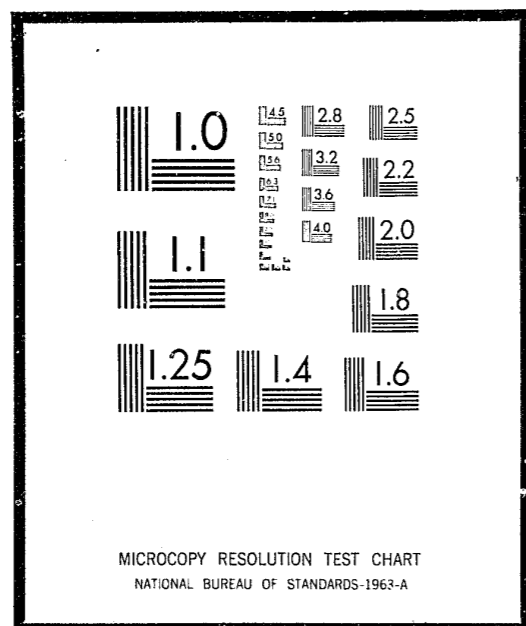


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JUSTICES OF THE PEACE AND POLICE MAGISTRATES IN SOUTH DAKOTA

Report of a Survey

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I. THE PROJECT

This study of the offices of justice of the peace and police magistrate in South Dakota was designed and conducted to bring up to date the material published in the 1963 report of the South Dakota State Court Study Commission¹ relating to these offices. The first concern was to ascertain the current number of justices of the peace and police magistrates² and the qualifications of the holders of these offices as reflected in such personal characteristics as age, education, and principal occupation. Information was also sought on the extent and nature of the magistrate's work, particularly with respect to the kinds of cases most frequently encountered and the disposition of these cases. Furthermore, information on the justices' relationships with law enforcement officers or others upon whom they might rely for aid or by whom they might be influenced in performing their functions was also regarded as especially significant and was accordingly solicited. Of particular concern was the determination of the availability of such aids as legal publications or other relevant printed materials and the participation, or interest, if any, in training courses or schools for

¹South Dakota Court Study Commission, Report To The 1963 South Dakota Legislature, Pierre, South Dakota, 1963.

²In subsequent references to justices of the peace and police magistrates collectively, the terms "magistrates" and "justices" will be used interchangeably.

members of the petty judiciary.

Work on the project began on or about June 8, 1970 although that part of the report of the South Dakota Court Study Commission dealing with the minor judiciary had been carefully analyzed prior to that time. It was felt that a survey based upon a carefully-constructed questionnaire would elicit valuable information on important features of these offices today, and this report presents the major findings of the survey conducted on this basis in the summer and fall of 1970.

The task of updating the South Dakota Court Study Commission material on the magistrates' courts was complicated by the fact that the questionnaire or schedule used in collecting information for that study was not published in the report and efforts to secure one were unavailing. It therefore became necessary to construct questionnaires without the benefit of consulting materials previously used in this state. Since, as later explained, the offices of justice of the peace and police magistrate differ in some respects, it was deemed necessary to construct a separate questionnaire for each office and this was done.³ Copies of the questionnaires form Appendix "A" of this report.

Compiling a list of justices of the peace and police magistrates for the purposes of the survey proved to be a formidable task even though a list of justices compiled by Victor Raphael in connection with the preparation of his M.A. thesis at the University of South Dakota⁴ offered an

³Thanks are due Dr. Donald Dahlin and Professor Edward Bubak of the Department of Government of the University of South Dakota for their assistance in constructing the questionnaires but the writer takes sole responsibility for whatever errors or imperfections appear therein.

⁴Raphael, Victor, Recent Trends in Constitutional Revision of the State Judicial Article: Implications for South Dakota, unpublished master's thesis, University of South Dakota, 1970.

excellent starting point. Since there is no state requirement that election or appointment to these offices be reported to any central state office or authority, one is largely dependent upon local records. These can be quite inaccurate. For example, in several instances encountered in the study, reports based on county records listed deceased former justices as still active, placed inactive former justices in the active category, and included constables as justices! There are several instances in which municipal officials submitted the names of municipal policemen or town marshals as police magistrates, apparently unaware of the fact that the latter are judicial officers, and are law enforcement officials only in the same general sense that all judges (including superior court judges) are law enforcement officers. Despite these problems, it is believed that the lists of county and township justices of the peace and police magistrates, which were finally compiled are as accurate as is possible under the circumstances. Their compilation was effectuated only through the willing cooperation of County Auditors and Clerks of Courts, Senior Circuit Court Judges, and the office of the South Dakota Municipal League, located on the University campus.⁵

The final count, as of August 15, 1970, showed 240 justices of the peace in South Dakota. Of this number, 81 were identified as county justices and 125 as township justices. Of the remaining 34 not definitely classified, it seems reasonable to assume that the majority were also

⁵The unfailing cooperation of Director Lanny Hoffman and the personnel of the University Computer Center in printing out copies of the police magistrates list is gratefully acknowledged. Particular thanks go to Professor Delane L. Dalton of the Computer Center who gave freely of his time and expertise in seeing all the survey material through the computer process and assisting the writer in developing methods for the most efficient use of the processed data.

township justices. There were 144 police magistrates. A list of the justices and police magistrates, with their addresses, compiled as of August 15, 1970, appears in Appendix "B".

It was decided that the assistance of the Senior Circuit Judges of South Dakota should be enlisted, since under state law these judges not only have power to appoint and remove County Justices of the Peace but are authorized to call annual conferences of the justices in their circuits in the interest of improving the competence of these officials. From this kind of study, the Senior Circuit Judges presumably might derive a good deal of useful information on the qualifications, needs, and concerns of the justices. Several of the Senior Circuit Judges expressed great interest in, and concern for, the project from the outset, and later acted effectively to promote it by helping to secure responses from justices who might not otherwise have responded.

Questionnaires were mailed to the justices of the peace and police magistrates during the week of July 19, 1970. The covering letter briefly indicated the nature of the project, identified the sponsor, and informed the addressee that the Senior Circuit Judge had been informed of the study and would receive a copy of the findings on its completion. A self-addressed, postage-free envelope was provided for the convenience of the magistrates.

Completed questionnaires began to arrive soon after the mailing, with the bulk of them arriving in the month of August. Follow-up cards had, of course, been sent out after the original August 15 deadline had been reached, and these seemed to have an effect in stimulating some to respond. Meanwhile, each Senior Circuit Judge was provided a list of the justices and police magistrates in his circuit who had not responded, and

he was requested to exert whatever effort he felt was possible and appropriate to stimulate responses from them. As indicated above, some of the Senior Circuit Judges took effective action along these lines, particularly with respect to the County Justices. The cooperation of these Senior Circuit Judges undoubtedly was an important factor in securing the substantial response from the justices which was achieved in the study.

II. THE RETURNS

Of the 240 justices of the peace listed as of August 15, 1970, 150 responded to the survey by filling out and returning their questionnaires. This was a return of 62%, a reasonably high rate of response. Of the 144 police magistrates serving South Dakota municipalities, 80 or 56% responded. Adding the justices and police magistrates together the response was 60%, a higher figure than was anticipated when the survey began.

It is important to note that 29 of the questions in the two questionnaires involved identical subject matter. On these 29, the responses of the justices of the peace and the police magistrates are combined and reported as an aggregate. In these instances the reference total is 230. It may be helpful to repeat at this point that the terms "justices" and "magistrates" are used interchangeably in the discussion of these items. Responses of justices of the peace and police magistrates are reported separately on the other items and the separate designations for the two offices are then employed.⁶

⁶The writer acknowledges his debt to John Porter, senior Government major at the University of South Dakota, who rendered invaluable service in preparing data for computer processing and helping in countless other ways.

Of the 150 returning justice of the peace questionnaires, 79 identified themselves as township justices and 58 as county justices, leaving 13 who failed to indicate in which of the two categories they belonged. A few of those returning justice of the peace questionnaires appeared to be police magistrates since they indicated election by city electors or their city council. Nevertheless, the responses of these few were processed along with those of the justices of the peace. A few held the positions of police magistrate and county justice, and again, their responses were processed with the group into which their returned questionnaire fell.

A substantial number of returns, notably those from township justices, provided little information beyond the personal qualifications of the justice; on the other hand some questionnaires were executed with painstaking care and afforded much useful information. A surprising number took advantage of the opportunity to voice their opinions on the office as solicited in the open-ended question at the conclusion of each questionnaire. Analyzing these comments proved to be a substantial but rewarding task and frequent quotation therefrom appears in this report. The comments appear in verbatim form in Appendix "C".

III. THE OFFICES

A word about the offices would seem to be in order. Under South Dakota law the jurisdiction of the police magistrate and justice of the peace is substantially the same. Both may hear and decide civil cases where the amount in controversy does not exceed \$100 although in no case may they determine the boundaries to real property. Their criminal jurisdiction is limited to misdemeanors where the punishment does not exceed a

fine of \$100 or thirty days in jail. Either may act as committing magistrate in a case involving a serious crime. Possessing exclusive jurisdiction in all cases involving the violation of municipal ordinances, police magistrates also act ex officio as county justices.

An important difference between the police magistrate and the justice of the peace is that the former, in addition to being a municipal officer, is paid a salary from the municipal treasury in cities of 3000 population and above. Under present law the governing body may set the annual salary figure as high as \$300 per 1000 of population or major fraction thereof. Police magistrates in cities under 3000 are paid on the fee system in accordance with the schedule established for justices of the peace. There is a further difference between police magistrates and county justices of the peace. While the police magistrate is, as indicated above, elected by the city voters for a fixed term of two years, the county justice is an appointee of the Senior Circuit Judge of the circuit in which the county falls, and serves at his pleasure. The township justice is, of course, elected by the voters of the township for a fixed term of two years and resembles the police magistrate in this respect.

As noted above, compensation of both county and township justices rests exclusively on the much-discussed and often-criticized fee system, with a schedule of allowable fees prescribed in detail by statute. These fees range from one cent for each ten words for taking depositions or preparing a copy of an appeal to one dollar for docketing a case and three dollars for performing a marriage ceremony.⁷

⁷For the fee schedule, see SDCL 1967, 16-12-11.

Although each of the 1050 organized townships is entitled to elect one justice of the peace,⁸ only a small percentage of that number held office in the summer of 1970. And as the survey results show, almost all of them were occupying an office more nominal than real in terms of judicial functions. It appears that elections to the office in the township rest more on the desire to conform to tradition than anything else. And although one would hesitate to suggest that a substantial number are elected as a joke, or at least in a spirit of fun (as has often been reported in the United States over the years), the practice is not unknown in South Dakota. One South Dakota township justice, a ranch wife, delightfully reported her election to the office in these words:

The men in this small township think its a joke to elect me J. P. each year. We have had the elections here at the . . . Ranch every year since elections were started. I serve home made ice cream and cake and it is a neighborhood get-together. I have never qualified and never shall.

The 81 county justices holding office in the summer of 1970 did so under the statutory provision⁹ which introduced what many would regard as a realistic and desirable element into the composition of the South Dakota judiciary. This law allows each Senior Circuit Judge to appoint as many county justices in the various counties in his circuit as he deems necessary to handle the judicial business. A more recent change in the structure of the South Dakota judiciary probably has enhanced the importance

⁸This number conceivably could be doubled depending on how one interprets the applicable statute which provides that one justice of the peace shall be elected for a two year term at the annual township election. Whether this means that a justice may be elected at each annual township meeting has never been the subject of interpretation either by the Supreme Court or the Attorney General. See SDCL 1967, 16-12-1.

⁹SDCL 1967, 16-12-2.

of these county justices. In a 1968 enactment establishing the new district county court system,¹⁰ the Legislature sought to eliminate overlapping and duplication in the performance of judicial functions by abolishing municipal courts and police magistrates courts in cities between 5,000 and 20,000. The effect of this law is to reduce the inferior judiciary in such cities to two courts: the District County Court, and the County Justice of the Peace. Since the judge of the District County Court ordinarily sits in more than one city in his multi-county district, it would seem that a more substantial work load would devolve upon the County Justice if only by reason of the necessary absence of the District County Judge.

IV. THE JUSTICES

One of the major purposes of the study was to ascertain as fully as possible the characteristics of South Dakota's justices of the peace and police magistrates which might have a bearing on the quality of their work. How do they rank as to age and education? What is their occupation or what was their former occupation? What has been the extent of their judicial experience as measured by their tenure in office? Do they have an opportunity to attend training schools as a means of advancing their judicial competence? What is the extent of access to legal publications? How do they appraise their office, and how do they feel it could be enhanced? Reporting the responses to these and related questions is the purpose of this section.

¹⁰SDCL 1967, 16-11-2.1.

Age, Education, Occupation

The petty judiciary in South Dakota, as elsewhere, includes a substantial proportion of elderly people. Thus, of the 201 who gave their age, 68 or 33% were 65 years of age or over. Of this group, 41 were in their 70's and eight were in their 80's. At the other end of the age scale, seven were in their 20's and 18 in their 30's. The others scattered in predictable distribution between the 40 and 65 year points.

Educationally, the justices rank higher than would their counterparts of a generation or two ago. A large majority of those providing information on their highest level of education had high school training or above. The figures for the 203 responding on this item are as follows:

<u>Highest Level</u>	<u>Number</u>
Grade School	67
High School	80
Some College	40
College Graduate	9
Graduate School or Law School	7

As elsewhere, South Dakota's magistrates are almost entirely a body of laymen. Only two of the 230 magistrates included in the survey reported being licensed attorneys, and one had some training in law.

Occupations of South Dakota justices range across the alphabet from "accountant" to "writer" with only a few claiming a substantial following. Of the 132 justices of the peace providing information on occupation, 47, or just over 35%, were farmers. The next most numerous occupational categories were county employee and insurance agent at five each. Among the police magistrates the pattern was somewhat different. Only two of the 70 police magistrates classified themselves as farmers while five classified themselves as business executives and four as county employees. The "retired" group was large in both cases, accounting for 25 of the justices of

the peace and a larger number--29--of the police magistrates. Farmer, rancher, state employee, railroad employee, and county employee led the list of occupations formerly held by those justices classifying themselves as retired, according to the survey returns.

Tenure.

A large number of magistrates had held their office only a short period of time. Of the 196 responding on this item, 107 or 54% had held their office fewer than five years, and of these 50 had been in office only one year. Another 47 justices had served for fewer than ten years. At the other extreme were ten justices who had served over 20 years. The figures are as follows:

<u>Tenure</u>	<u>Number of Justices</u>
1 - 4 years	107
5 - 9 years	47
10 - 14 years	22
15 - 19 years	10
20 - 24 years	6
25 - 35 years	3
42 years	1

Motivation in Seeking Office.

On the basis of the survey responses, few actively sought the office of justice of the peace or police magistrate. Of the 197 responding, only 43 stated that they had actively sought election or appointment to their offices. On the other hand, of the 230 participating in the survey, only 47 replied that they had not been influenced by others in seeking or assuming their offices. The states attorney was mentioned by the largest number of magistrates as exercising such influence; law enforcement officials as a group show up rather conspicuously in the survey returns. The authorities mentioned most often by the justices responding as influencing them in

seeking or assuming their offices are seen in the following figures:

<u>Authority</u>	<u>Number reporting authority as influential</u>
States Attorney	46
Town Trustees	33
Sheriff	27
City Police Chief	20
City Mayor	12
Circuit or County Judge	12
City Council	10

Court Facilities.

The survey findings tend to contradict the stereotype that the justice's home, his place of business, or some other presumably non-judicial private facility furnishes the backdrop for proceedings in his court. On the contrary, public facilities dominate the picture, unimposing as they may sometimes be. Following are the data showing the types of facilities reported in use for judicial business either exclusively or occasionally by those reporting on this item:

<u>Facility</u>	<u>Number of Justices Using</u>
County Court House	51
City or Town Hall	89
County Jail	6
Police Station	8
Sheriff's Office	8
Place of Business	9
Home	22

Training Opportunities.

However satisfactory his surroundings may be, it seems clear that the South Dakota justice is extremely handicapped in developing the expertise that one properly associates with the judicial function. Untrained in the law to begin with, improvement of his competence would seem to depend on his access to training courses designed to fit his needs, and to

legal publications serving the same purpose. However, the survey results indicate substantial deprivation in both of these areas.

The justices of the peace and police magistrates were asked to state the number of training schools attended since they had assumed their offices. Of the 230 participants, only 23 reported having attended one or more training schools. Eleven had attended one such school, nine had attended two, two had attended five schools, and one justice stated he had attended nine. Thus only 10% of the justices participating in the survey had had the advantage of any special training designed to equip them for their work.

The need for justices' schools was stressed by twenty-three justices, several of whom wrote with perception and conviction in answer to the open-ended question soliciting comment. The question, "Where do they have a school for the J.P.?" seemed to reflect a concern of quite a number in this group. One justice felt that one day of school each year devoted to the office was a minimum requirement; another wrote that he wished "there was a school for a day or two so a person would have a little more knowledge of the laws and procedure concerning jury trial and trials before the court." A township justice felt that training for his office, presumably in justices' school, should be required or the office should be abolished, while a fairly active county justice pointed to the need for training in procedure so that "the justice courts do not look like kangaroo courts." Regular and mandatory schools of short duration were recommended by one county justice who had over 100 cases in 1969. One obviously accomplished and conscientious county justice wrote as follows:

It is regrettable that our state has failed to establish any practical method of education for the position, nor has it encouraged the [justices] to associate for that purpose.

In a striking statement a police magistrate who had evidently thought seriously about the requirements of judicial administration and who had followed recent developments in the South Dakota Legislature strongly urged training for justices "under the new South Dakota law" as a means of freeing justices from dependence upon prosecuting officers in the trial of cases. Several of the justices pointed to the necessity of securing public appropriations for expenses incurred by the justices in attending schools, underscoring the brief comment of one justice who stated that there was "not enough pay in this office to go to Justice School."

The "new South Dakota law" mentioned in the preceding paragraph was a rather ambiguously-worded 1970 statute which reads as follows:

The senior circuit judge of each judicial circuit may once in each year call together the justices of the peace as he may choose of such judicial circuit at some convenient place within such judicial circuit and instruct the county justices of the peace on law and procedure and the duties of the county justice of the peace. Conferences of two or more circuits may be combined in the discretion of the circuit judges conducting the meeting.

The statute required "each justice of the peace to attend such conference" and provided a per diem of fifteen dollars and "actual expenses" for attendance, to be paid by the various counties as prorated by the Circuit Judge calling the conference.

It appears that the statute was intended to apply only to county justices of the peace, omitting police magistrates who, according to this survey, handle a substantial number of cases each year. In any event, no such conference has apparently yet been called in South Dakota although several Senior Circuit Judges have reported great interest in the holding of such schools. Senate Bill No. 75 in the 1971 Legislature clears up the ambiguity mentioned above by specifically authorizing the Senior Circuit

Judge to add police magistrates and township justices of the peace to those who may be called and instructed under the terms of the 1970 enactment. If passed, it could be an important addition to the step taken in 1970 to launch a system of schools for South Dakota justices.

Access to Legal Publications.

The situation seems to be somewhat better in the area of access to legal publications but there is evidence of serious shortage in these resources also. Only 77 of those responding reported having a justice's manual, and 84 reported having access to the South Dakota Code. Access to municipal ordinances was reported by 53 of the police magistrates. Beyond these, a variety of other legal publications was reported although no item was mentioned with significant frequency. Indicating dependence on the law enforcement authorities were two justices who stated they "advised with the state's attorney" (reporting access to no law book) and the single justice who reported using a "Manual For The Arresting Officer."

The need for a justice's manual or handbook was the subject of special volunteered comment by fifteen justices. "There should be a Justice Manual available" one justice wrote, "and I was informed that there wasn't any to be had."¹¹ Another justice also pointed to the absence of a modern manual, stating that "I have a manual that is older than I am and as a result has no bearing on present administration." Purposeful concern was expressed by several who asked where a justices' manual might be secured

¹¹This is a correct statement, as the Manual prepared by the late Judge Kermit Norbeck of Redfield is out of print and unavailable, and its successor, while in preparation, will not be available for several months.

and what one would cost.¹² One of these indicated the value of a manual in stating that he had "read the South Dakota Code pertaining to the Justice of the Peace, but I would like something more handy to have in my home."

A police magistrate who handled over 500 cases in 1969 stressed the need for access to the State Code. He recommended that the city or county in which a magistrate acts "make available . . . the most recent copy of the South Dakota Code and if necessary or possible . . . the State share this expense with the city or county."

Three justices mentioned the need for a newsletter of some sort. One suggested that the state take responsibility for a continued series of "informative news letters pertaining to problems most often encountered in the magistrates courts." Another felt that there should be a report "either annual or semi-annual covering offenses handled, penalties meted out, and new thinking or innovations in J.P. Courts throughout the state."

Attitudes Toward Office

Perhaps related to the lack of training schools and aids for justices is the feeling of inadequacy and frustration expressed by some of the justices. "I don't really know my duties and no one calls on me" one township justice stated. Another township justice wondered what his jurisdiction would be if he ever had a case. A county justice who had presided in over 100 cases in 1969 pointed to the problem inherent in a situation in which the justice, untrained in the law, stands between the state's attorney for the state and a defense attorney.

¹²These justices were informed, on the recommendation of Professor Robert E. Driscoll of the University of South Dakota Law School that the Arizona Manual For Justices Courts would be helpful to any South Dakota justice. This volume is available from the West Publishing Company, St. Paul, Minnesota, and sold for \$7.50 in January, 1971.

The need for enhancing the status of the office was stressed by several of those volunteering comment. "It is long past time to bring it out of the horse and buggy days and put some uniform dignity and higher qualifications than most of us have to handle the office," one county justice wrote. Another, who stated he had resigned twice but could not relinquish the position because no one else wanted it declared simply, "the job needs to be more appealing." Still another county justice who felt that most justices courts are fair but are looked down upon, stated that "something should be done to gain more respect for this court." A fourth recommended extending the jurisdiction of the justice to high misdemeanors. Enhancement of the position was also recommended in the comments of eight police magistrates. "It is a court of law and should be treated as such, not as a place to plead guilty, pay a fine, in other words a nuisance," one wrote. Another felt the magistrate should be an attorney, although he saw difficulties in securing the services of attorneys in the office. One felt that a longer term of office--three years--would be desirable, and others stressed the need for better knowledge of law enforcement, better support of the magistrate by local officials in cases involving influential members of the community, and the like.

V. THE JUSTICES' WORK

This section reviews the responses of the justices of the peace and the police magistrates to the questions seeking information on their operations as judicial officers. Information on virtually all the important phases of their work could be gained through the use of identical questions and these were widely employed. As previously stated, the responses of justices of the peace and the police magistrates are reported

as aggregates on the questions applying equally to both.

Case Loads.

Table I presents the data derived from those responding as to the number of cases handled in 1969. The figures indicate the importance of the petty judiciary in South Dakota, showing over 11,000 cases having been decided in their courts in 1969. The importance of the county justice of the peace seems clear enough, ranking ahead of the police magistrate in the average number of cases decided in 1969. The percentage

Table I

Number of Cases Reported For 1969 by Township and County Justices of the Peace and Police Magistrates

	Number Responding	Total Cases Reported	Average Per Justice
Township Justices	67	79	1.2
County Justices	52	5264	101.2
Police Magistrates	63	5072	80.5
Not Identified	16	595	37.2
TOTALS	198	11,010	

figure for the township justices must be approached with extreme caution, as only four of the 67 township justices responding to the question reported having any cases at all. These unusually active township justices accounted for the 79 cases appearing in the table for an average of just under 20 cases per justice. On the other hand, of the 52 county justices responding on this item, only six reported having no cases, and only 12 of the police magistrates responding reported no cases in 1969. The "Not

Identified" category includes those returning justice of the peace questionnaires who failed to indicate whether they were township or county justices. It seems quite likely that on the basis of case loads the majority of these were county justices.

Case loads range widely, as in other states, according to the survey. Of the 198 justices responding on this question, 72 or 36% reported having no cases at all; at the other end of the scale, four very active magistrates reported case loads in excess of 350 for the year. Fewer than 30 cases were handled by 44 justices, while another 40 reported having handled over 100 cases during the year. Of this group, nine had a case load in the 150-199 range and four had a case load falling in the 250-299 range. Of the four handling over 350 cases during the year, two reported the rather remarkable totals of 534 and 897 cases. Both of these were police magistrates holding court in areas of high Indian population.

The low estate of the township justice reflected in the reported case loads was stressed in the volunteered comment of a goodly number of justices. Seventeen of these officers stated flatly that their office should be abolished. One of these wrote: "[The justice of the peace is] not needed in the local township. The county law office takes care of matters regarding justice of the peace work. Most of the township justices of the peace are unqualified for the positions held."

On the other hand, two township justices reporting court activity in 1969 expressed a different view of their office. One whose cases involved speeding charges almost exclusively felt the office was "a good thing, as somebody has to do the job of helping law and order in this small community." The other felt the office was "important to handle misdemeanor violations that occur in or near small towns." Two township justices who

reported having performed marriage ceremonies only nevertheless expressed admiration for the office. "I feel we on the local level can help enforce laws and see that justice is done" one wrote. The other saw the township justice as having a definite role and expressed gratification at his opportunity to serve his community in the office.

The importance of the office of county justice was underscored by several holding that office. One pointed to his role in issuing warrants to local law enforcement officials while the district county judge was absent from the city, thus allowing law enforcement to continue without delay. Another called attention to the constant availability of the justice, with the opportunity for speedy trials for defendants at minimum expense. The role of the justice court in building respect for law and order "at the very grass roots of our society" was stressed by another county justice, who in an extremely well-written commentary on the office based on eleven years of experience declared it "deplorable that this opportunity [that is, the opportunity to build respect for law and order through the office] has not brought forth more encouragement from the State."

Two county justices felt that their positions could well be abolished as did one police magistrate in a small town who seemed to attribute the lack of importance of his office to the failure of law enforcement officials to make arrests. "People come in this town 60 and 70 miles per hour approximately," he wrote, "and still there has never been an arrest for speeding. There is a 20 mile speed limit in the city limits." A similar complaint was entered by another police magistrate who felt that if arrests were made and cases tried, speeding and public intoxication would account for the great majority of the charges.

The diversity in law enforcement effort in small towns was made

clear, however, in the volunteered comments of three other small-town magistrates. One of these reported a substantial improvement in observance of traffic laws and a decline in "disorder" in his community as a result of vigorous action by the police and firm action by himself in handling offenders. "I am now a deterrent to local misdemeanors" he wrote. "The sheriff knows they can count on me if need be." Another declared that "since the local town has had this office filled it is a better place for citizens to live in. The juveniles seem to require such an office; if there is none they recognize it at once and present the town with a challenge."

Kinds of Cases.

Table 2 presents a picture of the types of cases most commonly brought before South Dakota's justices of the peace and police magistrates as reported by these officers in terms of estimated percentages of

Table 2

Leading Kinds of Cases Before Justices of the Peace and Police Magistrates, 1969, in Estimated Percentage Ranges

Kind of Case	Number of Justices of the Peace and Police Magistrates Estimating	Number estimating at:		
		1 to 25% of total	26 to 50% of total	Over 50% of total
Traffic Violations, Adult	111	38	37	36
Traffic Violations, Juvenile	100	53	24	23
Drunk and Disorderly	92	74	10	8
Fish and Game Violations	53	51	1	1
Trucking Law Violations	52	52	0	0
Petit Larceny	42	42	0	0
Disturbing the Peace	36	36	0	0

total cases handled. In line with experience elsewhere, traffic and liquor play a leading role in the generation of public offenses handled by the petty judiciary. In a state noted for its hunting resources, fish and game violations could be expected to play a significant role, and the figures, of course, testify to this.

That the justice court is primarily a criminal court is underscored by the fact that only 18 magistrates included estimates for civil case work. This accounted for a small proportion of their total judicial work.

Cases involving public offenses other than those appearing in Table 2 for which justices offered estimates covered a wide range but none reached a high frequency. Among these, "bad check" violations were included among the estimates of only four magistrates, but this was highest in frequency in this group. Littering was included in three, and several others were mentioned by either one or two.

Authorities Bringing Cases.

Table 3 shows the relative importance of various law enforcement authorities as sources of criminal actions in the justice of the peace and

Table 3

Source of Criminal Cases, By Arresting Authority,
1969, In Estimated Percentage Ranges

Authority	Number of Magistrates Estimating	Number Estimating at:		
		1-25% of total cases	26-50% of total cases	Over 50% of total cases
Sheriff's Office	81	44	22	15
Municipal Police	86	21	13	52
Game Warden	55	55	0	0
State Highway Patrol	82	27	24	31

police magistrates courts, expressed in percentage ranges formulated on estimates submitted by those reporting on this item. A word of caution in interpreting the data is in order however. As would be expected, municipal police figure much more prominently in the police magistrate's court than in that of the justice of the peace, and the situation is reversed with respect to the Sheriff's Office. Thus, 56 of 80 police magistrate's reported handling cases brought by municipal police but only 28 reported cases originating in action by the Sheriff's Office. On the other hand, 53 justices of the peace reported cases brought by the Sheriff against only 30 reporting cases originating with municipal police. Furthermore, while only eight justices of the peace reported over 50% of their cases brought by municipal police (presumably these would be county justices), 41 police magistrates reported over 50% of their cases originating with municipal police, and 20 of these reported 100% of their cases coming from this source. And while the Sheriff's Office accounted for over 50% of the cases of twelve justices of the peace reporting, this was true for only three of the 28 police magistrates who presided in cases brought by the Sheriff's Office.

The importance of the State Highway Patrol in bringing cases is not surprising in view of the relationship between modern transportation and public offenses, as indicated above. The justice of the peace court handles slightly more cases involving arrests by Highway Patrolmen than does the police magistrate's court. Thus, 54 of the 150 justices responding on this matter reported having handled cases brought by Highway Patrol, against 28 of the 80 police magistrates who offered estimates on cases originating with this authority.

Only 15% of the police magistrates reported cases involving arrests by game wardens against approximately 30% of the justices of the peace. Others reported as bring cases were:

Citizens Complaint . . .	1
States Attorney	1
Town Marshal	2
U. S. Treasury Agent . .	1

Guilty Pleas.

The high frequency of pleas of guilty so widely associated with American magistrates' courts is apparent also in South Dakota. Of the 230 magistrates returning questionnaires, 128 responded on this question. Of this number, 42, or almost one-third, reported that all defendants entered a guilty plea in trials before them. Just twice that number--84--stated that guilty pleas were entered in about 90% of the cases. Completing the total, one justice reported guilty pleas in about 60% of the cases before him and one reported guilty pleas in fewer than 50% of the cases.

Defense Attorneys.

On the whole, defense counsel appears to be employed quite sparingly in the justice courts. Of the 145 magistrates responding on this item, 75, or 51% reported no defense attorneys present in cases handled in 1969. Another 31 justices reported defense counsel in attendance in a relatively small number of cases, ranging from one to four per justice, and 27 reported defense counsel in attendance in cases falling within the 5 - 14 range. One extremely active justice reported defense attorney appearances in over 100 cases in 1969.

Appearance of Prosecuting Attorneys.

Appearances of state's attorney as prosecutor also are limited in trials before the petty judiciary according to the survey. Of the 144 justices who reported on this matter, 81 or almost 57% reported the absence of the states attorney as prosecutor in cases before them in 1969. Of the remaining 63 magistrates, 39 reported the states attorney present as prosecutor in a relatively small number of cases ranging from one to nine. However seven justices reported the appearance of the state's attorney as prosecutor in cases falling within the 50 - 99 range, and, one very active justice reported the states attorney's appearance in over 100 cases before him in 1969.

Less than half of the police magistrates returning questionnaires reported the city attorney present in their courts in 1969 as prosecutor in connection with violations of municipal ordinances. The 22 justices who reported appearances of the city attorney in this capacity placed his appearances in the following ranges of frequency:

<u>Appearances of City Attorney, 1969</u>	<u>Number of Police Magistrates Reporting</u>
1 - 4	14
5 - 9	4
10 - 14	2
30 - 39	1
75 - 99	1

Jail Sentences.

South Dakota magistrates appear to exercise considerable restraint in meting out jail sentences to persons convicted in their court. Of the 141 justices who responded to the question, 75 or almost 52% handed down no jail sentences at all. Another 35 imposed jail sentences in cases ranging from one to nine, and 20 more justices gave jail sentences in cases

falling within the 10-39 range. Seven justices reported giving jail sentences in over 100 cases in 1969, however.

Of the 230 magistrates, 77 provided information on the average length of jail sentences imposed by them in 1969. The responses were as follows:

<u>Average Length of Sentence</u>	<u>Number of Justices</u>
1 - 4 days	2
5 - 9 days	16
10 - 14 days	34
15 - 19 days	10
25 - 29 days	7
30 days	8

The popularity of the 10-14 day term is quite striking.

Public intoxication, disturbing the peace, petty larceny, and passing insufficient fund checks led the field among the offenses for which jail sentences were most often imposed, according to the survey returns. Of these four, public intoxication (including "drunk and disorderly") was clearly dominant, being ranked either first, second, or third by 65 of the justices. The other three were ranked either first, second, or third among the offenses drawing jail terms by an identical number--14--of those providing information on this item.

Jail Facilities.

A substantial majority of the 135 justices rating jail facilities in their communities expressed varying degrees of satisfaction with these resources, although a goodly number expressed dissatisfaction. The figures follow:

<u>Rating of Jail Facilities</u>	<u>Number of Responses</u>
Excellent	22
Good	39
Adequate	42
Poor	22
Very Poor	10

The justices were also asked to give their reaction to the suggestion that regional jails be established to supplement local jails. Responses on this query were as follows:

I am very enthusiastic about the idea	22
I am somewhat enthusiastic about the idea	11
I have no strong opinion one way or the other about regional jails in South Dakota	72
I am somewhat negative about the idea	33
I am very much opposed to the idea	14

It will be noted that a combination of apathy, negativism, and opposition to the establishment of regional jail facilities dominate the responses of the fairly substantial number replying to this question.

Imposition of Fines.

Information on the amount of money involved in fines imposed is available only for the justices of the peace as this item was inadvertently omitted from the police magistrate questionnaire. Of the 150 justices of the peace submitting questionnaires, 90 responded on this item. Exactly one-third of these reported imposing no fines at all in 1969; the remaining 60 reported widely differing amounts, ranging as follows:

<u>Amount (range)</u>	<u>Number of Justices</u>
\$ 1-49	2
\$ 50-99	2
\$ 100-199	3
\$ 200-299	5
\$ 300-399	3
\$ 400-499	2
\$ 500-999	8
\$1,000-1,499	10
\$1,500-1,999	8

<u>Amount (range)</u>	<u>Number of Justices</u>
\$2,000-2,999	2
\$3,000-4,999	7
\$5,000-5,999	2
\$6,000-6,999	3
\$7,000 and over	3

The Committing Magistrate Function.

Only 41 of the 189 magistrates responding on this item reported having acted as committing magistrate in connection with proceedings involving an alleged felon. Of these, 18 reported acting in this capacity fewer than five times in 1969 and twelve between five and ten times. At the other end of the scale two reported so acting in over 100 cases. Thirty-three justices reported dismissing charges in a total of 161 cases, and 20 reported a total of 74 defendants later pleading guilty to a lesser offense in their courts.

A wide variation in the amount of bail set in felony cases was reported, although liberality appears to be the rule. Of those submitting information on the range of bail set in cases in 1969, the figures are as follows:

<u>Range</u>	<u>Highest Number of Justices</u>	<u>Range</u>	<u>Lowest Number of Justices</u>
\$5,000 and above	15	\$500 and above	8
\$4,000-4,999	1	\$300-399	1
\$2,000-2,999	8	\$200-299	11
\$1,000-1,999	11	\$150-199	3
\$700-999	1	\$100-149	11
\$500-699	8	\$50-99	13
\$300-499	2	\$25-49	9
\$Below 300	25	\$Below 25	8

Only 22 magistrates reported releasing alleged felons without posting of bond. Seven reported following this course in one case, six in two cases, two in three cases, one in five cases, and three in six cases. Three

other justices released a total of 49 persons. Altogether, 87 persons charged with felonies were released without posting bond in 1969 by justices supplying data on this item.

Jury Trials.

It seems clear that trial by jury in justice court is as rare in South Dakota as elsewhere. Only twelve justices reported having tried cases with a jury in 1969. Of these, seven reported one such trial, two reported two and five jury trials, respectively, and one reported three jury trials, for a total of 24. Guilty verdicts in 16 cases were reported, a jury conviction record of 67%.

Appeals.

A total of 23 justices reported 56 appeals having been taken from their courts in 1969. Thirteen of these justices reported only one appeal each, and five reported two each. One justice however reported 15 appeals taken from his court, constituting over 25% of the total. Placing the 56 appeals against the 11,000 cases reported for 1969 offers a striking, but understandable picture of the rarity of appeals in magistrates courts.

Trend in Criminal Case Loads.

One of the concerns of the survey was to determine whether the nation-wide tendency toward an increase in crime was observable in the work of the South Dakota petty judiciary over the past five years. Of the 230 magistrates, 116 responded to this item, of whom 30% indicated an increase in their criminal case load over this period. The figures are as follows:

<u>Over past five years, Criminal case load has:</u>	<u>Number of Justices</u>
Increased substantially	11
Increased moderately	23
Remained about the same	66
Decreased	16

These data would seem to indicate that South Dakota is not unaffected by the contemporary tendency toward more frequent violation of the criminal law, and suggest the desirability of promoting in every practical way the abilities of the petty judiciary to dispense justice in an increasingly difficult area.

Compensation.

It will be recalled that both county and township justices of the peace are paid on the fee system in South Dakota, while police magistrates may be paid a salary, depending on the size of the city. Attempting to ascertain the level of fees received by justices of the peace and police magistrates, and the levels of salaries received by police magistrates was one of the aims of the survey. So also was the matter of soliciting reactions from these officials on the whole matter of compensation.

Sixty percent of the justices of the peace participating in the survey--a total of 90--responded to the question of how much had been earned in fees from cases handled in 1969. As expected, amounts reported ranged very widely. At one extreme, 30 justices, exactly one third of those responding, reported receiving nothing in fees in that year. At the other extreme were two justices reporting over \$2,000 in income from this source. Eliminating those reporting no income, the figures, involving relatively wide ranges, are as follows:

<u>Amount of income from Fees</u>	<u>Number of Justices of the Peace</u>
Under \$100	14
\$100-499	20
\$500-999	15
\$1,000-1,999	9
Over \$2,000	2

It may be somewhat surprising that the justices of the peace responding to the question whether they preferred a salary to payment under the fee system divided fairly evenly on the subject. With about 55% of the justices of the peace returning questionnaires responding on the salary v. fees option, only 45 expressed a preference for salary against 38 preferring the fee system.

Of the 66 police magistrates providing information on their method of compensation, 11 reported receiving an annual salary, and 55 reported being compensated on a fee basis. Salaries ranged substantially, with the majority falling within the \$800-\$1399 range. As in the case of the justices of the peace, police magistrates paid on the fee system reported income from that source ranging from nothing to over \$2,000 in 1969. The figures, again embracing relatively wide ranges, are as follows:

<u>Amount of Income from Fees</u>	<u>Number of Police Magistrates</u>
Under \$100	23
\$100-499	15
\$500-999	9
\$1,000-1,999	4
Over \$2,000	1

As might be expected, the subject of compensation drew special comment from the largest number of magistrates, with 26 of those returning questionnaires offering criticisms or recommendations in this area in response to the question soliciting comment on the position. All the justices of the peace offering comment felt that compensation should be raised although a majority of these were content to have this done by increasing

the fee schedules rather than by placing the office on a salary. Their views may have been reflected in this comment by a county justice who had handled about 90 cases in 1969:

I indicated fees rather than salary because if a Justice of the Peace was on a salary, the public would expect him to be at his office every day, full time, and I know the salary a legislature may design would not compensate for full time work.

Several of these justices pointed out that the schedule of fees had not been changed for thirty years and was badly out-of-date.

However, six county justices advocated placing the office on a salary. One justice argued the case in this way:

If the salary of the next higher Courts, our District County Courts, has been justified, the present fee system in Justice Courts should be abolished and a yearly salary fixed, sufficient to accomplish the needed improvement of this court.

No particular salary figure was suggested but the consensus of the county justices was that it should be high enough to attract and hold a qualified person. Problems in the present system of compensation were outlined by a county justice in these words:

As of the present time a person can only keep the office for a limited time because of the hours involved, and the loss of time to ones regular occupation. With the result that in many instances this office is held by people with limited education, and what is worse no interest in the position. Their only interest is in the fee's that they may collect.

Nine police magistrates commented on compensation; six of these were paid under the fee system and three were salaried. Those on salary reported annual salaries ranging from \$800 to \$1200 and all three felt an increase was warranted. One of the three stated the case as follows:

I would suggest that the magistrates receive adequate salary to compensate them for the time and responsibility they must expend; as well as for the knowledge they are required to have in order to meet the lawyers and sharpies with whom we are constantly faced, in order to keep ourselves and the city from law suits.

The six fee-paid police magistrates divided on the matter of compensation in the comment they offered. Four expressed a preference for payment by salary rather than by the fee system while two were satisfied with the fee method of compensation but felt, as did the justices of the peace, that fees should be increased.

Help and Advice.

Almost one-half of the 230 justices submitting questionnaires in the survey stated that they had often or occasionally sought help and advice in performing their duties. Only 66 of the group failed to respond to the inquiry; the others responded to the various choices as follows:

Often	25
Occasionally	86
Hardly Ever	25
Never	28

It is primarily to the law enforcement officers that the magistrates turn for help, according to the survey. Thus, 111 of those responding stated that they had called upon the state's attorney for help and advice, and 50 indicated that they had turned to the sheriff for aid. Among the police magistrates, 43 stated that they received help from the city attorney. The next largest number, 38, reported receiving assistance from the arresting officer in greater or lesser degree in discharging their judicial role. On the other hand, only 27 indicated seeking help from members of the District County or Circuit Court bench. A few reported receiving assistance from private attorneys and others.

In an effort to determine the extent to which the Senior Circuit Judge assists the County justices whom he appoints, justices of the peace were asked in what ways he or other Circuit Court Judges extended guidance

or aid. A total of 59 responded, of whom 33, well over half, stated that they had received no assistance or guidance from this source. Of the 26 remaining, 11 stated that the Senior Circuit Judge or other Circuit Judge gave assistance "when asked," and most of the others indicated receiving some assistance involving specific matters too diverse to classify. One of the justices stated that the Senior Circuit Judge had "referred me to the State's Attorney" and one stated that the Senior Circuit Judge "refuses to help."

Only one county justice volunteered comment on the role of the Circuit Court bench in assisting him in the discharge of his functions. "I have watched and worked with the Circuit Court Judges for the past 30 years," he wrote. "I have studied their methods, and they have also explained to me the various steps to take." Although it was not clear whether this contact was still being maintained, the justice concluded that the Circuit Court judges, along with attorneys, "have helped me immensely."

The identification with law enforcement officials suggested by the data relating to the sources of help or advice, discussed above, was reflected in some of the volunteered comment which revealed a strong orientation toward the law enforcement function and presumably the values of law enforcement officials. One county justice reported working "very closely" with law enforcement for some 36 years and expressed great interest in this field. Another reported, among other things, that he had served as justice "under 4 different Sheriffs." One township justice, reporting no cases appeared to assign the administration of justice to executive authority in the statement that the "County Sheriff takes care of crime in this county" and a police magistrate who had heard almost 200 cases in 1969 called attention to a personal background of law enforcement activity, including service

as deputy sheriff, chief of police, and truant officer. On the other hand, one police magistrate sharply called attention to the questionable prospects for justice when the magistrate depends on the arresting officer for advice. On this practice he declared:

I think this is all wrong because the arresting officer tends to like to usurp the power of the courts. I think this has become too prevalent in justice courts and justice is too often perverted.

VI. SUMMARY AND CONCLUSIONS

This survey has revealed a general picture of South Dakota's petty judiciary resembling that in the country as a whole. The justice emerges from the survey as a judge untrained in the law, somewhat on the elderly side, often with no other occupation. With the exception of about a dozen police magistrates, those responding in the survey were paid under the fee system from which they derived very little income; a clear majority of those reporting fee income stated that they had received less than \$500 from that source in 1969. Some appeared to be rather unwilling holders of their offices, and the overwhelming majority of those responding to the question whether they had actively sought their office answered in the negative. However, a large number indicated that they had accepted election or appointment at the urging of others, with such law enforcement officials as state's attorney, sheriff, and police chief standing out among those who had been influential in affecting their decision. A surprising large percentage of those responding in the survey were relatively new at their jobs, with 54% stating they had held their position less than five years. Thus a rather large segment had not yet acquired the experience which presumably would contribute to their efficiency as judicial officers.

The survey reveals the magistrate's court as a criminal court, another characteristic of the office in the country as a whole. The number of civil cases reported was so small as almost to escape notice. A broad range of minor offenses had been involved in the cases appearing on their dockets, but traffic violations, drunkenness and disorderly conduct, disturbing the peace, petit larceny, and fish and game violations predominated. In the trial of these cases, the appearance of defense counsel was quite uncommon, the frequency of guilty pleas quite high, and the influence on the magistrate by the prosecuting authority apparently quite substantial. Significantly, 30% of the justices responding on the question reported a moderate or substantial increase in the number of criminal cases in their courts in the last five years against 16% reporting a decrease. Jury trials were quite uncommon, and appeals were extremely rare.

The survey indicated that it was primarily to law enforcement officers that the justices turned for help and advice in discharging their judicial functions, with the state's attorney and sheriff figuring conspicuously in this regard. Judicial officers, notably judges of the Circuit and District County Courts, ranked well below the law enforcement officials mentioned as sources of aid and advice to the petty judiciary. The perceived tendency of the justices to identify with the state's attorney, sheriff, and other law enforcement officers was criticized by several justices in commenting on this matter. One of the most perceptive of these took pains to call attention to the questionable prospects for justice when the magistrate depends on the arresting officer for advice, in these words:

I think this is all wrong because the arresting officer tends to like to usurp the power of the courts. I think this has become too prevalent in justice courts and justice is too often perverted.

On the basis of the survey, the following specific conclusions appear to be warranted:

(1) The township justice of the peace seems to have virtually disappeared as a judicial officer in South Dakota. Only four township justices responding in the survey reported having had any cases in 1969, and most of those elected to the office appear to have been chosen because of tradition or because it is felt that under the law it is mandatory to elect. With no judicial functions to perform, the township justice appears to act only in the capacity of a notary, as a participant in the township's annual meetings, and as an occasional substitute for an absent township trustee. Quite a number of township justices flatly recommended that their position be abolished, but this would seem to be unnecessary since the slow demise of the office through non-use is indicated in the survey results.

(2) On the other hand, the offices of county justice of the peace and police magistrate seem to be quite important. Handling well over 10,000 cases in 1969, these courts most certainly constituted the only judicial forums before which most of the defendants involved ever appeared, and quite likely, ever would appear. It is significant that very few of the county justices and police magistrates responding in the survey reported having no cases in 1969; case loads averaged 101.2 per county justice and 80.5 per police magistrate for the year. It seems clear that short of currently unanticipated reorganization in the minor judiciary in South Dakota, these judicial officers will continue to be necessary, being available when other courts are closed and even helpful to travelers and others who would surely suffer personal inconvenience if it were necessary to await a final judicial settlement in a tribunal sitting only at regular hours. The office of county justice of the peace may have been materially enhanced by

the 1968 legislation abolishing municipal courts and police magistrates courts in cities between 5,000 and 20,000 population, reducing the courts of limited jurisdiction therein to the District County Court and the County Justice.

(3) The likelihood that the offices of County Justice of the Peace and Police Magistrate will continue to play a significant role in the administration of justice seems clearly to argue for taking whatever steps are calculated to improve the competence of those holding these offices. Foremost among these steps is the provision for training schools meeting their needs. Only 10% of those participating in the survey had ever attended a justices' school, and about half of these had attended only one, presumably quite a number of years ago. The need for such training was stressed in volunteered comment by about ten percent of those responding, some of whom wrote with perception and conviction on the subject. It may be assumed that their eagerness to attend a justices' school is shared by others, and that the prospects for securing attendance at regularly scheduled and efficiently conducted training schools held for active justices are good. Indeed, it appears that Senior Circuit Judges should be in a position to secure the attendance at such schools of virtually all of their county justices, and police magistrates also could be expected to attend in substantial numbers if their attendance were supported by payment of per diem and an expense allowance, as already authorized for county justices. If improvement of the competence of the petty judiciary and freeing them from dependence on the law enforcement authorities in the performance of their judicial functions are desirable objectives, it is hard to imagine a more practical way of achieving them than through periodic training schools under the supervision of the Senior Circuit Judges of the state. Respon-

sibility for initiating action along these lines rests, of course, with these key members of the superior judiciary.

(4) Also important in raising the level of competence of the magistrates is access to usable legal publications, a shortage of which was reported in the survey. The primary need at present is an up-to-date justices' manual for South Dakota which would serve as a source of information and guidance in the day-to-day activities of the justices and constitute the most basic of the "textbooks" which might be used at periodic justices' schools. The comment of one justice, "There should be a Justice Manual available, and I was informed that there wasn't any to be had" expressed the current situation which dates from the time the manual prepared by the late Senior Circuit Judge Kermit Norbeck became unavailable because out of print. Happily this need soon will be met through the efforts of a group preparing a revision of the Norbeck manual in a project directed by Professor Robert E. Driscoll of the University of South Dakota School of Law and supported by the State Planning and Advisory Commission on Crime. When this work is completed, the minor judiciary will, indeed, be the gainer.

(5) Finally, it appears that revision in the system of compensation is in order. That compensation is an important concern of South Dakota's magistrates is indicated by the fact that it evoked the largest number of volunteered responses from the survey participants, some of whom treated the subject perceptively and at length. Contrary to the common assertion that fee-paid magistrates would vote in overwhelming numbers to be placed on salary, the justices of the peace responding in this survey divided fairly evenly on this question, with 45 favoring a change to salary and 38 favoring a continuation of the fee system. Skepticism toward a

change to salary may be based in part on a suspicion that the salary level would be placed too low. Police magistrates on salary were generally satisfied with the system, but all offering comment on the matter felt that the salary level should be increased. Justices of the peace and fee-paid police magistrates pointed out, sometimes in strong language, that the fee schedule provided by statute is unrealistically low, and those preferring compensation by fees argued vigorously for an increase in the statutory schedule. There seems little doubt that a fee schedule dating back to 1939 (with some changes in fees occurring in 1943 and 1947) stands in need of revision. Given the reluctance of the Legislature to authorize salaries for hitherto fee-paid officers, an increase in the schedule of justices' fees may be the only practical means of raising the compensation of the overwhelming majority of South Dakota's petty judiciary.

APPENDIX "A"

JUSTICE OF THE PEACE SURVEY

Please note: Most of the questions below can be answered by placing a check or X in the appropriate space. Where this is not the case, it will be much appreciated if you would write in the necessary information. It is hoped that you will feel especially free to offer suggestions and comments as solicited in question 40.

1. Please indicate which of the two offices below you hold:

____ township justice, elected by the township voters
 ____ county justice, appointed by the senior Circuit Court Judge

2. Please indicate where you usually hold your court:

At county court house in _____ (town or city)

At city or town hall in _____ (town or city)

At my place of business in _____ (town or city)

At my home _____.

Other: (Please specify) _____

3. During the calendar year 1969, how many cases did you handle? _____

4. Please estimate in percentages the distribution of the cases before you in 1969:

<u>Kind of Case</u>	<u>Percentage of all cases</u>
Speeding or other traffic violation, adults	_____ %
Traffic violations, juvenile	_____ %
Trucking law violations	_____ %
Drunk and disorderly	_____ %
Fish and game violations	_____ %
Petit larceny	_____ %
Acting as committing magistrate	_____ %
Civil (bill collection, etc.)	_____ %
Other: (Please specify)	_____ %

5. What percentage of the criminal cases before you are brought by each of the following:

Sheriff's Office	_____ %
Municipal Police	_____ %
Game Warden	_____ %
State Highway Patrol	_____ %
Other: (Please specify)	_____ %

6. Which of the following comes closest to expressing the frequency of guilty pleas in the cases involving law violations you handled in 1969:

- All defendants pleaded guilty
- About 90% pleaded guilty
- About 75% pleaded guilty
- About 60% pleaded guilty
- About 50% pleaded guilty
- Less than 50% pleaded guilty

7. In how many of the cases before you in 1969 was the defendant represented by an attorney? _____

(Number)

8. In how many cases before you in 1969 was the state's attorney in attendance as prosecutor? _____

(Number)

9. How many defendants did you sentence to jail in 1969? _____

(Number)

10. Please estimate the average length of jail sentence you imposed in 1969. _____

(Days)

11. List in rank order the three offenses that have most often drawn jail sentences in recent years.

<u>Offense</u>	<u>Rank</u>
_____	First
_____	Second
_____	Third

12. Overall, how do you rate the facilities of the jail to which you commit defendants?

- Excellent
- Good
- Adequate
- Poor
- Very poor

13. Some have suggested that regional jails which would supplement local jail facilities should be established. Overall, what is your reaction to this?

- I am very enthusiastic about the idea.
- I am somewhat enthusiastic about the idea.
- I have no strong opinion one way or the other about regional jails in South Dakota.
- I am somewhat negative about the idea.
- I am very much opposed to the idea.

14. Please give the total amount of money in fines imposed by you in cases brought before you in 1969. \$_____.

15. How many times in 1969 did you act as a committing magistrate in connection with an alleged felon? _____ times.

16. In the preliminary hearings held in your court in 1969, please give the number of defendants who:

- were bound over to Circuit or County Court.
- were dismissed in your court.
- later pleaded guilty to a lesser offense.

17. In cases where you set bail on an alleged felon in 1969, please indicate the range of bail:

\$ _____ \$ _____
(Highest) (Lowest)

18. In 1969, how many alleged felons did you release on their own recognizance, without requiring them to post bond? _____

(Number)

19. In how many cases tried before you in 1969 was a jury used? _____

(Number)

20. Where a jury was used in 1969 in cases before you, in how many cases did the jury render a verdict of guilty? _____

(Number)

21. Please give the number of appeals that were taken from your court in 1969.

_____ (Number)

22. In the past five years, has your criminal case load:

- increased substantially?
- increased moderately?
- remained about the same?
- decreased?

23. During the calendar year 1969 how much did you earn in fees from the cases you handled? \$_____

24. Please indicate which method of compensation for your services you would prefer:

- salary
- fees

25. About how much time on the average does the hearing or trial of a case before you take?

- 15 minutes
- 30 minutes
- 45 minutes
- 1 hour
- Other: _____

26. Please indicate which of the following law books you use:

- None
- A Justice's Manual
- South Dakota Code
- Law Dictionary
- Other: (Please specify) _____

27. Indicate the extent to which you seek help or advice in carrying on your duties as justice.

- Often
- Occasionally
- Hardly ever
- Never

28. If you seek help or advice in carrying out your duties as justice, which of the following are you most likely to call upon?

- The state's attorney
- The sheriff
- The arresting officer
- A private attorney
- Circuit Court Judge
- County Judge
- Another Justice
- Other: (Please specify) _____

29. How many justice of the peace training schools have you attended since you became a justice? _____
(Number)

30. If you are an appointee of the Senior Circuit Judge, in what ways does he or other Circuit Court Judges give you assistance or guidance?

31. Are you a licensed attorney? Yes No

32. What is your age? _____ Years

33. What occupation do you follow, other than Justice of the Peace? _____

(If you are retired, please write "retired" in above space)

34. If retired, please give former occupation _____

35. Please give the highest level of education you have had by checking one of the spaces below:

- Grade School
- High School
- Some college
- College graduate
- Graduate school or law school

36. Please state how long you have held the office of Justice of the Peace. _____ Years.

37. Did you actively seek election or appointment to the office? Yes No.

38. Indicate which of the following were important in influencing you either to seek or to assume the office:

- No one
- The State's Attorney
- The Sheriff
- County or Circuit Judge
- Other: (Please specify) _____

39. Your name and address: _____ (Name)
_____ (Address)

40. What suggestions or comments would you make concerning the position of Justice of the Peace? (Please write on back if you need more space.)

APPENDIX "A"

POLICE MAGISTRATES SURVEY

Please note: Most of the questions below can be answered by placing a check or X in the appropriate space. Where this is not the case, it will be much appreciated if you would write in the necessary information. It is hoped that you will feel especially free to offer suggestions and comments as solicited in question 40.

- 1. During the calendar year 1969, how many cases did you handle?
2. Please estimate in percentages, the distribution of the cases before you in 1969:

Table with 2 columns: Kind of Case, Percentage of all cases. Rows include Speeding or other traffic violation, adults; Traffic violations, juvenile; Trucking law violations; Drunk and disorderly; Assault; Disturbing the peace; Fish and game violations; Petit larceny; Acting as committing magistrate; Civil (bill collection, etc.); Other: (Please specify).

- 3. What percentage of the criminal cases before you are brought by each of the following:

Table with 2 columns: Agency, Percentage. Rows include Sheriff's Office; Municipal Police; Game Warden; State Highway Patrol; Other: (Please specify).

- 4. Which of the following comes closest to expressing the frequency of guilty pleas in the cases involving law violations you handled in 1969?

- All defendants pleaded guilty
About 90% pleaded guilty
About 75% pleaded guilty
About 60% pleaded guilty
About 50% pleaded guilty
Less than 50% pleaded guilty

- 5. In how many of the cases before you in 1969 was the defendant represented by an attorney? (Number)

ALL ANSWERS HELD STRICTLY CONFIDENTIAL

- 6. In how many cases before you in 1969 was the state's attorney in attendance as prosecutor? (Number)
7. In how many cases before you in 1969 was the city attorney in attendance as a prosecutor for violation of municipal ordinances? (Number)
8. How many defendants did you sentence to jail in 1969? (Number)
9. Please estimate the average length of jail sentence you imposed in 1969. (Days)
10. List in rank order the three offenses that have most often drawn jail sentences in recent years.

Table with 2 columns: Offense, Rank. Rank categories: First, Second, Third.

- 11. Overall, how do you rate the facilities of the jail to which you commit defendants?

- Excellent
Good
Adequate
Poor
Very poor

- 12. Some have suggested that regional jails which would supplement local jail facilities should be established. Overall, what is your reaction to this?

- I am very enthusiastic about the idea.
I am somewhat enthusiastic about the idea.
I have no strong opinion one way or the other about regional jails in South Dakota
I am somewhat negative about the idea.
I am very much opposed to the idea.

- 13. How many times in 1969 did you act as a committing magistrate in connection with an alleged felon? times.

- 14. In the preliminary hearings held in your court in 1969, please give the number of defendants who:

- were bound over to Circuit or County Court
were dismissed in your court
later pleaded guilty to a lesser offense

- 15. In cases where you set bail on an alleged felon in 1969, please indicate the range of bail:

\$ (Highest) \$ (Lowest)

ALL ANSWERS HELD STRICTLY CONFIDENTIAL

16. In 1969, how many alleged felons did you release on their own recognizance, without requiring them to post bond? _____
(Number)
17. In how many cases tried before you in 1969 was a jury used? _____
(Number)
18. Where a jury was used in 1969 in cases before you, in how many cases did the jury render a verdict of guilty? _____
(Number)
19. Please give the number of appeals that were taken from your court in 1969.

(Number)
20. In the past five years, has your criminal case load:
____ increased substantially?
____ increased moderately?
____ remained about the same?
____ decreased?
21. How are you paid for carrying on your office of police magistrate?
____ By annual salary
____ By fees
22. If you are paid by salary, what was your 1969 salary as police magistrate? \$ _____
23. If paid by fees, how much did you earn from this source as police magistrate in 1969? \$ _____
24. If you are paid by fees, would you prefer to be on salary instead? ____ Yes ____ No
25. About how much time on the average does the hearing or trial of a case before you take?
____ 15 minutes
____ 30 minutes
____ 45 minutes
____ 1 hour
____ Other: _____
26. Indicate the extent to which you seek help or advice in carrying on your duties as police magistrate?
____ Often
____ Occasionally
____ Hardly ever
____ Never
27. If you seek help or advice in carrying out your duties as police magistrate, which of the following are you most likely to call upon?
____ State's Attorney
____ Sheriff
____ The arresting officer
____ City Attorney
____ City Police Chief
____ A private attorney
____ County or Circuit Judge
____ Other: (Please specify) _____

ALL ANSWERS HELD STRICTLY CONFIDENTIAL

28. How many magistrates' or justices' training schools have you attended since you became a police magistrate? _____
(Number)
29. Are you a licensed attorney? ____ Yes ____ No
30. What is your age? _____ Years
31. What occupation do you have, other than police magistrate? _____

32. If retired, please give former occupation. _____
33. Please indicate the highest level of education you have had by checking one of the spaces below:
____ Grade School
____ High School
____ Some college
____ College graduate
____ Graduate school or law school
34. Please state how long you have held the office of police magistrate. ____ Years
35. Did you actively seek election to the office? ____ Yes ____ No.
36. Indicate which of the following were important in influencing you either to seek or to assume the office of police magistrate?
____ No one
____ State's Attorney
____ City Attorney
____ City police chief
____ Town trustee
____ Other: (Please specify) _____
37. Please indicate which of the following law books you use:
____ None
____ A Justice's Manual
____ The South Dakota Code
____ Municipal Ordinances
____ Other: (Please specify) _____
38. Please indicate where you usually hold court:
____ At city (town) hall
____ At my place of business
____ At my home
____ Other: _____

ALL ANSWERS HELD STRICTLY CONFIDENTIAL

<u>County</u>	<u>Name</u>	<u>Location</u>
Brule	*Frank Anderson *Dwight Glaus	Chamberlain Chamberlain
Buffalo	Sam Karr John Coleman	Gann Valley Ft. Thompson
Butte	*James Larrabee *Paul Hennessey Kenneth Oliver Ben Ruby *Elmer Conner	Belle Fourche Belle Fourche Vale Zeona Belle Fourche
Campbell	*Homer Boschker *Riney Kramlich *Louis Stellflug Orval Kightlinger	Pollock Mound City Herreid Mound City
Charles Mix	*G. J. Padrnos *G. J. Scheke Arlo Schroenrock LuVern Quam LuVern Gramkow Pete Fennema Leonard Lucas James Nachtigal	Lake Andes Lake Andes Platte Platte Dante Dante Academy Platte
Clark	*Clifford Schwartz *John Wagner	Clark Clark
Clay	Howard Nielson Clement Schafstall *Phillips B. Crew	Beresford Vermillion Vermillion
Codington	Richard Wilkey Maelyn Hemp	Watertown Watertown
Corson	*Cecil Hanson *Garehart Eisenbraum	McIntosh McLaughlin
Custer	*Elmer Schmitz *George Brady	Hermosa Custer
Davison	Melvin Schoenfelder	Ethan
Day	Stanley Kurkowski Lyle Busch Arlin Grorud Maynard Sigdestad *Donald H. Jones	Grenville Butler Roslyn Bristol Waubay

*Denotes County Justice

<u>County</u>	<u>Name</u>	<u>Location</u>
Day (Continued)	Don Thompson Loren Loe R. J. Beffert Reinhart Tesch Carl Lentsch Joe Herrick Julian Okroi Clifford Johnson Jerauld Schulz Ben Hildebrandt	Webster Webster Webster Waubay Roslyn Grenville Grenville Waubay Waubay Crandall
Deuel	*Clarence E. Kallemeyn *John Giesel Emory Hogie Ray Eastman Robert King	Clear Lake Clear Lake Astoria Brandt Toronto
Dewey	*H. L. Hodgman Eugene Haack	Timber Lake Firesteel
Douglas	Donald Geidel *Herbert Harms *Delmar Bormann Gerald Mokros	Dimock Armour Corsica Delmont
Edmunds	*Allen Habben Ed Hubbard *Dan Sinclair	Ipswich Ipswich Ipswich
Fall River	Carl Reutter Eva Pogreba Carl Carpenter Miles Spencer	Edgemont Provo Provo Edgemont
Faulk	Wilbur Slater	Miranda
Grant	John Nelson Edward Erickson Arthur Allison Oscar Larson Thomas Tippet Harvey Wellnitz Gerald Lindell Harry Christians James Fish James Boerger Garth Thorpe Otto Nelson	Strandburg Ortley South Shore Stockholm Big Stone City Reville LaBolt Twin Brooks Twin Brooks Milbank Marvin Stockholm

*Denotes County Justice

<u>County</u>	<u>Name</u>	<u>Location</u>
Gregory		
Haakon	*Ramsey L. Kendall	Phillip
Hamlin	Martin Reese *Joe Schamens *Kenneth Hanson Maclyn Hemp Clayton Fields William Grape Ted Greene Marvin Brendon	Castlewood Hayti Hayti Watertown (rural) Bryant Castlewood Estelline Dempster
Hand	*C. R. Sisk	Miller
Hanson	*Grant Farnsworth John Buehler	Alexandria Emery
Harding	*Ed Thorstad *Frank Nible	Buffalo Buffalo
Hughes	*Niels P. Jensen *John P. Jones *Francis Winkler	Pierre Pierre Pierre
Hutchinson	Rollo Borman *Theodore Rames *Leland L. Truesdell Gary Baltzer Ray Wiesz Edward Zwinger John C. Weber	Freeman Olivet Tripp Kaylor Parkston Dimock Dimock
Hyde	*C. F. Webb	Highmore
Jackson	Wayne Weidemer Richard G. Olney	Okaton Kadoka
Jerauld		
Jones		
Kingsbury	Bernard Duffy Clare Warne *Bob Lee *Darrell Freeman	Oldham Hetland DeSmet DeSmet

*Denotes County Justice

<u>County</u>	<u>Name</u>	<u>Location</u>
Lake	Marvin Michelke *Robert Maloney *Verald Westby Virgil A. Johnson	Ramona Madison Madison Winifred
Lawrence	*Ray Dillavou Francis McNeill *George Opitz *Gus Buehler *Richard J. Murray *George H. Wolfe	Spearfish St. Onge Deadwood Deadwood Deadwood Deadwood
Lincoln	Art M. Larson	Fairview
Lyman	Mary Schoon E. J. England	Presho Presho
McCook	Marlin Davis *L. A. Eickman John Kerkvliet Lowell Hetland	Parker Salem Salem (rural) Salem
McPherson	Lawrence Schile Gottfried Enzi *Harold Weisser Alvin Kallas Lawrence Wachter Kenneth Kabrud *Fred Gieser	Wetonka Eureka Leola Leola Forbes, North Dakota Forbes, North Dakota Eureka
Marshall	*A. H. Erbe *Ed Friebe Ralph Foote	Britton Britton Langford
Meade	*Bruce Barnes *Wayne O'Connor Stanley Teller Ray Balhorn *John Stingley *Chris Mechling	Sturgis Sturgis Sturgis Sturgis Sturgis Sturgis
Mellette	Donald Evans *Charles Hight	White River White River
Miner	*Donald Mengershausen *Harry C. Lenhart	Howard Howard

*Denotes County Justice

<u>County</u>	<u>Name</u>	<u>Location</u>
Minnehaha	Henry Knochenmus	R. R. #2, Sioux Falls
	Earl Riswold	Baltic
	Fred J. Gerdes	Valley Springs
	Marvin Wieman	Crooks
	Lester Farley	Sioux Falls
	Loren Anderson	Sioux Falls
	Earl Lashier	
	James Story	
	Thomas Muilenbury	
	Gilbert Singaas	
	Ed Still	Sioux Falls
	Richard Christensen	
	Moody	Irving Ellefson M. M. Bauske
Pennington	Mrs. Wilbur Oldenberg	Wasta
	Lucille Wedge	Hill City
	Marie Denke	Creighton
	Larry Eisenbraun	Creighton
	Murmon Jensen	Wall
Perkins	Harold Anderson	Lodgepole
	*J. A. Penor	Bison
	*Anthony Sattler	Lemmon
Potter	*Donald Woodford	Gettysburg
	*Henry Westphal	Gettysburg
Roberts	*John Koeppe	Sisseton
	*Dale Noakson	Peever
	Gordon Petersen	Rosholt
	George Cameron	Wilmot
	Ray Spindler	Browns Valley, Minnesota
Sanborn	Charles Moody	Letcher
Shannon		
Spink	Howard Hansen	Redfield
	Denzel Long	Redfield
	Max Hill	Athol
	Leo Morgan	Mellette
	Ronnie Hedges	Mansfield
	Merle Lambert	Frankfort
	Virgil Steger	Northville
Stanley	*Robert Taylor	Fort Pierre
	*Wilson Wily	Fort Pierre

*Denotes County Justice

<u>County</u>	<u>Name</u>	<u>Location</u>
Sully	*J. M. Reedy	Onida
	*James Lawrence	Onida
	*Charles Danks	Onida
Todd		
Tripp	Eldon Anderson	Ideal
Turner	*George L. Egan	Parker
	LeRoy Peterson	Alcester
	Mervin Anderson	Jefferson
	Francis Wieman	Monroe
Union	*Wayne Groe Floyd Richardson	Elk Point No. Sioux City
Walworth	*William Barker	Mobridge
	*Jacob Keller	Mobridge
	*Theodore Bohle	Selby
Washabaugh		
Yankton	Milton Nielsen	Irene
Ziebach	*Henry Burgee	Dupree
	*Clark Edwards	Dupree

*Denotes County Justice

Police Magistrates:

<u>Name</u>	<u>Location</u>
Ole S. Stene	Alcester
Guy Doktor	Andover
H. M. Pederson	Arlington
Mrs. Dorothy Jordan	Aurora
Paul C. Raysby	Avon
Bernard Holtry	810 Lawrence, Belle Fourche
C. R. Strom	411 W. Main, Beresford
C. L. O'Rourke	Bison
Willard Deffenbaugh	Bonesteel
Mrs. Esther Voller	Bowdle
Albert Cramer	Bristol
Leslie Lemke	Britton
Ike Merritt	Canistota
Eilers Grimme	Canova
Harold Graning	Canton
Willard E. Pokorney	Central City
Dwight Glaus	105 E. 15th Ave., Chamberlain
Richard Zarecky	Colman
Cornie Van Helden	Conton
K. C. Neill	Columbia
L. L. Hancock	Custer
Otto Jacobsen	Dallas
Roy Alloway	Dallas
Dr. W. H. Collins	Davis
F. Russell Maynard	Deadwood
Howard Hoyme	Dell Rapids
Rex Wood	Delmont
Robert Lee	DeSmet
Harry Rasmusson	Doland
Henry Burgee	Dupree
Edmund Schwahn	Eagle Butte
Ernie Nickles	Elk Point
Walt Marshall	Elkton
Gottfried Enzi	Eureka
Henry Klundt	Fairfax
J. R. Holloway	Faith
Lowell Jenson	Faulkton
Dale McCracken	816 1st Ave. W., Flandreau
Andrew Hoffman	Fort Pierre
Owen P. Wiese	Garretson
Tom D. Connor	Geddes
Frank Kucera	809 Felton Ave. Gregory
Mason Stephens	Groton
Douglas Warne	Hartford
Martin Bieber	Hecla
Louie Stellflug	Herreid
Charles Rust	Herrick
Vern Tompkins	Highmore
Arnold E. Pietz	Hosmer

<u>Name</u>	<u>Location</u>
Gus Greene	522 Battle Mt. Ave., Hot Springs
Alfred Weber	Hoven
Donald Mengershausen	Howard
F. A. Friman	Hurley
Allen Habben	Ipswich
Joe Gran	Irene
Albert Fritz	Isabel
Don Smith	Kadoka
Francis Cartney	Kennebec
E. M. Clemens	Lake Andes
G. D. Anderson	Lake Norden
Alan Hanson	113 Bowman Ave., Lake Preston
A. D. Baum	Lebanon
Harry Beals	406 6th Ave. W., Lemmon
Robert Spencer	Lennox
Walter Wolff	Long Lake
Howard Lockhart	McIntosh
Nels Nelson	Martin
Florence Cady	Mellette
Charles Hoeltgen	Box 472, Milbank
Merle Keating	Miller
Orville Davis	Box 85, Mission
Nathaniel Nicksich	117 E. 2nd Ave., Mobridge
Walter Prah	120 Main St., Murdo
Earl Jones	Newell
Donald D. Merchen	New Underwood
Paul Minor	R.R.2, North Sioux City
Charles Danks	Onida
Merle Thompson	Ortley
Jack Roth	Parker
Arthur Schaefer	Parkston
Ben Kruger	Pollock
V. R. Lytle	Pukwana
Lawrence Eichman	Salem
M. T. Sweet	Scotland
Alven Jensen	Sherman
S. A. Kirk	Sisseton
George Pummel	1515 Main, Spearfish
Virgil Rauch	Springfield
J. L. Baker	1316 Spruce St., Sturgis
Leslie H. Mogen	Summit
Lloyd Aten	Tabor
Alfred Kougl	Timber Lake
O. P. Sandbeck	Trent
Donald Wysuph	Tyndall
Merle P. Froke	Vienna
William Angle	504 Marvin Ave., Volga
Daryl Peterson	Volin
William Hollmann	Wagner
Don Kempster	Waubay
Palmer Wickre	230 N. Barrett Ave., Wessington Springs

<u>Name</u>	<u>Location</u>
Andy Harris	White River
George Harms	Wilmot
Ralph E. Belmer	422 Jefferson St., Winner
Lloyd Duncan	Woonsocket
Clarence Hetland	Arlington
A. D. Van Aspern	411 Birch, Avon
A. J. Spiekermeier	824 Stanley, Belle Fourche
Edwin Thorstad	Buffalo
Verlyn Kickland	Chamberlain
Hearl P. Kennedy	Custer
J. Ora Horsfall	448 Williams, Deadwood
Henry Rebel	Dell Rapids
Leonard J. Schlimgen	Dimock
Kenneth Woseka	Doland
Clark Edwards	Dupree
Larry Cates	Elk Point
Fred F. Gisser	Eureka
Charles Maxon	Faith
Charles McFarling	Fort Pierre
Donald Woodford	Gettysburg
R. C. Graesser	521 E. 6th St., Gregory
Edward Opp	Groton
C. L. Watson	545 So. 5th St., Hot Springs
O. C. Goodhope	Hurley
James L. Hansen	Irene
W. E. McCabe	Lake Andes
Archie Goodrich	407 1st St. W., Lemmon
Gilbert Singer	Lennox
O. J. Wheeler	Martin
Louis Van Devort	Box 472, Milbank
Carl Sisk	Miller
Bert Meyer	212 E. 2nd Ave., Mobridge
Albert Tornow	203 Washington Ave., Murdo
Arne Lund	Newell
Ronald Backhaus	Pollock
Anton Peterson	Sisseton
Tom Baxter	1304 3rd, Spearfish
William Leaverton	Springfield
Kermit Stell	719 Lazelle St, Sturgis
Ray Matthews	Tyndall
Raymond Egeberg	318 Marvin Ave., Volga
Roy Von Eschen	Wagner
Larry Moore	White River
Stanley C. Smith	806 E. 4th St., Winner

APPENDIX "C"

COMMENTS OF THE JUSTICES OF THE PEACE AND POLICE MAGISTRATES

The statements submitted by justices of the peace and police magistrates in response to question 40, asking for suggestions and comment concerning their office, appear in verbatim form in the following pages.

Use of this material should be facilitated by referring to the following outline which identifies by questionnaire designation comments relating to subjects which seemed especially significant to those responding.

To illustrate: If one wished to examine remarks dealing with the importance of the office of justice of the peace or police magistrate, he would find them in Justice of the Peace statements designated JP-23, JP-24, JP-38, JP-57, JP-70, JP-80, JP-89 and JP-92, and Police Magistrates Statements designated PM-14 and PM-41.

INDEX OF COMMENTI. The Office.

- A. Importance: JP-23, JP-24, JP-38, JP-57, JP-70, JP-80, JP-89, JP-92; PM-14, PM-41.
- B. Unimportance: JP-12, JP-32, JP-65, JP-74, JP-78, JP-82, JP-91.
- C. Inconsequential Duties: JP-7, JP-10, JP-12, JP-26, JP-28, JP-29, JP-53, JP-59, JP-61; PM-23, PM-26.
- D. No Duties: JP-7, JP-37, JP-47, JP-48, JP-50, JP-68, JP-82, JP-84, JP-85, JP-88.
- E. Need to Enhance Status: JP-24, JP-56, JP-69, JP-91; PM-1, PM-10, PM-13, PM-18, PM-22, PM-23, PM-31, PM-38.

- F. Compensation: JP-2, JP-6, JP-8, JP-16, JP-20, JP-22, JP-24, JP-29, JP-32, JP-36, JP-57, JP-60, JP-66, JP-71, JP-73, JP-76, JP-80; PM-2, PM-6, PM-8, PM-9, PM-10, PM-22, PM-24, PM-35, PM-37.
- G. Abolition: JP-13, JP-15, JP-21, JP-35, JP-39, JP-40, JP-41, JP-46, JP-47, JP-48, JP-50, JP-53, JP-56, JP-58, JP-62, JP-64, JP-67, JP-74, JP-81, JP-82, JP-84; PM-40.
- II. The Officers.
- A. Assistance:
1. Lack of: JP-3, JP-25, JP-37; PM-35.
 2. By Whom Given: JP-8, JP-30, JP-63; PM-3, PM-35.
- B. Feeling of Inadequacy: JP-7, JP-25, JP-54, JP-65, JP-72; PM-1, PM-2, PM-3, PM-4, PM-7, PM-11.
- C. Identification with Law Enforcement Officers: JP-8, JP-17, JP-27, JP-30, JP-53; PM-7, PM-18, PM-31, PM-35, PM-41.
- D. Need for Schools: JP-7, JP-25, JP-31, JP-33, JP-34, JP-37, JP-45, JP-49, JP-55, JP-63, JP-67, JP-69, JP-72, JP-80; PM-1, PM-2, PM-5, PM-18, PM-20, PM-22, PM-23, PM-31, PM-35.
- E. Need for a Manual: JP-14, JP-34, JP-36, JP-37, JP-49, JP-60, JP-63, JP-75, JP-77, JP-90; PM-1, PM-16, PM-36, PM-42.
- F. Need for a Newsletter: JP-60, JP-64, JP-75; PM-22.

Justices of the Peace

JP-2. Regarding question #24. We are not paid well for the amount of work we do. The fee system is O.K. but the fees have been the same for past 20 years. We should be paid more. Possibly a salary system would be better. I don't know. I use a different system in my court and the attorney general office says it O.K. for the past five years in criminal actions. I fine the defendant with costs included. Then when the fine is paid I deduct the sheriffs costs and my costs and deposit bal. with Co. Treas. Here is an example. John Doe is appearing in court on a misdemeanor charge. Hearing is held and he is found guilty. Say I fine him \$50.00 costs included. Sheriffs costs are as follows: warrant 5.00, attendance in court 4.00, mileage making arrest, 100 @ 12¢ - 12.00, justice costs come to 4.70, total of \$25.70. Fine is \$50.00 less all costs of 25.70, fine balance 24.30 paid to Co. Treas. as fine. I pay the sheriff his mileage of 12.00, I pay Co. Treas. his warrant and court of 9.00 at the same time that I pay the Co. the fine money. That leaves the Justice with his fee of \$4.70 all marked pd. Action is closed. This method works out pretty good, and my records and the sheriff records have to balance. All this information has to be given in my quarterly report to the County Commissioners and also to State Auditors every 2 years--so you see \$4.70 isn't much pay. I am glad to make out this report and hope something good comes from it.

JP-3. All court appearances and cases be held in Co. or Circuit Courtroom with defendant standing before bench for reading of complaint, etc. has more impression of defendant having been in court.

All States Attorneys appear in all cases brought before court.
(or assistant States Attorney.)

J.P. get background on case from arresting officer before Court.

JP-4. There has never been a case brought before me.

JP-5. If I can be of further assistance please let me know. I try to give 24 hrs. service in all of my undertakings all my life. I have held court many times between the hour of 10 P.M. and 3 A.M. if someone is traveling the country and do not want to stay over night. If it is speeding or some one wanting to sign a complaint so the guilty person can be picked up.

JP-6. Raise our pay. The fees for a Justice have not been changed for 30 years. A straight salary would be the best.

JP-7. I notarize legal papers and documents for the Twp. and act as Notary for people in the area. Otherwise my duties are none. If there is an accident or some other trouble in the area, other officers, sherriff, etc. are called in and the County Officials take over. I think this goes for all township Justice of Peace Officers as we really don't know our powers or how to go about using them and the people in the area do not call on us. They go to the County Offices. If we are to do any good I think we need schooling on it and in order to get the necessary parties there I think they would have to be paid mileage and a day's salary as its a long way from here (90 miles) to the County seat and most people will not be interested

enough to go at their own expense. But I think time will come where Twp. officers may be wise to have this experience if County officers can't handle the load. Maybe it would save the county some expense and maybe not. I don't know.

But the office is of no use except for Notary Public as it is now. Because I don't really know my duties and no one calls on me.

JP-8. I am greatly perturbed about the fees that are paid the Justice of Peace, the fees are the same as they show in the 1939 Code, with a few adjustments and exceptions, the increase that all County, State and National officials are receiving.

I have worked very closely with law enforcement for the past 36 years or so, 32 years as Clerk of Courts, in which I worked very closely with the law and I study each case as I am interested in this kind of work and enjoy it. I have gotten an awful lot of valuable information from the attorneys and also the Circuit Judges, they have helped me immensely.

JP-9. What irks me the most is to have the District Judge grant an appeal on the ground that the defendant has not been properly instructed on his constitutional rights with out consulting with the magistrat on the preliminary hearing and then the defendant declares himself indigent and requires the tax payer to be liable for the costs of the defense after the individual has stood trial and the Jury has found him guilty and the judge then grants an appeal on the grounds that he has not been properly advised on his constitutional and statutory rights.

I maintain that the tax payer is being penalized with out justification when a case of this nature arises. I think it calls for an investigation. We have had two such cases in _____ County in the past year.

JP-10. Appointed so local officials could secure warrants during absence from City of the District Court Judge. Just appointed in Jan. 1970 so no adequate work load. I do not usually handle cases even when I issue the warrant of arrest.

Performing marriage ceremony seems to be my most active field as J.P.

JP-11. I feel it is much better for the offender to appear in court than have the patrol pick up the fine on the scene of violation. Justice on call 24 hours a day.

JP-12. As Justice of Peace my duties are not much. I take part in the township meetings and sign the papers that would otherwise have to be signed by a Notary Public. Most of these questions do not apply to my position as Justice of the Peace.

JP-13. In this particular township I feel the office should be abandoned, there seems to be no call for it at all. All violations are handled by the city or county and quite well I may add.

JP-14. A book should be made up indicating procedure in handling misdemeanor's, traffic violations, preliminary hearings also showing just exactly what you can do and cant do in each case.

JP-15. The position of Justice of Peace on the township level should be eliminated.

JP-16. I indicated Fees rather than salary because if a Justice of the Peace was on a salary, the public would expect him to be at his office every day, full time, and I know the salary a legislature may design would not compensate for full time work.

However, the fees should be raised. For Instance; 1 day in Court, \$1.00. Isn't this ridiculous? Transcript 10 cents for every 100 words; it takes time to make a transcript and it figures up to, say, maybe 80 cents. If the defendat appears by attorney and asks for a trial, the Justice will spend a whole day hearing the case and he earns the grand sum of seven dollars or so. A revision of Justice of the Peace Fees is long over due.

JP-17. A few comments that speeding cases, 3.2 Beer cases also and most cases where the Highway Pro. makes the arrests.

Personally my record shows that I served under 4 different sheriffs and in 1954 I was appointed Justice of the Peace by the City Council of _____ by their Attorney. Later the Justice of the Peaces were appointed by the Senior Judge of this District.

JP-18. I hesitated to answer this questionnaire because of the few cases I had in 1969.

JP-19. I usually fill in when the other J.P. is gone. I had some cases in 68 and several in 70 but none in 69. I have answered some of the opinion questions however.

JP-20. I believe the fees should be raised they have remained stactic for 30 years.

JP-21. Not necessary on township level.

JP-22. The first suggestion that I would make is for the office of J.P. to be put on a salary basis, and that the salery be made realistic so that one could justifiably take the time necessary to do an adequate job. As of the present time a person can only keep the office for a limited time because of the hours involved, and the loss of time to ones regular occupation. With the result that in many instances this office is held by people with limited education, and what is worse no interest in the position. Their only interest is in the fee's that they may collect.

One other area of frustration to a layman who accepts this position is the lack of prosecution of all parties equally, regardless of their standing in the community. As a Justice one can only go so far in insistance in this matter without tainting the cause before him.

It has been my observation that while a person may receive an adequate portion of Law, he will recieve only as much Justice as his pocketbook will allow.

This observation stems from my experience as a Magistrate for two and one half years, and the time spent in my present position.

JP-23. I believe the Justice of the Peace office is important to handle misdemeanor violations that occur in or near small towns.

JP-24. I am sure that your study will show that the majority of people who appear in courts of any kind appear before a Justice of Peace and it is long past time to bring it out of the horse and buggy days and put some uniform dignity and higher qualifications than most of us have to handle the office.

Also the job should be paid on a salary basis, high enough to hold a qualified man and give him an office in the Court house other than in a closet or under the stairs. While a justice of the peace is effective and quite effecient, there is much that could be done to make it more so with communications and transportation as fast as it has become.

JP-25. I would suggest that most Justices of the Peace need training in the actual handling of cases that come before them. By this I mean the process of observing a competent judge handling actual cases in court.

I had a case last evening which was the first case I had in five months. A fellow can get awful rusty in that length of time. We have no assistance whatsoever from the states attorney in small towns. For this reason we often depend on the arresting officer for advice. I think this is all wrong because the arresting officer tends to like to usurp the power of the court. I think this has become too prevalant in justice courts and justice is too often prevented.

I would most strongly urge training for justices under the new S. Dak. law.

JP-26. My position as Justice of Peace is a township office that is filled each year at the election of the township offices. The term is 2 years. I do not have much to do, only at the township meetings, when newly elected officers are sworn in to office. I notorize the papers that have to be signed.

JP-27. Received your letter and am writing to tell you I am not an active Justice of Peace. Our Twp. has one mainly to fill in for a board member if he is unable to attend some of their meetings. The County Sheriff takes care of crime in this Twp.

JP-28. I have no duties to perform except to swear in the clerk of the township and to take the place of a township supervisor on equalization board.

JP-29. No suggestions, but the wages are not staggering, is one comment of mine for the record you have to keep of all cases. Enjoy the Justice job although it takes a lot of territory in--handle small claims court, marry couples, act as coroner once in awhile besides the cases.

JP-30. For me, as I am a law student, the office of Justice of the Peace has given me some good practical experience in the field of Criminal Law, especially the prosecution side of the picture. Also, in dealing with many defense attorneys, I have become acquainted with several "techniques"

as to how to defend a client. I have the opportunity to pick out the best "techniques" of each attorney which hopefully will help in the future. Also, because I do work with attorneys, it forces me to be "up" on the law. It requires me to do some research on my own and also to ask a lot of questions. Fortunately, the States Attorneys here in _____ have been very cooperative and understanding. Any time that I do have a problem that I can't solve, I feel free to go to them and they always are willing to listen to my problems, and they usually can give me the answer that I need.

The only legitimate gripe that I would have of the whole system is that often times "Justice" is not done. Since the maximum fine is \$100. and the average fine about \$30.00, even if a defendant has a good excuse or whatever, it just doesn't pay to fight in justice court. This is because it would cost more for the attorney than the fine would be. So, unless a conviction would affect a person's license, it is often senseless to fight a charge in justice Court. I don't know, maybe this is good. I always listen to the story of the defendant and I try to impose a fine which is just, which does conform to the crime committed.

JP-31. Questions I would like answered. 1. Can a Justice of the Peace act on a State law. Without it being a town ordance. 2. Were do they have a School for the J.P.

JP-32. A realistic updating of the fees for services rendered in this office. Including the court of small claims. This report covers only 10 months of 1969 Nov. and Dec. was spent in the hospital.

JP-33. I feel a Justice, in these changeing times, should have one day in school each year. I also feel that a Justice of Peace should treat the defendants all the same, according to the crime and actions weather a stranger or well known, color or where he is from. I feel if our local crime was taken care of (no pets) in all towns or cities, we may decrease crime.

JP-34. It seems to be a thankless job. They should hold a school for J.P.'s--Publish a book as procedure, etc.--As to fees, what amount we are allowed to charge the County for our services--when I first started I had a duce of a time getting anyone to tell me these things--As to what the fine should be for certain cases.--What the costs should be? If I could dismiss a case. Incidentally I did dismiss 3 cases out of 89.

JP-35. Not needed in the local Township. The county law office takes care of the matter regarding Justice of the Peace work. Most of the Township Justice of the Peace are unqualified for the position held.

JP-36. It would be useful to have a Justice of the Peace Manual. Not enough pay in this office to go to Justice School.

JP-37. The justice of the peace job in our township seems to be just a job with no actual function, at least this is the impression I got when I inquired about the job after I was elected. I never campained for the office, I was just at the annual township meeting and was nominated and

elected.

I have never received any instruction as to my duties or what to do if called upon. I have no justice manual or anything. I would greatfully accept any information or training available for my job, if I do have any responsibilities or duties.

JP-38. In my opinion a Justice of the Peace is very necessary. They are usually available and the defendant can usually get a speedy trial or hearing and without too much expense. For many years I have not had but one case appealed.

JP-39. Under present modes of transportation, there is no need for a Township Justice of the Peace.

JP-40. I would suggest the office be discontinued.

JP-41. I feel that in our community this office could be eliminated.

JP-42. This is a very small town and we do not have very many violations. We have a deputy Sherrif and all cases that are picked up are turned over to the Sherrif at _____ as we do not have a jail here that is any good anymore.

JP-43. I consider the law requiring the Senior Circuit Judge to hold Annual Conferences a step forward in the betterment of law enforcement, as too many Justices' take office without any previous training, and without benefit of legal advice.

Also, in small misdemeanors, believe the absence of Attorney's to be in the best interests of justice, as I believe they have a tendency to act for the interests of their clients instead of in the best interests of all violators.

Also that violators without the benefit of lawyers must take their chances, admit their guilt, if guilty, and pay for their offenses with out unnecessary continuances that delay the handling of other cases.

JP-44. Don't have any comments to make.

JP-45. This is very interesting work. You meet all types of people. I wish the was a school for a day or two so a person would have a little more knowledge of the laws and procedure concerning jury trial and trials before the court.

JP-46. I don't think they need any out here because no one every uses it.

JP-47. I believe this office is of no real value. I have been on this farm my entire life and can not recall the Justice of Peace ever being used to settle a dispute.

JP-48. Very inactive position in this township as I'm sure it is in other communities also--Could easily throw it out and never be missed.

JP-49. Some schooling by competent instructor and witness the procedures of other established Justices. Paragraph 26 indicates "A Justices Manual"-- which I am interested in obtaining. Kindly advise where to get same and the cost.

JP-50. I was elected Police Magistrate in 1953. A PM is ex officio JP for the County. The grandfather clause of sitting JP's has made it unnecessary for Circuit Court Judge appointment. At the end of 1968, PM were eliminated by the legislature and District Judges took over the city work. As there was 2 Police Magistrates in Madison, there was also 2 JP's. As there is hardly enough work to keep one JP busy in the County, I have not functioned since December 1968, turning it all over to the other Jp. Thus the absence of answers dealing with 1969.

The legislature, in its wisdom, did away with Police Magistrates and created the office of District Judge at 17500.00 per annum. They should have also eliminated the Justices of the Peace, as the District Judge merely shoves off the minor and disagreeable actions to the Justice of the Peace. The District Judge's clerk is paid considerably more than the 2 Justices of the Peace.

As the Bar initiated this new arrangement in the legislature, to eliminate lay judges, they should feel some responsibility to wipe out the JP's on the basis.

In _____ County this new structure has not improved the cause of Justice. It is ridiculously expensive. And delays in bringing the defendant to court are considerably increased. Forfeiture of bail is the resulting practice.

JP-51. I do not believe a person holding government jobs should be a Justice I know of one here is a Post office employee, county juvenile probation office. holds rank in The National Guard. other one retired Farmer with no former Law enforcement spends much time on his farms. No 1 can only hold Court after his Post office duties are filled.

These persons are good people but my question is I am called any time of day or night where a Justice has jobs he can not leave only at certain times and to be Justice and County Probation office with Army or National Guard Duty and Fedral Post Office duties is realy uligiable for Justice.

JP-52. Sorry I can not give you all you ask for but have been in and out of hospital for last three months part of my books at the Court House and I have not been able to go after them.

JP-53. I first served as J.P. in 1934. I was appointed then as we had not elected a J.P. it was the only official act I have ever done as a J.P. that was to sign a release for a couple of boys who had drowned in a dugout in our township.

I see no reason for continuing the office on the local township level.

JP-54. I feel I'm not entitle to answer any of the above questions.

JP-55. A school for justices of peace.

JP-56. That the position of County Justice be abolished and that in its place the Circuit Court District be divided into subdistricts without regard to County lines. Also that Justices of the Peace have the authority to sit in judgement of high misdemeanors, thereby relieving Circuit Judges of part of their case load.

JP-57. I think it is a good thing, as some body has to do the job of keeping law and order in this small community. It takes up quite a bit of your time at times, and the pay is not too much only \$5.45 and you might sit here for 2 hours sometimes waiting for the people to get some money, so they won't have to go to jail, we always say the fine and then add 5 days in jail. so most of them always pay the fine.

JP-58. In many areas a Justice of the Peace is necessary. But in this township, with its present population and its nearness to the county seat--well, it is really only an honorary position. They've even lost the "book of instructions" somewhere back through the years.

JP-59. The main duty of our township JP in the past several years has been to sign qualification papers in the spring of the year.

JP-60. Higher fees or remuneration of some kind to cover hours spent on certain cases.

Seminars or schools.

More printed information as to the duties, limits, and responsibilities of the job as well as information of a specific nature as to court procedures, rights of defendants, limitations as to what can be considered in J P courts.

A report either annual or semi-annual covering offenses handled, penalties meted out, and new thinking or innovations in J P Courts throughout the state.

JP-61. My duties are to help out our township board when we have our annual elections, by acting as a Notary Public.

JP-62. I was elected Justice of the peace in March 1970. I think the office should be discontinued the township has to pay for bonds which I think is an unnecessary expense.

JP-63. Not having been appointed until 1970 I don't know if you can use what information I have listed here.

I am new at being a Justice of Peace Therefore I need all the information I can get and don't really know where to get it. The States Attorney helps me when I need it, and also all the law officers in the county give suggestions when asked.

I would like to attend a school or conference at least once a year. A newsletter could be very useful to a Justice to keep him informed as how certain situations could be handled.

How can I obtain a justice manual. I have read the South Dakota Code pertaining to Justice of Peace but would like something more handy to have in my Home.

JP-64. Does not seem to be any need for this office except as required by law

JP-65. I have often wondered jurisdiction I would have as justice of peace. We never get a manual or any instruction. So in our township we are justice in name only.

Sorry I could be of no help. Salary none.

P.S. The only good thing with this office in case one of the township board is unable to perform his duty they can fill the position with the justice of peace

JP-66. Sir: for the time, one spends making out reports, besides time spent in the Court Room--the fee is very inadequate.

JP-67. Require some training or abolish it.

JP-68. I am a township justice we have no cases Their is on 6 family in our Twp.

JP-69. Being an instant lawyer has caused me much concern. We need some training in procedure so that the justice courts do not look like kangaroo courts. Most justice courts are fair and sentences that are doled out are equal to other courts such as municipal courts, for the same offense. Justice courts however are looked down upon and something should be done to gain more respect for this court.

JP-70. I have enjoyed my experience so far. I feel we on the local level can help enforce laws and see that justice is done!

JP-71. Fees are entirely inadequate for the amount of time required to hold Court, make quarterly reports and fill out docket. Fee system has not changed in last X number of years. In fact it may be the same as 25 or more years ago. Also the money realized from court costs is not enough to make anyone want to attend seminars or schools to learn more about judicial procedure in court.

JP-72. I feel the average case that comes before a justice of the peace is competently and adequately handled.

The problem cases are the ones that place a justice, with little or no legal training, between the States Attorney for the plaintiff and the attorney for the defendant.

Training sessions of short duration should be held at regular intervals. It should be mandatory that justices of the peace attend.

JP-73. The County Justice should be paid a salary rather than be paid a fee. Many times we must spend a large amount of time for which we receive no compensation. In our rural areas we receive less than seventy five dollars a month which does not compensate for the business which we lose.

JP-74. I think it is unnecessary to have a Justice of the Peace in our township because all violations are handled by the County Officers.

Most townships do not elect a Justice of the Peace and I wish ours wouldn't either.

Township meetings are very poorly attended and mostly run by a 'click' so if a fifth wheel shows up it's good to put him in as Justice of the Peace so he doesn't bother anyone at meetings where important things 'should be' decided.

JP-75. Increase the small claims limit to at least \$250.00. Provide the J.P. with a manual and bulletins from the Atty. Gen.

JP-76. It should be a salaried position and only persons screened by circuit judge should be appointed and approved for pay by the county commissioners. You are constantly on call and being paid by fees which haven't been changed for 30 years.

JP-77. More information should be available as to the duties, powers and methods of conducting hearings and trials.

JP-78. None. For the past two years I have not served as a J.P. except where to other J.P. couldn't or on request. In this county there is about enough, to keep one man interested and I think this gives a better court than were two try to make a small fee.

JP-79. All magistrates should be elected. For the privilage of each community to choose their own magistrate is the basis of Liberty both American and British. (Consiliation of America; a speech by Edmond Burk, in the London Parolemint in 1775.) That Privilage to choose their own local magistrate; was what the British people demanded of their King which started them on the road to prosperity and made it possible to build up the British Empire. The start of America marked the beginning of a decline of the British Empire. Then appointment of the Magistrate by a member of the Bar Association; marks the Destruction of individual Liberty and Destruction of a chance at Prosperity.

JP-80. I beleive after eleven years experience that Justice Courts can exercise a particular function in building respect for law and order at the very grass roots of our societ.

It is deplorable that this opportunity has not brought forth more encouragement from the State.

It is also regretable that our State has failed to establish any practical method of education for the position, nor has it encouraged the Judges to associate for that purpose.

The type of cases before Justice Courts may not require the broad legal know how of higher Courts but Justice Courts should have men who can command equal respect.

At the present time Justice Courts are supported by the fee system at practicaly no cost to taxpayer, in fact court costs collected help to pay for law enforcement.

If the salary of the next higher courts, our three ccunty courts has been justified, the present fee system in Justice Courts should be abolished and a yearly salary be fixed sufficient to accomplish the needed improvement of this court.

In considering the time element involving Justices in doing their work, trial time is only a portion. Travel time, previous time given to complaints and warrants, reports to Pierre on traffic violations, docketing, depositing fines, and other reports all add up, besides there is a certain availability required which often interferes with other interests.

I repeat this court can do a great deal for law and order at grass root level and any concerted lecturing, schooling or training to uplift or upgrade this court is a must and long overdo.

JP-81. Only need court in county seat city. Discontinue J.P. office for each township. Not Needed.

JP-82. The Township Justice of Peace has no duties in this area. Anyway none that I know of. It is a name only office and could be abolished.

JP-83. None.

JP-84. The think the office along with the Twp. be dropped. The Twp was a neccessarity in Revolvingnary days. But has long since out grew its usefullness. The last time that I knew of a Justice of Peace holding Court, was when I was a Freshman in High School. I am 64 now.

JP-85. We live in the country and a small township and we hold no activities so we could not answer any of the questions.

JP-86. I have no suggestions or comments at this time as I have just taken office and have had no cases as of date.

JP-87. Sir: I have been Justice of the Peace since May 1, 1970 and have had only 2 speeding cases, so I can't be of much help to you.

JP-88. This is a fine, peacefull township. As far as I know the Justice of this township has not had to do anything for at least the last ten or twenty years.

JP-89. I will say this: Since the local town has had this office filled it is better place for the citizens to live in.

The juvenile seem to require such an office, if there is none, they recognize it at once, and present the town with a challenge.

JP-90. In the city of _____ and I think a lot if not most of the smaller towns we need better police officers. In this town we had a very good officer and is the case in small towns he stepped on some of the members of the council as a result he was laid off and another hired that has been very lax. In the year of 1968 I turned over to the city better then \$1300. in fees and last year dropped to \$400. This resulted in very poor law enforcement. We need better officers and better books to use as guide lines.

You ask about the use of a Justices Manual. We do not have one and are unable to find one. I have written to the State Attorney General and was told that there was not one. Maybe you can help in letting me know where we could get one.

JP-91. The job needs to be made more appealing. I am the only J.P. in _____ County. I have resigned twice but I can't get away from the job as no one else wants it.

JP-92. Sorry I could not have been of more help on the Questionnaire, but owing to short time in office, have not had occasion to work in the field too long.

Do feel a township justice has a definite role in an area such as ours--and like to serve my community.

Police Magistrates

PM-1. There should be a Justice manual available and I was informed that there wasn't any to be had. There should be some training involved. Most defendants know more than I do. Regional workshops would be an ideal situation. It is a Court of Law and should be treated as such not as a place to plead guilty pay a fine in other words a nuisance.

PM-2. A salary or fees should be adequate to allow a police magistrate time to study and attend schools so that he would be somewhat aware of his responsibilities and duties. Attorneys should not necessarily be justices but justices should be required to qualify under some kind of rules, regulations and knowledge of the position.

They, possibly, could be assistants of or under supervision of the County Judge.

PM-3. After only four months experience my opinions are probably not of value. Our population went over 5,000 this year and my City Magistrate job will be eliminated within a short time.

I've had no coaching whatever and have to depend a great deal on advice from Chief of Police and City Attorney. Opinions of both have been heeded. Common sense is needed in all cases.

My pet peeve is my inability to take drivers licenses from juvenile offenders. This seems to hurt them a great deal. I tried this and was informed that only the State has this authority.

Fines, as such, are worthless. The parents apparently pay this. I've tried to get the parents to have their children (young juveniles, over 16) work at home to pay the amount but I doubt if this works.

I'd like to see penalties assessed, such as picking up litter off the streets, and painting curbs, but this puts the juveniles in the position of being city employees and if injured in any way the City would be liable.

There really isn't much that one can penalize a juvenile.

I have suspended NO fines; this on the premise that if they are guilty, they are worthy of punishment, without suspension.

PM-4. The law in 1969 giving the Council or Commission the right to fix salaries of Police Magistrates in cities under 5000 is wrong. This gives the Council the right to interfere with the amount of fines in dollars for the various offenses. _____ is a 1st class city after this year and the salary matter will not be a problem here. I was personally given no increase in salary since the Council wanted me to raise the amount of fines. I believe a judge is elected to use his own judgement as different cases should draw different fines.

PM-5. A yearly meeting of all J.P.'s for 2 or 3 days. expenses offset as well as loss of pay. Actual mock cases or even real. A simplified knowledge of terminology, as misdemeanor. I believe some states have training and review courses now.

PM-6. I would suggest that the magistrates receive adequate salary to compensate them for the time and responsibility they must expend; as well as for the knowledge they are required to have in order to meet the lawyers and sharpies with whom we are constantly faced, in order to keep ourselves and the city from law suits.

The law clearly states that the magistrate's office shall be open every working day for hearing court cases and receiving complaints; which means that while one of the magistrates is not required to actually remain in the office, he must be available at the call of the dispatcher, at all times.

Therefore I believe the city court room should be reserved at all times for the use of the magistrates; however the past year and a half the court room has been turned over to a county J.K. the social security man, a welfare worker and quite frequently to girl scout activities, so that when one of the magistrates wishes to hold court he must crawl about among feet, books and other papers; then securing his docket go out and hold court in a corner of some other part of the building.

For many years the magistrates of _____ have received a salary of \$1500.00 per year, in spite of the fact that each magistrate held himself available for call 12 hours of each day; often getting out of bed to try a traffic violation at midnight, or sign a complaint and warrant. This is the sum mentioned in the state laws covering magistrates of upward 5000 population; however on March 1st 1969 some of our city board members got the idea that \$65.00 per month was the limit that a magistrate could be paid; Then for eight months that is all the compensation we received. For November it was raised to \$100.00 per month. The mayor and city board refuse to discuss the matter with us, also refuse to consult any case or other city problem with us, nor will one of them enter the court room.

For many years I have enjoyed the closest co-operative intercourse with the police and other city officials. Now they refuse to discuss any case with us, as to amount of fines, which we have kept as closely as possible to that of other courts in the area, but instead, every case possible they sent up to the _____ court.

PM-7. The difference between Magistrate and a Justice of Peace are not defined. The Magistrate is so limited he can not handle many cases. The officer should be so where there is no county Justice, a city Magistrate could handle the same type of cases. I spent six years as a deputy sheriff and three as a Justice in _____ County. My office here is so restricted that many cases are dropped as we are twenty five miles from the county seat. I feel the law should be changed to the two offices should operate on similar law.

PM-8. Could stand a raise in salary.

PM-9. Am sending itemized account of cases I handled in 1969, for County and City. We have quite a few truck cases bound over to District County Court on over weights as the State scale is located here.

Our city pay was changed from fees to salary at mid year but county still pays on fee basis.

I believe Justice fees should be raised as there has been no change in many years although the traffic reports and other items have been added to the duties.

PM-10. The average citizen thinks that a police magistrate makes \$5.70 for ten or fifteen minutes spent at the city hall. This is not true. I think that the whole fee schedule from complaint thru filing is too low.

PM-11. Small town police should be strict and have cooperation of city or community and should be very strict on enforcing Laws it should be a help to young Teenefolks. Justice of Piece should have the rite to make arriest if necessary.

PM-12. I am also Justice of the Peace. Have held that by appointment for past 8 yrs have been appointed for next 4 years--since district County Court has come into being, I have had very little of that court more of a stand by--also small claim court--I have had preliminary hearings many jury trials--also acted as Coronor in his absence in the past many arraignments--set bail for either County Court or Circuit Court as casemay of been since 1962 as Justice, in Justice Court have held about 875 cases. I do study the new ammendments and keep up on all new laws--like this work real well. I get along with young kids very well, dont think I have an enemy among them and have been real stern with them--but not hard boiled-- _____ has been fortunate--we have 3 very good policemen good Sheriff and deputy--1 residential state patrolman--but who knows what the future holds? We need tougher laws--police are handicaped and public must learn to co-operate--now they do not want to become involved--cant blame them as some attorney will make a liar and humiliate them on the witness stand--so I am told--but unless the public does cooperate now it will be too late before long unless our courts take steps to stop some of these crimes by jail sentences and heavier fines, it will become worse--we must impress on the public to cooperate in any way now.

PM-13. I think the Chief of Police should be in court at each hearing or one of the officers.

PM-14. I believe this to be one of the most important offices in a city government where the city or town is too small to have a regular Judge.

The magistrate can have court each week and have all cases settled quickly. This is a necessity for most people--they want to settle for their mistakes not wait months until some court will hear their case.

When a child has done something bad it is punished and an hour later all is love and laughter--adults ask for the same treatment.

A higher court is far more costly and in many cases lack of money could mean a jail term anyway.

A young person is half way on the road to being a real criminal with his very first jail sentence.

This type of work should be accepted by other people in a smaller town or city because it is a real education for a person when he deals with people who are in trouble. I tried and almost succeeded the last time my term ended. I shall try again soon to have some one take this position.

As a rule no business man will take this work for obvious reasons. Some of the liturature that I have recieved has hinted at abolishing the Justice of the Peace court but I feel they will forever be wrong.

PM-15. Just use good common sense and be partial to no one.

PM-16. Dear Sir: Referring to your question number 37. You refer to a Justices manual.

Can you please tell me who I could contact or write to in reference to one of these manuals.

It seems that none of the city or county libraries can help me with this request.

I would be very thankful if you could send me some information on this matter.

PM-17. I can not give you much information on criminal cases. I have not yet had one. I assume, that by 'criminal,' that you do not mean traffic violations.

PM-18. I believe that every person who takes on the position of Police Magistrate or Justice of the Peace should be required to attend at least one police magistrate training session and that the Circuit or County Judges should have a refresher seminar every four years at least on the changes that are made and the decisions that are passed down which will and should effect the lower courts, I believe that this is very important as in the majority of small towns the officers who are enforcing the law are completely untrained in this work and the job goes to the one who applies and the Police Magistrate can have a great deal of influence on these officers.

It would probably work better if the police magistrate were a trained attorney but if this transpires there will probably be no such thing as a speedy trial as there are to many small towns that have police but do not have attorneys especially in western Dakota and most attorneys could not afford to take the time off to make a trip for a hearing.

PM-19. I am a County Justice of the Peace appointed by the Circuit Judge for a term of five years. I act as Police Magistrate for the cities of _____ and _____ by appointment only. I do not run for election.

PM-21. This may not be in your line. Our County Judge says boys will be boys. He is very easy going.

PM-22. I would suggest that the Police Magistrate be elected or appointed for a period of at least 3 years instead of 1 year.

If elected on that basis that it be mandatory that he attend at least one session of training for his office. This session to be conducted by some one familiar with the problems of the Office of Police Magistrate. This to be paid for by either the City or County in which he is to act.

That it be regulation that the city or county in which he is to act makes available to him the most recent copy of the South Dakota Code and if necessary or possible that the State share this expense with the city or county.

That the Police Magistrate be paid by an annual Salary rather than the Fees basis. That this salary be increased to induce the magistrate to do research and study on his own to better equip himself for the office he is holding.

That the State send out a continued series of informative news letters pertaining to problems most often encountered in magistrate courts. For example: Mr Farrar's series of newsletters on Search and Seizure of a few years ago when he was Attorney General.

PM-23. Much more law and order could be had in this town if we had an active town policeman that wouldn't hide when he is needed or if some of the men in this town had enough backbone to be a town police.

I believe the position I hold should be held by a man but they are afraid they may hurt someones feelings if they would have to hold court.

I believe that schools should be held for police magistrate and policeman for small towns. If there are such schools being held I have never been let know about it by our town trustees.

If court were held on cases here I'm sure that the most would be speeding and public intoxication.

My main duty is performing marriages.

PM-24. We need more money.

PM-25. I try not to handle Felony cases pass them to County Judge.

PM-26. All defendants unable to pay fine and costs remain in jail to work out fine. As this is an Indian community for the most part, the biggest percentage of arrests are for public intoxication by Indians and they generally choose to either lay out or work out their fines. Otherwise 20 were actually sentenced to a jail sentence and 18 of those were suspended on good behavior.

PM-27. I think common sense is most important and no discrimination or grudge against any defendant.

I get only a small percent of the cases and they are at the request of the defendant.

PM-28. Dear Sir We have only a small town here 10 miles from _____ is a county seat town which has a good jail and Sherrif so we send some business over to then as their are equpet to handle.

PM-29. We need more of the citizens to become involved in helping the law officials.

PM-31. I have been involved in some form of law enforcement for the last 18 years, such as Deputy sheriff, chief of police, truant officer, probation officer and brand inspector.

I would recommend that a police magistrate have a basic knowledge of all law enforcement, such as, previous experience in handling all types of violations; as nothing surpasses experience and good common sense.

PM-32. Its O.K.

PM-34. I've kept order in town since 1950. Those brought in to pay a fine never ask for an attorney. The city police is a husky and when he brings them in they know better than to come back, a promise to County jail is not a joking matter. A husband was a keen attorney.

PM-35. Some provision should be made where the magistrate could get legal advise other than from the city or states attorney who is prosecuting the case.

The Justice of the Peace should have the opportunity of attending some sort of school where he could visit with other justices and ask questions and attend instruction lectures, by a qualified attorney who can explain actions in laymans language, and explain legal language.

I answered in preference of the fee rather than the salary but would prefer a salary if cases could be equally divided between two magistrates and hearings held on certain days such as one day per week, or every other Thursday, or whatever time may be required.

I don't think a State's Attorney should own one justice and use the other as a backstop only.

PM-36. The office of Police Magistrate should have a manual to list and describe the duties pertaining to this position and noting to what degree the office can be used. I have a manual that is older than I am and as a result has no bearing on present administration.

In this questionnaire you ask about experience. I have not but evidence-laws and common sense. I have had two cases and in both had satisfied customers.

PM-37. I would like to have a salary instead of fee.

PM-38. Since I have been a city magistrate, I have learned that some expect immunity because of their status, or because the defendant and magistrate belong to the same church.

One who was to appear on a traffic charge, telephoned me the day before his hearing, and made statements that I could tear up his papers (complaint) as I had authority over the city police; I could have the charge withdrawn. If I found him guilty, he, his father and his brother, would take \$10,000 worth (annually) of business to neighboring towns. He said he would not appear at the time set, (his signature was on the complaint) as he was too busy--had to go to an auction sale. I told him if he did not appear, he would be brought in on contempt charges.

I informed the mayor, the city's attorney and some of the councilmen of his telephone call before the hearing, and asked to have another magistrate continue the case, as I was prejudiced against him, since he had taken it on himself to try to influence me. He must have assumed that I would be persuaded to stretch or bend my standards of honesty to accommodate him. He farms and feeds cattle.

The city attorney and some of the councilmen backed me up and thought I should bring charges against him; but the mayor, who sells feed, and an implement dealer, were obviously afraid of losing some business and suggested that he had been punished enough through the traffic case; and the charge was not made against him. If city officials think more of their own bank accounts than they do of honesty, in upholding a magistrate's

integrity, who wants to fight a case?

I did not want the office again, but the new mayor and councilmen all agreed to back me 100%, if I would accept the appointment. The implement dealer lost out in the election and the mayor did not run for re-election. The defendant did take some business elsewhere because he was fined \$15 and paid \$5.00 costs, when the other magistrate, accompanied by the city attorney, presided at the continued hearing.

This man could have been charged for using the telephone to make threats, also. But he has influence and is popular; and good member of the church we both belong to. He has been in traffic courts elsewhere, so this was not a first offense.

All pollution isn't in the air and water. Some exists in minor city offices. These same people who let customers and social acquaintances get by, will applaud when an outsider gets picked up and fined.

The law should be enforced for all alike. Our home-town offenders deserve the same as those who happen to drive through from other cities. P.S. I am the first woman magistrate in _____, since the founding of our town. No man seems to want the job, but plenty sit down town and discuss the cases after hearings. My husband keeps me informed

PM-40. There is no need of police magistrate as there is no law enforcement in this town. They have a cop who goes off duty at 11 P.M. and is related to the biggest share of the people and doesn't want to get anyone mad at him so makes no arrests. I have been justice of peace for at least seven years and have never had a case outside of two or three vagrants who hadn't done anything.

People come in this town 60 and 70 miles per hour approximately and still there has never been an arrest for speeding. There is a 20 mile speed limit in the city limits.

PM-41. In 1968 I helped a road block by the highway patrol checking passing cars for pheasant bag limits.

_____ used to be notorious for wild dances in the city hall. Intoxication, children left crying in cold automobiles late at night, fights, etc.

Now there is no disorder of any kind. A few years ago speeder were zipping through _____ along highway _____. We set up a timed speed area and sat for 2 years until the AAA started to receive some complaints. However fines were minimum and now cars drift through our town at speed limits or slightly above. Our old people are safe and children may cross the highway in reasonable safety.

I have completed LaSalle course in law. Four years study by correspondence. Diploma is hung in waiting room.

Trust this helpful. I am now a deterrent to local misdemeanor's. The sheriffs know they can count on me if need be.

Sorry about the delay. I joined the professional bowlers association recently (PBA) after winning the Big Bowl T.V. Show in the scratch division. With seven children and a substantial chiropractic practice I let some things skip by.

PM-42. I would like to see a standard set of regulations that each and every Justice of the Peace use--pertaining to the amount of fines used in Justice of the Peace Court. Such as--Speeding--so much per mile. Stop sign--Tail gating--Passing on yellow line--Public Intoxication--Failure to yield right of way, etc.

END