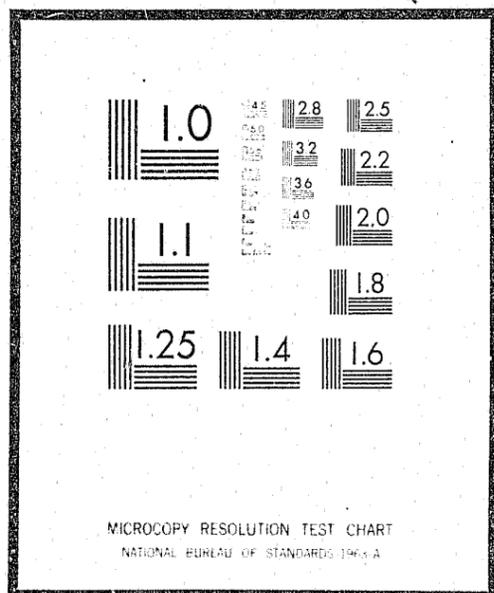


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WASHINGTON, D.C. 20531

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Date filmed



STANFORD RESEARCH INSTITUTE
Menlo Park, California 94025 - U.S.A.

March 20, 1975

Memorandum Report

TRAFFIC COURTS SYSTEMS STUDY
IN THE STATE OF NEVADA

NCJRS

MAR 18 1977

ACQUISITIONS

Prepared for:

OFFICE OF HIGHWAY SAFETY
State of Nevada
Carson City, Nevada

Submitted by:

Greta Fridlund
Senior Social Programs Analyst
Urban and Social Systems Division

Contract No. TC75-7102-1

SRI Project URU-4017

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PREFACE

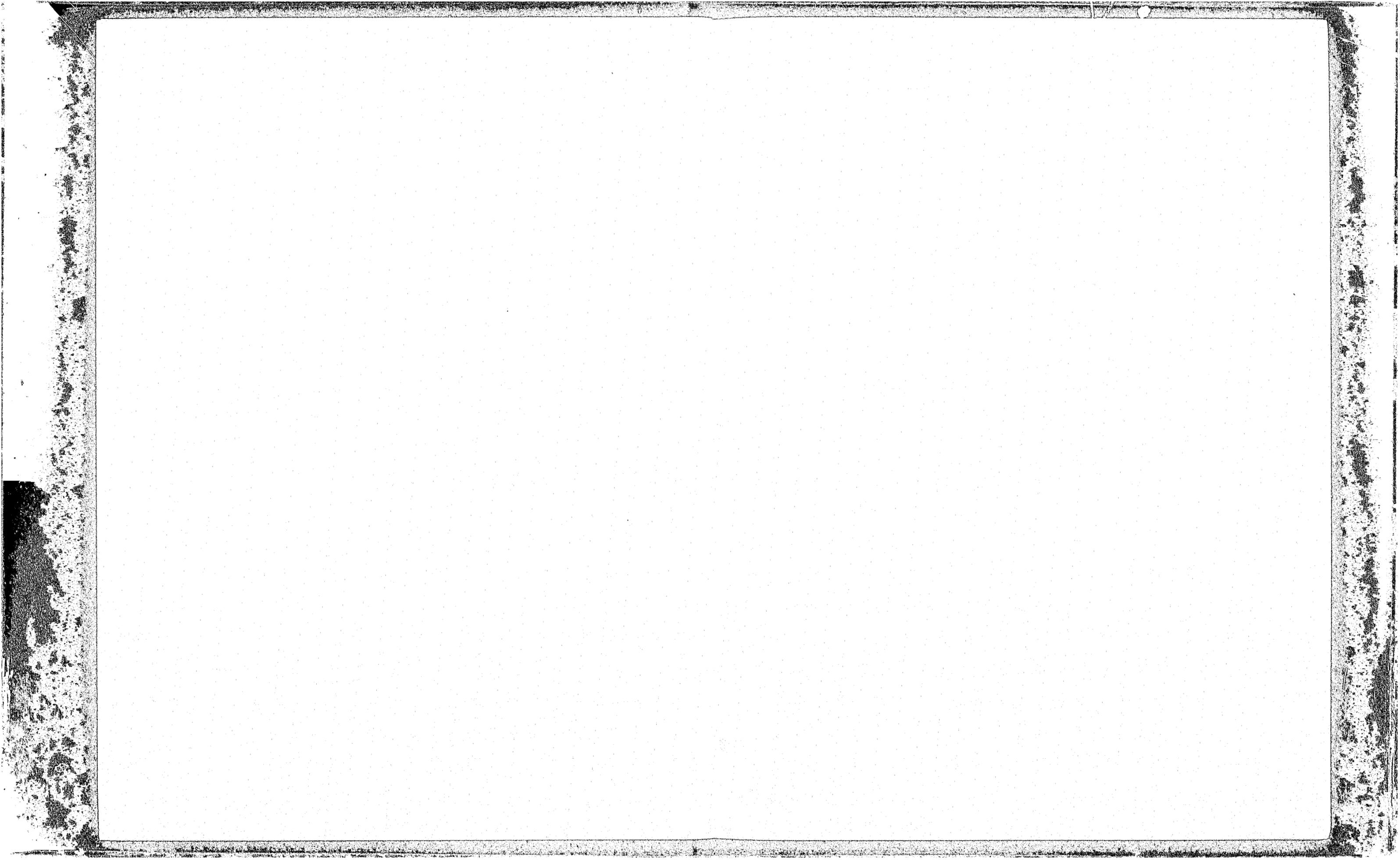
The work on which this report is based was performed pursuant to Contract No. TC75-7102-1 with the State of Nevada's Office of Highway Safety (OHS).

Although this document has been coordinated with and will be reviewed by OHS personnel, it is not an official OHS document. The presentation, conclusions, and recommendations are the responsibility of Stanford Research Institute (SRI) and do not necessarily reflect the ideas or positions of OHS, other agencies, or their employees.

SRI project supervisor for the overall contract was Eric E. Duckstad. Principal investigator for the study summarized in this document was Greta Fridlund.

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Introduction

Standard 7* of the Department of Transportation's National Highway Traffic Safety Administration deals particularly with traffic courts and suggests guidelines and policies for traffic courts procedures and administration throughout the various states. Included in this Standard is a requirement for a study of courts who try traffic cases within each of the states. In order to comply with this requirement, the Nevada State Office of Highway Safety contracted with Stanford Research Institute (SRI) to develop this study.

Traffic courts within the state of Nevada are called justices court or municipal courts. An outline of the scope of jurisdiction and responsibilities of the justices' courts is found in Chapter 4 of the Nevada Revised Statutes (NRS); of the municipal courts in Chapter 5 NRS. Justices of the Peace are elected by the registered voters in each district, but municipal court judges are elected or appointed or are ex officio as determined by city charter. Section 8 of Article 6 of the state Constitution provides that the legislature shall determine the number of justices of the peace to be elected in each city and township of the State, and shall fix by law their powers, duties, and responsibilities. The criminal jurisdiction of the justices' courts is limited to misdemeanors, which are punishable by imprisonment in the county jail of not more than six months, or by a fine of not more than \$500, or by both fine and imprisonment. The justices' court also conducts preliminary examinations in criminal matters. Justices of the peace serve as coroner within their jurisdictions in all counties except Clark which now has a separate coroner. They also are responsible for the conduct of the Small Claims Court within their jurisdiction. Small Claims Courts have had an enormous increase in caseload due to the downturn in the nation's economy. This aspect of court activity is now requiring much more time than it has historically. Most justices now set aside one day or one afternoon per week to handle Small Claims alone. Neither justices of the peace nor municipal court judges (also called police judges) currently have probationary power. Municipal courts have jurisdiction to try all misdemeanor cases, whether civil or criminal, only for the breach or violation of city ordinances. Trials are summary and without a jury in municipal courts. All fines imposed by the municipal court and paid are deposited in the general fund of the city, as opposed to those fines collected in the justices' courts which are deposited to the credit of the General Education Fund of the state.

* See Appendix A.

There is no requirement that either justices of the peace or municipal judges be attorneys or have any legal training prior to their election (except in Reno where the municipal judge must be an attorney). There is a requirement that upon election and annually thereafter they attend training and instruction offered at the National College of State Trial Judges under the direction of the Chief Justice of the State Supreme Court. The clerk of the Supreme Court is directed to arrange for these courses of instruction (see 4.035 NRS).

Every justice of the peace is required to keep a detailed record of every violation of the motor vehicle laws in connection with his official duties (see 4.200 NRS). Both justices' and municipal courts are required to be open 24 hours a day, seven days a week, and the judges in both are required to maintain dockets of all activities in their courts.

In order to determine the current state of the art of justices' and municipal courts in regard to traffic cases, a sample was selected for a field survey. The basis for selection was determined by the potential traffic volume as well as by designing a valid sample of both rural and urban courts. It is assumed that the sample of courts reflects the general trend of traffic case adjudication within the state and that it is representative of both large and small jurisdictions. Figure 1 shows districts surveyed; Table 1 indicates their population. (See also Appendix C.)

The field survey findings include flow charts, tables, and organization charts as applicable. Identified problems and recommendations for their solution are included following the field survey findings. In some cases, legislative action will be required to implement the recommendations; in other instances, administrative directive alone will suffice.

A major problem with the existent traffic court system in Nevada should be noted here. The authority exists for a court administrator (see 1.320 NRS), but no one currently fills that position since the legislature failed to fund it. A Law Enforcement Assistance Administration (LEAA)-funded Court Administrator did exist for a short period two years ago. During his tenure four chapters of the "Nevada Judicial Orientation Manual"--including: (1) historical background and overview of the Nevada Judicial System; (2) evidence; (3) criminal proceedings; and (4) small claims actions--were completed and distributed to all judges.

The justices and municipal judges have united in the Nevada Judges Association and have attempted to standardize schedules for fines, bails, and other sentences.

1975 NEVADA JUDICIAL DIRECTORY

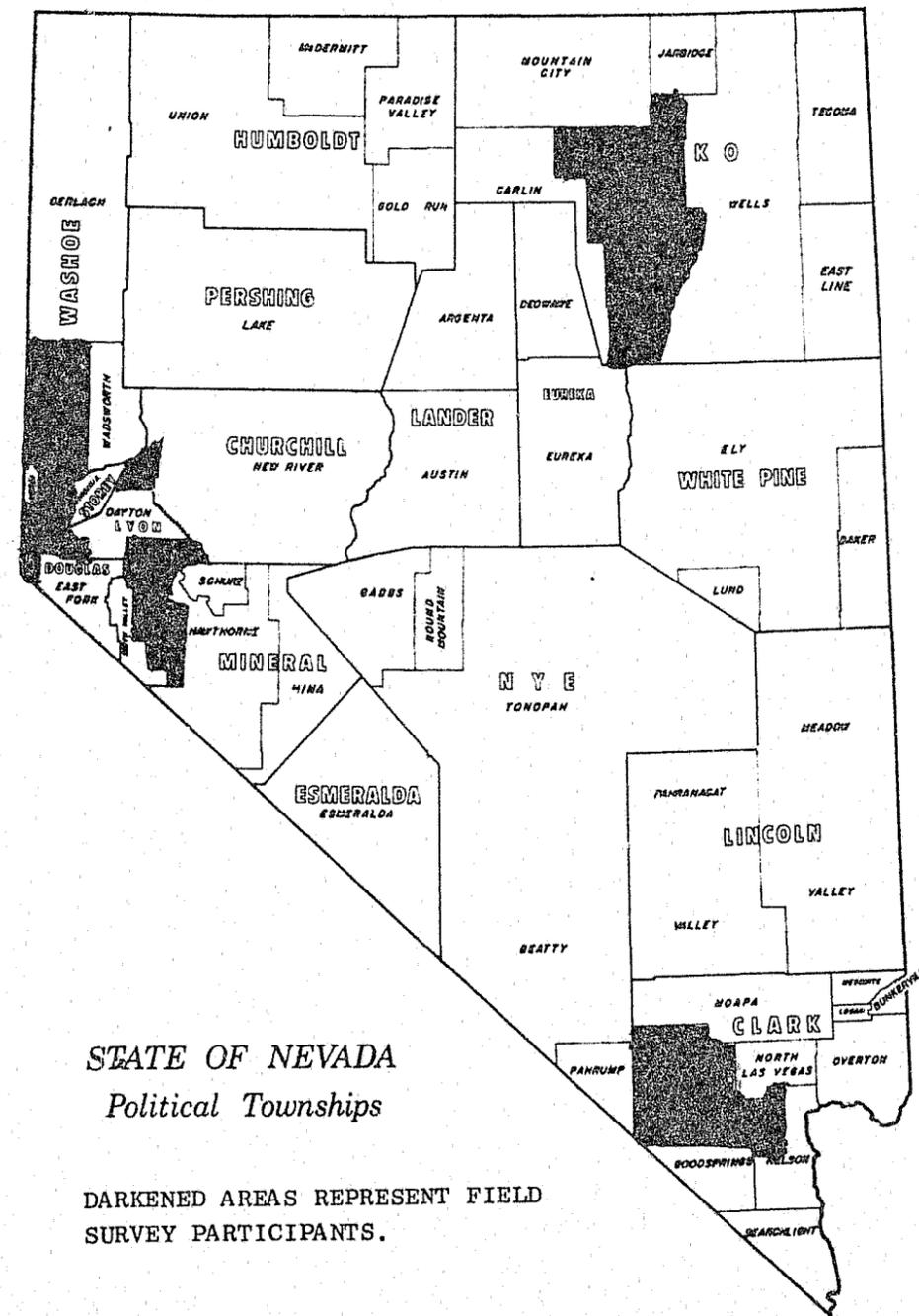


Figure 1

Table 1

FIELD SURVEY COUNTY AND STATE POPULATION CENSUS
AND 1971-72 ESTIMATES AND PEOPLE PER SQUARE MILE

County	Sq. Mile	1972 (1)	1971 (1)	1970	1960	People/ Sq. Mi.	Percent Change 1970-72
Carson City	150	20,000	18,300	15,468	5,163	133.5	29.6 %
Clark	7,874	295,800	286,700	273,288	127,016	37.5	8.2
Douglas	703	8,500	7,500	6,882	3,481	12.0	23.9
Elko	17,162	14,600	13,800	13,958	12,011	0.9	4.9
Lyon	2,030	9,500	9,200	8,221	6,143	4.7	15.1
Washoe	6,366	130,500	126,200	121,068	84,743	20.5	7.8
State (2)	109,889	527,000	510,000	488,738	285,278	4.8	7.9

(1) County estimates to the nearest hundred

(2) State estimates to the nearest thousand

Source: Compiled by SRI

The interviewed judges were without exception cordial, dedicated, interested in improving their understanding of judicial process, and responsive to suggestions for improvement of administrative techniques. They were enthusiastic about training sessions provided by the National College of State Trial Judges and by the Office of Highway Safety. Court clerk training was often requested during the survey as more standardized procedures would result in better information flow and easier administration. Many expressed the wish for probationary power in order to utilize alternatives to sentencing and thereby reduce recidivism by rehabilitating or educating offenders. An increase in juvenile offenders in some of the jurisdictions led to the request for preventive educational programs to be provided through the public school system, not only in traffic safety areas per se, but also in drinking/driving problems.

Field Survey Findings

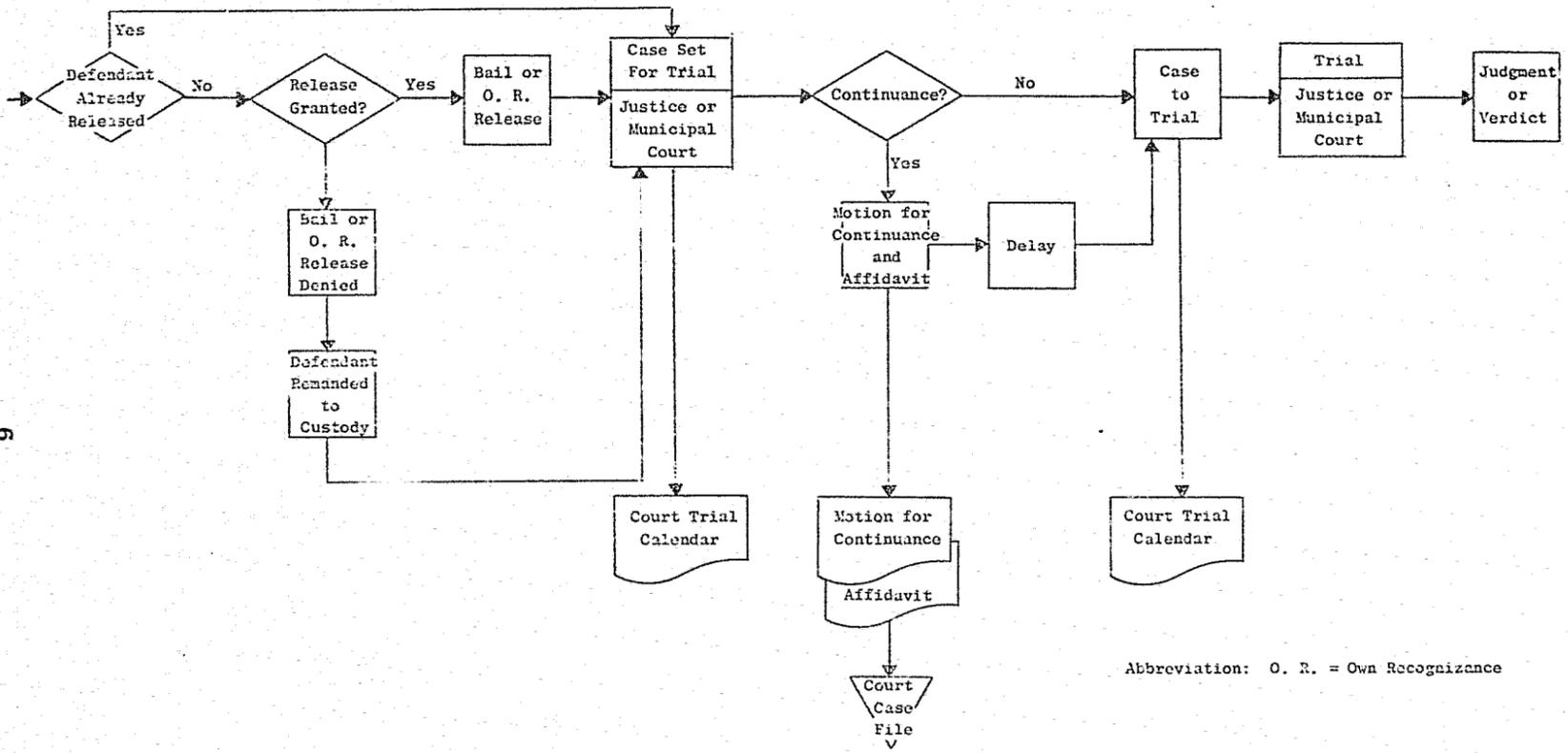
Presiding judges and court clerks were interviewed at each of the selected courts (except Las Vegas Justice Court where only the clerk was seen) in order to determine the traffic volume, time lags resulting in backlogged cases, and other procedures and problems. Descriptive flow charts and organization charts which reflect the operational system currently in effect as well as alternative sentences available and/or needed in each sampled court are included as Figure 2 through 4 and Tables 2 through 6 of this report.

Individual variations occur as a result of such factors as population, geographic size of jurisdiction, alternatives available to sentencing, and preponderance of particular types of cases. For instance, in Elko, the largest percentage of cases involves "dogs at large" rather than traffic cases; in Fernley, by far the greatest number of cases involves speeding citations. Small Claims cases have increased in all of the justice courts as a result of the downturn in our national economy and so specific days are set aside to handle the small claims volume in each of these courts.

Since the courts are required to be open on a 24-hour, seven day per week basis, few of them have formal night court sessions. In Las Vegas and Reno, there are night courts, but Reno is considering changing to a Saturday morning session instead. The fact that many Nevada residents work night shifts in the casinos complicates the scheduling of such programs as DUI Schools or Traffic Safety Classes.

During the field survey, an inventory of court facilities was completed. In all instances they seemed to be adequate for the size of the

BAIL, O. R. RELEASE OR REMANDED TO CUSTODY: TRIAL AND JUDGMENT OR VERDICT
(MISDEMEANOR)

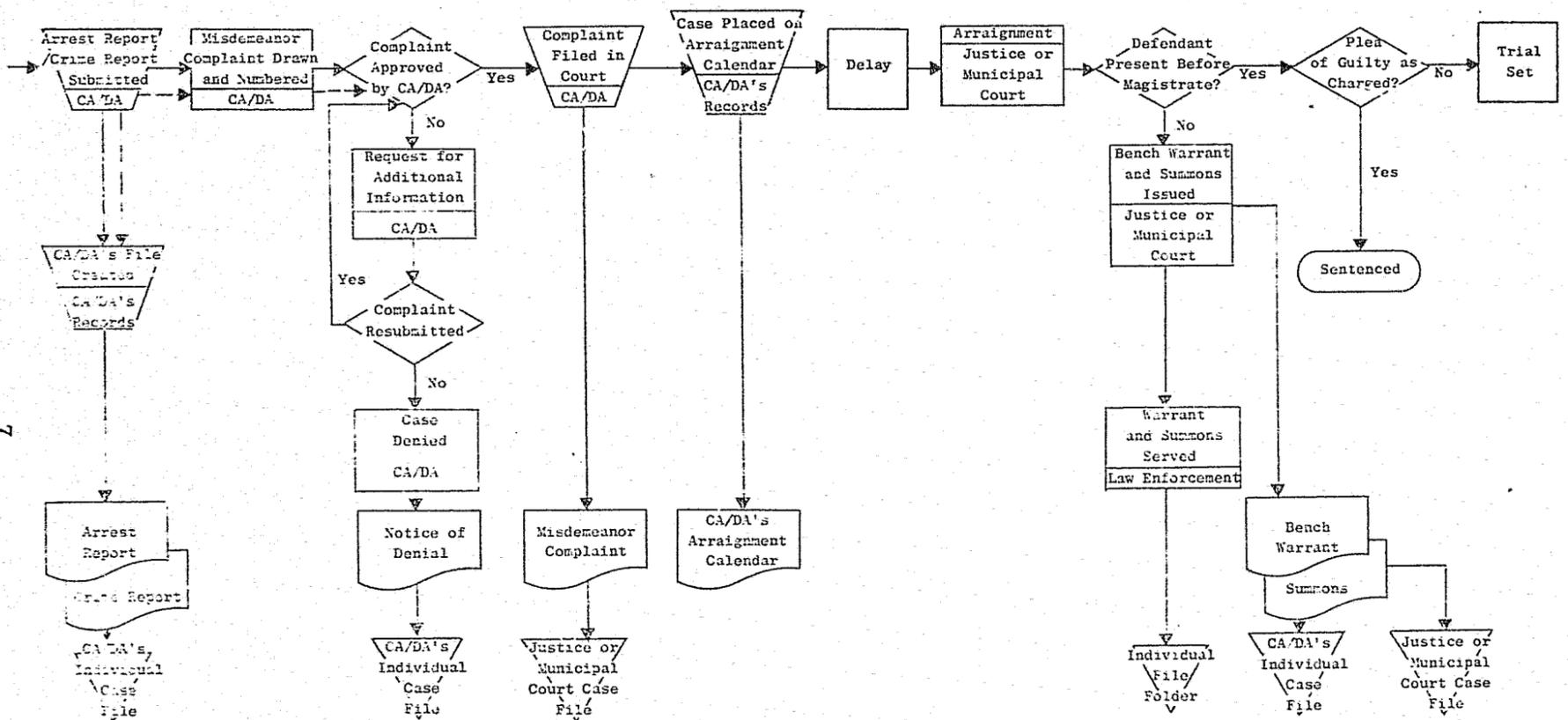


Abbreviation: O. R. = Own Recognizance

Figure 2
CRIMINAL PROCEEDINGS FOR MISDEMEANOR - JUSTICE AND MUNICIPAL COURTS

Source: SRI

COMPLAINT FILING AND ARRAIGNMENT
(MISDEMEANOR)



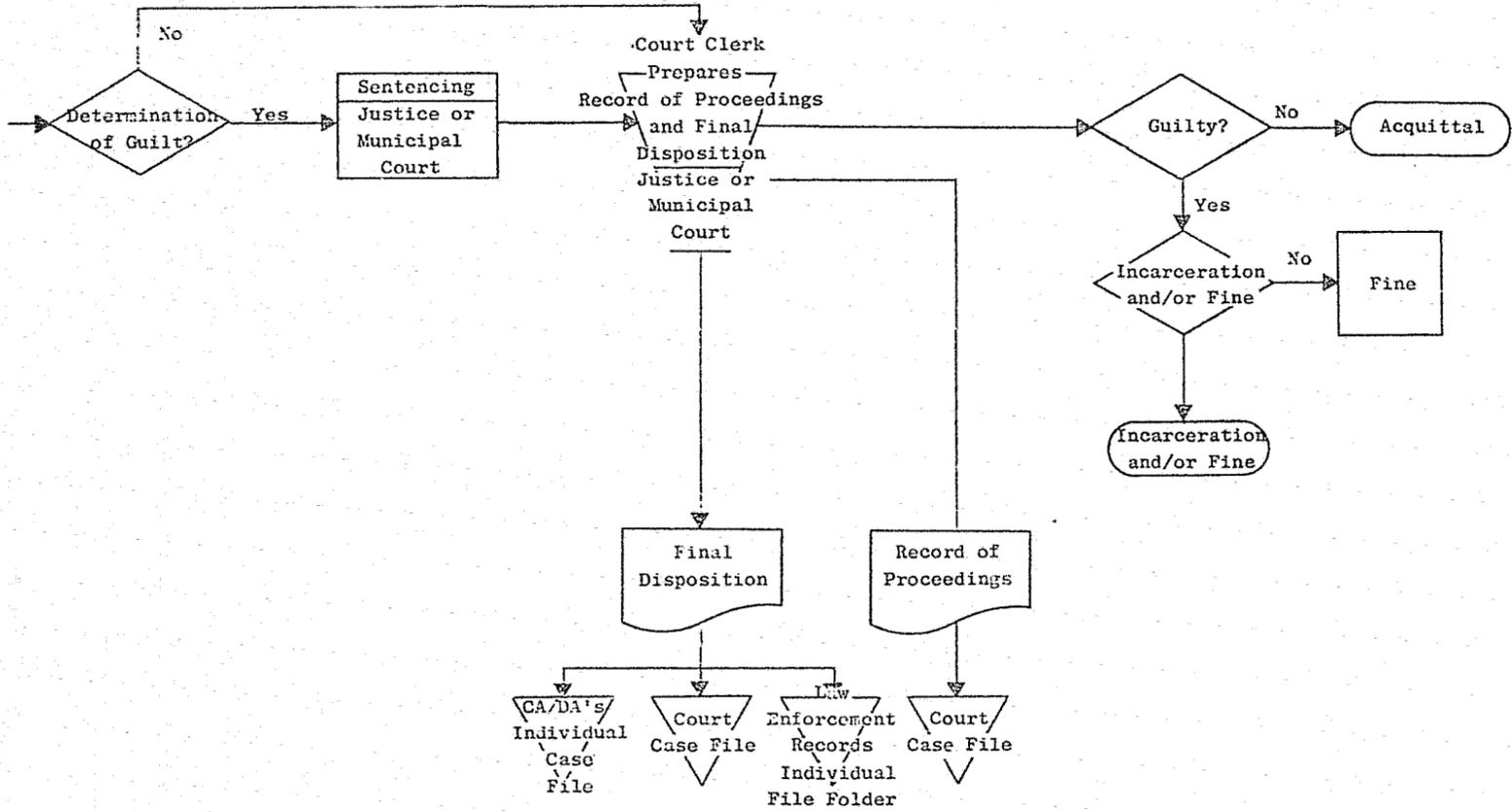
Abbreviations: CA = City Attorney
DA = District Attorney

Note: ----- (Step missed in small rural jurisdictions where the justice of the peace acts in lieu of DA until not guilty plea is entered.)

Figure 3
CRIMINAL PROCEEDINGS FOR MISDEMEANOR - JUSTICE AND MUNICIPAL COURTS

Source: SRI

SENTENCING AND DISPOSITION OR ACQUITTAL
(MISDEMEANOR)



Abbreviations: CA = City Attorney
DA = District Attorney

Figure 4
CRIMINAL PROCEEDINGS FOR MISDEMEANOR -
JUSTICE AND MUNICIPAL COURTS

Source: SRI

Table 2

JUSTICE COURT MISDEMEANOR CASELOAD - FY 1973

County	Township	(MIDS) Non-Traffic				(MISD) Traffic			
		Total Cases Disposed	Pleas of Guilty	Trials		Total Cases Disposed	Pleas of Guilty	Pleas of Not Guilty	Trials
				Guilty	Acq.				
Carson City	Carson City*	480	432	34	7	3496	2300	12	12
Clark	Henderson	175	100	15	5	1000	900	100	100
	Las Vegas	3737	1290	233	1	5283	15264	3180	2103
Douglas	Tahoe	666	410	5		2530	2525	5	5
Elko	Elko*	346	244	1	0	1107	1048	1	
Lyon	Canal	36				407			
	Mason Valley*	30	28	2		240	230	10	10
Washoe	Reno	618	509	20		10108	9682	300	234
	Sparks	NR							

NR = No Report/Not Recorded

* Combined Municipal Court and Justice Court Caseload

Source: SRI

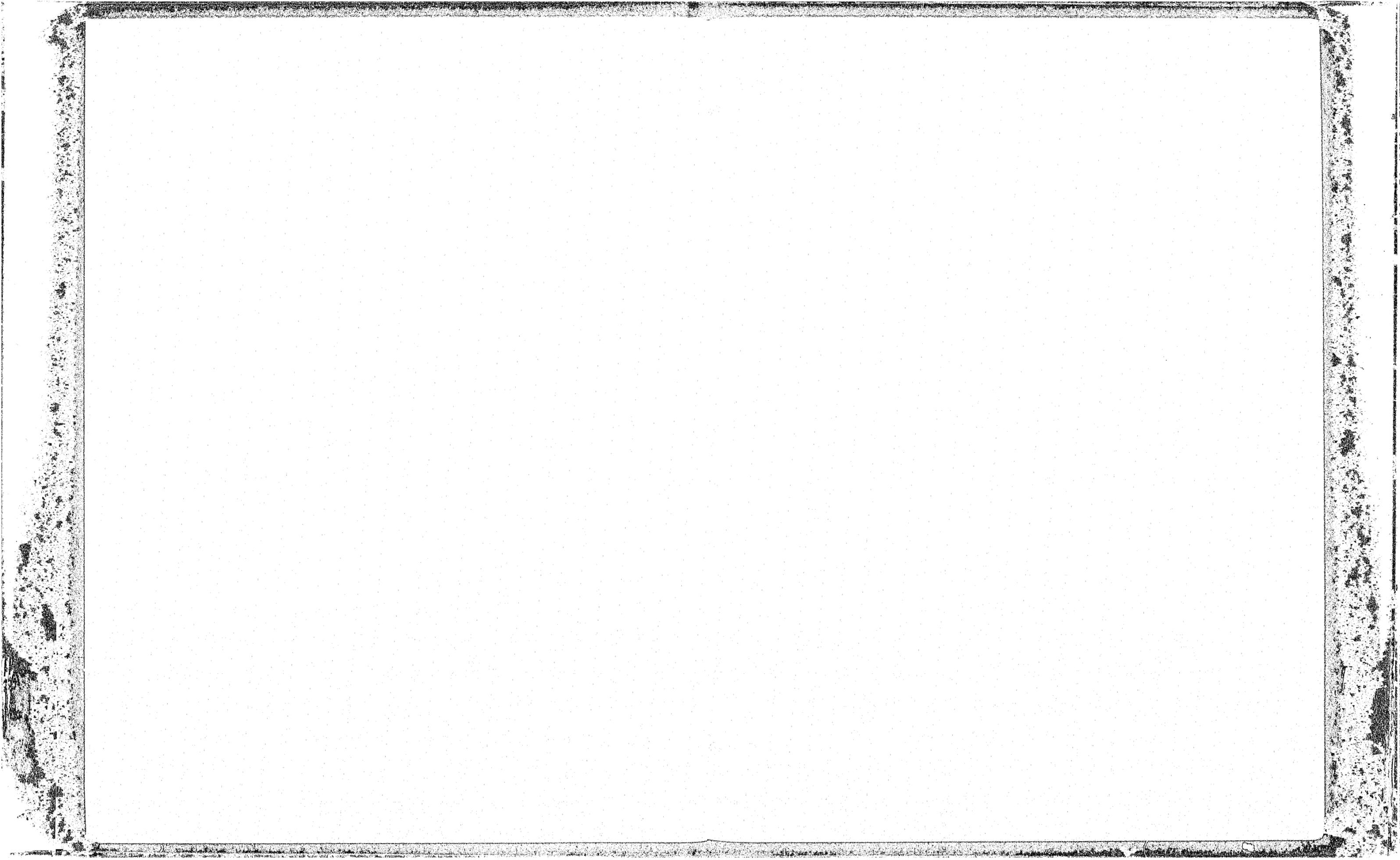


Table 5

TYPICAL DUI SENTENCES AMONG FIELD SURVEY COURTS

First Offense					
Courts	Require Bail	Fine	School/Rehab.*	Jail	Suspend License
Canal	\$200	\$200 (p)**	No		DMV
Mason Valley	"	\$150			"
Carson City	"	\$200 (L)	School		"
Elko	"	\$300 (p)	School/AA		"
Washoe	"	\$150 (L)	School	up to	"
Reno	"	\$200	School	25 days	"
Sparks	"	\$200 (p)	School		"
"	"	\$200	School		"
Tahoe	"	\$150-200	School		"
Henderson	\$500	\$125	SNDAC		"
Las Vegas	"	10 x BAC	SNDAC/AA		"

Second Offense

Courts	Require Bail	Fine	School/Rehab.*	Jail	Suspend License
Canal	\$300	\$200-300	No	10 days	DMV
Mason Valley	yes	\$250	School	10 days	"
Carson City	yes	varies		10 days	"
Elko	yes	varies	School/AA	10 days	"
Washoe	yes	\$300		10 days	"
Reno	yes	\$300	School/Rehab.	10 days	"
Sparks	yes	\$300	School	10 days	"
"	yes	\$300	Alc. Council	10 days	"
Tahoe		\$200	AA	10 days	"
Henderson	\$1000	\$200	SNDAC	10 days	"
Las Vegas		20 x BAC	SNDAC	10 days	"

* Used when appropriate; lack of probationary power hinders adequate follow-up.

** (p) = accepts time payments

(L) = requires lump sum payment

SNDAC = Southern Nevada Drug and Alcohol Center

Source: SRI

Table 6

AVAILABLE ALTERNATIVES TO SENTENCING AMONG FIELD SURVEY COURTS

	Alternatives Available/Needed				
	DWI School	Traffic School	SNDAC	Rehab	AA
Canal		N		N	*
Carson City	N	A		N	A
Clark	A	A	A	N	A
Elko	N	A		N	A
Henderson	A	A	A	N	A
Las Vegas	N	A	A	N	A
Mason Valley	N	N		N	*
Reno	A	A	N	A	A
Sparks	A	A	N	N	A
Tahoe	N	A		N	A
Washoe	A	A	N	N	A

Code: A = Available

N = Needed

* = Presumed available

Source: SRI

caseload. None were overcrowded. One very small jurisdiction does not have a separate court room, but uses the same room for judge's chambers, clerk's office, and court room as well as for the reception room for the building which also holds the sheriff's office. Upgrading of this facility should be considered in future plans, particularly as the population of the jurisdiction is expected to grow within the next few years.

County Commissioners budget for the salaries and overhead costs of the justices courts; city councils budget for the salaries and overhead costs of the municipal courts. Costs of operation are available from city and county annual budget figures, but were not obtained during this study. Revenue collected by the courts is recorded on the dockets and receipt books in each court. Monthly reports on bail forfeitures, fines collected, and balances outstanding are sent to the County Commissioners and to the District Attorney from justices courts. A municipal court sends this information to the City Council and City Attorney.

Procedures regarding administrative records within the courts vary from court to court, with some having highly sophisticated computer systems while others have no other records than those kept in their docket and receipt books. Copies of all original citations, posted as to disposition, are sent from all courts to the issuing law enforcement agency and to the Department of Motor Vehicles upon sentencing. Clerks and judges both requested clerical training sessions to standardize administrative procedures throughout the courts system.

The judicial policy on mandatory personal court appearance by defendants in traffic cases varied from court to court. The majority of judges require mandatory personal court appearance, but accept bail forfeitures from those who fail to appear on minor traffic offenses in lieu of appearance. Bail forfeitures always count as convictions. In Las Vegas Justice Court, the judges have begun discouraging court appearances for speeding tickets and are accepting bail instead. This is to alleviate the growing number of speeding tickets issued since the imposition of the 55-mile-per-hour speed limit. Las Vegas Municipal Court judges have continued to require all traffic violators to personally appear in court. Their jurisdiction covers only the city limits of Las Vegas so they have not had the same increase in volume. The Las Vegas Justice Court assigned all traffic cases to one judge effective February 1, 1975, in order to better adjudicate its traffic cases. It is too soon to tell how effective this will be, particularly since the new traffic judge retains responsibility for the total caseload in North Las Vegas as well. The Henderson Municipal Court is using an OHS-funded presentence investigator for all DUI cases in an attempt to reduce recidivism rates. This could be a model for other courts throughout the state and should be particularly effective

in assisting the judges to make determinations of alternatives to sentencing when they receive probationary power.

It is difficult to obtain complete statistics on traffic case volume from the courts since they do not have data readily available nor are the data broken out in uniform categories. Recordings in dockets and receipt books are not data to recover and compile easily. Standardization of clerical procedures is a priority item dealt with in detail in the Recommendations section of this report.

Chapter 4 of NRS requires annual training sessions be conducted for justices of the peace; Chapter 5 requires the same for municipal judges. No training is formally required for court clerks, but every judge interviewed expressed interest in having training sessions provided for his clerical staff. Twice a year the judges have training sessions as required in NRS and a continuing training program is being devised by the Chief Justice of the State Supreme Court and his staff who are also attempting to find funding for it. A major problem with these program requirements is the lack of funding provided by the legislature. Legislative action to provide funding for a court administrator, judicial training, and for clerical training, should be encouraged.

The procedures for reporting failures to appear (FTA) have been hampered by the refusal of the Department of Motor Vehicles to accept such reports. Bench warrants are issued through the courts to the appropriate law enforcement agency, but few FTAs are actually returned to court for prosecution. Convictions and sentences are all reported back to the issuing agency, the Department of Motor Vehicles, and the County Commissioners or City Council on the back of the citation form. County Clerks are responsible for reporting the collection of fines and forwarding such funds to the state.

Overall, the judges seem individually and collectively through their Nevada Judges Association to be adjudicating traffic cases in as fair and just a manner as possible. The provision of funds for a court administrator would assure more standardized accounting, administrative, and operational procedures. Policies regarding mandatory personal court appearances and treatment of failures to appear should have clear guidelines and could be measured by statewide implementation of programs such as those contained in Model Rules Governing Procedures in Traffic Cases published by the National Conference of Commissioners on Uniform Laws in 1957. Regular reporting from all courts to a court administrator would assist in the initiation of pertinent legislation in a timely manner.

Problems and Recommendations

Throughout all of the courts surveyed, certain problems were identified and are presented below with recommendations for their resolution.

Problem

Reports on those defendants who fail to appear are not accepted by the Department of Motor Vehicles. Bench warrants are issued by the judges, but usually local police have difficulty finding FTAs since they may be from another geographic area or state. FTAs originally arrested by Nevada Highway Patrol (NHP) have a somewhat better chance of being sighted and hence returned again to court by the NHP.

Recommendation

The Department of Motor Vehicles should accept reports of FTAs. These reports should be incorporated into the defendant's Department of Motor Vehicles record which would be flagged to alert the Department of Motor Vehicles to take appropriate action when the driver renews his/her license or upon renewal of vehicle registration, if not before.

Problem

Out-of-state FTA reports are not accepted by the Nevada Department of Motor Vehicles nor are they reported to the defendant's home state Department of Motor Vehicles.

Recommendation

The Department of Motor Vehicles should accept out-of-state FTA reports and implement a reciprocal agreement with selected states such as California, Utah, Arizona, and Colorado since so many drivers from these states travel to and through Nevada.

Problem

Courts dismiss many traffic arrests due to insufficiently documented arrest reports from local police and other law enforcement agencies.

Recommendation

Training for local law enforcement officers in arrest report procedures, rules of evidence, and other pertinent information should be funded and implemented throughout the state. Procedures similar to the

NHP officers' traffic violation training should be incorporated into the training programs of local law enforcement agencies.

Problem

There is no data bank available in rural jurisdictions. Where data banks are available, the data processing is frequently incompatible with neighboring or overlapping jurisdictions' computers. For instance, in Clark County, the SCOPE program of the metropolitan police is inaccessible to either of the computers used by the Las Vegas Municipal or Las Vegas Justice Courts which in turn are inaccessible to each other. This leads to duplication of effort, frustration, and results in some cases not being handled at all.

Recommendation

A statewide computer program should be investigated to determine cost-effective and useful procedures to assure current updating of data. In the urban areas where more than one computer is currently in operation, they should be made accessible to all judicial systems involved. Having a central data bank would alleviate the problem now encountered when defendants are picked up for more than one offense and must report to two separate courts. Problems of inaccessibility in these cases create lags in the updating of disposition and prior records.

Problem

Neither justices of the peace nor municipal judges have probationary power. Thus, they cannot utilize alternatives to sentencing even when these are in the best interest of both society and the defendant.

Recommendation

Discretionary probationary power should be authorized for judges in both courts of limited jurisdiction without requiring the use or probation officers. Informal, or summary, probation power would allow the judges to utilize schools and rehabilitation programs as alternatives to sentencing. It would also give them the necessary power to followup on offenders by holding some jail time or other punishment over their heads to assure compliance with the alternative sentence. Alcohol Safety Action Projects, as well as other programs, in other states have demonstrated that many offenders driving under the influence of intoxicating liquor (DUI) have had their recidivism rates reduced through rehabilitation.

Problem

The Department of Motor Vehicles may respond inappropriately to the disposition of a certain case written on the back of the citation copy sent to the Department of Motor Vehicles after sentencing by the courts. For example, the Department of Motor Vehicles may subtract the full eight points for a DUI where the judge has sent the offender to a Traffic Safety School (for which he/she should have gotten three points credit) or when the defendant has been acquitted (for which no minus points should be given).

Recommendation

The Department of Motor Vehicles staff should be trained in the meaning of dispositions posted on citation forms sent from the courts. Perhaps it would be helpful to incorporate a meeting with the Department of Motor Vehicles staff at the next judicial training session to encourage mutual expression of concerns and to develop better coordination between the Department of Motor Vehicles and the courts.

Problem

In certain rural areas of the state, the judicial traffic caseload is too small to justify a full-time educational or rehabilitation alternative to sentencing program. The distance between rural jurisdictions also prohibits combining their caseloads for joint rehabilitation/education sessions in many instances. Updated certification of instructors also becomes a problem when the education programs are not fully utilized.

Recommendation

Appropriate programs should be developed for all jurisdictions with small caseloads. Possibilities of combining rehabilitation caseloads from various courts where the small jurisdictions are close enough to each other, rotating the site of classrooms or rehabilitation sessions, and otherwise determining solutions to the dilemma of small population and long travel time should be explored. The Department of Motor Vehicles should carefully survey its current teacher certification program to make certain certification is in effect and that the classes are being held.

Problem

There is no standardized clerical procedure for maintaining court records. Data are difficult to obtain regarding caseloads and problem areas.

Recommendation

A central authority should handle court reports as well as train court clerical staff in administrative and operational procedures. The court administrator position in the office of the Chief Justice of the State Supreme Court should be funded and staffed to provide these services. Care should be taken to obtain full details of specific kinds of cases, profiles of offenders, and rehabilitation programs available, and what their impacts have been on recidivism rates. Monthly or quarterly reports should be required from each of the justice and municipal courts to ascertain the best use of training and rehabilitation funds for these areas and in order to effectively administer the operations of the court.

Appendix A

HIGHWAY SAFETY PROGRAM STANDARD 7
TRAFFIC COURTS

HIGHWAY SAFETY PROGRAM STANDARD 7

TRAFFIC COURTS

PURPOSE

To provide prompt impartial adjudication of proceedings involving motor vehicle laws.

STANDARD

Each State in cooperation with its political subdivisions shall have a program to assure that all traffic courts in it complement and support local and Statewide traffic safety objectives. The program shall provide at least that:

- I. All convictions for moving traffic violations shall be reported to the State traffic records system.
- II. Program Recommendations: In addition the State should take appropriate steps to meet the following recommended conditions:
 - A. All individuals charged with moving hazardous traffic violations are required to appear in court.
 - B. Traffic courts are financially independent of any fee system, fines, costs, or other revenue such as posting or forfeiture of bail or other collateral resulting from processing violations of motor vehicle laws.
 - C. Operating procedures, assignment of judges, staff, and quarters ensure reasonable availability of court services for alleged traffic offenders.
 - D. There is a uniform accounting system regarding traffic violation notices, collection of fines, fees, and costs.
 - E. There are uniform rules governing court procedures in traffic cases.
 - F. There are current manuals and guides for administration, court procedures, and accounting.

Appendix B

BREAKDOWN OF NEVADA MOTOR VEHICLE LAWS
DUI AND RECKLESS DRIVING IN 1974-75

Appendix B

BREAKDOWN OF NEVADA MOTOR VEHICLE LAWS
DUI AND RECKLESS DRIVING IN 1974-75

<u>MVL Code</u>	<u>Jail Time</u>	<u>Fine Amount</u>	<u>License Action</u>	<u>Probation/ Treatment Referral</u>
484.377 Reckless Driving		Up to \$500		
484.378, 79 DUI	(2) 10 days to 6 months (within 6 months)	Up to \$500	(1) 30 days suspension (2) 2 years revocation (3) 1 year revoked	

Code (1) = First offense

(2) = Second offense within 3 years

(3) = Second offense from 3 years to 7 years after first offense

Source: SRI

Appendix C

JUSTICE AND MUNICIPAL COURTS SAMPLED

Appendix C

JUSTICE AND MUNICIPAL COURTS SAMPLED

Justice Courts

Canal Township, Lyon County
Carson City Township, Carson City County
Elko Township, Elko County
Las Vegas Township, Clark County
Mason Valley Township, Lyon County
Reno Township, Washoe County
Sparks Township, Washoe County
Tahoe Township, Douglas County

Municipal Courts

Carson City
Elko
Henderson
Las Vegas
Reno
Sparks
Yerington

END