of politics, study of the courts’ processes of deciding was suddenly taken as an attack on decency of the court’s operation, issues were distorted, energies were wasted.

. . . One looks around, after war and foreign danger have sweated some of this silliness out of us, and sees a vastly different scene. . . The danger lies now in altogether different quarters” (Llewellyn 1960, pp. 14–15). The danger now is that men will lose confidence in their judges, thinking that they operate without regard to generalizable standards.

A group of scholars for whom there is as yet no label but who may be called the “neo-orthodox” have redirected attention not to how the judicial process is like the legislative but to how it differs. The whole purpose of the judicial process, they argue, is to permit knowledge and argument to lead to a reasoned decision. To reduce the analysis of the judicial process to the same terms that are used to describe the legislative process is to strip the judicial of what

distinguishes it from the other ways to order human affairs. Although it is not to be assumed that judges are superhuman logicians or even that their decisions always are the deductive application of legal rules, nonetheless their decisions are products of a different set of conditions than are those of political actors who are directly accountable to political majorities and who are assigned different tasks and different roles.

Some skeptics of the orthodox ideology concede that the judges sometimes do make value choices and that the law does not necessarily determine their behavior. Nonetheless, they argue, the policy-making activity of the judges is an exception to the general course of judicial business and stems primarily from giving judges the power of judicial review.

Whether a synthesis between the realist and formalist concepts of the judicial process will result and whether such a synthesis will provide a better tool for understanding the dynamics of the judicial process is yet to be determined. As it stands, in the world of scholarship the formalist view has been modified, and the statement of the realist position is no longer so shrill. Among sophisticates the orthodox explanations of judicial behavior are no longer in good standing. On the other hand, there is no longer much shock value in pointing out that the judges are men and like all men are subject to limited perspectives. Few scholars now deny that the judicial process operates within and is conditioned by the political system and that judges make policy, but because of their adjudicatory function they make policy in special ways. Outside the world of scholarship, the orthodox position still holds. The prevailing expectations still require judges to state their decisions as controlled by statutes or precedents, and the official explanation of public men and practicing lawyers remains that the law is independent of the judges and controls their behavior.

### Organization of the judicial process

The organization of the judicial process is determined by its purpose: to adjudicate particular kinds of disputes. (There must be a conflict between parties presenting the judges with a “yea” or “nay” choice.) By definition, among the factors that distinguish adjudication from the other techniques of dispute deciding—bargaining, electioneering, voting, fighting—is that each side in the conflict is entitled to be heard by an outsider to the dispute who is to make his decision solely on the evidence presented to him and in accord with a standard of right and wrong.

In democratic societies adjudication is based on an entirely different set of expectations than those that underlie the legislative or executive functions. What the majority wishes is what the legislators should decide. But adjudication calls for decisions in accord with standards of right, to be made by persons who are free to apply these standards without concern for the popularity of their decisions. Adjudication rests on the conviction that some kinds of differences are best resolved by an appeal to a specially qualified elite.

Based on these expectations and in accord with its defined function, the judicial process is deliberately organized to “disconnect” it from the rest of the community. The judicial system ordinarily does not have direct lines of accountability to the political authorities. (In some American states where judges are elected for short terms obviously this is not so.) This independence of the judicial system from the community is based on the need for dispute

deciders who are not subject to outside instructions or coercion. Both realist and orthodox analyses support this independence in order that those who come before the judges may have a hearing by a tribunal free to make a decision on the basis of the evidence and arguments presented to it. The orthodox ideology has the additional advantage of squaring this judicial independence with the principles of democratic politics, for portraying the judges as technicians who do not participate in the resolution of policy conflicts makes it unnecessary to hold them politically accountable.

Selection procedures and tenure arrangements vary from nation to nation, but their design is to reduce considerations of partisan politics and to maximize attention to professional qualifications. Although lay participation still survives in the form of jury and lay judges, the definition of the “best qualified” now carries the expectation that the judges will be men trained in law. As early as the seventeenth century the celebrated Lord Coke told King James that since he lacked knowledge of the “artificial reason and judgment of the law” even the king was not entitled to decide cases but must act through his law-trained officers. Nowadays the legal profession has much to say as to who among them shall be selected as a judge, even if the actual selection process vests the final choice in political authorities. (The Supreme Court of the United States is to a considerable extent an exception in that the president exercises something like a personal prerogative in choosing justices for this Court.) Once selected, judges are expected to perform in accordance with professional standards, and they are measured by these standards: judges are members of a distinctive professional group who look to that group for their prestige.

More important than the formal constitutional and institutional arrangements in disconnecting the judicial from the rest of the political system are the factors growing from the judicial role. This role conditions and restricts the way the judges should behave and limits how others should behave in their relations with the judges. Once appointed to the bench a judge is expected to withdraw from active partisanship, to refrain from taking public positions on controversial issues, and to conduct himself so that there can be no suggestion that his official behavior is in any way influenced by his own personal concerns or attachments. His role makes it improper for any groups to make out-of-courtroom contacts or to use any of the normal methods of influencing political decision makers. To do so is not only improper but in many instances illegal.

The “disconnectedness” of the judicial process from the political system, however, is only relative. Changes in the rest of the system affect the nature of the decisions that will be made. Like all who make decisions affecting the fate and fortunes of the community, judges exercise their discretion not only within the confines of the requirements of the judicial process itself but within the context of the political system of which it is a part. What distinguishes judicial from other kinds of political actors is not that the judges are outside the system but that they are related to it in a different fashion than are the other decision makers.

### **Courtroom access and judicial scope**

Since judges are expected to approach each case with an open mind, in all nations they lack authority to initiate proceedings for if permitted to do so, it is felt, they would be compelled to pre-judge the case. “It is the fact that such application [of person claiming rights] must be made

to him, which distinguishes a judge from an administrative officer” (Gray [1909] 1963, p. 114). Of greater significance, however, than the fact that the judges may not start lawsuits is the fact that an ordinary individual through a regular lawsuit may raise fundamental questions of public policy. Whereas only those with some political strength may command legislative attention, a single individual may compel a judge to make a ruling. The litigant may be concerned only with his own problems: to secure ownership of a piece of property, to dissolve a marriage contract, or to stay out of prison; but the decision he secures will create or confirm a rule that governs the behavior of many persons other than himself.

In the Anglo–American nations there are no distinctions between courts created to adjudicate disputes and those established to hear conflicts involving questions of “high politics.” The higher appellate courts, however, operate under rules specifying that they are not to hear cases merely to do justice between litigants but only where the public interest is paramount. Nonetheless, they are organized like and function as ordinary law courts. Civil law nations do attempt to distinguish more sharply between courts created to adjudicate lawsuits and those established to deal with questions of more general public significance. In the German Federal Republic and in Italy, for example, special courts deal with constitutional questions. Their jurisdiction does not depend on the ordinary litigant but may be invoked by public authorities. In France a separate court system deals with disputes between citizens and administrative officials.

There are limits to courtroom access. Generally speaking, only those who are able to persuade the judges that they are personally and directly involved in a dispute may seek a judicial resolution of it, and there are some kinds of disputes judges will not attempt to decide. The technical rules and rationalizations to distinguish between “justiciable” and “nonjusticiable” issues vary from nation to nation and time to time. The widest range of subjects are dealt with by courts in nations such as the United States, Australia, and Canada, where the constitution is a legal as well as a political document, that is, a document subject to construction by judges. In the United States judges have the broad jurisdiction characteristic of the commonlaw countries, plus the authority to treat the constitution as a legal instrument. The Supreme Court of the United States has been squarely in the middle of almost every major political conflict that has arisen within the American republic. But even in the United States the judicial process has played a minor role in some areas: conflicts over control of the machinery of government; price policies for the distribution of goods and services; and the whole area of American relations with foreign nations.

Civil law nations attempt to restrict the impact of decisions to the immediate cases, and except in a few nations—and here only since World War II—constitutional documents are not considered to be subject to judicial construction. The French judiciary, for example, has never been the pivot for any major political interest. It is impossible to cite a single judicial ruling that has had a substantial impact on the political life of that nation, which is all the more remarkable in view of the highly divisive nature of French politics.

Litigation as a device for making policy depends upon the ability to formulate a lawsuit that presents judges with a ye or nay choice. However, for some issues a day in court is easier to secure than a day before the legislature. The “chips” for winning the judicial “game” are different from those for winning the legislative “game,” since judges are related to the political



community in a different fashion than are legislators. Groups who lack electoral strength may, therefore, find it more profitable to resort to litigation than to legislation. However, without some political strength in the community, major alterations of public policy through litigation are as unlikely as through legislation. For the chance of securing favorable judicial rulings is not unrelated to the political configurations of the community. Unpopular minorities whose activities have been restricted by legislation seldom have more success before the courts than they have had before the legislature. Yet in many nations because of such factors as federalism, bicameralism, election district geography, rules of debate in the legislature, and so on, even relatively widely supported values may not secure legislative expression. The judicial process thus provides a forum for raising issues in a different context from the one provided by legislative or executive decision makers.

### **The formal requirements**

By definition adjudication is distinguished from other techniques of dispute deciding in that it calls for the open presentation of evidence and reasoned argument before impartial judges who are to make their decisions in accord with the evidence and arguments presented to them and in accord with established standards. Courts exist to settle lawsuits, and this function imposes certain requirements on judicial procedures. Whether these requirements accurately describe how judges behave is for the moment irrelevant, for they have a significance divorced from consideration of whether they are descriptively accurate.

Judicial decisions are expected to be based only on the information formally fed into the system. In contrast legislators and administrators (except when they are expected to perform as judges) may secure information whenever and however they please, may contact rival claimants in private, and are under no obligation to give each claimant an opportunity to respond to the other side. Judges, however, are forbidden to discuss a case or to gather evidence outside the formal proceedings. Although in the misleadingly named “inquisitorial system” of civil-law countries, judges have somewhat more leeway in making independent investigations, they too operate under narrowly prescribed procedures designed to exclude from consideration any facts or arguments except those which the participants have presented in formal proceedings. (The doctrine of “judicial notice” provides an exception. Judges are permitted to make rulings in light of knowledge that is so widely known and acceptable that it may be taken into account without being formally presented to them.)

Perhaps the most important single formal requirement is that judicial decisions be based on reason. All decision makers are expected to act on the basis of the best available knowledge and to make decisions that conform to the rules of logic and rationality. But no other political actors are expected to perform solely in terms of reasoned argument. The legislative process provides for an infusion of knowledge and argument into the proceedings, and the legislator’s decisions are not without supporting reasons; but the ultimate outcomes are without apology recognized as determined by political power. They are better explained as part of the political situation. Few expect that any series of legislative or administrative decisions enacted over a course of time will form an internally consistent series of logically interrelated policies, but this is precisely what is expected from the judicial process. Judges are required to phrase their decisions and explain them in a technical language that conceals any subjective elements. Their decisions must be

justified as the single right answer, required by precedent or statutory command, and consistent with the whole corpus of the law.

Students of the legislative process have not thought it profitable to analyze debates on the floor of the chamber in order to account for the legislative decision. They assume that most of the significant data is the behavior that takes place outside the formal proceedings. In contrast, and in response to the formal model, the main staples of research concerning the judiciary are the evidence presented, the arguments before the courts, and the judge's formally stated reasons for his decision. The judicial decision is approached as a product of a controlled debating contest.

Recognizing that to focus on each decision isolated from its political situation, and with awareness that judicial decisions do not depart too far from the configuration of political power with the community, scholars have started to look at other materials and to develop models for analysis other than the traditional debating society framework. Nonetheless, they cannot ignore the fact that the judicial process is deliberately created and specifically designed to reduce the impact of political forces and to maximize evidence and reasoned choice. And the freedom of the judge from direct political accountability and the expectation that he will base his decision on arguments presented to him help to explain why the same individual will behave differently and support different values as a judge than as a legislator. The judicial process does make it possible for interests that lack large numbers of votes or controlling legislative representation to win favorable decisions.

The requirement that the judge base his decision on evidence and reasoned argument shades into the requirement that he be impartial. Again, other political decision makers are also expected to be impartial—it is contrary to the mores for a legislator or an executive to participate in decisions where he has an immediate financial stake in their outcome—but again the standards of impartiality required for judges are of a different order.

Judicial impartiality between the immediate parties to a lawsuit is obviously required if the judges are to be able to function as outsiders to the dispute. If a judge is under obligation to one of the parties or if he shares the fate of one of the litigants, he clearly cannot be dispassionate and neutral. This kind of impartiality is easy to achieve. At the next level of impartiality, although a judge may share some of the characteristics of one of the disputants—they both may be white southerners or both may be from the middle class—the judge is obliged to make a decision uninfluenced by such factors. Since judges are recruited from among the educated members of the community and are likely to be from among the dominant social classes, and since they ordinarily are not directly accountable to the electorate, the impact of the class structure upon the judicial system cannot be ignored. Whether judges do permit factors of personal bias, prejudice, or subconscious predispositions to influence their rulings is an empirical question, but that they will not do so is the working assumption of all established judicial systems in the free nations. And in an open society it is generally easy to secure agreement that judges have met these requirements of fairness and have made their decisions uninfluenced by personal, partisan, or class considerations.

There is no difference between the realist and orthodox analysis with respect to the desirability and possibility of securing judicial impartiality in the sense of neutrality between and even-

handed treatment of all parties. It is at the level of value choosing that the realist and traditionalist analyses differ. According to the traditional descriptions of the judicial process the judge can and should be neutral between competing concepts of the public interest. He should be an uncommitted man, the servant of the legal system, a mouthpiece of the law. If the law favors one interest over another, it is because the legislature has so ordained or the logic of the situation so demands. The realists, on the other hand, although agreeing that the judicial process requires and in fact secures neutrality as between parties to a lawsuit, insist that however desirable it might be in fact, it is impossible to secure a system in which the judges will be complete ciphers in the process of balancing competing claims to justice. The judicial role, the statutory directions, and the precedents may well structure the judge's choice, but his is a positive and creative participation in the determination of which values the laws will reflect.

Judges must explain decisions. Other decision makers are often called on to justify their actions and to put their decisions into the rhetoric of the public well-being. But only judges are compelled to provide detailed, formally stated, and—at the appellate level—frequently written justifications of why they decided as they did. The fact that a judge knows that he will have to justify his ruling and expose his arguments to the critical attention of a professional audience of his peers has an impact on the decision he makes which is easy to see, difficult to measure, and little studied. The formally written opinion, of course, tidies up a much more complex decision-making process. Many students have been concerned with the various forms of reasoning judges use and have wondered whether they make decisions first and then seek rules to justify them, or whether they move from general rules to the particular dispute.

### Judicial rulings as political forces

A judicial opinion justifying a decision, especially of an appellate court, itself becomes a factor in the political process. For the opinion is both an explanation of a particular decision and instruction to law officers, including subordinate judges, as to how they should dispose of similar disputes. And these opinions, like statutes, are themselves subject to a variety of constructions.

Both the traditional and realist analysis of the judicial process tend to emphasize the finality of a judicial ruling. Chief Justice Charles Evans Hughes's famous quip that the constitution is what the judges say it is is frequently cited to demonstrate that although the Congress may pass a law, it is the Supreme Court which determines whether it will be applied. To the same point is the often quoted remark by Gray, one of the intellectual fathers of the realist movement: "Statutes are . . . sources of Law . . . not part of the Law itself" (Gray [1909] 1963, p. 125). In the same tradition Kirchheimer writes, "The validity of a norm does not follow from its existence, but from the fate it suffers in the administrative and judicial process" (Kirchheimer 1961, p. 187).

In all political systems where there is any measure of stability, a judicial decision normally disposes of the dispute between the parties to the lawsuit. In fact, review of a particular decision outside the judicial system (except for executive pardons) is thought to violate the doctrine of separation of powers. And in all nations it is accepted that court decisions *ought* to be obeyed, that rulings of courts are *authoritative*, and that the policies pronounced by judges, especially those who serve on appellate courts, *ought* to guide the behavior of all, especially those who administer the law.

But whether the rulings announced, as distinguished from the resolution of the particular lawsuit, become the standard that controls the behavior of others is no more—perhaps even less—assured for judicially created rules than for legislatively created laws. Judicial constructions do not necessarily end a policy dispute and are no more self-applying than are statutes. What a judicial ruling will mean in the next “individualization” and the next is just as open to the push and pull of the political process, of which the judicial process is a part, as is a legislatively announced rule. What Gray said of statutes can also be said of judicial rulings: “They are sources of the Law . . . not the law.”

The precise impact of judicially proclaimed rules has only recently been investigated. At this stage we can only report in terms of the most sweeping generalizations and cannot trace with any assurance the mechanics that determine which particular judicial rulings are likely to be translated into substantial alterations in behavior. Since judges have no direct command of political or military force and depend on the executive for the enforcement of their decrees, judicial constructions have been of little significance when challenged by totalitarians in control of the legislative and executive agencies. It is impossible to cite a single instance in which judges have been able to defend democratic institutions against onslaught by antidemocrats who have taken or been given legislative authority: not in Nazi Germany, not in fascist Italy, not in the Soviet Union, not in Latin American nations. Although the judges in the Union of South Africa were able to dull the edges of the restrictive apartheid laws for almost a decade, ultimately they were forced to capitulate. After a totalitarian system has been established the rules produced by the judiciary are not likely to conflict with those coming from the legislature.

Some have felt that if the judges are authorized to defend the basic constitution, then they are better able to maintain democratic institutions. Undoubtedly the hope that this might be so accounts for the creation in many of the nations established after World War II of constitutional courts empowered to declare legislative acts unconstitutional.

In stable democratic nations the differing institutional arrangements and the freedom to form differing combinations of political groups often result in conflicts between judicial and legislative agencies. But there is little in the history of these nations to suggest that judicial rulings are likely to endure in the face of determined legislative opposition. For by design courts are not as responsive to the political forces of the community as are the legislatures. (Here we are referring to legislative officials with a nationwide constituency. Compared to regional officials, national judges are more likely to reflect dominant political forces than are the local authorities, and the history of judicial victories over such regionally accountable officials confirms this generalization.) “Except for short-lived transitional periods when the old alliance is disintegrating and the new one is struggling to take control of political institutions, the Supreme Court is inevitably a part of the dominant national alliance. . . . By itself, the Court is almost powerless to affect the course of national policy” (Dahl 1957, p. 293).

Yet it would be wrong to conclude that judges are merely passive instruments reflecting current sentiments and tools of the dominant political groups. For judges themselves are active members of the governing elites and create as well as respond to the political situation. And within stable democratic regimes where the community is divided, judicial support for particular values will often be the critical factor in their emergence as the controlling rules of the community. To have

the judges on one's side and to have their stamp of legitimacy for one's course of conduct can be an important political asset. Most of the time the judicial rulings will "stick," although without significant political support they will not stick for long. The key word, of course, is "significant," and with additional research we may be able to specify the conditions under which the law announced by the judges will control the behavior of the community.

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## II. COMPARATIVE ASPECTS

The judicial process consists in the hearing by impartial persons of a complaint by one party to a dispute and of a defense by the other party, together with their witnesses, followed by a decision that one or the other has the superior claim. Such decisions markedly affect the fortunes and even the lives of members of a society. Hence, there has been considerable discussion of the judicial process and of the general beliefs and personal factors which influence that process, both in preliterate societies and in literate societies. In the Western world, historians and jurists have considered carefully the effects of key decisions. Biographies of judges have investigated their social and personal characteristics, and these have been further illuminated by the autobiographical records and introspections of some great judges. In recent years sociological and psychological studies have introduced new techniques and new interests, so that the study of the judicial process is now considerably diversified. Judges are no longer regarded as engaged in a purely intellectual process of applying normative rules to various situations; the relation between judges and their changing social and cultural milieu is examined in various ways.

While research on the relation of judges and judicial decision to the social and cultural milieu still dominates the outlook of European scholars, the existence in the United States of local, state, and federal courts, each with its political ties, and above all the split decisions of the United States Supreme Court on constitutional issues, have led Americans to focus greater attention on the types of decisions made by particular courts and particular judges or alliances of judges, and on the prediction of those decisions, sometimes with the use of mathematical or quasi-mathematical models. This tendency has been encouraged by the growth of sociometry, small-group sociology, and social psychology in the United States.

There are presumably powerful social and emotional reasons why most judges were for so long regarded by non-Marxist jurists as sacrosanct—wise and impartial arbiters. In this view, the occasional weak, foolish, and even corrupt judges were exceptions who proved the rule. Marxists, of course, saw judges as largely operating in the interests of the ruling class. Nevertheless, it is strange that it took so long before the realistic appreciation by practicing

lawyers of judicial “biases” ousted from Anglo-Saxon jurisprudence what Seagle (1941) satirically called the worship of Our Lady of the Common Law, a phrase used by Cardozo and others before him. Now there is a tendency to go to the other extreme and to preach that the only illuminating way to study the judicial process is to concentrate on the actions and motivations of single judges and the interaction between judges in multijudge courts (see editorial comments in Schubert 1964). Study of this key process of social control seems still to arouse considerable emotion and to prevent some scholars from recognizing the multiple complexities of judicial decision making and the many different sociological and behavioral scientific methods of analysis that are applicable.

One type of analysis of the judicial process is that which examines how judges bring to bear the various norms current in the society on a variety of disputes, each of which is potentially unique. These norms are of many different kinds, for they range from “scientific laws” that are believed to govern the behavior of men, animals, insects, and things, through rules whose breach automatically constitutes an offense, to a whole range of general moral precepts. The task of the judge is to select from the variety of rules of different types those which are most likely to give what he considers to be justice in the case and to apply these in terms of a logic which is acceptable to other judges, to the public, and, he hopes, to the litigants. There are, of course, situations in which the judge may merely enforce a decision against one litigant in the interests of a conquering group over a conquered, or of a strong ruling class over a subordinated class. But part of the symbolic accretion of the law is that often the end result of the judicial process has been a decision which claims to represent something called at least law, and usually justice as well. The extent to which judges aim at establishing this claim is therefore one of the first empirical problems which has to be investigated; and the assertion of this claim also has to be checked against the degree of homogeneity of social interests in the population served by the court. The ethics of the judicial position itself often seem to influence judges’ behavior.

Unhappily, records of the reasoning of judges in cases in the classical world and in the early Middle Ages of Europe are too meager to provide adequate material to set in comparison with the detailed records we have of the public argumentation of judges since fuller law records have been kept. It is here that research on the judicial process in tribal societies has added new dimensions to the investigation of the judicial process. Llewellyn and Hoebel’s study (1941), from old people’s reports, of how the Cheyenne dealt with disputes has been followed by a number of detailed studies of judicial reasoning in various tribes. In general these studies present accounts of judicial reasoning in what were relatively homogeneous societies with stable economies, yet societies differing markedly in certain of their cultural premises or jural postulates (Hoebel 1954). Even in these relatively simple situations, judges have to deal not only with standardized situations but also with new types of disputes, precipitated perhaps by slight changes in the environmental situation, or by the idiosyncratic actions of individuals, or by some unique constellation of the complex components that go into making up the interactions between human beings in any sociocultural milieu. If after one Cheyenne has murdered another he has to be banished and the sacred arrows of the tribe have to be cleansed, what is to be done with a woman who kills her father when he tries to rape her, or, on the other hand, with a woman who by unjustified ill-treatment causes her daughter to commit suicide? An investigation of this sort of case led Llewellyn and Hoebel into an illuminating analysis of basic Cheyenne values and of how they were changed and developed to meet new crises, yet were believed to persist. These



scholars emphasized, too, how key situations of this kind might contribute to the evolution of political authority, of which judicial action is often a part (Llewellyn & Hoebel 1941, pp. 160, 179).

Men, judges and laity alike, may be (as some argue) guided basically by economic and social interests of which they are perhaps not fully aware. In Europe and America, there has consequently been an emphasis upon the often subconscious motivations that influence judicial behavior (Schubert 1964). But men everywhere interact through language in order to conceptualize their sociocultural and personal aims and values. It would therefore seem unwise to exclude the semantic and structural analysis of the words and the patterned arrangement of words into the arguments of the judicial process: these symbolic relations are something more than a mere veil concealing the real spurs to judicial decision. There must, therefore, be an investigation of the types of words used in the formulation of disputes and decisions, in the full social context of each word, whether it be a key concept of law (such as right, duty, property, etc.) or a simple word defining types of action or relationships between persons. In certain judicial institutions, such as the United States Supreme Court, where most of the decisions of individual judges are recorded in detail and where to some extent the formulas in which decisions are couched, and what they represent, can be taken for granted, students are able to concentrate on how the judges, each with his own social outlook, vary in their decisions on particular issues. These students attempt to apply different theories, such as the theory of games, to predict the strategy a judge may follow in different situations to achieve his ends, and they formulate mathematical models which will predict, both for behavioral theory and for practicing lawyers, the probable decisions of particular judges or benches of judges on certain kinds of disputes (Schubert 1964). This work is important, both for an understanding of the judicial process and as a general contribution to various branches of sociology and social psychology. But it takes large sets of facts—such as the structure of American society—for granted and does not analyze the interaction between that society and the judicial process.

For tribal courts we still often lack detailed knowledge of the sociocultural milieu, and in most instances we also lack detailed records of cases, including examination of evidence and judicial decisions. The cases out of which Llewellyn and Hoebel and a number of other lawyers and anthropologists have made remarkable studies of American Indian law are mostly recalled from distant times. Barton's classic work on the Ifugao (1919) and Kalinga (1949) of the Philippines also gives only the bare bones of cases, which were heard by mediators rather than judges. Pospisil (1958) had the opportunity to record in detail judicial and negotiating processes in a New Guinea tribe before the advent of foreign rule, and Berndt (1962) studied a New Guinea tribe shortly after foreign rule was established; but neither of them has yet published sufficiently detailed records of the process of argumentation toward decisions. The best records come from Africa; these include Schapera's work on the Tswana (1938), which gives almost complete reports on two cases, Gluckman's report on ten cases of the Barotse (1955), and Epstein's records from African Urban Courts established by the former Northern Rhodesian government (1954). Colson (1962, chapter 4) provides one good record of a case of negotiation of settlement among the Tonga, and Gulliver (1963) reports on a few such cases among the Arusha. Bohannan's study *Justice and Judgment Among the Tiv* (1957) and Howell's *A Manual of Nuer Law* (1954) give brief summaries of cases, rarely reporting cross-examination.

Two contrary attitudes have been adopted in analyzing tribal judicial processes. Bohannan (1957) has insisted that each people has its own folk system of concepts in terms of which the study of non-Western judicial processes and institutions should be made. He has insisted that it is essential not to use the folk concepts of Western jurisprudence to handle the folk systems of other cultures, for, being a folk system themselves, they cannot constitute an analytical system. In contrast, Gluckman and Epstein (and to a lesser extent Llewellyn and Hoebel, and earlier, Barton) have set their analyses against the type of analyses made of Western judicial processes, in order to highlight both similarities and differences. To pursue this comparison, they have used concepts, such as the reasonable man and reasonable expectations, right and duty, which are used in Western jurisprudence (see Gluckman 1955; Epstein 1954).

There are involved here major problems for all sociological and anthropological comparisons, since similar problems arise in the cross-cultural analysis of religious beliefs and other cultural phenomena. The constant use of local vernacular terms (for example, the use of Latin, German, French, Tiv, or Barotse terms when writing in English) makes reading and discussion difficult for those who do not know the language concerned. In fact, Bohannan in practice has to use English concepts to cover Tiv situations; for example, he emphasizes that Tiv law classifies all actions under the rubric of "debt" and not as contracts or torts, without discussing the relation of this Tiv conception to the dominance of actions in debt in early and middle English law, in ancient Chinese and Babylonian law, etc., and without considering why there should be this apparent similarity (see Gluckman 1965<sub>a</sub>, chapter 8). And in practice he uses English words, such as right and duty, throughout his analysis.

It is clear that, as Bohannan insists, the first step in ethnographic reporting of the judicial process, in the West as elsewhere, must be to state clearly the local concepts and the manner in which they are used by litigants and their representatives and witnesses to present evidence to the judges and by judges in cross-examination on evidence and in coming to decision. The presentation of these folk concepts, in action, should be clearly separated from the analysis itself. Here it might be clearer, as Ayoub (1961) implies, if one were to invent a set of neologisms, in order to escape from the cultural accretions of key folk concepts in the researcher's own language. Unfortunately no one has yet proposed such a set of neologisms. Gluckman's attempted solution was to propose that, for English, a whole series of relevant words be chosen and stipulated to have specific meanings for analysis. If the same words are used as translations of the folk concepts of the people under study, it would be advisable, experience shows, to use printing devices (such as italics or capitals) to indicate where they are being employed for analysis, as against reporting.

The prime necessity in this field is clearly for detailed reporting of the whole course of a trial, with careful attention to what specific folk concept is used in each context. In recent years jurists have concentrated attention, and often criticism, on the multiple meanings and fringe meanings of key judicial concepts, such as law itself, justice, crime, property, right, duty, negligence, guilt, and innocence. These concepts are not necessarily vague: they may have what Curtis called "a precise degree of imprecision" (1954, p. 71). This is also a characteristic of religious symbols. The study of religious symbolism clearly involves an examination of the multivocality of each symbol, the manner in which it ramifies in its social and emotional referents, and the manner in which it evokes both emotional and social responses. Similarly, the

concepts of law have to be investigated to find out how parties, witnesses, and judges use the multivocality of these concepts in order to fit the facts of varied disputes into the rules of law and to advance, respectively, pleas and decisions, which are claimed to state where justice lies.

An important problem is immediately raised by the fact that concepts in law refer not only to states of fact but also to implied moral evaluations of human actions and possibly also the motivations which are believed to lie behind those actions. In developed systems of law, written pleadings by the parties, usually presented through their counsels, have to be stated according to particular formulas which strip away what is believed to be irrelevant and present only those facts which have “forensic” (to avoid the multivocal “legal”) value in terms of those normative rules which, it is argued, apply to the dispute. At some stages in the history of law, failure to set pleadings in a rigidly prescribed form might invalidate a claim, and in modern Western law, indictments may still be thrown out if not properly drafted. Facts at these stages of forensic development therefore come before the judges already processed to conform with certain forensic, and possibly also moral, norms. Many scholars have stressed that this preliminary processing entails that, to understand the judicial process, re-search should be done on the preliminary work of police and counsel before disputes come to court, a field little investigated.

Tribal societies—even those like Ashanti, where oaths are sworn to establish jurisdiction—seem to lack this period of preliminary processing of the facts in dispute. Litigants are allowed to state their respective claims in apparently full, and often seemingly irrelevant, detail. While they do so, the judges play a role similar to that of counsel in more developed systems, sifting and processing the facts and issues (Gluckman [1955] 1967, chapter 9). It is necessary to watch carefully the extent to which judges allow seeming irrelevance, by analyzing their interruptions and the weight they attach to the various types of facts laid before them. This leads to an investigation of what is conceived to be the task and aim of judges in specific types of disputes: what is irrelevant in a dispute between people who are relative strangers to each other may be very relevant in a dispute between spouses or closely related kinsmen, if the judges are attempting to reconcile the parties and enable them to resume living and working together. This is the common situation in tribal courts, and these may therefore work in ways more akin to Western marriage counselors, lawyers, arbitrators, and industrial conciliators than to Western judges in court.

Most scholars who study social control comparatively emphasize that the establishment of courts is a key phenomenon in the development of law (e.g., Seagle 1941; Stone 1946). The conception of a court here involves that all parties to a dispute should be heard by the court’s judges, who normally refuse to give a verdict until both sides of a case have been presented. Litigants present their evidence and the supporting evidence of witnesses. Litigants and their representatives then cross-examine their opponents and opposing witnesses to try to break down the other case. Judges may enter into cross-examination, although they do so in varying degrees in different societies. Techniques of cross-examination require careful investigation of the extent to which direct evidence, hearsay evidence, and circumstantial evidence are distinguished; the weight which is accorded to im-partiality; and the manner in which these distinctions and other devices are employed to test and perhaps to destroy particular versions of events.

In Zambia, Epstein and Gluckman found that in practically all the cases they heard tried, the litigants and their supporters framed their versions of events in such a way as to present themselves as “reasonable men.” These researchers thus reported the occurrence in Zambian African law of a folk concept which can be translated as parallel to a Western folk concept. Furthermore, they raised the “reasonable man” to the status of an analytical concept which they saw as crucial in the process of judicial cross-examination and decision. By presenting themselves as reasonable men who conformed to the modes of behavior and the standards of their society, and who thus accepted the same premises of “rightdoing” as the judges, litigants exposed themselves to attack by the judges, who seized on discrepancies within their accounts, and between their accounts and those of eyewitnesses. In many cases this enabled judges to destroy a version which appeared to be reasonable and to convict a litigant on the basis of his own story. Thus, in the course of cross-examination they would begin to come to a decision by setting up the standard of how a reasonable incumbent of the role under review would behave in particular circumstances.

Epstein’s work, published in a series of papers, has escaped the attention of most other scholars; but Gluckman’s use of the reasonable man has been severely criticized because it imparts an allegedly vague concept from the Western folk system that is of chief importance in the complex law of negligence. None of the critics has as yet discussed the cases analyzed thus by Gluckman to show that the process of judicial cross-examination and decision can be better understood by using some other set of concepts. On the other hand, Gluckman (1965<sub>b</sub>) has discussed Tiv cases reported by Bohannan, and other negotiations in societies without courts, to argue that these can be more successfully analyzed by emphasizing how both parties and judges (or other outsiders) operate with some concept of the reasonable man.

For example, in an Arusha case reported by Gulliver (1963, pp. 243 ff.), a father-in-law sued his son-in-law for cattle still due under the marriage payment. At several negotiations, the father-in-law insisted that he was reasonable in bringing suit, for he and his son had debts of their own to meet. He refused to take away his daughter from her husband, as he was entitled to do in law, because the man was a good husband to the daughter, a good father to her children, and a good son-in-law to him. The son-in-law contended that although he had cattle, he needed them for milk and to plough for food for the plaintiff’s grand-children. How could a good grandfather cause his grandchildren to fall into want? Similarly, when it was found that the son-in-law was planning to use cattle to buy land, he countered that he needed the land to get food for the plaintiff’s grandchildren, of which a good grandfather should approve. And so forth. If within the concept “good” we include, as we must, the idea of “reasonable,” then we understand how a compromise was reached by negotiation in terms of the rights and duties of a complex of roles, applied in terms of reasonable conformity according to people’s poverty and the demands on them, within certain overriding rules and moral ideas (for a discussion of this whole problem, see Gluckman 1965<sub>b</sub>; [1955] 1967, chapter 9). Many disputes, both in tribal and in more developed systems of law, hinge on the manner in which a person has fulfilled the obligations of a particular role and the degree of conformity in the “range of leeway” (Llewellyn & Hoebel 1941, p. 23) that is allowed to him. This degree of conformity can be determined only when all his obligations are considered in the light of his wealth, strength, etc., as he runs his personal economy in meeting the demands of all those linked to him. That is, the “reasonable man” is here used to try to illuminate how certain key concepts in sociological analysis (role, role

expectations, selection of goals) appear through a dispute in the judicial process. Even if it is unwise to use this particular concept, the problems thus raised are crucial, since the dispute is often over degree of conformity; and some means of handling these problems must be devised. This statement on degrees does not deny that certain actions are per se unlawful, although it may even then be possible to demonstrate connections with reasonable demands on incumbents of given roles. In comparative studies it must be recognized that varying standards, customs, etc., may assemble into stereotypes of roles, perhaps not consistently held by all judges (or all jurymen). Disagreement will increase as a society becomes more heterogeneous. Thus, during World War II Barotse judges felt themselves to be helpless when arguing the justice of a levy for war funds with members of the Watch tower sect (Jehovah's Witnesses), who were pacifists (Gluckman [1955] 1967, p. 158). A British jury refused to convict a man of breaches of national insurance law, because some members reacted to what they felt to be the bureaucratic behavior of a civil servant; and members of another jury felt themselves helpless in a case of receiving because, being middle-class, they did not know whether working-class people sold goods to one another in public houses (Devons 1965).

The next stage in the analysis of the judicial process is to examine how judges move from evaluation of evidence to decision. Here there is obviously scope for considerable personal variation. It is worth examining the ways in which the alleged logical steps involved are discussed; and what is striking is the extent to which extremely complex processes of public ratiocination—whether they be rational argument, or rationalization, or both—are described in metaphorical terms. Both in the Western world and in some African cultures, men speak metaphorically of the processes of making decisions: sifting or weighing the evidence, clinching an argument, coming to land, judicial “hunches,” and so forth. These metaphorical expressions show how greatly the conclusions on the evidence by different judges may vary, and how the judges may be strongly influenced by principles and prejudices derived from their social positions or their personal experiences. It must be emphasized that the actual concepts and logic used in judicial decision have to be analyzed to work out how it is possible for idiosyncratic interpretations nevertheless to be stated in some kind of acceptable form.

Central to the judicial process is the manner in which norms stated in general terms are brought to bear on a great variety of disputes, each of which is in some senses unique. The norms which are deployed thus may be well-known rules or codes defining righteous and wrongful conduct, particular customs or patterns of behavior, examples of “rightdoing” derived from everyday life, or previous decisions of the courts. There has to be an assessment of how judges select from these norms, which are not necessarily consistent with one another.

But some disputes may be unprecedented, whether because social conditions have changed or because of some extraordinary combination of events. When judges attempt to cope with disputes without precedents, they often have to develop existing law. In *The Nature of the Judicial Process* (1921, pp. 30–31) Cardozo examined how these gaps in the law are filled in the United States. He defined four methods by which judges meet the general problem of applying existent law, more strongly marked when situations are unprecedented: (1) the line of logical progression—the rule of analogy or the method of philosophy; (2) the line of historical development—the method of evolution; (3) the line of the customs of the community—the

method of tradition; and (4) the lines of justice, morals, and social welfare—the method of sociology.

There may well be other methods, and these may not be the most appropriate for sociological analysis. However, Gluckman (1955) was able to apply Cardozo's categories to Barotse judicial decisions and to show that the kind of logic with which Barotse developed their law to meet the new situations raised by changes consequent on colonial rule could be comprehended in Cardozo's categories.

For example, when men began to go to work for Europeans in distant areas, the Barotse authorities ruled that if a man was away two years, his wife was entitled to a divorce. In one such case, when the absent husband's kin pleaded that he continually sent his wife blankets, clothes, and money, the court held: "This woman did not marry a blanket." A month later the husband returned: he had been on his way home at the time of the suit. His father-in-law insisted on the husband's making another marriage payment to regain his "divorced" wife. The court rescinded its previous decision, on the grounds that had it known the husband had started for home, it would not have granted a divorce. The purpose of the statute requiring husbands to return was to strengthen marriages: therefore, the court interpreted "return home" as meaning "start for home." The court also objected to what it considered the wife's father's "unjust enrichment." These decisions exemplify what Cardozo called the method of sociology. At the same time, it must be noted that the Barotse always had frequent divorce and that both the law and the decisions in this case are along the lines of traditional custom.

By contrast, when the southern Bantu tribes, among whom divorce was very rare, have faced the problems of absentee husbands, they have not granted divorce to wives of long-absent husbands, but their courts have held that, after a certain reasonable period, a "grass widow" may take a lover in order to bear children. It is against tribal policy for a woman's fertility to be idle. The absent husband is denied damages for adultery, and under the rule that children belong to the man who gave cattle for their mother, the adulterine children are his, and not the adulterer's. The logic of justice, morals, and social welfare combine with different traditions and customs to give varied judicial solutions to similar problems (see Gluckman [1955] 1967, pp. 141–142, 284–290; Schapera 1938, p. 157).

Max Gluckman

[See also [Law](#), article on [law and legal institutions](#); [legal systems](#), article on [comparative law and legal systems](#); [Political anthropology](#); [Sanctions](#).]

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### III. JUDICIAL ADMINISTRATION

The administration of justice is a vital concern of any civilized community. Upon the proper functioning of the courts depends not only the enforcement of rights and liabilities, such as those between individuals, but also the protection of the individual against arbitrary government and the protection of society itself against the lawless individual.

This article concentrates on judicial administration in the United States. This is not because similar problems do not exist elsewhere, but because their complexion varies so much from one nation to another that a comparative study would not be meaningful unless it took into account in each nation the structure of government, the character of the legal profession, and similar matters beyond the scope of any brief treatment. However, a few references to comparative material are included in the bibliography.

Despite its importance, little systematic study was given to judicial administration in the United States until recent years. Lawyers, judges, and law professors were preoccupied with rules of law and with the procedure for translating them into concrete decisions; they devoted relatively little attention to the over-all functioning of the judicial machinery. Political scientists also tended to avoid the subject, concentrating their concern upon the legislative and executive branches of government on the theory that the judicial branch was the special preserve of the legal profession. This left the field to politicians, legislators, and a few others confronted with such specific tasks as selecting judges or establishing courts. Understandably, their tendency was to approach each problem *ad hoc*, without seeing it in context and without much research into historical or comparative experience or into empirical data.

The beginning of sustained attention to the subject probably dates from a now famous speech by Roscoe Pound to the American Bar Association in 1906, entitled "The Causes of Popular Dissatisfaction With the Administration of Justice." To the then complacent members of that body, he spoke some harsh truths about "waste," "delay," "inefficiency," "archaic judicial



organization” and “obsolete procedure.” There followed an awakening of interest in the subject in the law schools of the nation—an interest that has continued and is still growing and in which university political scientists and sociologists have recently joined.

Before long, public-spirited members of the bench and bar began to take notice. The chief vehicle for their early efforts at reform was the American Judicature Society, formed in 1912. In the 1930s, the organized bar began to lend its strength to the growing movement, largely as the result of the enthusiasm of Arthur T. Vanderbilt, who was destined to become not only president of the American Bar Association, the American Judicature Society, and the Institute of Judicial Administration, as well as chief justice of New Jersey, but also the acknowledged leader of the entire movement.

In 1934 Congress passed a statute giving power to the United States Supreme Court to make rules of civil procedure for the federal district courts. This was an important step forward, not only because federal procedure badly needed revising but also because of the precedent of vesting in the courts themselves the power to regulate their own methods of operation. The new rules went into effect in 1938, and have been amended from time to time. They have become a model for procedural reform in the various states.

In 1937 the American Bar Association took a stand against the popular election of judges and in favor of a method of selection that would de-emphasize political considerations; and in the same year that association undertook the formulation of “minimum standards of judicial administration” (American Bar Association 1938). These standards were promulgated the following year as a guide for states in improving their court systems, and since then the state committees of the American Bar Association have worked for their implementation. The association has continued to enunciate goals for judicial administration and to work toward them, as is evidenced by its promulgation in 1962 of a model judicial article for state constitutions. Many state and local bar associations have similarly contributed their efforts.

The major problems in judicial administration center on (1) the personnel of the courts, (2) the institutional framework within which they operate, and (3) the procedures they follow. All of these problems are interrelated.

## **Personnel**

### **Selection of judges.**

Most judges in the United States are popularly elected, but the voters seldom have much interest in the contests or knowledge of the persons for whom they are voting, being content to leave such matters to political leaders. In the federal system, and in a few states, the judges are appointed, but even here, politics tends to play a dominant role. One approach toward de-emphasizing political considerations (without eliminating them entirely) is to require that a judicial appointment be made from a list presented to the governor (or other appointing official) by a non-partisan nominating commission; and to require that after a probationary period of service, the appointee shall run against his own record, not against any other candidate. The choice that appears on the ballot is simply whether Judge X shall, or shall not, be retained in

office. This plan is known by various names, the most familiar of which is the Missouri plan, Missouri being one of the first states to put it into effect. Similar plans are now in operation in Kansas, Alaska, California, Alabama, and Iowa; and movements are under way for the adoption of the idea in still other states.

### **Judicial tenure, retirement, and removal**

The tenure of judicial office is one of the factors affecting recruitment of the proper men to become judges, because an office that carries tenure for life or for a long period of years is obviously more attractive than one that carries a short tenure. At the same time, it is important that men do not remain on the bench after their powers have failed or if they have demonstrated by their conduct that they are not fit to hold office. The direction of reform, therefore, has been toward making tenure long, but at the same time providing for retirement or removal under the proper conditions and by a simple and effective procedure. Impeachment, involving legislative accusation and trial, has proved to be a cumbersome and generally ineffective method of getting rid of unfit judges and, consequently, has in some states been replaced or supplemented by removal machinery operated and controlled by the highest judicial officers of the state.

When judges retire from active service because of age or ill-health, adequate financial provision should be made for their retirement. In the federal system, a judge receives full pay for life upon retirement at age 70 after serving for 10 years, or at age 65 after service of 15 years, but this is a far-off ideal for many states. In some states, there is no financial provision at all for retirement, with the result that judges are almost forced to stay on the bench long after their powers have failed; in others, retirement plans exist but are inadequate.

### **Judicial salaries**

The more generous judicial salaries are, within limits, the more likely they are to attract able lawyers and therefore improve the functioning of the judicial system. Throughout the United States, disparities in salary are striking, with one judge receiving two or three times the amount of money that another receives in a different place for performing much the same work. The movement has been toward generally increased salaries in recent years, but great disparities remain. In the federal courts, the salaries of district (trial) judges have tripled since World War I (going from \$7,500 in 1919 to \$22,500 in 1955) and appear likely to rise again soon. They seem to be tied (in the minds of congressmen, at least) to the salaries paid members of Congress. In some states, the federal salaries are substantially higher than those paid state judges, but in a few others, like New York, they are substantially lower than the state salaries.

### **Judicial training**

Some nations have a career judiciary in which members of the legal profession choose between the bench and the bar at an early age. Those who become judges receive specialized training—either formal education or apprenticeship—for their work and then progress by a regular system of advancement through the hierarchy of courts. In the United States, no such system prevails. Judges ordinarily are chosen from the practicing bar at a fairly advanced age and assume office (either at high or low levels) without the benefit of special training for their new work. Be-cause

of this system of selecting judges, because there is no regular system of promotion, and because even experienced judges sometimes need help in orienting themselves when they assume new duties or when they are confronted by major changes in the law or in court organization, training programs for judges have become popular in recent years.

Such programs had their origin in conferences where judges got together informally to discuss common problems and needed improvements in the law or to listen to speeches. These informal meetings have gradually been converted into, or supplemented by, more formalized programs of judicial education. The pioneer project was the Appellate Judges Seminar, inaugurated by the Institute of Judicial Administration in 1957 and held for two weeks each summer. Each year it provides a program for 20 to 25 of the appellate judges of the nation. In 1962, under the aegis of the Joint Committee for the Effective Administration of Justice, an organization sponsored by 14 national organizations interested in judicial administration and headed by Justice Tom C. Clark of the United States Supreme Court, the same idea was extended on a large scale to trial judges of state courts of general jurisdiction. It has held many two-day or three-day seminars throughout the nation. Other seminars are held for new federal district judges under the auspices of the Judicial Conference of the United States; and still others are conducted for juvenile court judges, traffic court judges, and justices of the peace. The movement is continuing to grow and expand, as is evidenced by the establishment in 1964, on what was hoped to be a permanent basis, of the College of Trial Judges, to be conducted four weeks each year for new judges of state trial courts of general jurisdiction. Further in the future is the possibility of establishing a training program for lawyers who are not yet judges, but who have ambitions in that direction.

### **Elimination of lay judges**

Some judges have not even received a law school education to qualify them to act as lawyers. These typically are justices of the peace, handling small traffic cases, other minor criminal cases, and small civil claims; but sometimes they are also found in probate courts, administering the estates of persons who have died. In England, the justice of the peace is a highly respected official, but in the United States the office has been degraded and has become the object of widespread criticism. Too often it is given as a reward to the politically faithful whose only qualifications are services rendered, or to be rendered, to the party in power. It is not surprising, therefore, that a movement is under way in many states to replace justices of the peace and lay probate judges with legally trained, full-time professional judges. Where this is politically feasible, efforts are being made to require that justices of the peace be lawyers or at least to provide training programs for them along the lines of the programs for regular judges described above. In a considerable number of states such reforms have already been accomplished. In Maine, for example, in 1960 the justices of the peace were eliminated and replaced by a system of full-time, legally trained judges.

### **The jury**

During the last fifty years the civil jury has virtually disappeared in England. In the United States it still flourishes, its greatest use being in personal injury negligence cases. The right to trial by jury is guaranteed by state constitutions (for state court cases) and in the federal constitution (for federal court cases)—but only in those situations where a jury had been traditionally used,

namely, actions developed in the common law courts of England. The typical constitutional provision is that the right shall “remain inviolate,” meaning that it is not extended to actions either historically tried without a jury or newly created by statute. In consequence, many civil actions are today tried without a jury.

Some judges and lawyers believe that the jury is no longer justified even in the limited group of civil actions where it is still used. They point out that juries are the cause of many of the law’s delays, that they greatly increase the expense of litigation, that they introduce uncertainty into the judicial process, and that they frequently disregard and set at naught the governing law. Consequently, from time to time there is talk about the desirability of getting rid of the jury in civil cases—a movement that thus far has not progressed very much. More successful have been indirect efforts to curtail the use of the jury by encouraging waiver of the constitutional right or by making the party demanding this method of trial pay some of the extra costs entailed thereby. Currently under serious consideration is a proposal to take automobile accident cases out of the courts and entrust such claims to administrative tribunals modeled after workmen’s compensation boards.

In criminal cases, the jury is still used extensively both in England and the United States. The grand jury, however—the one that makes accusations of crime, as distinguished from the petit jury, which determines guilt or innocence—has disappeared in a number of states, having been replaced by a procedure, which is less cumbersome, whereby the district attorney, on his own responsibility, makes the accusations that bring men to trial.

Important efforts have been made, and are being made, to improve the method of selecting jurors for both civil and criminal cases. The goal is to secure more intelligent, better educated juries, that is, juries more fairly representative of the community. Notable in this regard have been United States Supreme Court decisions outlawing systems of jury selection that involve the systematic and intentional exclusion of Negroes and similar minority groups. Sometimes independently of such decisions and sometimes as a result of them, administrative improvements in the method of selecting juries have been made.

## **The bar**

The proper functioning of the courts depends not only upon the judges and jurors but also, and perhaps equally, upon the performance of the bar. If the bar is capable, conscientious, and responsible, the quality of justice is likely to be good; if not, the quality of justice is likely to be deficient, for the Anglo-American system is predicated in very large part upon lawyers presenting to the court the raw materials, both factual and legal, that will be needed for decision.

Three developments in recent years have tended to increase and improve the services rendered by the bar. One is the inauguration of new methods of supplying legal service to those who are unable to pay for it, beyond the traditional practice of having a judge appoint a member of the bar to represent an indigent defendant accused of a serious crime. Legal aid societies, which offer the services of lawyers to indigent persons in both civil and criminal cases, have been established in many communities; and in some counties, public defender systems have been created, whereby publicly appointed and compensated officers defend indigent defendants. The

trend toward more adequate legal representation for indigents has been greatly stimulated by a series of Supreme Court decisions holding that the right to counsel in criminal cases is guaranteed by the U.S. constitution.

Another development of importance has been the improved education of lawyers. Not only have the undergraduate law schools been greatly improved and standards for admission to the bar tightened but systems of postgraduate legal education have also been developed in university law schools and in bar-controlled programs of continuing legal education.

A third development of significance is the strengthening of bar associations, which maintain a degree of discipline over the conduct of individual lawyers and provide a vehicle for the discharge of professional responsibilities. An increasing number of such associations have become “integrated,” meaning that membership in them has become mandatory, with all lawyers in the state paying dues and having a voice in their affairs. As a result, such bar associations can speak with a high degree of authority.

### **Court organization**

Court structure in the United States is far from simple. Instead of a single system of courts such as in England or France, 51 separate systems are in operation—one for each of the 50 states and another for the federal government. To a large extent, the federal courts duplicate the work of the state courts, but Americans have become so accustomed to the idea of a dual system of courts that there is little likelihood of such duplication being eliminated or even substantially reduced.

A much more likely area of reform is the court structure of any given state, where there frequently is great complexity and disorganization. Jurisdiction all too often is fragmented among a motley conglomeration of disparate courts, operating independently of one another and doing clumsily and inefficiently what could, and should, be done simply in a unified system. Many states have radically simplified their court structure, reducing the number of courts and eliminating duplication.

Many states have also established machinery for the unified operation of their courts, providing for conferences of judges to discuss common problems and vesting administrative authority over the entire system in a single judge (usually the chief justice of the highest court), giving him the responsibility of relocating, if necessary, the entire judicial manpower of the state by temporary assignment of judges from one locale or one court to another. For these administrative tasks, he is provided with assistants, who collect statistics, prepare reports, conduct studies, and the like.

A prime objective of improved administration is to combat delay. Many courts, particularly those in metropolitan areas, are suffering from chronic congestion. In these courts, it may take as long as three, four, or five years for a case to reach trial. Efficient, businesslike administration, with free transferability of judges and cases, is thought by many to be a key remedy for this malady.

As in many other areas, the federal courts took the lead in judicial administration, too, with the inauguration in 1922 of the Judicial Conference of the United States and the establishment in 1939 of the Administrative Office of the United States Courts. These provide models for states

wishing to improve the administration of their own courts, and they have been extensively copied.

## Procedure

Until the nineteenth century, the regulation of procedure was largely in the hands of the courts, which devised their own rules and changed them from time to time as they saw fit. Then legislatures began to take over the function, in part because the rules developed in the courts of England had become excessively rigid, unrealistic, and unsuited to the needs of litigants, necessitating a radical change, and in part because of the general increase of legislative power and activity during this era. One of the great legislative achievements was the promulgation of the Field Code of New York in 1848, abolishing ancient forms of procedure, providing a uniform procedure for all types of action, and merging into a single court of general jurisdiction the powers that theretofore had been exercised separately by the common law courts and the chancery or equity courts.

Time proved, however, that legislative regulation of procedure was not satisfactory, for reasons well stated by Judge Cardozo: “The legislative, in-formed only casually and intermittently of the needs and problems of the courts, without expert or responsible or disinterested or systematic advice as to the workings of one rule or another, patches the fabric here and there, and mars often when it would mend” (1921, pp. 113–114).

As a result of such criticisms, the tendency has been to restore procedural rule-making power to the courts. This has been accomplished in many states as well as in the federal government, where Congress delegated to the Supreme Court rule- making power over the lower federal courts. The rules promulgated by the Court pursuant to this authority (covering both civil and criminal cases) are brief and simple, de emphasizing technicalities and procedural niceties in favor of greater concentration on the merits of litigation. They have provided an inspiration and model for procedural reform in many of the states.

While great strides have been made during the twentieth century toward simplified and improved procedure, there are still many areas that urgently demand attention. One is the law of evidence, which tends to be unduly complicated and to exclude relevant and reliable information for reasons so technical that they are meaningful only to tradition-minded lawyers. Another is the reaching of a proper balance between the right to a fair trial and the right to a free press. Newspaper, television, and radio coverage of the facts of some cases prior to trial is so extensive and spectacular that it makes virtually impossible a fair trial. Still another is re-storing to the trial judge his historic power to control the trial, including the power to comment on the evidence and thus guide and help the jury in determining questions of fact .These few examples, far from being a catalogue of what remains to be done, merely suggest the range and nature of the many problems to be faced.

## The future

In recent years there has been a growing recognition that the administration of criminal justice requires and deserves, at the least, attention equal to that given to the handling of civil litigation.

One of the reasons is that the United States Supreme Court has devoted much attention to the subject, making clear, in a long series of decisions, that criminal justice in many of the states falls below the minimum requirements of decency and fair play guaranteed by the federal constitution. In the 1950s the American Bar Foundation engaged in major research into the functioning of criminal law in the United States. This study is expected to result in the publication of several detailed volumes of description and criticism. In 1964 a new effort was launched by the American Bar Association, in conjunction with the Institute of Judicial Administration, to formulate minimum standards of criminal justice similar to the Minimum Standards of Judicial Administration of 1938. Many additional research projects, generously supported by foundation grants, are being carried on in schools of law and departments of sociology in a number of American universities.

Increasing interest in criminal law also may be responsible, in part, for another significant recent development: the utilization of new methods and techniques of research in the law. The emphasis today seems to be upon empirical, quantitative methods borrowed from the social science disciplines, supplementing the older emphasis upon books, theory, and a priori reasoning. Increasingly of late, men from university faculties other than the law schools have been interesting themselves in problems of judicial administration.

Finally, growing attention is being paid to the comparative aspects of judicial administration. As men have become conscious of the fact that, in general, one nation may learn from another, so also have they become increasingly aware that much is to be learned by comparative study in the field of judicial administration. Recent interchanges between British and American jurists on appellate procedure and on the administration of criminal justice have yielded excellent results for both countries and are likely to continue.

Delmar Karlen

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## EFFECTIVE DISTRICT ADMINISTRATION AND COURT MANAGEMENT

by

**Hon'ble Mr. Justice P.Sathasivam,  
Judge, Supreme Court of India on 15.06.2013 at  
Tamil Nadu State Judicial Academy during the  
Special Training Programme for all District Judges and Chief Judicial Magistrates**

A very Good morning and warm greetings to each one of you assembled here today. I feel elated and immensely happy in addressing you on the topic - "*Effective District Administration and Court Management*". For a number of reasons, the past three decades have witnessed heavy accumulation of cases. One noticeable reason for this is that the institutional framework within which courts historically operated placed little emphasis on sound management and administration. Even today, court administration remains the greatest challenge to the profession.

An independent and efficient judicial system is one of the basic structures of our Constitution. The centrality of a strong justice mechanism lies in its essential contribution in enabling all manner of disputes to be resolved within a structured and orderly framework. It is this lack of managerial skills in the court administration, which has attributed to the current increase in pendency rates of both civil and criminal matters. Here the role of District Judge and Chief Judicial Magistrate becomes utmost important for mechanizing effective court management system. In their domain resides the daunting task of administering court affairs, which will aid in dispensing swift justice.

As a District Judge/Chief Judicial Magistrate, many responsibilities devolve on you in the process of delivering justice. One such incidental but prominent duty is to see that the court is administered effectively and efficiently and in compliance with the statutes. "Court management" is inclusive of entire set of actions that a court takes to monitor and control the progress of cases, from initiation of a case to trial. It is the tool to pursue the institutional mission of resolving disputes with due process and in due time.

India, the biggest democracy has one of the largest judicial systems in the world with 15 cases being filed per thousand population every year. Global and national experience show that the number of new cases filed into a judicial system increases with literacy and economic wealth. Therefore, as India's literacy rate and per capita income increases the number of new cases filed per thousand population is likely to increase rapidly in the next few decades. As a consequence, the subordinate judiciary should equip itself with managerial skills to cope not just with the current backlogs but also for potential escalation in number of cases in the near future.

Addressing these challenges will require substantial upgrading of court management system. One such aspect is adapting to information and communication technology. Today, data on cases filed in the subordinate courts is still gathered and maintained in manual data systems in majority of courts in India. An overhaul of this system is requisite for effective administration. Though this process would be gradual. For instance, in the federal system of the United States, the transition from a paper-based to the fully electronic case information management system, including electronic filing and noticing, occurred progressively over a period of roughly 25 years. Certainly, the change is time consuming but inevitable in the process of pursuing justice.

**RESPONSIBILITIES OF DISTRICT JUDGES/ CHIEF JUDICIAL MAGISTRATES**

The District Judges/ CJM ordinarily play a pivotal role in the development of court policy. Every District Judge/CJM must cultivate the art of court management.

They have collective responsibilities for these functions.

- **Leadership:** As a District Judge or Chief Judicial Magistrate, you are uniquely situated to lead the court in determining the administrative policies for better working of the courts.
- **Court management:** You have the responsibility to make sure that laws, regulations, and court policies are followed, that the needs of court employees are properly addressed, and that administrative tasks are carried out. Behavior of the judge in the court is the most important aspect in court management. You have 5 segments of people in the court to behave with.
  1. Lawyers: Judges must show respect, courtesy and patience to the lawyers, at the same time maintain the control of the proceedings and also has an obligation to ensure that proceedings are conducted in a civil manner.
  2. Witness: The foremost aspect that every trial judge should remember is that the statement of a witness is the lifeline of a case. Their protection is primary for friction free trial. Thus, every trial judge has an obligation to treat them with dignity and respect. Sections 150, 151 and 152 of the Evidence Act, 1872 should be strictly followed in the process of examination of witness. Whenever, the presiding judge notices abuse of witness in courts, they should come down with heavy hands and convey the message that witness box will not be allowed for committing offences under section 500 IPC. Otherwise the dignity and solemnity of the court will be impaired.
  3. Court Staffs: Court management cannot succeed without the support of the court staff and its registry. Thus, Presiding Judge must always maintain the decorum of the court and never create tension in the minds of court staffs. Tension inflicted on the staff would not only cause them to commit repeated mistakes but the records will become unmanageable. There is a great adage. "It is nice to be important, but it is more important to be nice." This must be your coat of arms when you are in the court or in the court office.
  4. Subordinate Officers: Always treat your counterparts and the subordinate officers with due respect. The court management is a comprehensive procedure. Therefore, even the smallest aspect has significant impact on the effective administration of justice.
  5. Litigants: Judges should not employ hostile or demeaning words in opinions or in written or oral communications with litigants.
- **Case management:** The District Judges/ CJM's are provided with the authority over the allocation of cases to other courts. You should utilize this position to monitor caseloads and trends and to identify problems that are contributing to the delay in the trial. Further, you must recognize that case management is relevant also for those courts that are not currently experiencing delays or backlogs.
- **Prioritization of old cases:** "Five plus Zero" initiative must be adopted to ensure that cases pending for more than 5 years are taken up on priority basis and such cases are brought

down to zero level.

- **Supervision of Court Managers:** Judges are ultimately responsible for effective court management. However, the complexity of the modern court requires the delegation of administrative functions and responsibilities to the Court managers subject to the supervision and direction of the Presiding Judge. Thus you must have effective control of working of these Court Managers.
- **Inspection of Subordinate Courts:** The District judge and CJM's should conduct frequent inspection of subordinate courts for better accountability and efficiency.
- **Budgets:** The judicial officers must be proficient in the art of planning and preparation of budgets so that the budget meets the requirements for the next year and is neither excessive nor short.
- **Annual Confidential Reports:** The Annual Confidential Reports of members of Subordinate Judiciary must be maintained properly and on regular basis.
- **Periodic meetings between Police and District Judge:** Such meetings must be encouraged for smooth running of judicial system.

## TECHNIQUES OF CASE MANAGEMENT

No doubt today almost every court is overburdened and there is an acute shortage of judicial officers and litigants have to wait years for justice. In all these adverse conditions though it is very difficult to impart justice rapidly but by adopting the techniques of court management, we can provide swift justice to the people.

The effective use of case management techniques and practices improves the efficiency in the use of justice system resources, hence reducing the costs of justice operation. By reducing the time required for resolving disputes, the appropriate use of case management may also help build public confidence in the effectiveness of the courts and the accountability of judges.

The court's control over cases entails the implementation of two different principles viz. **(1)** early court intervention and **(2)** continuous court control of case progress.

### 1. Early Court Intervention

Early court intervention requires that judges familiarize themselves and impose management controls immediately after the case is assigned to them. Case screening is the important technique that can be used to monitor the early stages of litigation and reduce or eliminate unnecessary time, which contributes to case processing delays.

Case screening is the review of case information for management purposes by judges and/or court staff. It is generally the most meaningful form of early intervention because it provides a basis for the court to assess the management requirements of a case at the beginning of the process. Issues to be addressed during case screening include, but are not limited to are status of service; case priority including public policy issues and impending death; alternative dispute resolution/diversion referral; jurisdiction etc. Court support staffs should monitor the above aspects under the effective control of the judges at every periodic interval.

It is also useful to screen filings before entering them into the case management system to identify filings that do not meet court rule or statutory requirements, or filings that contain clear errors or have procedural issues that should be brought to the attention of the judge. Like unsigned pleadings, illegible documents, incorrect filing or motion fees, improper parties, incorrect venue, or filings not within time frames.

## **2. Continuous Court Control Of Case Progress**

Continuous court control of case progress is a method by which judges can continue to exercise such controls and monitor case progress and activity throughout the life of the case. Though the court supervision of the case progress is an administrative process, it indirectly has an impact on the adjudication of substantive legal rights. Therefore case flow management is the absolute heart of court management.

The case flow management will aid in creating a judicial system that is predictable to all users of the system. This will result in counsel being prepared, less need for adjournments, and enhanced ability to effectively allocate staff and judicial resources. Various minor aspects can reduce substantial delay in the process of trial. Like settling issues by summary trial, encouraging parties to resort to ADR mechanism, extensive use of Order X of Code of Civil Procedure, 1908 in civil matters to narrow down issues etc.

For effective case flow management the following aspects must be considered.

- **Monitoring unnecessary delay**

To instill public confidence in the fairness and use of court systems, courts must eliminate delay. An effective case flow management system does not initiate or cause delay. As a result the Presiding Judge must exploit the various procedures enunciated in both criminal and civil code to avoid the delay.

### *Filing of plaint/written statement:*

Order 8 Rule 10 provides that where a defendant fails to present written statement within the time permitted or fixed by the court, the court can pronounce judgment against him. This can be used against the person who seeks continuous adjournments. Likewise, Order 7 Rule 18 and Order 8 Rule 8A prohibits the reception of documents at a later stage unless the court grants leave. This discretionary power vested in the court must be exercised diligently for avoiding protraction of the litigations.

### *Summoning Procedure:*

Simultaneously, the criminal courts should take care that summons to the witnesses are issued in time and efforts should also be made that the material witnesses get served through investigating officer, if witnesses fail to turn up despite service, court should not hesitate to use coercive methods. Similarly, in civil matter, if any party fails to take steps to summon the witness then

court should not grant adjournments unless sufficient cause is shown or cost is imposed for the default. Long time taken by prosecution, then in such a situation, the summons should be sent through the investigating officer with specific warning that if prosecution fails to bring the witness on the next occasion then no further opportunity will be given to the prosecution.

#### *Recording of Evidence:*

Another main cause for delay in disposal of the case is that the parties and prosecution takes years to complete their evidence. Though under the law there is a provision that once the case is fixed for evidence, the evidence will be recorded on day-to-day basis but the provision has lost its sanctity due to dearth of judicial officers. In civil matters the list of witness is generally small but their testimony is generally long. Hence court should not grant more opportunity to any party beyond the number of its witnesses. Court can also impose cost when any party fails to examine or cross-examine the summoned witness.

#### *Drop unnecessary Witnesses*

Whenever it is possible, courts should also try to persuade the parties to drop the name of formal witnesses whose examination and non-examination cannot affect the decision of the case. This will save the precious judicial time to a large extent.

#### *Compounding of offence*

It has been observed that in Magisterial Courts a substantial portion of litigation is of compoundable offences and in such cases there is a strong probability of compromise between the parties. Thus, Courts should encourage the parties at the first opportunity to settle their dispute amicably. Similarly in civil matter also there is always better chances of compromise between the parties. Thus, in such cases courts should make special efforts to encourage the parties to settle their disputes amicably. This practice will not only give full satisfaction to the affected parties but it will also reduce the burden on the appellate courts because in such cases the order is not challenged in the higher courts.

Therefore any delay in the summons process, pretrial procedures, trial scheduling and trial management must strictly be reprimanded.

- **Restrict the uncalled-for adjournments**

Traditionally, our court systems have let the parties to a case control the pace of the litigation process. The assumption is that the parties can thereby take the time they need to adequately prepare and present their respective arguments. However, this position must be changed. Since Court control of adjournments is important for three reasons. Firstly, adjournments contribute to delay; secondly, an adjournment policy influences attorney and litigant perceptions of court commitment to case flow management; and thirdly, a lenient adjournment policy undermines a predictable system of event date certainty. Granting of adjournments is a discretionary power, which must be exercised with utmost diligence.

Nevertheless, a court's adjournment policy should not be excessively rigid or governed by arbitrary rules, but it should create the expectation that events will occur when scheduled unless there are compelling reasons to postpone. Judges must also record the reasons for adjournments.

- **Certainty of trial dates:**

Court control of adjournments is closely related to achieving event date credibility; one cannot be successfully implemented without the other. Therefore, credible scheduling must be based on a restrictive adjournment policy. It is only through such a policy that the court can convey its expectation of readiness to counsel.

The judges should regularize the number of cases to be listed on the board according to their disposal rate. Merely listing of cases with full knowledge that only a small number of cases can be tried, will send wrong signal to the counsels to probe for more adjournments. Certainty of date for trial should be maintained as far as possible.

- **Average life cycle of case:**

The litmus test to check whether the court has an effective case flow management or not is to look at the case age at the disposition stage. There is an equally urgent need to shorten the average life cycle of all cases. Not only time spent within each court, but also total time in the judicial system as a whole.

## **EFFECTIVE COURT MANAGEMENT – ITS HUMAN SIDE**

As the term “management” itself suggests, it means judicious deployment of resources including human resources for optimum output. For achieving maximum output in minimum available time and with minimum resources at command, we need to have a motivated, disciplined and dedicated team. The team should share the collective objective of the judicial system i.e smooth discharge of the business of the court and prompt disposal of cases, within the available infrastructure and limited resources.

Handling deftly, disruptive persons, aggressive lawyers, reluctant witnesses, sluggish staff, would go a long way in effective disposal of cases. A judicial officer must have an understanding of different ways, customs and social background of people. It not only helps managing judicial business in a better manner but also reduces mental stress.

Since the overall functioning of a court depends heavily on the interplay between judges and administrative staff, it is important to set up a system capable of building a shared responsibility between the head of the court and the court administrator for the overall management of the office.

## **INFORMATION and COMMUNICATION TECHNOLOGY (ICT)**

At present, a number of technologies can support different areas of court operation. On the one hand, such technologies have been used for the automation of administrative tasks like case tracking, case management system, office automation. On the other hand, ICT has been designed to offer to lawyers and citizens access to statutes, regulations and case laws, to increase transparency of court decisions, and access to key legal information.

This advancement must be used for all practical purposes like recording of statement of accused from prisons through video conferencing. This will avoid the unnecessary delay that is generally caused in bringing the accused to the court.

## **RECENT CRIMINAL LAW (AMENDMENT) ACT 2013**

The Criminal Law (Amendment) Act 2013 has been recently passed by Parliament on 19<sup>th</sup> March amending IPC, CrPC and the Indian Evidence Act to counter crimes against women. Certain acts of violence like Acid attacks, voyeurism, stalking have been made punishable. Further, rigorous imprisonment of minimum 20 years for gang rape has been prescribed.

The amended law places additional duties on magistrates to ensure fair and speedy disposal of crimes against women especially in heinous offences like rape. It may be appropriate to highlight some of these amended provisions.

- Newly amended Section 164(5A) expects the Judicial Magistrate to record the statement of the person accused in offences punishable under Section 354, 376 and 509 as soon as the commission of the offence is brought to the notice of the police.
- In Section 273 CrPC, a new proviso allows the Court to take appropriate measures to ensure that a woman below the age of 18 years is not confronted by the accused during cross-examination.
- Section 309 (1) now (year 2013) mandates completion of inquiry or trial for rape within a period of 2 months from date of filing of chargesheet as compared to earlier proviso (inserted in 2009) which contemplated relevant date from commencement of examination of witnesses.

### **Women and Children – Role of Courts**

The role of Courts in cases dealing with women and children assume great importance in view of changing mindset. The women and children are heading the victims' tally in recent crime related incidents. Though there are many reasons for the declining values, we can identify some of them, viz., lack of awareness, patriarchy, male chauvinism, subjugation, certain deep rooted traditions and custom, lack of effective enforcement etc.

Sensing the alarming trend, the Supreme Court had said that 'we are failing to treat women with dignity, equality and respect'. Last month, a special Bench of the Supreme Court (of which myself was also one of the Members) allowed a curative petition filed against a judgment in ***Bhaskar Lal Sharma & Ors. vs. Monica*** (2009) 10 SCC 605 which held that kicking daughter-in-law is not cruelty under Section 498A and had set aside that judgment ordering for a *de novo* hearing.

There are various laws on the protection of women like Protection of Women from Domestic Violence Act 2005, Dowry Prohibition Act 1961, Indecent Representation of Women (Prohibition) Act 1986, Immoral Traffic (Prevention) Act 1986 and the Pre-Natal Diagnostic Techniques (Regulation & Prevention) Act 1994.

Our Constitution contains many Articles on the welfare of women. Article 15(3) deals with special protection for women, Article 16 ensures equal opportunity of public employment irrespective of the sex of the person, Article 39 deals with securing adequate means of livelihood equally for men and women, equal pay for equal work among men and women, Article 42 deals with securing humane conditions of work and maternity relief and Article 51-A(3), a Fundamental duty, insists on renouncing practices derogatory of women.

Section 294 of the IPC deals with obscenity, Section 304-B deals with Dowry Death and Section 498-A deals with cruelty.

When it comes to children, trafficking in children has become an increasingly lucrative



business for the reason that punishment is very rare. The promise of marriage or employment is often used to lure the young children into sexual trade. Most of the children, who are victims of deception, are frequently physically, emotionally and sexually abused in the places of their employment.

There are many legislations like Children (Pledging of Labour) Act 1933, Employment of Children Act 1938, Young Persons (Harmful Publications) Act, 1956, Child Welfare Act 1978, Juvenile Justice (Care & Protection of Children) Act 2000, Right of Children to Free and Compulsory Education Act 2009 etc.

No children shall be deprived of his fundamental rights guaranteed under the Constitution of India and bring to child traffic and abuse.

All of you have to ensure that the provisions of these legislations are complied with in their letter and spirit fulfilling the Objects of the Act.

A judge needs to show understanding and consideration whenever women and children appear either as a party, or as witness, or as victim so as to inculcate confidence in his/her during the court proceedings. Any comment, gesture or other action on the part of any one in or around the courtroom that would be detrimental to the confidence of them should be curbed with a heavy hand by the presiding judge. Adhering to following acts by the presiding judges may make the courtroom setting more conducive to women and children:-

- They should be treated with courtesy and dignity while appearing in the Court. Any gender bias must be carefully guarded against in the courtroom and this protection should be extended to any female present or appearing in the court either as a member of the staff or as party or witness or member of legal profession.
- The examination and cross-examination must be conducted by the court itself or under the direct supervision of the presiding judge.
- Preference may be given to female lawyers in the matter of assigning legal aid work or amicus curiae briefs so that they have more empathy and understanding towards the case.
- Crime against women and children ought to be dealt with on priority basis because delay in delivery of justice will defeat the very purpose.

1) Section 26 of the Code of Criminal Procedure, 1973 has been amended by prescribing that the offences under Section 376, 376A to D of IPC, are to be tried, as far as practicable, by a court presided by a women.

2) Section 173 (1A) has been amended to state that the investigation of a case of rape of a child may be completed within 3 months from the date on which the information was recorded by the officer in charge of a police station.

3) Section 327(2) which prescribed in camera trial in cases of offences under Section 376, 376A to 376D has been amended by providing that 'in camera' trial shall be conducted as far as possible by a woman judge or magistrate.

Section 327(2) in the Code of Criminal Procedure, 1973 provides that "(2) Notwithstanding anything

contained in sub-section (1), the inquiry into and trial of rape or an offence under Sections 376, 376A, 376B, 376C or 376D of the Indian Penal Code shall be conducted in camera: provided that the presiding judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the court.”

4) Section 327(3) which bars printing/publishing any matter in relation to such ‘in camera’ proceedings except with the previous permission of the court has been relaxed by mandating that the ban may be lifted subject to maintaining confidentiality of names and addresses of the parties.

5) Section 137 of the Indian Evidence Act, 1874 provides for the Examination-in-Chief, Cross Examination and Re-Examination of witnesses appearing from the opposite side basically to extract the truth behind the statement made by the witness.

Where a lady witness appears before the Court, it shall be the duty of the Judicial Officer to keep watch on the counsel conducting the cross-examination that he/she should not ask any question to the witness which apprehends her modesty.

The questionnaire round with the victim of rape/sexual assault, shall not be conducted in the open court as it directly challenges the modesty of a woman. Such procedures shall be conducted only by a lady advocate, in the chamber of the judge in presence of the parents or guardian of the victim.

6) Section 309 gives the power to the court to adjourn the proceeding for a future date.

Section 309 proviso to sub-clause (1) (added by 2008 amendment act) provides that when the enquiry or trial relates to an offence under Section 376A to 376D of the IPC, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of commencement of the examination of witnesses.

Section 309 proviso to sub-clause (2) (added by 2008 amendment Act) provide that no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party.

Now, the provision inserted under Section 309 as proviso to sub-clause (1) & (2) are to be strictly followed in its spirit and letters so that the very intention of the legislature to pass such amendment cannot be defeated.

The proviso added to sub-clause (2) provides for a kind of discretion to the court as far as adjournment of a proceeding is concerned. But such power shall be exercised very carefully as to decide which circumstances are beyond the control of the party. The Court has to keep an eye on the party which is seeking adjournment, to ensure that the party is rightly praying for it and it is not for the purpose of benefiting the ill intentions of the accused.

7) The fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment.

8) Where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in the Court, is not ready to examine or cross-examine the witness, the court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness.

9) Guidelines laid down by the Supreme Court in:-

Delhi Domestic Working Women Forum vs. Union of India (1995) 1 SCC 14 needs to be followed:

“Directives to the police to maintain a list of lawyers capable of handling the cases of rape victims and to provide them help in rehabilitation.”

10) It shall be the duty of a “District Judge” of a district to prepare and maintain a ‘list of lady advocates’, to be circulated to every Sessions Court in the district, who are well reputed and acquainted with the cases and respective laws relating to women like domestic violence, dowry matters, dowry deaths, rape matters and matters relating to the modesty of a women.

With the help of such an extensive list prepared by the District Judges, lady counsels can be engaged on behalf of the women victims of crime and a proper honorarium can be paid from a fund created for this purpose or under Section 12 of the Legal Services Authorities Act, 1987 they can be engaged for providing legal aid to the victims at State cost.

11) Bail of women prisoners – Section 437 provides for:-

“when any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without any warrant by an officer in charge of a police station or appears or is brought before a court other than the High Court or Court of Session, he may be released on bail, but

–

1. such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life.
2. such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non-bailable and cognizable offence.

Provided that the court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm.

Under an adversarial system like ours, the courts insist on the search for proof rather than the search for truth. Whether the legal system is primarily adversarial or inquisitorial, bail hearings should be inquisitorial, with the magistrate inquiring into all the facts and circumstances relevant to the decision. This should be done even if the accused is not legally represented. As the adversarial system does not impose a positive duty on the judge to discover the truth, but he should play a positive role as far as bail of women prisoner is concerned. A good trial judge needs to have a “third ear”, that is to hear and comprehend what is not said.

12) The Statement under Section 164(1) of a victim of rape or any kind of sexual assault, shall not be recorded in open courtroom. It may be recorded in the chamber or the residence of the Judge/Magistrate in presence of the parents or guardian of the victim. Such statement shall be recorded, as far as practicable, by a woman judge.

13) Section 164-A (as introduced by Act No. 25 of 2005; w.e.f. 23/06/2006) provides for

compulsory medical check-up of rape victims within 24 hours ensuring substantial evidence against accused is not lost.

These type of provisions have to be followed very promptly by the state authorities because if these provisions are not followed in their true spirit and letters then the basic objective behind introducing such provisions stands defeated. The benefit, which ought to be availed by the victim/prosecution, starts shifting towards the accused/offender/s.

14) 173(1)(h) (inserted by Cr.P.C. (amendment) Act, 2008) will also have to mention whether report of medical examination of the woman has been attached where the investigation relates to an offence under Section 376 and 376A to D of the IPC.

15) The 2008 Act adds a proviso in Section 157(1) which provides that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardians or near relatives or social worker of the locality.

16) In respect of Section 157(1) and Section 164A, it has been provided under Cr.P.C. as an obligation upon police to comply with the procedure laid down, it is the duty of judicial officer or the Court to ensure strict compliance of the obligation. The court should confirm from the victim that obligation on part of police was duly served or not. If not, then court should take appropriate steps to do the needed and write to the head of the concerned police department to take appropriate action against such police officer.

17) Proper counseling.- The District Judge and District Legal Services Authority shall endeavour to seek co-operation from women advocates, other public spirited advocates and different NGO's working in the field for women empowerment, to organize counseling camps for women victim/witness/accused inside the Court premises, at Mahila Thanas and other Police stations.

18) Whenever a woman appears before a court of session, the Judge shall be duty bound to address her on legal rights specially provided for women in Cr.P.C. during trial in the court.

19) The name of the victim or relatives or any other information like addresses, shall not be disclosed in the judgment of the Court. It ultimately publicises the victim's bad image in the society and hurts the modesty of the victim.

20) The Family Courts Act, 1984 provides for the power of the Family Court to lay down its own procedure with respect to discharge of its duty (provided under Section 9 of the Act) to endeavour for the settlement between the parties.

By virtue of Section 10 "power to lay down own procedure" a mechanism can be formulated so as to serve the larger interest of the women coming to the forum.

## **Surrogacy**

Surrogacy, as you know, is an arrangement in which a woman carries and delivers a child for another couple or person. In a traditional surrogacy, the child may be conceived via home artificial insemination using fresh or frozen sperm or impregnated via intrauterine insemination.

You, as District Judges and Chief Judicial Magistrates, come across cases relating to surrogacy and reading of the decisions of the Supreme Court certainly help in dealing with those issues in a better way.

### JUDICIAL ETHICS IN PRACTICE:

The integrity of the judicial officers plays a prominent role in the court management. Let me share with you some of the ethical values that I cherish and believe are extremely vital for all judicial officers.

- The first lesson is that judges should not lose the temper in court. It spoils the whole atmosphere.
- **Punctuality:** As a member of an ideal institution of our country, you have to set ideals to be followed by others. The first step towards ensuring the same is to be punctual in convening trials and hearings. Punctuality of judges is indispensable to maintaining dignity and decorum of courts.
- **Proper Conduct in both official and personal capacity:** The respect that society bestows on office of a judge and his judgments is determined by the manner in which a judge conducts himself in his public and private life. Hence, close association with individual members of the Bar especially those who practice in the same court, police officials and other government functionaries must be avoided.
- **Judgments:** Judgments must be clear and decisive and free from ambiguity, and should not generate further litigations and demand for clarifications.
- **Avoid unnecessary delays in pronouncing judgments:** There is also a serious grievance that judgments are not delivered in time and in many matters arguments have been made months before but judgments remain pending. The inconvenient truth is that the judiciary is equally responsible for delayed justice. Judges must pronounce judgments within reasonable time preferably within 30 days of final hearing.
- **Continuous Learning and Training:** You must appreciate that progress in law and judicial thought is a continuous process. Judges are expected to be well versed with not only laws and procedures but also latest legal developments. Therefore, you must find time to regularly read latest judgments of the Supreme Court and the Madras High Court, and also various law journals, which are now easily accessible online.

You must not see judicial service as service in the sense of employment. The judges are not employees. They exercise the sovereign judicial power of the state as prime dispensers of justice. Working in court of law is not purely mechanical but demands ability, alertness, resourcefulness, tact and imagination.

The recent decision by the Supreme Court in the Vodafone case pertaining to taxability over Capital Gains on an overseas transaction between 2 foreign companies (having non-resident status in India) as well as the Bayer case concerning sale of investment comprising of shares of an Indian Company has clearly brought home the need for the judiciary to be equipped with specialized knowledge to deal adequately with questions that are of international concern.

**Final remarks**

Successful implementation of programs or practices requires attention to virtually all aspects of the system.

To conclude, I would like to convey that a vibrant subordinate judiciary is the need of the hour. Inordinate delays, escalating cost of litigation and inequality in the system sometimes make the delivery of justice an unattainable goal. But we have to be optimistic and work together to not just uphold the rule of law, but ensure that litigants do not lose faith in the maze that our legal system has become. Young judges must brace themselves to do their part which may be onerous but fully satisfying.

In a country like ours, where people consider Judges only second to God, efforts must be made to strengthen that belief of the common man.

If an independent and efficient judicial system is to remain the basic structure of our Constitution, a competent subordinate judiciary is its indispensable link. I have full faith that you will fulfil this role dutifully and efficiently.

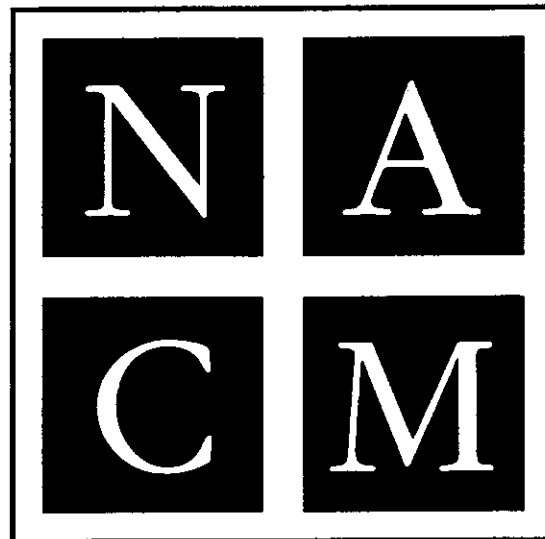
Thank You!

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# The Court Administrator

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*A Manual*



A publication of the National Association for Court Management

Many courts delegate appointment and removal authority to the chief judge. Because the court administrator serves the entire court, a policy of majority appointment and removal ensures continuity when, and if, a change of the chief judge occurs. The term of the court administrator should be indefinite, since a court administrator serves at the pleasure of the court.

To find qualified candidates, the court should launch a nationwide search. The National Center for State Courts, which provides secretariat services to selected professional organizations such as the National Association for Court Management and the Conference of State Court Administrators, lists job openings at no charge to the court.

## *Professionalization*

THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT (NACM), whose membership currently exceeds 2,000, was formally established by consolidation of the National Association of Trial Court Administrators (NATCA) and the National Association for Court Administration (NACA) in Boston in September 1984.

Through NACM, court administrators can prepare for the rapidly changing requirements of their profession. One of NACM's objectives is to distribute information received from scholars, technicians, and experienced court administrators. NACM is the voice of effective, well-informed, and professional court administrators.

Included in the ranks of the association are administrators of most of the country's courts, a number of whom have pioneered innovative systems for resolving major administrative problems. Through meetings, correspondence, publications, and standing committees, NACM members solve problems of court operations. Members are kept abreast of developments in the field through *The Court Manager*, NACM's official quarterly publication, and the *Forum*



*Conveniens*, its newsletter. NACM also conducts periodic surveys to monitor trends in the profession and provides detailed reports on the findings to its members.

Many of NACM's activities revolve around its annual conference, which usually takes place in the summer. The focus of the conference is the educational program. Additionally, meetings of the association's committees, the annual business meeting, and the election of officers are conducted. NACM members seeking information on topics related to court administration can contact the NACM secretariat office located at the National Center for State Courts' headquarters in Williamsburg, Virginia. The creation of the Institute for Court Management in 1970 and the addition of court administration curricula in universities throughout the country represent landmarks in the movement toward recognition of and respect for the profession. In addition, the Conference of State Court Administrators also speaks on a national level to enhance the profession of court administration.

## *Professional Standards*

ACCORDING TO STANDARDS ESTABLISHED BY NACM, THE court administrator should have these qualifications:

- Administrative ability demonstrated by substantial experience in progressively more responsible management positions in government or the private sector;
- Experience in current business and management techniques, including use and implementation of automated data processing;
- A demonstrated ability to plan and conduct studies to improve court administration and to prepare recommendations and implement them when approved;
- Good judgment, understanding, and tact—ability to maintain working relationships with other courts and with local, state, and federal government officials, members of the bar, and the public;

- The ability to conduct conferences and meetings and communicate clearly in writing and speech to employees, the judges of the courts, representatives of government agencies, industry, and the public;
- Formal training in court administration and managerial experience, in addition to familiarity with court procedures;
- Creativity, leadership, planning ability, organizational skills, initiative, decisiveness, and dedication to making productive changes in operating methods;
- High ethical standards;
- A fundamental understanding of and loyalty to the court's purpose and goals as a separate branch of government;
- Knowledge of and ability to adapt to the unique court environment;
- Ability to follow as well as to lead in the implementation of policies created by the judiciary;
- Respect for the requirements of confidentiality and loyalty when entrusted with the confidence of the judges;
- Educational qualifications related directly to the functions that the court administrator's position requires.

### *Preferred Qualifications*

A graduate degree in judicial administration, public administration, business administration, or law with management training or experience in a court for three or more years with proven competency in administration and management.

### *Minimum Qualifications*

A bachelor's degree in one of the fields named above or three years of experience in a responsible elected or appointed position, with training in court administration.

# ***Model Code of Conduct***

## ***Introduction***

The National Association for Court Management (NACM) recognizes the importance of ethical conduct by its members in the administration of justice. NACM members hold positions of public trust and are committed to the highest standards of conduct. NACM members observe these standards of conduct to preserve the integrity and independence of the judiciary. The NACM Code embodies our dedication to upholding and increasing the public's confidence in the judicial branch of government and also reflects our commitment to promoting integrity within our association and profession.

## **ARTICLE I. Abuse of Position and Conflict of Interest**

- A. Members shall not use or attempt to use their official positions to secure unwarranted privileges or exemptions for that member or any other person.
- B. Members shall not accept, agree to accept, dispense, or solicit any gift or favor based upon an understanding that the official actions of the member would be influenced thereby.
- C. Members shall act so that they are not unduly affected or appear to be affected by kinship, position, or influence of any party or person.
- D. Members shall not request or accept any compensation or fee beyond that received from their employer for work done in the course of their public employment. However, members may engage in outside employment as long as it does not conflict with the performance of their official responsibilities or violate this code.

- E. Members shall use the resources, property, and funds under their control judiciously and solely in accordance with prescribed legal procedures.
- F. Members shall avoid conflicts of interest, or the appearance of conflicts, in the performance of their official duties.

## **ARTICLE II. Confidentiality**

- A. Members shall not disclose to any unauthorized person confidential information.
- B. Members shall not give legal advice unless specifically required to do so as part of their official position.

## **ARTICLE III. Political Activity**

- A. Members are free to participate in political campaigns/organizations during nonworking hours if such activity does not use, or appear to use, the member's official position or court in connection with such activities.
- B. Members who obtain their official positions by means of election are exempted from the provisions above to the extent that the member is known as the incumbent while seeking reelection and may cite appropriate judicial branch experience while campaigning.

## **ARTICLE IV. Performance of Duties**

- A. Members should carry out their responsibilities to the public in a timely, impartial, diligent, and courteous manner, strictly adhering to the principles embodied in this code.
- B. Members shall not discriminate on the basis of, nor manifest by words or conduct, a bias or prejudice based upon race,

color, religion, national origin, gender, or other groups protected by law, in the conduct of service to the court and public.

- C. Members shall enforce or otherwise carry out any properly issued rule or order of court and shall not exceed that authority except to perform other duties of their positions.
- D. Members shall promote ethical conduct as prescribed by this code and report any improper conduct by any persons to appropriate authorities.
- E. Members shall support and protect the independence of the judicial branch of government. Members shall also protect the public's interest and justice for all persons.
- F. Members shall uphold the Constitution, laws, and legal regulations of the United States and all other governments they serve and never be a party to their evasion.
- G. Members shall promote the growth and development of professional court management by improving their work skills and supporting research and development in the field.
- H. Members shall avoid any activity that would reflect adversely on their position or court.
- I. Members shall immediately report to appropriate authorities any attempt to induce them to violate these standards.

## *Acknowledgments*

THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT extends its appreciation to the staff of the National Center for State Courts for technical support in the production of this publication. We would also like to thank Kent Batty, Norman Meyer, Samuel Shelton, and Bob Zastany for their comments on earlier drafts of this pamphlet.

For further information on court administrators, NACM, and its survey results, or to learn more about retaining a court administrator, contact the

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*Robert Wessels*

1992

- **Teamwork Skills**—the ability and confidence to empower court system employees and interorganizational staff to take responsibility for court system goals and performance standards.
- **Leadership Skills**—the ability to clearly communicate organizational values that influence others to take individual responsibility for achieving court system values and goals and to instill the confidence to change and adapt as changes in work load, funding, or technology reshape existing work processes or relationships.

### *Delineation of Duties*

Many court administrators serve in judicial systems where their duties are not detailed in a job description or sanctioned by statute or court rule. Instead, the court administrator assumes the responsibilities in an ad hoc manner, either through informal delegation of duties by judges or by assumption of various administrative functions as the need arises. Given this situation, conflict is certain. Courts should clarify the duties of the administrator, thus reducing role confusion.

### *Court System Leadership*

It should be emphasized that all judges, particularly the chief judge, are responsible for the administration of the court. In effect, the judges are a board of directors; the chief judge is the chairman of the board, and the court administrator is the executive officer responsible for executing policies adopted by the board. The chief judge and the court's administrator form the court's leadership team. As such, they perform several interrelated and interdependent actions on behalf of the court. "They manage time, set agendas, cultivate networks, build teams, empower colleagues, coach subordinates, create visions, make meetings, use power, search for quality, motivate individuals, systematize feedback, develop norms, communicate values, and understand themselves" (Stupak).

## *Hiring a Court Administrator*

HAVING MADE THE DECISION TO EMPLOY A COURT administrator, the court needs to answer the following question: Exactly what functions does the court want its court administrator to perform? Without identifying these functions, it is difficult to determine the necessary qualifications and to formulate criteria for evaluating the candidates.

Ideally, the court administrator will combine the technical skills of a manager with a knowledge of public and business administration and an understanding of the duties and the problems peculiar to the courts.

Specifically, the court administrator should have completed considerable study of public and business administration or have on-the-job experience in these fields. To this end, many courts require that a court administrator hold a degree in business, public, or judicial administration or be a graduate of the Court Executive Development Program of the Institute for Court Management. In addition, the court administrator should be familiar with courts and government as well as with business organization and operations.

### *Selection*

Once a court has decided to hire an administrator and agrees on the position's functions, the court is ready to screen applications and interview top candidates.

A court administrator should be selected by a process that includes a majority vote of all the judges in a multi-judge court. In very large urban courts, a selection committee chaired by the chief judge and representative of the entire bench can select the administrator. The position of court administrator is the most important nonjudicial position in the court; therefore, each judge should participate in the hiring process.



Many courts delegate appointment and removal authority to the chief judge. Because the court administrator serves the entire court, a policy of majority appointment and removal ensures continuity when, and if, a change of the chief judge occurs. The term of the court administrator should be indefinite, since a court administrator serves at the pleasure of the court.

To find qualified candidates, the court should launch a nationwide search. The National Center for State Courts, which provides secretariat services to selected professional organizations such as the National Association for Court Management and the Conference of State Court Administrators, lists job openings at no charge to the court.

## *Professionalization*

THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT (NACM), whose membership currently exceeds 2,000, was formally established by consolidation of the National Association of Trial Court Administrators (NATCA) and the National Association for Court Administration (NACA) in Boston in September 1984.

Through NACM, court administrators can prepare for the rapidly changing requirements of their profession. One of NACM's objectives is to distribute information received from scholars, technicians, and experienced court administrators. NACM is the voice of effective, well-informed, and professional court administrators.

Included in the ranks of the association are administrators of most of the country's courts, a number of whom have pioneered innovative systems for resolving major administrative problems. Through meetings, correspondence, publications, and standing committees, NACM members solve problems of court operations. Members are kept abreast of developments in the field through *The Court Manager*, NACM's official quarterly publication, and the *Forum*

*Conveniens*, its newsletter. NACM also conducts periodic surveys to monitor trends in the profession and provides detailed reports on the findings to its members.

Many of NACM's activities revolve around its annual conference, which usually takes place in the summer. The focus of the conference is the educational program. Additionally, meetings of the association's committees, the annual business meeting, and the election of officers are conducted. NACM members seeking information on topics related to court administration can contact the NACM secretariat office located at the National Center for State Courts' headquarters in Williamsburg, Virginia. The creation of the Institute for Court Management in 1970 and the addition of court administration curricula in universities throughout the country represent landmarks in the movement toward recognition of and respect for the profession. In addition, the Conference of State Court Administrators also speaks on a national level to enhance the profession of court administration.

## *Professional Standards*

ACCORDING TO STANDARDS ESTABLISHED BY NACM, THE court administrator should have these qualifications:

- Administrative ability demonstrated by substantial experience in progressively more responsible management positions in government or the private sector;
- Experience in current business and management techniques, including use and implementation of automated data processing;
- A demonstrated ability to plan and conduct studies to improve court administration and to prepare recommendations and implement them when approved;
- Good judgment, understanding, and tact—ability to maintain working relationships with other courts and with local, state, and federal government officials, members of the bar, and the public;

- The ability to conduct conferences and meetings and communicate clearly in writing and speech to employees, the judges of the courts, representatives of government agencies, industry, and the public;
- Formal training in court administration and managerial experience, in addition to familiarity with court procedures;
- Creativity, leadership, planning ability, organizational skills, initiative, decisiveness, and dedication to making productive changes in operating methods;
- High ethical standards;
- A fundamental understanding of and loyalty to the court's purpose and goals as a separate branch of government;
- Knowledge of and ability to adapt to the unique court environment;
- Ability to follow as well as to lead in the implementation of policies created by the judiciary;
- Respect for the requirements of confidentiality and loyalty when entrusted with the confidence of the judges;
- Educational qualifications related directly to the functions that the court administrator's position requires.

### *Preferred Qualifications*

A graduate degree in judicial administration, public administration, business administration, or law with management training or experience in a court for three or more years with proven competency in administration and management.

### *Minimum Qualifications*

A bachelor's degree in one of the fields named above or three years of experience in a responsible elected or appointed position, with training in court administration.

# ***Model Code of Conduct***

## ***Introduction***

The National Association for Court Management (NACM) recognizes the importance of ethical conduct by its members in the administration of justice. NACM members hold positions of public trust and are committed to the highest standards of conduct. NACM members observe these standards of conduct to preserve the integrity and independence of the judiciary. The NACM Code embodies our dedication to upholding and increasing the public's confidence in the judicial branch of government and also reflects our commitment to promoting integrity within our association and profession.

## **ARTICLE I. Abuse of Position and Conflict of Interest**

- A. Members shall not use or attempt to use their official positions to secure unwarranted privileges or exemptions for that member or any other person.
- B. Members shall not accept, agree to accept, dispense, or solicit any gift or favor based upon an understanding that the official actions of the member would be influenced thereby.
- C. Members shall act so that they are not unduly affected or appear to be affected by kinship, position, or influence of any party or person.
- D. Members shall not request or accept any compensation or fee beyond that received from their employer for work done in the course of their public employment. However, members may engage in outside employment as long as it does not conflict with the performance of their official responsibilities or violate this code.

- E. Members shall use the resources, property, and funds under their control judiciously and solely in accordance with prescribed legal procedures.
- F. Members shall avoid conflicts of interest, or the appearance of conflicts, in the performance of their official duties.

## **ARTICLE II. Confidentiality**

- A. Members shall not disclose to any unauthorized person confidential information.
- B. Members shall not give legal advice unless specifically required to do so as part of their official position.

## **ARTICLE III. Political Activity**

- A. Members are free to participate in political campaigns/organizations during nonworking hours if such activity does not use, or appear to use, the member's official position or court in connection with such activities.
- B. Members who obtain their official positions by means of election are exempted from the provisions above to the extent that the member is known as the incumbent while seeking reelection and may cite appropriate judicial branch experience while campaigning.

## **ARTICLE IV. Performance of Duties**

- A. Members should carry out their responsibilities to the public in a timely, impartial, diligent, and courteous manner, strictly adhering to the principles embodied in this code.
- B. Members shall not discriminate on the basis of, nor manifest by words or conduct, a bias or prejudice based upon race,

color, religion, national origin, gender, or other groups protected by law, in the conduct of service to the court and public.

- C. Members shall enforce or otherwise carry out any properly issued rule or order of court and shall not exceed that authority except to perform other duties of their positions.
- D. Members shall promote ethical conduct as prescribed by this code and report any improper conduct by any persons to appropriate authorities.
- E. Members shall support and protect the independence of the judicial branch of government. Members shall also protect the public's interest and justice for all persons.
- F. Members shall uphold the Constitution, laws, and legal regulations of the United States and all other governments they serve and never be a party to their evasion.
- G. Members shall promote the growth and development of professional court management by improving their work skills and supporting research and development in the field.
- H. Members shall avoid any activity that would reflect adversely on their position or court.
- I. Members shall immediately report to appropriate authorities any attempt to induce them to violate these standards.

## *Acknowledgments*

THE NATIONAL ASSOCIATION FOR COURT MANAGEMENT extends its appreciation to the staff of the National Center for State Courts for technical support in the production of this publication. We would also like to thank Kent Batty, Norman Meyer, Samuel Shelton, and Bob Zastany for their comments on earlier drafts of this pamphlet.

For further information on court administrators, NACM, and its survey results, or to learn more about retaining a court administrator, contact the

**National Association for Court Management**

300 Newport Avenue

Williamsburg, VA 23187-8798

(804) 253-2000.

*Robert Wessels*

1992

## 1. Some of the thought evoking observations on power of supervision and Inspection

### Edmund Burke:

"All persons possessing a portion of power ought to be strongly and awfully impressed with an idea that they act in trust, and that they are to account for their conduct in that trust to the one great Master, Author and Founder of Society".

-Quoted by Hon'ble SC in *All India Judges' Association v. Union of India*, 1992 AIR 165

—..... There is imperative need for total and absolute administrative need for total and absolute administrative independence of the High Court. But the Chief Justice or any other Administrative Judge is not an absolute ruler. Not he is a free wheeler. He must operate in the clean world of law, not in the neighbourhood of sordid atmosphere. He has duty to ensure that in carrying out the administrative functions, he is actuated by same principles and values as those of the Court he is serving. He cannot depart from and indeed must remain committed to the constitutional ethos and traditions of his calling. We need hardly say that those who are expected to oversee the conduct of others must necessarily maintain a higher standard of ethical and intellectual rectitude. The public expectations do not seem to be less exacting."

- Honble SC in *H. C. Puttaswamy* (1991 Lab IC 235 (SC)) (Para 11)

-The concept of independence of judiciary is a noble concept which inspires the constitutional scheme and constitutes the foundation on which rests the edifice of our democratic polity. If there is one principle which runs through the entire fabric of the Constitution, it is the principle of the rule of law and under the Constitution, it is the Judiciary which is entrusted with the task of keeping every organ of the State within the limits of the law and thereby making the rule of law meaningful and effective. .... But it is necessary to remind ourselves that the concept of independency of the judiciary is not limited only to independency from executive pressure or influence but it is a much wider concept which takes within its sweep independence from many other pressures and prejudices.¶

- Hon'ble SC in *Supreme Court Advocates on Record Association v. U.O.I.*, reported as (1993) 4 SCC 441

-The object of such inspection is for the purpose of assessment of the work performed by the Subordinate Judge, his capability, integrity and competency. Since Judges are human beings and also prone to all the human failings, inspection provides an opportunity for pointing out mistakes so that they are avoided in future and deficiencies, if any, in the working of the subordinate Court, remedied. Inspection should act as a catalyst in inspiring Subordinate Judges to give best results. They should feel a sense of achievement. They need encouragement. They work under great stress and man the courts while working under great discomfort and hardships. A satisfactory judicial system depends largely on the satisfactory functioning of courts at grass roots level. Remarks recorded by the inspecting Judge are normally endorsed by the Full Court and become part of the annual confidential reports and are foundations on which the career of a judicial officer is made or marred. Inspection of subordinate courts is thus of vital importance. It has to be both effective and productive. It can be both effective and productive. It can be so only if it is well regulated and is workman-like. Inspection of subordinate courts is not a one day or an hour or few minutes affair. It has to go on all the year round by monitoring the work of the Court by the Inspecting Judge. The casual inspection can hardly be beneficial to a judicial system. It does more harm than good.¶

-Hon'ble SC in *High Court of Punjab and Haryana v. Ishwar Chand Jain* (1069) 3 JT (SC) 266

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## 2. IDENTIFYING THE DIFFERENT OBJECTIVES OF 'INSPECTION' AND 'VIGILANCE'<sup>81</sup>

The matter relates to identifying the different objectives of 'Inspection' and 'Vigilance'.

### **Regarding Inspection**

As far as the objective of inspection is concerned, it would be apt to quote the relevant provisions of Rules & Orders (Civil) and (Criminal) in this respect. The provisions are being reproduced as under:-

**Rule 566 of High Court Rules & Orders (Civil):** –The object of inspection is to satisfy the District Judge and through him the High Court that the Courts are functioning properly, that rules are understood and followed and that work is disposed of promptly and regularly. At the same time the inspection offers the District Judge an opportunity of helping and instructing his Civil Judges and of correcting faults in procedure which would not normally require reference in an appellate judgment and full advantage should be taken of this opportunity..... –Inspection with its opportunities for helping junior Judges and for improving the standard of the judicial administration generally is one of the more important aspects of a District Judge's work, and is an aspect to which he should devote considerable attention. Unhelpful and routine notes are to be strongly deprecated.¶

**Rules & Orders (Criminal) 703:** ..... –An inspection note is not only a commentary on the court inspected but also on the officer inspecting. The important quality is insight and penetration, and attention should be given to the court's method and attitude in trying cases rather than to legal points unless there are mistakes of an obvious kind in law or procedure. It is important that when an error or a fault is revealed the way to avoid it should be explained at the same time, to show not only what was done wrong but also how it should have been done and why.¶

Thus the object of inspection is to satisfy the District Judge and through him, the High Court, that the courts are functioning efficiently and that the work is disposed of promptly and regularly. It also gives opportunity to the District Judge to make remedial measures and correct the faults in the procedure creeping into the work of subordinate judges. District Judge also evaluates as to whether the Judge whose inspection he is carrying out, has not shown undue delay in disposing of the case. The more careful the inspection is, the higher will be the quality of work in Courts. Minor matters should be disposed of in a personal discussion with the judicial officer but all important points should find a place in the inspection report. Various sections such as account section, copying section, record room, library, establishment etc. are required to be inspected to ensure their proper, efficient and corruption free working.

It is quite clear that the standard of work, both of judicial and administrative nature shall witness an enhancement in terms of quality and quantity, if the inspection is carried out as per norms and guidelines.

An approved note about the ambit and scope of –inspection¶ dated 26-06-1996 (Flag-A) prepared by the then Registrar (Vigilance) is submitted for kind perusal.

### **Regarding Vigilance**

**–Vigilance¶ means to be watchful, to be alert as to what is happening and what may happen.**

Role of Vigilance is to protect the Institution from internal dangers which are more serious than external threats. Vigilance is surveillance for the prevention of improper behavior and conduct of the

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<sup>81</sup> Available at: <http://mphc.gov.in/pdf/circulars-orders/Inspection-and-Vigilance.pdf> visited on: 08/09/2015 at: 17:39

duty holders. Vigilance is to keep watchful eye on the activities of the court official to ensure integrity of personnel in dealing with the litigants. It is to ensure clean and prompt administrative action towards achieving efficiency and effectiveness of the court officials in particular and the courts in general.

The objective of vigilance is identifying places and points of corruption. A vigil over work both judicial and administrative and the conduct and contacts of officials is also an important objective of vigilance.

Vigilance administration may be improved by creating a culture of honesty, by greater transparency/openness in administration and speedy disposal of departmental enquiries.

**The term 'Vigilance' is wrongly understood as barely enquiring, fixing responsibility etc. Vigilance is not only punitive but also preventive in nature. Prevention of misconduct is as important function of vigilance as punishment is. The principle behind preventive vigilance is –Prevention is better than cure and the purpose is to reduce corruption and bring about a higher order of morality in official functioning. Preventive vigilance is nothing but adoption of a package of measures to improve the system so as to eliminate corruption. This can be done by identifying sensitive and corruption prone areas by detection of failure in quality or speed of work.**

**As part of preventive vigilance, a system of maintaining the list of officers of doubtful integrity shall be required to be maintained. Similar such list of Class-III and Class-IV employees shall also be required to be prepared. The purpose of maintaining this list is to enable the organization to take such administrative action as is necessary and feasible. The action can be transfer from sensitive place and post, non-sponsoring the names for deputation, refusal of re-employment after retirement etc. The names of officers/ officials should be retained in this list for a specific period.**

Instances of prevention vigilance in judiciary may be seen when the High Court issues advise or non recordable warnings to judicial officers in matters in which the impugned acts are not so serious enough to bring them within the ambit of 'misconduct'. Similarly, circulars issued from time to time, in order to curb undesirable traits/practices, are also instances of preventive vigilance.

When one talks of punitive vigilance, the concept of 'misconduct' has to be brought forth. When the impugned act is proven to be misconduct, the delinquent is liable to be punished as per rule 10 of MP. Civil Services Classification Control and Appeal Rules, 1996. The delinquent may be subjected to major/minor penalty as per the nature of misconduct. The term 'misconduct' has although not been defined in M.P. Civil Services (Conduct) Rules, 1965, yet, a fair idea can be gathered about the concept of 'misconduct' from perusal of specific instances of misconduct enumerated from Rule 3-A to Rule 23-A of M.P. Civil Services (Conduct) Rules, 1965 apart from the general Rule 3. It may be seen that amendments in rules have incorporated discourteous behavior and deliberate adjournments as instances of misconduct amongst others.

General rule 3 of M.P. Civil Services (Conduct) Rules, 1965 provides that a Government Servant shall maintain at all times, absolute integrity, devotion to duty and do nothing which is unbecoming of a Government Servant. While the expression 'integrity' denotes uprightness or honesty, 'devotion to duty' is faithful service. It must be remembered that ability enables an officer to get promotion but it

takes integrity and devotion to duty to keep him there. Integrity or honesty is not a concept or a word; it is a way of life.

**Apart from integrity and devotion to duty, officers/officials must display strong moral character. Law Lexicon defines –Moral Turpitude as –Anything done contrary to justice, honesty, principle or good morals, an act of baseless, vileness or depravity in the private and social duties.**

**Work ethics of an officer/official should be such which is free from any kind of moral turpitude and employs using one's skill with**

It would be apt to cite the case of *–State of Punjab v. Ram Singh Ex. Constable*<sup>82</sup> in which it has been held that 'misconduct' may involve moral turpitude, it must be improper or wrong behavior, unlawful behavior, willful in character, forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty, the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve.

It may be seen that Rules relating to misconduct are concerning Government servants. Judicial Officers/Officials are although Government servants, yet the standard of conduct expected of them has to be a notch higher than other Government Servants because of sanctity attached to the judicial system as a whole and in order to maintain and enhance reposition of faith in the system amongst the public at large. The Preamble of Bangalore Principles of Judicial Conduct, 2002 underlines the importance of maintenance of high standards of judicial conduct and enjoins the judges to strive to enhance and maintain confidence in the judicial system.

Rules of propriety and conduct for judicial officers have apart from being underlined in the aforementioned Bangalore Principles of Judicial Conduct, 2002, also been emphasized in Restatement of values of judicial life (Code of Conduct), 1999 and D.O. letters/ circulars sent out to Judicial Officers from time to time.

### **Inspection and Vigilance-**

It can thus be seen that the objective of 'Inspection' is to periodically monitor the functioning of a Judicial Officer/ Official and propel and guide him in respect of any procedural and legal lapses. It is for correction and guidance of duty-holders. On the other hand, the objective of 'Vigilance' is keeping a vigil over work, both judicial and administrative as well as the conduct and to identify as to whether the impugned acts of the judicial officer and the court staff comes within the ambit of misconduct as provided under the M.P. Civil Services (Conduct) Rules, 1965.

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<sup>82</sup> AIT 1992 SC 2188

### 3. Important Cases on 'Inspection of Courts'

SUPREME COURT OF INDIA  
*Bishwanath Prasad Singh, v. State of Bihar And Others*<sup>83</sup>

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#### JUDGES

A S Anand, R C Lahoti, Shivaraj V Patil

#### CASE SUMMARY

##### Background

The Petitioner who was a member of Bihar Superior Judicial Service and posted as District & Session Judge, Giridih, seeks issuance of writ in the nature of mandamus directing the State of Bihar to frame rules for enhancement of age of superannuation of the judicial officers of the State as per directions of the Supreme Court issued in the and also for a writ or direction quashing the communication contained in the letter dated 17th May, 2000 of the Registrar General of the Patna High Court informing the petitioner that having assessed and evaluated the services of the petitioner in the light of the decision of this court in *All India Judges Association & Ors. v. Union of India & Ors.*<sup>84</sup> the High Court has been pleased to decide not to allow him the benefit of enhancement of the retirement age from 58 years to 60 years and that the petitioner shall cease to be a member of the judicial service of the State on completion of the age of 58 years in October, 2000.

##### Issues raised

The Order of the High Court was challenged on the three grounds-

**firstly**, that in view of the decision of the Supreme Court, the retirement age of judicial officers stood increased to 60 years and before attaining such age of retirement, the petitioner could not have been made to retire at the age of 58 years except by following the procedure applicable to compulsory retirement; **secondly**, that the petitioner holds a civil post under the State of Bihar. The order of retirement can be passed only by the Governor of Bihar; the jurisdiction of the High Court being only advisory. As the State of Bihar/Governor of Bihar has not passed any order of retirement, the petitioner cannot be made to retire by the High Court acting on its own; **thirdly**, that the impugned order is arbitrary, based on no material and hence is vitiated.

##### Observation of the Court

Hon'ble SC went through in detail into the records of the case and the service record of the petitioner was also considered and is as under :

##### August, 1987 :

JC - Integrity doubtful. C Grade. **He is a Judicial Officer with doubtful integrity.**

I had already submitted a note to Honble C.J. Details have been mentioned in my inspection notes as well.

[Sd/- Inspecting Judge] **May, 1988** : B On the whole satisfactory since he had recently joined, it is difficult to express any opinion on these points, in respect of cols. 6,7, & 8 relating to reputation for honesty and impartiality, attitude towards his superiors, subordinates and colleagues and behaviour towards members of the Bar and Public.

**May, 1989 - B - (Satisfactory) Jan, 1996 - B Plus, Good April, 1997 - (Satisfactory) November, 1997 - B** in respect of Col.No.3, i.e. regarding quality of order and judgments. No comments in respect of Col.No.10. The Evaluation Committee consisting of 8 judges and presided over by Hon'ble

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<sup>83</sup> (1993) 4 SCC 288

<sup>84</sup> (1993) 4 SCC 288

the Chief Justice held its meeting on 2nd May, 2000. Cases of 27 officers came up for consideration. As to 19 the Evaluation Committee resolved to give them the benefit of increase in the retirement age from 58 to 60 years. As to 8 officers, including the petitioner, the Evaluation Committee formed an unanimous opinion that their further continuance in service will not be in public interest as they do not have potential for continued useful service.

Bishwanath Prasad Singh was posted as Additional Judicial Commissioner between 28.5.1997 and 23.3.2000 at Lohardagga. Then he was transferred on promotion as District & Sessions Judge, Giridih. Periodical inspections of the work and conduct of the petitioner at Lohardagga were not carried out and therefore the High Court directed a special inspection to be made and entrusted the same to a Judge of the High Court. Intimation of the proposed inspection was given to the petitioner so that if he so liked he could remain present at Lohardagga at the time of inspection. Though the petitioner did not come to Lohardagga but the inspecting judge came to know that he had sent messages to his contacts including lawyers and judicial officers that nothing should leak out. Some of them on condition of anonymity disclosed to the inspecting judge having received calls in this regard from Giridih.

The inspecting judge also learnt that the petitioner had accepted illegal gratifications on a large scale. Files of all the bail applications disposed of by the petitioner and all the criminal cases decided by him during the last six months of his posting at the station were called for and inspected. The inspecting judge formed an opinion that the bail orders passed by the petitioner suffered from inconsistency in judicial approach and also to some extent exposed perversity apart from the fact that the disposal of some of the applications was delayed while some were disposed of expeditiously. He also found the judgments suffering from injudicious approach of the officer. The inspecting report in conclusion said in overall view of the matter considering in particular the reputation which the officer has left behind, I do not think he deserves the benefit of the extended age of superannuation.

The petitioner has not alleged any bias much less any mala fides against the High Court. No such allegation could have been made either, obviously because the evaluation as directed by the 1993 case having been undertaken by an Evaluation Committee consisting of 9 judges including Honble the Chief Justice. It cannot, therefore, be said that there was no material available with the High Court whereon the finding arrived at by it could be based. The High Court took an extra care to carry out a special inspection by sending a judge of the High Court on the spot.

The reliability of information collected by the judge and placed on record cannot be doubted. An overall view of the service record, with requisite emphasis on recent performance, was taken into consideration. We do not think the opinion formed by the High Court is either arbitrary or based on no material or is vitiated for any other reason.

As we have already held no right much less any fundamental right in the petitioner to continue in service beyond the age of 58 years which is the age of retirement of judicial officers in the State of Bihar under the existing Rules applicable to the petitioner. The question of granting any relief to the petitioner in exercise of the jurisdiction conferred on this Court under Article 32 of the Constitution does not arise. We find the petitioner not entitled to any relief and the petition filed by him liable to be dismissed. It is dismissed accordingly.

#### **Held**

His case was also before the Evaluation Committee on May 2, 2000 along with the case of

Bishwanath Prasad Singh and several others. The same opinion was formed about this petitioner also by the High Court in accordance with the directions of Supreme Court in 1993 case. The grounds of challenge are the same as in Writ Petition (Civil) No.419/2000 and the same fate follows. The pleas raised by this petitioner are covered by the view of the law which we have taken hereinabove in the case of Bishwanath Prasad Singh. This petition too merits a dismissal. It is dismissed accordingly. No order as to the costs.

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**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

*V.P.Indira Devi v. The High Court of Kerala*<sup>85</sup>

Judge: Hon'ble Mr. Justice C.K. Abdul Rehim

**CASE SUMMARY**

**Background**

While the petitioner was holding charge as Chief Judicial Magistrate, Thrissur Ext.P1 (b) Official Memorandum was issued by the High Court directing her to take steps for conducting a thorough police investigation with respect to forgery committed at the Judicial First Class Magistrate's Court, Chalakudy in issuing receipt in ST No.1510/2013 and with respect to missing of records of S.T. Cases, 1510/2013 1511/2013.

It is stated in Writ petition that the petitioner had conducted annual inspection at the Judicial First Class Magistrate Court, Chalakudy on 15-03-2014, after giving prior information to the High Court. The petitioner camped at the Forest Guest House situated near to the court premises at Chalakudy, in connection with the inspection. It is mentioned that, in another room in the Guest House the Investigating Officer in Crime No.357/2014 was questioning some of the accused persons including one Smt. Mini, who is an Advocate clerk attached to a lawyer practicing at Chalakudy. Version of the petitioner is that, after preparing the notes of inspection, while going out she had noticed the presence of certain Advocates and Media persons in the premises. Thereafter on 17-03-2014 the 3rd respondent requested the petitioner to be present in the very same Forest Guest House, at 9 a.m. on the next day. When the petitioner was present on 18-03-2014 there were a large number of Media persons with Cameras at the Guest House. **The petitioner had signed the proceedings of enquiry prepared by the 3rd respondent which according to her was without properly reading the notes, unsuspectingly in an honest manner. But on the next day the impugned order of suspension was issued with immediate effect.**

**Issue raised**

The impugned order is attacked as violative of Article 14, 19 & 21 of the Constitution of India. Besides, allegation is that it is malafide and issued in an abuse of the power vested on the respondents. The petitioner contented that the order of suspension is totally unwarranted and it is not on the basis of any public interest, but a malafide action which is in the nature of vindictive victimization. Various contentions on factual aspects are also raised to substantiate that the petitioner was totally innocent with respect to the circumstances related to the inspection and camping at the Forest Guest House on the particular day.

**Held**

After full scrutiny of the case Hon'ble Court held that, —having found that the grounds raised in challenge of the impugned order is not sustainable, the writ petition fails and the same is hereby dismissed.

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<sup>85</sup> WP (C).No. 8359 of 2014

## Delhi High Court

### *High Court of Delhi v. Shr. Purshottam Das Gupta And Others*<sup>86</sup>

Judges: A K Sikri, S K Mahajan

#### **Factual Matrix**

Respondent No. 1 joined DJS on 28th January, 1978. He was granted selection grade in the said service in June 1993 w.e.f. 31st May, 1991. On 18th May, 1996 meeting of Full Court was held and one of the items of agenda was consideration of eligible judicial officers in DJS for promotion to DHJS. This consideration was not possible without there being record of ACRs of all the eligible officers. Accordingly ACRs of 23 officers were recorded by the Full Court and thereafter Full Court considered the cases of these officers for promotion to DHJS. As far as respondent No. 1 is concerned, he was given adverse remarks "C Integrity Doubtful" for the years 1994 and 1995 in that meeting. He was also not found fit for promotion to DHJS and was superseded.

On 27th May, 1996 a communication was sent from the High Court to respondent No. 1 informing him about the adverse remarks and he was asked to make representation, if within six weeks, of communication of such remarks. Respondent No. 1 submitted his representation on 8th July, 1996 to District Judge which was forwarded by the District Judge to the High Court on 10th July, 1996 with his endorsement for favourable necessary action, remarking that no complaint has been received/pending in his office. This representation was followed by another representation submitted on 21st February, 1997 in which it was also stated that his case for promotion for DHJS may be considered with retrospective effect. Yet another representation dated 16th September, 1997 was made to the District Judge for a personal hearing in the matter by the Full Court which was forwarded by the District Judge to the High Court. Representations of respondent No. 1 as well as of some other officers came up for discussion in Full Court Meetings from time to time. On 18th January, 1997 the Full Court constituted a Committee of four Judges to enquire into these representations. The Committee gave its report on 22nd July, 1997. Report shows that representation of as many as 19 judicial officers were considered in the meetings of the Committee held on various dates. The Committee had perused personal files, complaint files, ACRs files and also judgment of some of the officers. The Committee also made some enquiries (as there is some dispute about the nature of enquiry, this aspect would be dealt with by us at the appropriate stage). After fully considering and examining the matter, the Committee gave its recommendations on each of the representation submitted by these officers. Some of the representations were rejected while some were accepted by the Committee. In so far as representations of the respondent No. 1 are concerned, the recommendation of the Committee was to reject his representations.

The recommendations of the Committee were accepted by Full Court, after due deliberations in the meeting held on 20th September, 1997. The decision of the Full Court rejecting the representations of the respondent No. 1 herein was conveyed to the District and Sessions Judge by letter dated 25th September, 1997 and he was asked to inform respondent No. 1 of the said rejection. Respondent No. 1 challenged the decision by filing CWP No. 4334/97 on 15th October, 1997. As mentioned already, this writ petition of respondent No. 1 herein has been allowed by the judgment dated 28th May, 1999 and present appeal is preferred impugning this judgment.

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<sup>86</sup> 2001 (90) DLT 203 146

The reliefs given by the learned single Judge can be compartmentalised under three heads :

1. Expunging of the adverse remarks of respondent No. 1 for the years 1994 and 1996.
2. Declaring that respondent No. 1 is deemed to have been graded as B+ for the years 1994 and 1995.
3. Declaring that respondent No. 1 stands promoted to DHS w.e.f. 18th May, 1996 and entitled to his due seniority with all other consequential benefits.

**Held**

In view of the discussion, we do not agree with the conclusion of the learned single Judge therefore, set aside the order of the learned single Judge on this point whereby the grading 'C' given to respondent No. 1 for the years 1994 and 1995 was quashed/expunged by the learned single Judge.

To summarise, it is held :

(a) The adverse remarks recorded by the High Court in the Confidential Reports of respondent No. 1 for the years 1994 and 1995 were not without any material. They were recorded on the basis of 'material' on record and the judgment of the learned single Judge quashing those remarks is hereby set aside.

(b) The learned single Judge should not and could not have graded B+ to respondent No. 1 as it is the function of the High Court to assign appropriate grading. Therefore, the matter should have been referred to the Full Court for giving appropriate grading. This direction of the learned single Judge is accordingly set aside.

(c) Direction of the learned single Judge in treating the petitioner as promoted w.e.f. 18th May, 1996 is not correct in law and is therefore set aside.

The point No. 2 is decided on the presumption that the judgment of the learned single Judge on point No. 1 was sustainable and point No. 3 is decided on the presumption that judgment of the learned single Judge on point No. 1 and even on point No. 2, was sustainable.

This appeal is, therefore, allowed. The impugned judgment of the learned single Judge is set aside. The CWP No. 4334/97 filed by the petitioner stands dismissed.

There shall be no order as to costs.

Appeal allowed.

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## Time Management Article

Do you ever find yourself wishing there were more hours in the day? Is overtime becoming the norm for you? Do you wish you had more time to spend doing the things that you really want to do?

Most likely you answered yes to one or more of these questions and feel like you are not really where you want to be in life. Maybe work is not going how you would like. Or you could be feeling guilty because you are not spending enough time at home with your family.

However, don't worry just yet. There is a solution to this problem and it is far easier than you might think. It only takes a few small adjustments in the way you use your time to change your life forever. This is not only about managing your time effectively, it can change your life fundamentally and for the better.

This time management article shows you the importance of managing yourself

There are 24 hours in the day. This is something that will not change and we can do nothing about it. While you may not be able to control this, you can manage yourself. Once you realize this you have taken the first step towards effective time management. You must look at the things that are important to you in life and devote your time to these. Everything else should be eliminated from your life.

Managing your time effectively will bring about some dramatic improvements in your life, but you must be prepared to make some fundamental changes. Because of this, you need to take one step at a time. If you bite off more than you can chew at the beginning there is a chance you may fail.

Time management article helping you to know yourself

To take the first step in effective time management you need to know yourself. As we grow older it is easy to lose track of the things that really matter to us in life. It is amazing that we can let this happen to us, but it happens all too easily.

Therefore, the first thing you need to do before you even begin to manage your time is to get in touch with what you really want from life. This is where you find your vision. Remember a time earlier in your life when you felt anything was possible. How did you envisage your life at that time? This could help you to get in touch with your vision. It is likely that some of your priorities will have changed since then, but many will have remained the same.

Think about how you would like your life to be at home and at your work. Also consider your potential and what you think you can really achieve in life. This is your vision.

Where are you now?

If you followed the steps above you should be able to picture your ideal life accurately. The next step is tricky. I want you to compare this vision of your ideal life to your life as it really is now. For most people, the difference between the two can be quite daunting.

Don't worry if this is the case as bridging the gap between your ideal reality and your life now is much easier than you would expect. You may think of effective time management as a tool that will help you to get you to meetings on time. Not so. Effective time management is much more about you and how you choose to spend your time.

Living your life and spending your time the way you want to will involve a few changes - some big, some small. An example of a minor change would be eating healthier. Quitting your job and starting a business, that is a big change. There is a big difference between the two, but both goals are attainable. You need to examine how you spend your time each day and make the necessary changes to achieve your goals.

Planning your day.

You should start by picking two things you want to achieve, one big and one small. Once you have chosen, you should decide on one small step you can take towards achieving each of these tomorrow. If you can complete the one step towards achieving each goal then you have made an excellent start.

This is just one very small step on the way to effective time management but should show you that if you go at your own pace that it is far from impossible. However, you must be much more meticulous in planning your days so that you complete everything you need to do while only spending time on the things that really matter to you.

This is where a time plan comes in. You need to have a very clear idea of what needs to be done, how long it will take, and when it is going to be done. If it is your first time using a time plan you may want to keep a time log for a week or two first. With a time log you write down in detail how you spend your time. Do this for a few days and you will get a clear idea of how you spend your days and how long various tasks take you. When you know how long each task will take, you can plan your day much more accurately.

The 4 Ds of time management

Now you can move onto looking more closely at the things you need to do each day and deciding how to handle them. For this you will need the four Ds of self-management. These are:

\* Do it - Get it done, the sooner the better. \* Delegate it - This task doesn't suit you, get someone else to do it. \* Dump it - Not important. Forget about it. \* Defer it - Something for the 'to do' pile. Come back to it later.

You should be able to file any task that arises in your average day under one of the four Ds.

Time wasters

Now let's look at time wasters. Time wasters can destroy any attempt at effective time management if they are not identified and eliminated. The biggest problem is that they are often

very hard to identify because they can be very trivial.

These are some time wasters to watch out for:

- \* Lack of or poor planning - File things properly, write down appointments, that kind of thing. Basically, you need to be organized to use your time effectively.

- \* Procrastination - Many people keep deferring things when they are best done immediately. Don't fall into this trap.

- \* Not delegating - You can't do it all yourself. Do the things that you are good at and enjoy. Someone else can do the rest.

- \* Interruptions - Set up your workspace so that there are no distractions that will disrupt your workflow.

These and other time wasters are probably eating into your time, so try to identify them and get rid of them.

Hopefully, this will help you get started in managing your time more effectively. Breaking old habits isn't easy so take the changes you need to make one step at a time. As you continue on the journey to effective time management you will find yourself more fulfilled and with more time on your hands for the things that matter to you.

# Importance of Time Management

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## Do We Value It?

What is the importance of time management? The paradox of time is that, for many of us, it's the least considered, worst managed, and yet most valuable resource we have.

The problem with our use of time seems to be that far too many of us neither value time, nor use it properly. Perhaps what really matters then, is considering how we use our time, then choosing to use it more effectively.

Continuing our different perspectives on time management, the importance of time management discusses ways to help you release more time. Time that can then be invested in activities of real value.

There are some good reasons why we need to guard our time, here are three factors that stress the importance of time management:

- You can't buy it. In the sense that time is distributed equally to all, each of us gets 24 hours a day.
- You can't stop it. Time marches on, you can't hold time up to take a bit longer.
- You can't save it. Time can't be saved to be used up at another time when you might feel you need it more.

But you can live it. Eleanor Roosevelt is reputed to have once said:

**“Yesterday is history, tomorrow is a mystery, and today is a gift; that's why they call it the present.”**

To live well we should make the most of our time.

## Valuing Time

Can you place a value on time? In our article [What is Time Management?](#), we discussed Richard Koch's approach to time management. He argues that if the majority of our time is spent in low-

quality activity, then speeding things up, or being more efficient with our use of time doesn't really help us. In fact, they can become more the problem than the solution!

So perhaps the question we need to ask is: what value do you get out of your time? To be clearer about the importance of time management think about this. It's an interesting summary of typical use of time in any given day. If you were asked to guess, how much free time do you think you have for yourself each day? Lets assume that for basic needs we use:

- 8 hours to sleep;
- 2 hours to eat, (including cooking) and;
- 1 hour personal hygiene (including getting dressed, washing etc.).

That's used 11 hours already. What about work? If we assume what are probably very conservative figures:

- 8 hours a day working (if only!);
- 1 hour's travelling (on average);

That's another 9 hours. Add this to the 11 hours already used and the total is 20 hours.

**That leaves you with only 4 hours to do the things you like – to take it easy, to meet friends, exercise, indulge in leisure or personal growth, to spend time with the family.**

So, if you don't particularly like or enjoy your work, you're not left with much time to do the things you do enjoy. And this picture could well be worse if you consider two other things...

## **Hidden Effects of Time**

Give some thought to productivity and leisure. First productivity. Remember Richard Koch's point that not all time is of equal value. It's not just time that's important it's *what you do with your time*.

Consider the workplace for example. London School of Economics (LSE) Professor, John Van Reenen, compared UK productivity with that of the US. He provocatively made the point that: "Joe Doe in the US could take Thursday and Friday off and still produce as much as poor John Bull in the UK toiling away throughout the working week."

Whether or not you agree with Van Reenen's statement, the issue is that long hour cultures are not *necessarily* productive cultures. Often the activity is just busyness, as discussed in our article: time management at work. In this article we ask: "should we be re-assessing the value of the time we spend at work".

Secondly, and perhaps of more concern, is our use of leisure time, particularly our use of television. In: *Bowling Alone*, Robert Putnam summarises the position. "Most studies estimate that the average American now watches roughly four hours per day, very nearly the highest anywhere in the world."

Relate that to our earlier calculations, and it seems some of us may be spending all of our free time just watching TV! For both work and leisure we should make sure the benefits of time management are thought through, made visible and realised. Time is simply too important to waste.

### **The Importance of Time Management: Take the Time to....**

There is an abundance of advice to help us manage time. Every week new lists, suggestions and formulae appear in books and all over the internet. Here we offer some advice based on older prose. Hopefully this will inspire you to think again about the importance of time management and ensure you invest your time in valuable activities.

What value do you place on your time? What are you going to do with all this free time you'll be creating? Freeing time is crucial, time to focus on results and worthwhile work. The real importance of time management though, is that it frees you to do more of what you want to do. How might you use some of that freed up time? Here are some wonderfully expressed suggestions from an old Irish text:

**“Take the time to work, for it is the price of success.**

Take the time to think, it is the source of strength.

Take the time to play, it is the secret of youth.

Take the time to read, it is the seed of wisdom.

Take the time to be friendly, for it brings happiness.

Take the time to dream, for it will carry you to the stars.

Take the time to love, it is the joy of life.

Take the time to be content, it is the music of the soul.”

So take the time to assess the importance of time management in your life. Plan to regularly do things in each of these eight areas. At work and in your own time, take the time...

**PART ONE**

**Introduction to Organizational  
Behaviour**

## Case-1

### NATIONAL CADET CORPS (NCC) – A BOON FOR SOCIAL DEVELOPMENT

V.G. Kondalkar

National Cadet Corps (NCC) is a national organization having junior wing and senior wing both for girls and boys. Junior wing NCC is meant for secondary school level and senior wing is applicable for college students. The objective of NCC organization is to inculcate discipline for the youth of our nation. An Army Officer of the rank of Lt General called Director General (DG) heads NCC organization at national level. The organization has a vast network at each state level headed by an officer of the rank of Brigadier known as Deputy Director General (DDG) of a particular state. In every state there are number of Group Headquarters located at important cities depending upon school and college density and compositions. Under Group Headquarters there are number of NCC Battalions (Boys/ Girls). Number of battalions in each Group Headquarters varies depending upon the size of the area. In the same fashion, number of groups under a DDG varies.

NCC is applicable to all school/ college going children. It is voluntary organization in nature.

DDGs, group commanders and battalion commanders organize various events round the year. These are as under:

- (a) Participation in professional training that includes the following:
  - Weapon training, including firing of rifles, sten guns, light machine guns.
  - Drill.
  - First aid training in various contingencies.
  - Basic field craft and guard duties.
  - Basic battle craft at a level of a section (section comprises of ten men)
- (b) Organization of training camps where teamwork, comradeship, cooperation and events mention in (a) above are practiced. The training camps are generally of the duration of two weeks. Such camps are held twice a year.
- (c) After completion of two and four years of training, B certification and C certificates respectively are awarded to the cadets. The certificates have preference for admission to various professional courses like medicine. It also has a weightage for government jobs. A person having C certificate need not appear in the written examination conducted by UPSC for commissioned officers of the defence services which is a major concession. Such students have to face Service Selection Boards direct, for selection in the defence services as commissioned officers.
- (d) Individual having C certification (which is achieved after four years of NCC training) gets six months seniority in defence services.
- (e) NCC is considered as one of the best organizations of our country. The organization has produced better citizens.

During the course of the attachment, the cadets are given full NCC kit. Refreshment is provided during parade days (twice a week). The cadets are provided meals, transportation and medical facility.



The training in the organization is a costly affair to the exchequer of the state government. NCC officers have to interact with civil administration at state level, district level, and with principals/ directors of the colleges. They have to deal with local population, medical authorities, RTO and all agencies related with civil administration. This involves advance planning, good communication and inter-personal relationship. Social, cultural and ethnic activities are promoted in the NCC. Annual training camps are held at state or national level. Cadets, develop friendship with various individuals and learn to live in a community environment during training camps. NCC covers land, air and naval branches and all cadets are put through training in the skill development of respective wings.

### **Discussion Questions**

- Q. 1. Why NCC is considered as one of the best organizations.
- Q. 2. How does the organization relate to field of organizational behaviour. What are various agencies that the officials have to interact.
- Q. 3. What are the benefits of NCC.
- Q. 4. How does the management interact with external environmental forces?

### **Practical Assignment**

Visit a NCC unit in your city and find out organizational structure, daily routine of cadets and training schedule.

## **Case-2**

### **Overcoming Absenteeism at Unique Schweppes Ltd**

Unique Schweppes Ltd was multinational Public limited Company with its head office at London. The company's 51 % shares were held by Unique and 49% by Government financial Institutions and individual shareholders. Unique owns three factories and three partly manufacturing units i.e. they had 6 primary manufacturing units located at Jammu, Nagpur, Agra, Pune, Gorakhpur and Hyderabad. The total manpower in these six units was 1900, and was held by Mathew Thomas as managing director. Five directors looking after various financial areas like technical, operations, commercial, HR and marketing, supported him.

Agra unit was situated near Mathura with a manpower capacity of 450 employees, including 41 executives, 12 managers and remaining operators. A representative union was also registered in the name of Association of Chemical Workers in the company. This unit was working in 3 shifts and for all the seven days. The average age of the employees was around 30 years. Agra unit was the only automated plant among the plants of Unique India. It had a unique feature of cross-functional activities at the managerial level with the result a strong networking was observed. Emphasis on financial relations among the employees was given to promote simplified working and better understanding among them. Unique was known for its welfare facilities like – free canteen, free transportation, free uniform, medical re-imburement up to 5% of the gross salary and all other benefits according to the statutory norms. They also provide with housing loan facilities to employees through HDFC and State Bank of India. Unique re-imbrued the interest amount on house

loan exceeding 4%. The loan entitlement is dependent upon the income of workers. In spite of all the facilities provided to the workers absenteeism was very high thus creating problems in the production.

In July 1995, HR executive, Alok Gupta received a complaint from line supervisor, Prakash Sharma that production was suffering due to absenteeism in his department. Alok Gupta was perplexed. The reason being that with 52 weekly off, 9 casual leaves and 22 earned leaves provided to the workers in line with Factory Act 1948 under Section 52, the absenteeism rate was still 18 %.

In January 1996, a meeting was called by Alok Gupta and in consultation with Prakash Sharma, it was decided that warning should be given to chronic cases and the workers who had started remaining absent should be counseled. In spite of doing this no change was observed until April 1996. Alok Gupta reported to Priya Kumar, Human resources manager about increasing complaints related to absenteeism. Priya Kumar, Alok Gupta and Prakash Sharma in a brain storming session concluded that punishment was not the solution. An Incentive scheme was felt to be the solution to the existing problem. Thus, the management offered the employees the scheme of doubling the amount of annual interest free loans from Rs 5000 to Rs 10 000 to those who were regular at their work. A plan chalked out for this:

- (a) Employee who had worked for more than 280 days out of 365 days would get Rs 10,000 interest free loan. Employees who were present for more than 230 working days, amount of free loan would be Rs 5000. For less than 230 there would be no loan facilities.
- (b) In a period of 4 months, if an employee availed no leave then he would be entitled for additional payment of Rs 500. If a half-day leave, it would be Rs 350 and for one day leave it would be Rs 250. Similarly, some workers who had not shown any improvement in their attendance, it was decided that charge- sheet would be issued. However, when the charge sheet was issued to such cases the union members resisted.

A meeting called by Priya Kumar in which he briefed about the problem of absenteeism and justified the action taken by the management. Ultimately union members were convinced but insisted on counselling and introducing new incentive schemes instead of disciplinary actions alone. During counselling sessions management found some of the reasons which led to absenteeism were high salary, festival celebration, dual employment, very good family background, age factor and defective recruitment policies as fresher were taken from ITI and where less serious about their work and less motivated towards accomplishment of the organizational goals.

It was observed in the beginning of 1999, that the rate of absenteeism had decreased from 18% to 16 %. But it was not satisfactory and hence management decided to put in more efforts in the form of new incentives schemes which were best on social recognition like; tea party, attendance awards, recognition by senior executives at work place and celebrating family day on 17 September i.e., on Vishwakarma Jayanti.

By the end of 1999, they had introduced all monetary as well as social benefits schemes yet three employees among the nine employees who had been issued the charge sheet in September, 1998 had not shown any improvement and remained absent for more than 200

days out of 280 working days. Therefore, the management finally decided to terminate them, and termination letters were issued to them. In the year 2000, a remarkable decline was found in the rate of absenteeism. It had reduced from 16% to 12%.

### QUESTIONS

1. In your opinion, which alternative steps would be more effective for reducing absenteeism?
2. What is the role of non-financial incentives over the financial incentives?
3. How do you evaluate the impact of termination on absenteeism?

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*The case has been adapted from the "Case Method in Management education" edited by Dr Upinder Dhar and Dr. Santosh Dhar. Publish by Excel Books, New Delhi, 2002.*  
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to explore new areas applicable to the field of organizational behaviour. Contribution of psychology has enriched the organizational behaviour field.

**Sociology:** Science of Sociology studies the impact of culture on group behaviour and has contributed to a large extent to the field of group-dynamics, roles that individual plays in the organization, communication, norms, status, power, conflict management, formal organization theory, group processes and group decision-making.

**Political science:** Political science has contributed to the field of Organizational behaviour. Stability of government at national level is one major factor for promotion of international business, financial investments, expansion and employment. Various government rules and regulations play a very decisive role in growth of the organization. All organizations have to abide by the rules of the government of the day.

**Social psychology:** Working organizations are formal assembly of people who are assigned specific jobs and play a vital role in formulating human behaviour. It is a subject where concept of psychology and sociology are blend to achieve better human behaviour in organization. The field has contributed to manage change, group decision-making, communication and ability of people in the organization, to maintain social norms.

**Anthropology:** It is a field of study relating to human activities in various cultural and environmental frameworks. It understands difference in behaviour based on value system of different cultures of various countries. The study is more relevant to organizational behaviour today due to globalization, mergers and acquisitions of various industries. The advent of the 21<sup>st</sup> century has created a situation wherein cross-cultural people will have to work in one particular industry. Managers will have to deal with individuals and groups belonging to different ethnic cultures and exercise adequate control or even channelise behaviour in the desired direction by appropriately manipulating various cultural factors. Organization behaviour has used the studies on comparative attitudes and cross-cultural transactions. Environment studies conducted by the field of anthropology aims to understand organizational human behaviour so that acquisitions and mergers are smooth. Organizations are bound by its culture that is formed by human beings.

## BEHAVIOUR MODEL FOR ORGANIZATIONAL EFFICIENCY

Organizational behaviour is a study and application of managerial skills and knowledge to people in the organization to investigate individual and group behaviour. Various concepts and models in the field of organizational behaviour attempt to identify, not only the human behaviour but also modify their attitude and promote skills so that they can act more effectively. This is done scientifically; therefore, organizational behaviour field is a scientific discipline. The knowledge and models are practically applied to workers, groups and organizational structure that provide tools for improved behaviour and dynamics of relationship. The field of organizational behaviour also provides various systems and models for international relationship that are applied to organizations.

Leaders must look for indicators (effects) of individual behaviour and of groups in any organization. Indicators have a root cause beneath. As a leader, it is that symptom, which must be evaluated, and cause of human behaviour established so that if the behaviour is good, the manager can establish the norms of behaviour. If the behaviour is not conducive to achieve the organisational objective then suitable alternative model can be applied to channelize individual behaviour towards an appropriate organizational value system and

thus individual behaviour modified. An organization has three basic elements namely, people, structure, and technology. An organization must have suitable organizational structure, with appropriate number of tier and reporting system properly explained. Principle of unity of command, delegation of authority and responsibility, formulation of objectives and its allotment to various groups is very important so that workers achieve a required level of job satisfaction. They must be trained to handle sophisticated machines and equipment. It is the people, their value system, and faith in the leadership that make an organization. Leader must be able to describe, understand, predict and control individual behaviour in the organization. This is explained in the succeeding paragraphs.

- (a) **Describe:** Study of organizational behaviour is based on scientific methods, which have been applied on human beings. It is a science, that analyses as to how people behave in different situations in the organization. A manager should be able describe the behaviour of each of the individuals under his command, identify attitude, and be able to pinpoint his behaviour so that the situation in the organization is under control.
- (b) **Understand:** Leaders must understand human behaviour as to why people behave in particular manner and try to identify reasons so that corrective actions can be taken.
- (c) **Predict:** By frequent closer interaction, a leader is in a position to identify the nature of workers. Some are more productive while the others are tardy and disruptive. In such situation, a leader should be able to handle each individual differently so that his or her actions can be channalized to higher productivity.
- (d) **Control:** Managers in the organizations should train their subordinates continuously; aim being development of skills, promotion of productivity and improvement of individual behaviour. It is a continuous process on the part of manager. He must lay down control measures so that the energy of workers is diverted towards organizational objectives. Communication should be used to ensure that the behaviour of individual is controlled. Environment has a great impact on human behaviour. Appropriate internal environment would help organizations to built favourable work environment that will help individuals and groups within organizations to work effectively towards higher productivity.

## Organizational Components that Need to be Managed

### People

People are the main component of any organization that has to be managed. Every individual has a personal goal to be achieved. Organizations must identify the **need spectrum** of individuals and take suitable steps for its fulfillment to enable them to perform effectively so that they complete their allotted task in time. **Relationship** between the workers, with subordinates and superiors should be established based on full understanding and complete faith based on mutual trust so that it is easy to communicate and understand each other's views. **Work teams** and **Groups** play a vital role in the organization. Individual may have to keep his personal interest aside if it conflicts with team or group goals. It is the team goals, accomplishment of which contribute towards achieving organizational goals. Apart from managing internal workforce, it is also important to manage customers who are the

end persons using organization's products or services. Utmost interest of stakeholders, government, employees, social groups and non-governmental organizations (NGOs) must be kept in mind as they play a dominant role in the society. Apart from the above, adequate consideration should also be given to competitors, regulatory agencies, labour force, suppliers and resource persons.

### Structure

There are two types of organizations, formal and informal. Informal organizations do not have a specified structure. Formal organizations are build based upon the objective set for it. Organizational structure in such organization is hierarchical in nature, with people at each level having their own objectives, which contributes towards fulfillment of over allorganizational objectives. In such organisastion people at lower levels report to higher level managers. The tier system has the principle of unity of command inbuilt in it. The organization structure may depend upon the size, number of products/services produced, skill and experience of the employees, managerial staff and geographical location of the organization. An organization may have several levels and pyramid like organizational structure or flat structure. The efficiency of the organization will depend upon the free flow of the information, efficient communication system prevailing in the organization, well-defined authority and responsibility supported by detailed policies, rules and regulations. The organization must have well laid out systems, which are understood by workers, supervisors and managers. The leader must keep open mind while dealing with subordinates and exercise full control over various systems, levels and ensure planned productivity and achieve high level of job satisfaction.

### Technology

Managing technology is an important job of any management. It is an important element of any unit. Selection of technology, procurement, installation, operation and maintenance is important and no compromise should be made in procuring **latest or advanced technology**. Various systems and sub- systems should support technology that exists in an organization. Based on the technology, an organization should formulate job structure and resultant procurement of human resource so that they are complimentary to each other. Adequate attention is also be paid to service industry. For example an appropriate drill, procedures are installed in hospital industry to ensure that the patients' record is maintained properly. On line operations of all systems relating to admission record, past treatment, drugs, availability of beds, schedule of operations maintained so that the level of patients satisfaction is raised. In minimum number of days, maximum numbers of patients should be treated. Various processes required to regulate these functions form the important part of service industry.

### Jobs

Job is an assignment assigned to an individual. It encompasses various tasks within it. For example, Personnel manager wants to fill up twelve vacancies in production department within three months. Job will have various tasks inbuilt in it like designing of job specification, selection of media, advertising vacancies, scheduling of selection and recruiting process. Manager, therefore have to manage various tasks to accomplish a particular job. This may form a part of managerial functions. Adequate delegation, supervision, application

of various control techniques makes the job simpler for the manager. Introduction of computers have made managerial functions simpler, as required information is available for decision making.

### Processes

Management of processes and its inter-dependence is very crucial to high productivity and higher job satisfaction. What is important for a manager is to ensure high morale of the work force. To ensure this, he must identify various managerial dictums. Select appropriate subordinates to carry out a job based on aptitude, personality traits, mental build up and attitude. He should also involve himself and lead subordinates by personal example. In defence services, it is the quality of leadership, that motivates troops to achieve near impossible task where every thing appears to be going wrong. Various role models assist leaders in identifying as to which process, method or approach would be suitable to mould subordinates in suitable frame that may be required by any organization. Nothing motivates workers better if you give them their entitlements in full and train them to take up higher jobs. By doing so, manager must develop and build an organizational culture that will bind employees to a common cultural bond. During day-to-day functions, managers must be transparent and maintain a high degree of value system and display ethical behaviour. There are no short cuts to this and will pay rich dividends in times to come.

### External Environment

What we have so far discussed is various components of an organization that should be managed properly. External environment also plays an important role in managing the points discussed above. When we talk about managing people in the organization, what we have to study and manage is the influence of culture and its impact on the individual. A manager should examine as to how he is going to **cope up** with the changes. Study of external environment is very wide and encompasses economic, cultural, social, government rules and regulations, legal aspects, political climate, demographics and its impact. If one scans the external environment that is prevailing in Indian context, one will find that individuals are racing to catch up the **upper class** as it relates to standards of living, material possession, higher education, attempt to copy western culture, food habits, dressing pattern and the like. Beauty parlors, pubs and cyber cafes around each corner are an ample evidence of the impact of external environment. This trend has an impact on what products or services are on priority in the society and indicates the behaviour of an individual. If the above factors are evaluated appropriately, a manager will be able to examine and predict human behaviour in the organization. It is therefore important to evaluate market situation, competitors, and availability of raw material, technology, availability of skilled, semi skilled and non-skilled personnel. In addition, evaluate prevailing culture and how individuals are likely to respond to the call of the organization. Some factors like government rules, and political stability keep changing, the organizations must cater for such contingencies. Manager must therefore keep in mind the internal and external factors and make the best amalgam and work to achieve organizational effectiveness.

### SUMMARY

Study of organizational behaviour is very interesting. It is the art on the part of manager

to understand, describe, forecast and modify individual behaviour. Lot of studies have been undertaken in the field of organizational behaviour and vast literature is available, which need to be studied by practitioners in the field of managing human resources. Various models and research instruments are available to investigate human behaviour. Various fields like psychology, social psychology, anthropology, sociology, politics, economics, and medical sciences have contributed to the field of organization behaviour. Various models in the above fields have enriched the study of organization behaviour. It is the field of study that investigates the impact on individuals, groups and organizational structure have on individual behaviour so that the knowledge so achieved can be suitably modified and applied for organizational effectiveness. The study of organizational behaviour relates to the study of attitude, perception, learning, values at individual level. The study is undertaken pertaining to managing stress, conflicts, intergroup behaviour, decision making at group level. Management of change, development of organizational culture, designing and redesigning of jobs, and various organizational development strategies are required to be undertaken by leaders for organizational effectiveness. It is the responsibility of the managers to evolve appropriate strategies to study organizational components. The first component is people. The study of organizational behaviour involves identifying need spectrum of the people, managing interpersonal relationship, understanding of individual objectives and co-relating organizational strategies accordingly. The second component is understanding of organizational structure and its modification based on the need of the hour. Manager should decide upon the nature of structure and ensure unity of command, number of levels that may be required for effective command and control. Communication, delegation of authority, well defined policies, rules, regulation, systems, procedures and processes. Introduction of latest technology is an essential part of organizational development that should be taken care of by the manager responsible for running the organization. Jobs should be allotted to the individual based on the aptitude and the processes must be compatible with the technology being used. One of the most important components is environment. While internal environment relates to various personnel policies and corresponding managerial actions, the external environment relates to cultural, social, legal, and governmental rules and regulations that should be taken care of. Technological changes has made it imperative on the part of managers that they should take care of employees and meet their social expectations so that organizational goals can be achieved.

### TEXT QUESTIONS

- Q. 1. Define organizational behaviour. What are various factors that are considered to regulate individual behaviour.
- Q. 2. What are various fields that have contributed to the field of organizational behaviour. Explain their contributions.
- Q. 3. Explain various components that should be taken care of while studying organizational behaviour.
- Q. 4. Explain the field of organizational behaviour. Why the study is challenging.



## Case-1

### NATIONAL CADET CORPS (NCC) – A BOON FOR SOCIAL DEVELOPMENT

V.G. Kondalkar

National Cadet Corps (NCC) is a national organization having junior wing and senior wing both for girls and boys. Junior wing NCC is meant for secondary school level and senior wing is applicable for college students. The objective of NCC organization is to inculcate discipline for the youth of our nation. An Army Officer of the rank of Lt General called Director General (DG) heads NCC organization at national level. The organization has a vast network at each state level headed by an officer of the rank of Brigadier known as Deputy Director General (DDG) of a particular state. In every state there are number of Group Headquarters located at important cities depending upon school and college density and compositions. Under Group Headquarters there are number of NCC Battalions (Boys/ Girls). Number of battalions in each Group Headquarters varies depending upon the size of the area. In the same fashion, number of groups under a DDG varies.

NCC is applicable to all school/ college going children. It is voluntary organization in nature.

DDGs, group commanders and battalion commanders organize various events round the year. These are as under:

- (a) Participation in professional training that includes the following:
  - Weapon training, including firing of rifles, sten guns, light machine guns.
  - Drill.
  - First aid training in various contingencies.
  - Basic field craft and guard duties.
  - Basic battle craft at a level of a section (section comprises of ten men)
- (b) Organization of training camps where teamwork, comradeship, cooperation and events mention in (a) above are practiced. The training camps are generally of the duration of two weeks. Such camps are held twice a year.
- (c) After completion of two and four years of training, B certification and C certificates respectively are awarded to the cadets. The certificates have preference for admission to various professional courses like medicine. It also has a weightage for government jobs. A person having C certificate need not appear in the written examination conducted by UPSC for commissioned officers of the defence services which is a major concession. Such students have to face Service Selection Boards direct, for selection in the defence services as commissioned officers.
- (d) Individual having C certification (which is achieved after four years of NCC training) gets six months seniority in defence services.
- (e) NCC is considered as one of the best organizations of our country. The organization has produced better citizens.

During the course of the attachment, the cadets are given full NCC kit. Refreshment is provided during parade days (twice a week). The cadets are provided meals, transportation and medical facility.

The training in the organization is a costly affair to the exchequer of the state government. NCC officers have to interact with civil administration at state level, district level, and with principals/ directors of the colleges. They have to deal with local population, medical authorities, RTO and all agencies related with civil administration. This involves advance planning, good communication and inter-personal relationship. Social, cultural and ethnic activities are promoted in the NCC. Annual training camps are held at state or national level. Cadets, develop friendship with various individuals and learn to live in a community environment during training camps. NCC covers land, air and naval branches and all cadets are put through training in the skill development of respective wings.

### Discussion Questions

- Q. 1. Why NCC is considered as one of the best organizations.
- Q. 2. How does the organization relate to field of organizational behaviour. What are various agencies that the officials have to interact.
- Q. 3. What are the benefits of NCC.
- Q. 4. How does the management interact with external environmental forces?

### Practical Assignment

Visit a NCC unit in your city and find out organizational structure, daily routine of cadets and training schedule.

## Case-2

### Overcoming Absenteeism at Unique Schweppes Ltd

Unique Schweppes Ltd was multinational Public limited Company with its head office at London. The company's 51 % shares were held by Unique and 49% by Government financial Institutions and individual shareholders. Unique owns three factories and three partly manufacturing units i.e. they had 6 primary manufacturing units located at Jammu, Nagpur, Agra, Pune, Gorakhpur and Hyderabad. The total manpower in these six units was 1900, and was held by Mathew Thomas as managing director. Five directors looking after various financial areas like technical, operations, commercial, HR and marketing, supported him.

Agra unit was situated near Mathura with a manpower capacity of 450 employees, including 41 executives, 12 managers and remaining operators. A representative union was also registered in the name of Association of Chemical Workers in the company. This unit was working in 3 shifts and for all the seven days. The average age of the employees was around 30 years. Agra unit was the only automated plant among the plants of Unique India. It had a unique feature of cross-functional activities at the managerial level with the result a strong networking was observed. Emphasis on financial relations among the employees was given to promote simplified working and better understanding among them. Unique was known for its welfare facilities like – free canteen, free transportation, free uniform, medical re-imburement up to 5% of the gross salary and all other benefits according to the statutory norms. They also provide with housing loan facilities to employees through HDFC and State Bank of India. Unique re-imbrued the interest amount on house

loan exceeding 4%. The loan entitlement is dependent upon the income of workers. In spite of all the facilities provided to the workers absenteeism was very high thus creating problems in the production.

In July 1995, HR executive, Alok Gupta received a complaint from line supervisor, Prakash Sharma that production was suffering due to absenteeism in his department. Alok Gupta was perplexed. The reason being that with 52 weekly off, 9 casual leaves and 22 earned leaves provided to the workers in line with Factory Act 1948 under Section 52, the absenteeism rate was still 18 %.

In January 1996, a meeting was called by Alok Gupta and in consultation with Prakash Sharma, it was decided that warning should be given to chronic cases and the workers who had started remaining absent should be counseled. In spite of doing this no change was observed until April 1996. Alok Gupta reported to Priya Kumar, Human resources manager about increasing complaints related to absenteeism. Priya Kumar, Alok Gupta and Prakash Sharma in a brain storming session concluded that punishment was not the solution. An Incentive scheme was felt to be the solution to the existing problem. Thus, the management offered the employees the scheme of doubling the amount of annual interest free loans from Rs 5000 to Rs 10 000 to those who were regular at their work. A plan chalked out for this:

- (a) Employee who had worked for more than 280 days out of 365 days would get Rs 10,000 interest free loan. Employees who were present for more than 230 working days, amount of free loan would be Rs 5000. For less than 230 there would be no loan facilities.
- (b) In a period of 4 months, if an employee availed no leave then he would be entitled for additional payment of Rs 500. If a half-day leave, it would be Rs 350 and for one day leave it would be Rs 250. Similarly, some workers who had not shown any improvement in their attendance, it was decided that charge- sheet would be issued. However, when the charge sheet was issued to such cases the union members resisted.

A meeting called by Priya Kumar in which he briefed about the problem of absenteeism and justified the action taken by the management. Ultimately union members were convinced but insisted on counselling and introducing new incentive schemes instead of disciplinary actions alone. During counselling sessions management found some of the reasons which led to absenteeism were high salary, festival celebration, dual employment, very good family background, age factor and defective recruitment policies as fresher were taken from ITI and where less serious about their work and less motivated towards accomplishment of the organizational goals.

It was observed in the beginning of 1999, that the rate of absenteeism had decreased from 18% to 16 %. But it was not satisfactory and hence management decided to put in more efforts in the form of new incentives schemes which were best on social recognition like; tea party, attendance awards, recognition by senior executives at work place and celebrating family day on 17 September i.e., on Vishwakarma Jayanti.

By the end of 1999, they had introduced all monetary as well as social benefits schemes yet three employees among the nine employees who had been issued the charge sheet in September, 1998 had not shown any improvement and remained absent for more than 200

days out of 280 working days. Therefore, the management finally decided to terminate them, and termination letters were issued to them. In the year 2000, a remarkable decline was found in the rate of absenteeism. It had reduced from 16% to 12%.

### QUESTIONS

1. In your opinion, which alternative steps would be more effective for reducing absenteeism?
2. What is the role of non-financial incentives over the financial incentives?
3. How do you evaluate the impact of termination on absenteeism?

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