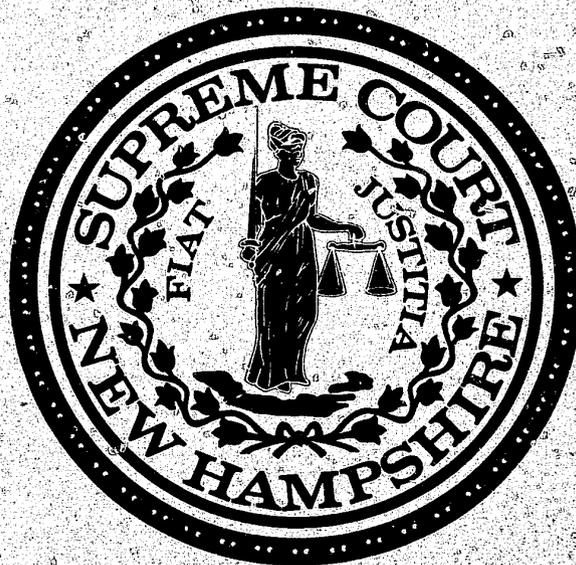


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# NEW HAMPSHIRE

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**NEW HAMPSHIRE SUMMARY**

**COURT SYSTEM**

**STANDARDS AND GOALS**



Prepared

for

**New Hampshire  
Supreme Court**

by

**National Center  
for  
State Courts**

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

FRANK R. KENISON  
CHIEF JUSTICE

SUPREME COURT BUILDING  
CONCORD, N. H. 03301

February 1, 1977

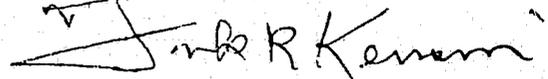
Dear New Hampshire Citizen:

The New Hampshire Court System Survey represents a significant effort to establish meaningful guidelines under which our judicial system can operate and measure its performance. More than one hundred individual standards covering all aspects of the court system were developed by people throughout the state. These standards define many of the results we should expect from our justice system.

The scope of this study is extraordinarily broad and consequently, unanimous agreement on all standards (guidelines) is unlikely; however, I am confident that we share a mutual concern for the fair and efficient administration of justice in New Hampshire.

The Supreme Court has taken under advisement all of the standards suggested in this report. This is not to say that all will or should be implemented, or that the standards necessarily reflect your particular viewpoint; however, the methodology used to formulate the standards did involve a large cross section of the citizenry. We invite and welcome your comments and participation in the development of standards to maintain and improve our judicial system.

Very truly yours,



Frank R. Kenison

FRK/T

## Acknowledgements

The Supreme Court is indebted to the people of New Hampshire and especially the State, Regional, and Task Force members who devoted considerable time and effort providing the information necessary to prepare this report. Their significant contribution not only made this study possible, but also reflected a genuine concern and interest in the fair administration of justice in the state.

Our appreciation also extends to the many judicial and non-judicial personnel who shared with us their ideas and concerns regarding the New Hampshire court system either by questionnaire or by personal interview. Statistical information provided by judges, clerks of court, the Probation Department, county sheriffs, county prosecutors, and many others was especially valuable. Finally, a special thanks to those citizens and legislators who responded to our questionnaires and in so doing, contributed significantly to the contents of this report.

## TABLE OF CONTENTS

INTRODUCTION . . . . .	1
How the Standards Were Developed . . . . .	2
PRE-TRIAL RELEASE . . . . .	5
SCREENING AND DIVERSION . . . . .	7
PROSECUTION . . . . .	8
DEFENSE . . . . .	10
GRAND JURY . . . . .	12
PLEA BARGAINING . . . . .	13
TRIAL PROCEDURE . . . . .	14
SENTENCING . . . . .	16
PROBATION . . . . .	17
APPELLATE PROCEDURE . . . . .	19
SPEEDY TRIAL . . . . .	20
JUDICIAL SELECTION AND CONDUCT . . . . .	22
CONTINUING EDUCATION . . . . .	23
PUBLIC EDUCATION AND NEWS COVERAGE . . . . .	24
COURT FACILITIES . . . . .	25
COURT ORGANIZATION AND ADMINISTRATION . . . . .	26

## INTRODUCTION

During the past sixteen months judges, lawyers, probation officers, legislators, corrections officials, prosecutors, law enforcement officials and representatives of the general public have been involved in the process of developing standards and goals for the New Hampshire Court System. As used in this report, "standards" are results or measurements against which the system can be evaluated. "Goals" refer to intermediate objectives which need to be accomplished if the standard is to be realized. The purpose of this study is

- . to define the results residents of New Hampshire expect from their court system;
- . to establish a group of public and explicit standards which may be used to evaluate the performance of the court system;
- . to describe some alternative approaches for accomplishing the standards.

In contrast to proposals to accept, without revision, existing national standards, the effort in New Hampshire was designed and conducted to insure that the standards developed would respond to New Hampshire's needs. In setting standards, the citizens of the state define what they expect from the court system and make their expectations public and explicit. Only then can the public, system participants, and the judiciary evaluate the system's performance. The standards also spell out the purposes of the court system for public scrutiny and review.

The process of defining the standards and setting objectives is dynamic. It requires ongoing review and monitoring to insure that present methods and strategies are accomplishing the purposes of the court system. In setting standards, though, it is vital to keep in mind that, while methods

or strategies must be flexible and subject to modification, the standards themselves should serve as fixed targets. Too often, when an objective is not being attained, people change their original standard instead of a particular strategy chosen to get the job done.

The standards included in this report were developed by more than 120 residents from throughout the state. A wide cross-section of justice system participants and the public were involved in generating the standards. While the diversity of participants made it difficult to reach consensus on all standards, the opinions of all were considered in developing the standards.

The importance of the involvement of justice system participants and citizens cannot be overstated. Too often goals and objectives are developed irrespective of the impact such policies have on other system participants. One of the major concerns in the development of these standards was to insure the broadest possible insight to avoid an isolated or insular view of the courts' objectives. The process used to develop these standards attempted to dispell any mystery associated with the court system by soliciting a wide range of opinions. While not a consensus statement, the standards that resulted do represent a synthesis of opinions from throughout the state.

#### How The Standards Were Developed

In contrast to processes which begin by defining present problems and needs and proceed to establish lists of objectives, alternatives and plans, the development of these standards started with emphasis on results: what is expected from the court system. One result, for example, stressed

initially, was fair, prompt, and equal access to the courts. These concepts were further refined to determine how each could be measured within the court system. Six regional groups and one statewide group undertook the task of defining what the court system would be doing if it were administering justice in the best possible manner.

The comments of the seven groups were synthesized into a list of twenty-one topic areas (major categories, such as defense, prosecution and trial procedure) covering more than 120 individual standards. A second round of meetings was held to review and refine this list of standards. Based upon the synthesized comments from the second round of meetings, the number of topic areas was reduced to sixteen, comprising over 100 standards.

At this stage, a detailed analysis of the court system commenced to determine where the court system stood today in relation to the standards. The analysis included a review of more than 2,000 case files, conduct of 150 interviews and mailing of 1,000 questionnaires. The results of this documentation were added to the commentary developed for each standard to compare specific standards with present performance and practice.

Following the drafting of the initial portion of the standard commentary, a series of nine task force meetings, organized by topic area (subject matter), were held. The purposes of these meetings were: 1) to identify alternative methods for achieving the standards, 2) to evaluate each alternative approach and 3) to establish a priority ranking for the standards within each topic area. In contrast to the previous meetings, which were held regionally, the task force meetings were held on a statewide basis in an attempt to elicit alternative approaches, having statewide applicability, to implementing the standards. While the approaches that were suggested offer a statewide perspective, local modifications or alterations are encouraged.

The commentary which resulted from these meetings thus not only defined the results expected from the court system and where the system stands currently, but also presented a series of approaches to accomplish the standards. Each section or topic area addresses the issues most frequently identified as requiring improvement and discusses various methods for achieving the standard.

## PRE-TRIAL RELEASE

Pre-trial release is based upon the fundamental precept of our justice system that the defendant is presumed innocent until proven guilty. A pre-trial release system determines which defendants can remain free while awaiting trial by assessing the likelihood that they will return on the day of trial. The purposes of a pre-trial release system are: (1) to insure that the defendant will appear for trial; (2) to provide defendants and their counsel with the greater opportunity to prepare for trial; (3) to prevent unnecessary incarceration of defendants who pose no danger and (4) to reduce the costs, both financial and social, of incarcerating defendants.

Bail is one of the most widely used forms of pre-trial release. Under a bail system, accused persons post money with the court for their release. The expectation is that these defendants will appear for trial rather than risk the loss of their money should they fail to appear. This system clearly poses a problem for defendants who do not have and cannot raise the money necessary for bail and must therefore await trial in jail.

Another form of pre-trial release which has proven effective, in appropriate cases, in assuring that the defendant will be present at trial involves releasing the accused "on personal recognizance," that is, on the promise that the defendant will appear. This form of pre-trial release is most often successful when the defendant has family and community ties, is employed in the community, and in other ways shows that he is unlikely to flee.

The standards in this section are designed to strengthen the present money bail system in New Hampshire while encouraging the court to explore other forms of pre-trial release. In addition, the standards address such issues as regulating the activities of professional bondsmen, providing proper facilities for those who must be held to await trial, insuring that the accused knows the consequences of failure to appear, and providing release of certain defendants following adjudication but prior to sentencing.

## STANDARDS

### 1.0 PRE-TRIAL RELEASE

- 1.1 AS LONG AS PROFESSIONAL SURETIES ARE INCLUDED IN NEW HAMPSHIRE'S SYSTEM OF PRE-TRIAL RELEASE, REGULATORY AUTHORITY OVER THEM SHOULD BE EXERCISED BY THE STATE INSURANCE COMMISSION.
- 1.2 ESTABLISH PROCEDURE TO GATHER AND VERIFY INFORMATION PERTINENT TO RELEASE DECISIONS AND IDENTIFY CRITERIA GOVERNING ELIGIBILITY FOR PERSONAL RECOGNIZANCE, BAIL, AND BAIL RECONSIDERATION.
- 1.3 INTRODUCE PROCESS OF WEEKLY REVIEW AND BAIL RECONSIDERATION BY THE COURT FOR INCARCERATED DEFENDANTS.
- 1.4 MAINTAIN EMPHASIS ON USE OF PERSONAL RECOGNIZANCE UNLESS CLEAR BASIS FOR BOND IS SHOWN.
- 1.5 INCREASE USE OF SUMMONS IN LIEU OF ARREST BY IDENTIFYING SPECIFIC OFFENSES FOR WHICH USE OF SUMMONS IS PREFERABLE (AND ELIMINATE ARRESTS) IN VIOLATION CASES.
- 1.6 MAINTAIN IMMEDIATE BAIL DECISION BY EMPOWERING SUFFICIENT IMPARTIAL JUDICIAL OFFICERS TO SET BAIL.
- 1.7 REQUIRE A COURT ORDER TO DETAIN A JUVENILE FOR MORE THAN FOUR HOURS AND INSURE THAT A COURT HEARING OCCURS WITHIN 24 HOURS OF ARREST.
- 1.8 PROVIDE SUITABLE AND SEPARATE FACILITIES FOR JUVENILES AND ADULT FEMALE DEFENDANTS FOR EACH REGION, COUNTY OR MUNICIPALITY.
- 1.9 MAINTAIN SUPPORT FOR THE COURTS' USE OF CONDITIONS ON RECOGNIZANCE TO EMPHASIZE THE USE OF NON-MONETARY FORMS OF RELEASE.
- 1.10 INFORM DEFENDANT OF SANCTIONS WHICH MAY BE IMPOSED IF DEFENDANT FAILS TO APPEAR.
- 1.11 PROVIDE PROCEDURES TO PERMIT RELEASE OF DEFENDANTS ON BOND SUBSEQUENT TO DETERMINATION OF GUILT BUT PRIOR TO SENTENCING.

## SCREENING AND DIVERSION

One of the most pressing problems facing the courts today involves processing cases swiftly and effectively in light of ever increasing case-loads. While sheer volume of cases accounts for much of the problem, many complaints filed could be handled better and more appropriately elsewhere. Numerous programs have demonstrated the short and long term benefits of processing minor complaints involving first-time offenders, especially juveniles, outside the formal criminal justice system. By screening and diverting certain types of cases, court time may be used for hearing more serious matters, thereby reducing case backlogs, processing time and costs.

The purpose of screening and diversion then is to remove from the formal criminal justice process those individuals who can best be served by other agencies. The terms screening and diversion are frequently associated with processing juvenile complaints but may also apply to youthful offenders (ages 18-23) or adults. Screening is the process by which complaints are reviewed to determine the best method of proceeding. Diversion may be employed after screening and refers to the specific action taken when it is decided to remove a case from the formal criminal justice process, that is, the courts.

Negative consequences of processing certain juveniles and adults through the formal criminal justice system have been well documented. This is especially true of juvenile status offenders, the naive offender and first-time youthful offenders (ages 18-23). The juvenile's experience with the formal criminal justice process often reinforces negative behavior, labels the youth for life, and causes the youth to seek out friends, who have been similarly labeled, for recognition and approval.

Screening of complaints by law enforcement personnel has occurred informally for many years without the use of uniform, court-directed criteria. To insure fairness, screening should be conducted according to uniform criteria and should occur under the court's direction. However, the effectiveness of screening is dependent on the availability of alternative referral resources. Community-based programs offer the greatest potential for meeting the needs of the individual at a reasonable cost. Community programs offer greater potential for continuity, coordination and accessibility of services.

If screening and diversion efforts are to be effective, clearly defined screening procedures and criteria, approved by the court, must be established and sufficient diversion resources, specifically community-based programs, must be available in all areas of the state.

## STANDARDS

### 2.0 SCREENING AND DIVERSION

- 2.1 COURT-DIRECTED SCREENING CAPABILITIES, WITH SANCTIONED GUIDELINES, SHOULD BE ESTABLISHED IN EACH COUNTY AND MUNICIPALITY IN THE STATE.
- 2.2 A MAXIMUM EFFORT SHOULD BE MADE BY THE COURTS, THE COMMUNITY AND LAW ENFORCEMENT OFFICIALS TO DIVERT, WHEN APPROPRIATE, OFFENDERS FROM THE FORMAL CRIMINAL JUSTICE SYSTEM.
- 2.3 THE NUMBER AND TYPES OF DIVERSION PROGRAM ALTERNATIVES SHOULD BE EXPANDED IN EACH COUNTY.
  - a. Juveniles (status offenders, delinquents)
  - b. Adults and specifically youthful offenders
  - c. Mental retardation, child abuse or neglect

## PROSECUTION

By deciding what criminal cases are brought to court, the public prosecutor exercises perhaps the greatest impact on the criminal justice system. In New Hampshire, each county elects a county attorney, whose primary responsibility is to represent the state in criminal matters. The prosecutor seeks justice, not merely convictions. To fulfill this role, the county prosecutor

must select for prosecution those cases which are most important to maintaining justice. Since many cases are disposed of before trial, the prosecutor directly affects the scheduling of cases, the selection of cases and the fair application of justice in the county. Given the importance of this position, the prosecutor should be a highly qualified professional of unquestioned integrity. Additionally, the responsibilities of the position are sufficiently demanding to require that it be full-time, thereby eliminating the potential for conflict while expanding the availability of professional prosecution to all courts.

The standards in this section are directed toward professionalizing the office of prosecutor through extending the term, increasing the legal and investigative staff and adjusting compensation scales; and providing professional prosecutors in as many cases at all levels of court as possible.

#### STANDARDS

### 3.0 PROSECUTION

- 3.1 INCREASE PROVISION OF PROFESSIONAL PROSECUTION IN EACH COUNTY:
  - a. EXTEND TERM OF OFFICE TO A MINIMUM OF FOUR YEARS TO INCREASE CONTINUITY.
  - b. MAKE PROSECUTORIAL POSTS FULL-TIME POSITIONS.
  - c. ORGANIZE PROSECUTORIAL OFFICES TO INCREASE AVAILABILITY OR ASSISTANCE OF LEGALLY TRAINED PROSECUTORS IN ALL TRIAL COURTS SO THAT LAY PROSECUTION MAY BE ELIMINATED AND POLICE PROSECUTION MINIMIZED.
  - d. COMPENSATE PROSECUTORIAL STAFF SO AS TO ESTABLISH AN EXPERIENCED OFFICE.
- 3.2 CASELOAD STATISTICS SHOULD BE UTILIZED TO DETERMINE PROSECUTORIAL STAFF SIZE.
- 3.3 PROSECUTORS SHOULD BE PROVIDED AN INVESTIGATIVE CAPABILITY FOR SCREENING ALL CASES FOR ACCURACY OF CHARGE AND PARTICULARLY IN JUVENILE MATTERS, APPROPRIATENESS OF COURT REFERRAL.

## DEFENSE

Our system of justice guarantees individuals accused of a crime, regardless of personal wealth, the opportunity to have assistance in preparing their defense if their conviction could result in a prison sentence. While some Americans can afford the cost of retaining private legal counsel, many cannot.

There are two basic methods of providing defense services to indigent (without sufficient funds for counsel) defendants. The most widely used method is assigned counsel, in which lawyers in private practice are appointed by the court to represent the defendant. Attorneys who are assigned by the court may be paid by the state, as in New Hampshire, or by the county. The second method of providing counsel to indigents is the public defender system, in which salaried attorneys devote all or part of their time to representing indigent defendants. State funded public defender offices are provided in Hillsborough and Merrimack Counties.

In assuring that defense services are provided to indigents, the courts face many difficult problems. The court must first determine which defendants cannot afford counsel. For the rights of the defendant to be protected and the adversary system to function properly, the courts must develop a mechanism to assure that effective counsel is provided early in the proceedings.

The standards presented in this section address issues of eligibility, access, availability, and supervision of repayment. Additional standards concern the rights of juveniles, the mentally ill, and indigents who may be involved in civil disputes.

## STANDARDS

### 4.0 DEFENSE

- 4.1 DETERMINE AND APPLY CLEAR STANDARDS OF ELIGIBILITY TO CONTROL PROVISION OF COUNSEL BY THE COURT, INCLUDING RULES GOVERNING PARTIAL ELIGIBILITY.
- 4.2 MAINTAIN ACCESS TO COUNSEL IN ALL INDIGENT DEFENDANT CASES WHERE THE CRIME OR OFFENSE CHARGED IS PUNISHABLE BY IMPRISONMENT.
- 4.3 INSURE AVAILABILITY OF COUNSEL AT EARLIEST STAGE OF CRIMINAL PROCESS (TIME OF ARREST) THROUGH POST-CONVICTION REVIEW.
- 4.4 REQUIRE MOTIONS FOR WITHDRAWAL IN WRITING.
- 4.5 PROVIDE DEFENSE SERVICES TO INDIGENTS THROUGH PUBLIC DEFENDER OR ROTATING ASSIGNED COUNSEL SYSTEMS AS DETERMINED APPROPRIATE BY EACH LOCALITY.
- 4.6 INCREASE SUPERVISION OF INDIGENT DEFENDANTS DETERMINED TO BE CAPABLE OF REPAYING THE COSTS OF THEIR DEFENSE.
- 4.7 ESTABLISH SYSTEM FOR APPOINTING COUNSEL TO INSURE ADEQUATE EXPERIENCE IN AREA OF ASSIGNMENT AND PARTICIPATION IN ROTATING ASSIGNED COUNSEL SYSTEM BY ALL QUALIFIED ATTORNEYS.
- 4.8 SET MAXIMUM CASELOAD LEVEL FOR INDIVIDUAL PUBLIC DEFENDERS AND ASSIGNED COUNSEL.
- 4.9 REQUIRE A WRITTEN WAIVER OF COUNSEL IN ALL COURTS.
- 4.10 INSULATE PUBLIC DEFENDER SYSTEM FROM POLITICAL CONTROL.
- 4.11 RECOGNIZE EXPANDED ROLE OF COUNSEL IN JUVENILE PROCEEDINGS AND ASSURE ASSISTANCE OF COUNSEL FAMILIAR WITH JUVENILE PROCESS.
- 4.12 MAINTAIN PROVISION OF COUNSEL TO INDIGENTS IN INVOLUNTARY COMMITMENT AND SEXUAL PSYCHOPATH HEARINGS.
- 4.13 PROVIDE DEFENSE SERVICES FOR INDIGENTS IN CIVIL CASES.
- 4.14 ESTABLISH ADEQUATE COMPENSATION FOR ASSIGNED COUNSEL IN INDIGENT CASES, INCLUDING SPECIFIED RATES, DETERMINED BY THE DIFFICULTY OF THE CASE, AND A FINANCING SYSTEM.

## GRAND JURY

The grand jury is composed of twenty-three citizens, randomly selected, to screen cases presented by the prosecutor's office and to decide whether there is enough basis to the state's case for a trial to be held. The purposes of the grand jury include protecting innocent persons from unfounded prosecution, investigating corruption in government and reflecting the community point of view regarding enforcement of laws.

Many critics of the grand jury system feel that it has become simply a "rubber stamp" for the prosecution and that the jury no longer protects the innocent from unjust prosecution. This criticism is bolstered by the fact that many grand juries, including those surveyed in New Hampshire, vote to indict in over 90 percent of the cases presented by the prosecution. While this may reflect exceptional performance by the prosecutor's office it may also indicate that grand jurors are not knowledgeable concerning their role in the process. Therefore, Standard 5.1 calls for improving the information given grand jurors regarding their duties, responsibilities and role in the criminal justice process.

Another criticism of the grand jury system is that it causes unnecessary delays in processing criminal cases resulting in lengthy periods of pre-trial incarceration for some defendants. This criticism is largely based on the fact that the grand jury is not always in session and therefore is unavailable to hear cases. Standard 5.2 addresses this issue by providing for regular recall of grand jurors during their term of service.

Finally, grand jury service can pose a hardship on those who serve and in doing so may contribute to biased action on the part of jury members. Standard 5.3 addresses this problem by limiting the time that grand jurors must serve.

## STANDARDS

### 5.0 GRAND JURY

- 5.1 PERSONS SELECTED FOR GRAND JURY DUTY WILL RECEIVE THOROUGH ORIENTATION BY THE COURT. JURORS WILL BE INFORMED OF THEIR DUTIES AND RESPONSIBILITIES, COURT PROCEDURES AND LEGAL TERMINOLOGY.
- 5.2 GRAND JURIES SHOULD, AT THE DISCRETION OF THE COURT, BE SUBJECT TO RECALL UNTIL SUCH TIME AS A NEW GRAND JURY IS IMPANELED AT THE NEXT TERM OF COURT, OR IN THE ALTERNATIVE, VENUE SHOULD BE SHIFTED TO AN ADJACENT COUNTY WHERE A GRAND JURY IS AVAILABLE WHEN SPEEDY TRIAL IS DEMANDED.
- 5.3 GRAND JURY SERVICE SHOULD BE LIMITED TO THE TERM OF COURT FOR WHICH THAT GRAND JURY HAS BEEN IMPANELED.

### PLEA BARGAINING

Plea bargaining is an arrangement between the prosecutor and the defendant or his lawyer, in which the defendant pleads guilty to a less serious charge than might be proven at trial (charge bargaining) or pleads guilty based on the prosecutor's promise to recommend a lighter-than-usual sentence for the offense charged (sentence bargaining).

The practice causes great public concern because many people feel defendants escape just punishment and justice is forgotten. At the same time, supporters of plea bargaining point out that it permits cases to be disposed of faster, with less drain on the state's resources than would be the situation if all cases were brought to trial. Most important, proponents of plea bargaining contend that the courts could not dispose of the tremendous volume of cases which would require trial if plea bargaining were abolished.

One compromise position on plea bargaining would retain the procedure but enable the court to assert more control over its application. The standards in this section reflect that position and recommend that specific controls and procedures be followed prior to and during plea negotiations. At

the same time, Standard 8.4 and those of several other sections call for instituting changes in case processing in order to reduce the need for plea bargaining.

## STANDARDS

### 6.0 PLEA BARGAINING

- 6.1 INFORM DEFENDANT PRIOR TO ACCEPTANCE OF PLEA THAT IF PROSECUTION SENTENCE RECOMMENDATIONS ARE NOT FOLLOWED, THE PLEA MAY BE WITHDRAWN.
- 6.2 EXCLUDE TRIAL JUDGE FROM PLEA NEGOTIATION PROCESS, BUT INFORM THE JUDGE OF THE REASONS FOR A REQUESTED DISPOSITION.
- 6.3 REVIEW OF SENTENCES BY SENTENCE REVIEW DIVISION SHOULD BE DIRECTED TOWARD REDUCING DRASTIC ABUSES CAUSED BY PLEA BARGAINING.
- 6.4 INSTITUTE CHANGES IN PROCESSING OF CASES AIMED AT REDUCING NEED FOR PLEA BARGAINING.

## TRIAL PROCEDURE

Trial procedures should enable legal proceedings to be completed fairly and as speedily as possible. The purpose of standards in this area is to involve the court directly in expediting the conduct of cases.

Procedures recommended in this section increase the role of the court in supervising litigation through (1) use of pre-trial conferences, (2) omnibus hearings, (3) uniform rules, (4) full discovery, (5) calendar coordination among courts, (6) limitations on continuances, (7) regular motion hearings, (8) videotaped depositions, and (9) monitoring of complex cases by a single judge or special master.

In expediting criminal cases, more meaningful use of probable-cause hearings and standardized police reports geared to discovery needs are urged.

All these steps require the court to act affirmatively in shaping the legal process rather than remaining in the background while lawyers prepare cases for trial at their own pace. These standards recognize that litigants may not share the delaying tendencies of their own attorneys and that the

court has a positive interest in assuring high-quality service by overseeing all aspects of the process to insure fairness and efficiency.

## STANDARDS

### 7.0 TRIAL PROCEDURES

- 7.1 REQUIRE PROBABLE-CAUSE HEARINGS IN ALL FELONY CASES AS AN EARLY SCREENING STAGE.
- 7.2 USE OF COURT-ORDERED, IMMEDIATE, VIDEOTAPE DEPOSITIONS TO MAINTAIN COOPERATION AND PROTECTION OF WITNESSES AND EXPAND CAPABILITY OF COURTS TO VIDEOTAPE TRIAL SEGMENTS AND DEPOSITIONS AT INITIATION OF COUNSEL.
- 7.3 EMPHASIZE AND INCREASE AVAILABILITY OF ARBITRATORS AND MEDIATORS TO RESOLVE DISPUTES WHERE PARTIES AGREE TO THEIR USE.
- 7.4 USE OMNIBUS HEARINGS TO EXPEDITE CRIMINAL PRE-TRIAL PROCESS.
- 7.5 EMPLOY PRE-TRIAL PROCEDURES AND CONFERENCES AS NEEDED TO:
  - a. MONITOR AND EXPEDITE DISCOVERY PROCESS;
  - b. OUTLINE MATTERS TO BE TRIED; AND
  - c. STIMULATE SETTLEMENT WHERE POSSIBLE THROUGH SCHEDULING OF CONFERENCE SHORTLY BEFORE TRIAL.
- 7.6 ASSIGN APPROPRIATE COMPLEX CASES AND FAMILY-RELATED MATTERS TO MEDIATORS OR MASTERS IN THE FIRST INSTANCE. IN SOME CASES, A SINGLE JUDGE SHOULD MONITOR A COMPLEX PROCEEDING.
- 7.7 CONDUCT ALL TRIALS IN THE STATE IN ADHERENCE TO UNIFORM RULES AND PROCEDURES APPLICABLE IN ALL TRIAL COURTS.
- 7.8 ADOPT RULES FOR EFFECTIVE PROCESSING OF CASES. THESE SHOULD BE DRAFTED IN THE FIRST INSTANCE BY COMMITTEES COMPRISED OF JUDGES AND ATTORNEYS. DRAFTS SHOULD BE WIDELY DISTRIBUTED, WITH SUFFICIENT TIME PERMITTED FOR COMMENT PRIOR TO ADOPTION AND THOROUGH DISSEMINATION UPON EXAMINATION.
- 7.9 MINIMIZE CONFLICTS IN CASE SCHEDULING BETWEEN DIFFERENT TRIAL COURTS AND SESSIONS IN THE SAME AND ADJACENT COUNTIES.
- 7.10 RESERVE TRIAL BY JURY, IN CIVIL CASES, FOR MATTERS IN WHICH IT IS MOST NEEDED TO RESOLVE ISSUES OF FACT. NO CASE SHOULD BE TRIED BY JURY UNLESS THE AMOUNT IN CONTROVERSY EXCEEDS \$3,000.
- 7.11 SEPARATE ADULT CRIMINAL TRIAL CALENDARS FROM JUVENILE HEARINGS SO THAT, IN CONFORMITY WITH EXISTING LAW, JUVENILES ARE NOT PRESENT IN COURTROOMS WHEN ADULT DEFENDANTS ARE THERE.
- 7.12 PROVIDE FOR FULL AND OPEN DISCOVERY IN ALL CASES, RESTRICTED ONLY BY PRIVILEGES, CONSTITUTIONAL BARS AGAINST SELF-INCRIMINATION, AND SERIOUS DANGER TO WITNESSES.
- 7.13 INSTITUTE USE OF STANDARD FORM OF POLICE REPORT TO EXPEDITE DISCOVERY IN CRIMINAL CASES.

7.14           LIMIT CONTINUANCES IN ALL CASES TO EMERGENCY SITUATIONS, ESPECIALLY WHERE A DEFENDANT IS INCARCERATED BEFORE TRIAL. ADVANCE APPLICATION IN WRITING SIGNED BY A PARTY SHOULD BE REQUIRED FOR CONTINUANCES.

7.15           SESSIONS FOR MOTION HEARINGS SHOULD BE SCHEDULED REGULARLY, BUT NOT LESS OFTEN THAN MONTHLY.

## SENTENCING

Sentencing has become one of the most controversial areas of the criminal justice process. Many believe the courts are too lenient and that severe sentences help to prevent crime. Others, however, see the primary goal of sentencing to be the rehabilitation of criminals and are therefore critical of the courts if the sentencing decision appears to place greater emphasis on punishment, retribution or deterrence rather than rehabilitation. The oft-conflicting goals of sentencing thus include: (1) punishing those guilty of a criminal act, (2) rehabilitating the criminal, (3) protecting the community from dangerous offenders and (4) deterring others from committing similar crimes. Because these goals frequently conflict, and as one or another rises or falls in public esteem, sentencing becomes a highly controversial issue.

The sentencing judge must determine the most appropriate sentence on the basis of the seriousness of the crime and the offender's background and character. In a sense, the judge must try to predict the future behavior of the individual. Sentences must be fair in relation to the seriousness of the offense and must be consistent, that is, equally applied. Additionally, sentencing of juveniles requires special skills and knowledge, as interceding in juvenile cases in which life styles have yet to be defined, represents the court's greatest opportunity to prevent future criminal behavior.

The standards in this section are designed to help the courts deal more effectively with sentencing by addressing problems created by statutory sentences, constructing mechanisms for achieving greater uniformity in sentencing,

and meeting the special needs of juvenile offenders, particularly "status offenders."

## STANDARDS

### 8.0 SENTENCING

- 8.1 DETERMINATION OF WHERE A SENTENCE IS SERVED SHOULD DEPEND ON WHAT RESULTS THE SENTENCING COURT INTENDS TO PRODUCE, RATHER THAN UPON THE LENGTH OF THE SENTENCE OR THE AGE OF THE DEFENDANT.
- 8.2 OVERALL CONSISTENCY IN SENTENCING SHOULD BE ACHIEVED THROUGH MECHANISMS SUCH AS A SENTENCING REVIEW BOARD.
- 8.3 OFFENDERS SHOULD NOT BE SUBJECT TO HABITUAL OFFENDER IMPRISONMENT AFTER FIVE YEARS HAVE PASSED FROM THE DATE OF THE EARLIER OFFENSE.
- 8.4 JUVENILE STATUS OFFENDERS SHOULD NOT BE INCARCERATED.
- 8.5 ADULT AND JUVENILE CLASSIFICATION AND DIAGNOSTIC UNITS SHOULD BE ESTABLISHED FOR PRE- AND POST-SENTENCING REVIEW.
- 8.6 JUSTIFICATION SHOULD BE REQUIRED BY THE SENTENCE REVIEW DIVISION IN ALL INSTANCES WHERE CONSECUTIVE SENTENCES ARE IMPOSED.

## PROBATION

Probation has rapidly become the preferred sentence in many criminal cases because it presents a workable alternative to imprisonment: while remaining under supervision, offenders are given an opportunity to modify their behavior and avoid future criminal activity. Additionally, the community realizes economic savings since supporting incarcerated offenders is very costly. Probation services grew as people realized that prisons were ineffective in rehabilitating offenders, were filled to capacity, and that the goals of the criminal justice system generally were not being met.

While supervision is an important function of probation department personnel, they provide other services which are equally vital. Pre-sentence investigation reports are prepared for the court to help the judge make his sentencing decision. These reports provide valuable information regarding

the offender's background and character. The early preparation of reports helps to reduce the time between the judgment of guilt and sentencing. Additionally, probation personnel are engaged in numerous other activities including screening, diversion, and collection of family support payments.

The standards in this section are designed to improve the quality of probation services and in turn the results of probation as a sentencing alternative. The standards address such issues as the relationship between investigative and supervisory functions, the undesirability of using probation personnel as collection agents in domestic relations support cases, meeting the special needs of juveniles, improving pre-sentence investigation reports and improving the organization and structure of the probation department.

#### STANDARDS

##### 9.0 PROBATION

- 9.1 INVESTIGATION AND SUPERVISION FUNCTIONS SHOULD BE ORGANIZED TO INSURE CONSISTENT LEVELS OF PERFORMANCE.
- 9.2 SEPARATE REGULAR PROBATION PERSONNEL FROM ALL DOMESTIC RELATIONS COLLECTIONS RESPONSIBILITIES.
- 9.3 ESTABLISH PROBATION SERVICES ADEQUATE TO MEET THE SPECIAL NEEDS OF ALL PROBATIONERS, DEVOTING SPECIFIC ATTENTION TO THE NEEDS OF JUVENILE AND FEMALE PROBATIONERS.
- 9.4 ORGANIZE PROBATION SERVICES UNDER AN ADMINISTRATIVE STRUCTURE WHICH FOSTERS THE MOST EFFECTIVE PROVISION OF SERVICES TO THE COURT AND PROBATIONER.
- 9.5 PRE-SENTENCE INVESTIGATION REPORTS SHOULD BE INITIATED ONLY AFTER A PLEA OR CONVICTION UNLESS (A) AUTHORIZED BY DEFENDANT, OR (B) SPECIFICALLY REQUESTED BY THE COURT.
- 9.6 INSULATE THE RATIONALE FOR TREATMENT PLAN (BUT NOT FACTUAL MATERIAL OR RECOMMENDATIONS) IN PRE-SENTENCE REPORTS FROM VIEW OF ALL EXCEPT THE TRIAL JUDGE AND THE SENTENCE REVIEW DIVISION.
- 9.7 INCREASE INVOLVEMENT OF PROBATION PERSONNEL IN PRE-TRIAL SCREENING AND CONDITIONAL RELEASE-SUPERVISION.

## APPELLATE PROCEDURE

Two kinds of proceedings are called appeals in the New Hampshire legal system. The first are appeals of decisions made in trial courts on questions of law. These appeals are taken to the state's highest court, the Supreme Court, which is primarily responsible for resolving disputed legal questions. A second appellate proceeding occurs when a case in which the defendant possesses a right to jury trial is tried in Superior Court following an initial trial in District or Municipal Court.

With respect to appeals on law to the Supreme Court, appellate courts across the country have been expediting the process by supervising each stage of an appeal from its inception. Supervision involves monitoring of the filing of a notice of appeal, of the preparation of the transcript of proceedings before the trial court and of the submission of briefs and records. A next step sometimes taken by an appellate court after assuming supervisory responsibility over the process is, when increased caseload requires, the introduction of screening devices. These may require a person who wants to appeal to obtain the permission of either the trial judge or the Supreme Court before filing the appeal, or may require all appeals to be reviewed by a staff attorney, who may separate those deserving full hearing by the court from routine cases which can be decided rapidly.

The second kind of appeals, to the Superior Court from the lower trial courts, are called "appeals de novo" (they are really second trials) and only exist because the jury trial, required if demanded, can only be had in Superior Court. If these appeals were eliminated, either jury trial facilities would be needed in District Court or the burden of Superior Court would be increased drastically. The standard discusses proposed decriminalization of certain minor offenses such as driving while intoxicated, which constitute the majority of de novo appeals and which are often taken solely to delay the effect of penalties imposed at the first trial.

## STANDARDS

### 10.0 APPELLATE PROCEDURE

- 10.1 RESOLVE ISSUES OF FACT AT A SINGLE TRIAL BEFORE A LEGALLY TRAINED JUDGE, INSTEAD OF CONTINUING TO USE THE REPETITIOUS APPEAL DE NOVO WHICH RESULTS IN EVIDENCE LOSS, WITNESS ABSENCE, AND INEVITABLY UNSPEEDY TRIALS. ALTERNATIVELY, DECRIMINALIZE SELECTED OFFENSES WHICH NOW REQUIRE APPEALS DE NOVO.
- 10.2 IMPROVE MONITORING OF SUPREME COURT CASES BY REQUIRING ADEQUATE NOTICE TO THE COURT AT THE START OF AN APPEAL, AND INCREASING SUPERVISION OF TRANSCRIPT PREPARATION IN ORDER TO BE ABLE TO ASSESS REGULARLY WHETHER THE IMPACT OF AN INCREASING CASELOAD REQUIRES MECHANISMS SUCH AS SCREENING, CERTIORARI, SUMMARY DISPOSITION, OR AN INTERMEDIATE APPELLATE COURT TO DISPOSE OF APPEALS.

### SPEEDY TRIAL

The New Hampshire Constitution stresses the importance of eliminating delay in trying cases. By speeding up the process, defendants who are ultimately found not guilty suffer less from being accused of a crime, witnesses are available to give accurate testimony, and the public is satisfied that justice is done fairly and swiftly. Courts in many areas have begun to establish specific time periods for processing cases.

The court system has been responsive to public sentiment by assigning priority in case processing to criminal matters. Indeed, the court has gone one step further by giving precedence to those criminal cases in which the defendant is incarcerated. This reduces the costs and the bad effects on defendants who have not been convicted. Unfortunately, one consequence of the priority assigned to criminal cases is a resulting delay in disposing of civil matters. This delay has increased the pressure on litigants to settle rather than proceed to trial. Whether the frequency of settlements is purely a result of delay is difficult to assess; nevertheless, significant delays are encountered in the processing of civil cases.

The solutions or partial solutions to delay, in both criminal and civil

matters, go beyond merely adding personnel and expanding facilities. Delays in case processing are a visible by-product of one or more aspects of the justice system breaking down. For example, delay of criminal cases may be attributable to problems at: (1) the lower court; (2) grand jury; (3) prosecutor's office; (4) clerk's office; (5) the trial court; (6) or the defense attorney or defendant. With all these potential bottlenecks, effective resolution of delay becomes complex. At the least, each aspect of the justice system must be evaluated to determine the extent to which it contributes to delay.

The purpose, then, of establishing specific time frames to evaluate the speed of case processing, or reduction in delay, is to establish a measure against which the performance of the justice system and the extent of delay can be evaluated.

#### STANDARDS

##### 11.0 SPEEDY TRIAL

- 11.1 CRIMINAL OFFENSES SHOULD BE TRIED WITHIN THE FOLLOWING TIME LIMITS, WITHOUT DEMAND BY THE DEFENDANT:
- (A) FELONY CASES IN WHICH THE ACCUSED IS NOT INCARCERATED SHOULD BE TRIED WITHIN 120 DAYS FROM THE DATE OF ARREST OR INDICTMENT;
  - (B) WHERE THE ACCUSED IS INCARCERATED, A FELONY CASE SHOULD BE TRIED WITHIN 60 DAYS OF ARREST;
  - (C) MISDEMEANORS AND VIOLATIONS SHOULD BE TRIED WITHIN 60 DAYS OF SUMMONS OR ARREST; WHERE THE ACCUSED IS INCARCERATED, THE PROCESS SHOULD BE COMPLETED IN 30 DAYS; AND
  - (D) ARRAIGNMENT ON ANY CHARGE SHOULD BE COMPLETED WITHIN 24 HOURS OF THE TIME OF ARREST.
- 11.2 PETITIONS INVOLVING JUVENILES -- EITHER PERSONS IN NEED OF SUPERVISION (PINS) OR DELINQUENTS -- SHOULD BE COMPLETED (A) WITHIN THIRTY (30) DAYS FROM FILING OF PETITION IF THE JUVENILE IS NOT INCARCERATED. (B) IF INCARCERATED, PROCEEDINGS SHOULD BE COMPLETED AS QUICKLY AS POSSIBLE, BUT WITHIN THIRTY (30) DAYS.
- 11.3 CIVIL CASES SHOULD GENERALLY BE DISPOSED OF WITHIN NINE MONTHS OF ENTRY OF APPEARANCE (OR THE EXPIRATION OF THE TIME FOR SPECIAL PLEAS) AND A PRE-TRIAL CONFERENCE SHOULD BE REQUESTED WITHIN SIX MONTHS OF THAT DATE.

- 11.4 SMALL CLAIMS CASES SHOULD BE DISPOSED OF ON THE RETURN DATE, NO LATER THAN 60 DAYS FROM THE INITIATION OF THE CASE.
- 11.5 UNCONTESTED PROBATE AND UNCONTESTED DOMESTIC RELATIONS CASES SHOULD BE DISPOSED OF WITHIN SIXTY (60) DAYS; IF CONTESTED, THE STANDARD SET FOR CIVIL MATTER (11.3) SHOULD APPLY.
- 11.6 ADOPT AND ENFORCE REASONABLE TIME PERIODS IN THE TRIAL COURTS FOR COMPLETION OF EACH PHASE OF THE LITIGATION PROCESS.
- 11.7 DECISIONS IN MATTERS TRIED TO A JUDGE SHOULD BE RENDERED WITHIN THIRTY (30) DAYS FROM SUBMISSION TO THE COURT.
- 11.8 APPEALS SHOULD BE PROCESSED ACCORDING TO THE FOLLOWING TIME PERIODS:
- 1) transcripts should be provided within 30 days of request;
  - 2) appeals should be submitted for decision or argued within 120 days from the taking of the appeal;
  - 3) decisions should be completed within 60 days from argument or submission.

## JUDICIAL SELECTION AND CONDUCT

The quality of justice is closely related to the competency, fairness and effectiveness of our judges. Therefore, judicial selection, the process by which judges (and masters) are chosen to serve on the bench, is one of the most important elements of the justice system.

There are many methods which may be used to select judges; each offers certain advantages and disadvantages. Whatever method is employed, it is important that objective criteria be used to select the most qualified candidates. Some selection methods involve appointment, others popular election, and still others combine the positive aspects of both appointment and popular election. In this regard many states have adopted judicial selection processes which base selection on merit, are non-partisan in nature and are structured so as to be relatively free of political pressures. Standards 12.1 and 12.2 recommend that New Hampshire adopt a non-partisan merit selection process. Standard 12.3 calls for the creation of a judicial conduct commission which would review complaints against judges and when appropriate, permit disciplinary action to be taken without undue delay.

## STANDARDS

### 12.0 JUDICIAL SELECTION AND CONDUCT

- 12.1 A MERIT SELECTION PLAN FOR THE SELECTION OF JUDGES SHOULD BE DESIGNED AND ADOPTED IN NEW HAMPSHIRE.
- 12.2 MASTERS OR ARBITRATORS WHO AID THE COURTS AS FINDERS OF FACT SHOULD BE SELECTED BY THE CHIEF JUSTICE FROM NOMINATIONS PROVIDED BY A COMMISSION.
- 12.3 ESTABLISH A JUDICIAL CONDUCT COMMISSION TO REVIEW AND SCREEN COMPLAINTS AGAINST JUDGES WITH POWER TO DISCIPLINE OR REMOVE JUDGES.

### CONTINUING EDUCATION

For the court system to provide the best possible service to the citizens, all judges, clerks, probation officers, and other court personnel should regularly refresh and improve their skills by attending training programs in their particular areas of responsibility. New methods and techniques for processing court cases faster and more efficiently continue to be developed. Similarly, changes in the law and in court rules must be clearly understood and complied with if the courts are to perform effectively. Changes in procedure and the application of new technology can often be best understood and utilized by court personnel through attendance at formal training programs.

Several states have established minimum continuing education requirements for judicial and non-judicial personnel. Judges, attorneys, clerks and other court personnel must attend at least one or more court-approved formal training programs each year or be subject to court-imposed sanctions.

The standards presented in this section recommend that the court, in cooperation with the bar, establish minimum continuing educational requirements for judicial and non-judicial court personnel to continue the quality of service provided by the court system.

## STANDARDS

### 13.0 CONTINUING EDUCATION

- 13.1 THE SUPREME COURT SHOULD ESTABLISH MINIMUM CONTINUING EDUCATION REQUIREMENTS FOR JUDGES, LAWYERS, AND COURT PERSONNEL. THE COURT WITH THE COOPERATION OF THE NEW HAMPSHIRE BAR ASSOCIATION SHOULD CERTIFY AND, IF NECESSARY, ORGANIZE IN-STATE PROGRAMS FOR CONTINUING EDUCATION.
- 13.2 SPECIALIZED TRAINING SHOULD BE REQUIRED FOR ALL JUDGES, INCLUDING MASTERS, IN ALL COURTS; IF THE TRAINING IS ONLY AVAILABLE OUT OF STATE, THE COURT SYSTEM SHOULD INCUR THE COST OF ATTENDANCE.
- 13.3 SPECIALIZED TRAINING SHOULD BE PROVIDED FOR NON-JUDICIAL COURT PERSONNEL, INCLUDING COURT OFFICERS, COURT REPORTERS, CLERKS, PROBATION AND POLICY PERSONNEL.

### PUBLIC EDUCATION AND NEWS COVERAGE

Very few citizens understand the structure and organization of the state's court system. Many participants in the justice system, legislators, witnesses, jurors and litigants have little understanding of what is happening in the courts, how they operate, or what improvements should be made.

If the public is to support the court system and effectively participate in its operation, they must understand their role in the judicial process. The courts can help promote this understanding by informing the public of the court goals, structure, organization and operations through public meetings, informational pamphlets, informative newspaper articles and school programs.

In addition, the public's "right to know" must not make it impossible for a particular case to receive a fair trial. Information provided by the court concerning specific cases should be limited to facts that form the public record in order to protect this right to a fair trial.

The standards prescribed in this section concern informing the public of the court's goals and procedures as well as preparing members of the public for service as jurors, witnesses or litigants. Further, Standards 14.2 and 14.3 provide for an informed public while safeguarding the defendant's right to a fair trial.

## STANDARDS

### 14.0 PUBLIC EDUCATION AND NEWS COVERAGE

- 14.1 INFORM THE PUBLIC OF THE GOALS, METHODS AND PROCEDURES OF THE COURTS AND THE REASONS FOR EACH, IN ORDER TO PREPARE MEMBERS OF THE PUBLIC FOR SERVICE AS JURORS, PRESENCE AS WITNESSES, AND RIGHTS AS PARTIES.
- 14.2 SPECIFY THOSE ASPECTS OF CRIMINAL CASES WHICH ATTORNEYS, JUDGES, LAW ENFORCEMENT OFFICERS, COURT EMPLOYEES, PARTIES AND WITNESSES ARE FORBIDDEN TO DISCLOSE TO THE PRESS OR PUBLIC IN ORDER TO PRESERVE AN ACCUSED'S RIGHT TO A FAIR TRIAL.
- 14.3 INSURE FAIR TRIALS BY PROVIDING TRIAL JUDGES WITH A RANGE OF MEASURES TO USE WHEN PREJUDICIAL PUBLICITY THREATENS AN ACCUSED PERSON'S RIGHTS: CHANGE OF VENUE, CONTINUANCE, SEQUESTRATION OF JURORS AND WITNESSES, EXAMINATION AND SPECIAL CAUTIONING OF JURORS, EXCLUSION OF PUBLIC FROM PRE-TRIAL HEARINGS, AND SETTING ASIDE VERDICTS IN CASES WHERE EARLIER STEPS HAVE PROVEN INSUFFICIENT.
- 14.4 THE CLERK SHOULD PROVIDE THE PUBLIC AND THE PRESS WITH RAPID ACCESS TO ALL ACCURATE INFORMATION ABOUT THE WORK OF THE COURTS WHICH IS PART OF THE PUBLIC RECORD.

## COURT FACILITIES

The goal of the court system to administer justice fairly and efficiently is compromised when the courts are forced to operate in poorly designed and maintained facilities. Such facilities are not functional and do not provide the proper atmosphere for the fair administration of justice.

Consideration must be given to several important features when determining the appropriateness of a court facility. These features include: location of courthouse; number of courtrooms in relation to caseload; space for court records room, probation offices, security, conference rooms, judges' chambers, and detention areas for prisoners. Further, when courts must share space with law enforcement or other governmental agencies, citizens coming to court often form the impression (real or imagined) that the court is simply an extension of the police department or some other agency. While total

separation of such facilities may be financially impractical, the goals of the courts and the agencies sharing the building should be compatible.

Many court facilities in New Hampshire are inadequate to meet the needs of the courts. New Hampshire has a Court Accreditation Commission which has studied court facilities and made recommendations for improving existing structures. However, as the Commission can impose no sanctions, little has been done at the local level to effect these improvements.

The standards in this section underscore the need for adequate court facilities and promote the establishment and enforcement of accreditation standards which will aid improving the adequacy of existing facilities.

#### STANDARDS

##### 15.0 COURT FACILITIES

- 15.1 PROVIDE ADEQUATE AND APPROPRIATE COURTHOUSE FACILITIES TO SUIT NEEDS OF COURTS AND COMMUNITIES THROUGH ENFORCEMENT OF THE ACCREDITATION COMMISSION STANDARDS. PREPARE A STATE-WIDE SCHEDULE OF NEEDS EMPHASIZING MODERNIZATION OF NONACCREDITED FACILITIES.
- 15.2 PROVIDE SUFFICIENT SEPARATION OF COURT FACILITIES FROM LAW ENFORCEMENT OR OTHER GOVERNMENT AGENCIES HOUSED IN THE SAME BUILDING TO MAINTAIN AN ATMOSPHERE CONDUCIVE TO JUSTICE.

#### COURT ORGANIZATION AND ADMINISTRATION

"Court organization" is the structure which encompasses all levels of court and is concerned with the relationships which exist between court functions directly related to deciding questions of law and fact and the hearing of cases, and administrative activities such as budgeting, personnel, and case scheduling.

The way in which a court system is organized often determines how efficient and effective its operations are. For example, a "unified court

system" may operate under a central administrative office. The non-judicial business at all levels of court is administered by a centralized, well-defined administrative authority. Personnel systems, budgeting practices and case processing procedures are characterized by uniformity. Funding of the system is usually through one source. In contrast, a court system which is not unified may have many different courts operating independently of each other with administrative authority divided or not exercised at all, resulting in duplication of effort and a lack of uniformity in administrative procedures and policies. Uniformity is valuable not to enforce a rigid pattern in areas with different administrative needs but to assure everyone that the system operates fairly throughout the state.

The intent of New Hampshire legislators to construct a more unified court system for the state was embodied in RSA 490-A-1. Present legislation lacks the specificity necessary for the courts to be effectively administered on a unified basis. The standards in this section address such critical issues as a unified personnel system, state financing of the courts, full-time judges, the functions of the Probate Courts, and delivering efficient administrative services to all levels of court.

#### STANDARDS

##### 16.0 COURT ORGANIZATION AND ADMINISTRATION

16.1 REQUIRE ALL JUDGES TO SERVE ON A FULL-TIME BASIS. USE OF A ROTATING CIRCUIT SYSTEM CAN INCREASE ACCESS TO COURTS IN ALL COMMUNITIES IF MAKING ALL JUDGES FULL TIME REDUCES THE TOTAL NUMBER OF JUDGES.

16.2 DEVELOP A SYSTEM OF COURT FINANCING WHICH PROVIDES GREATER UNIFORMITY AND CONSISTENCY OF FUNDING THROUGH A CLEARLY DEFINED BUDGET PROCESS WHICH INVOLVES ALL LEVELS OF COURT. EXERCISE GREATER COURT CONTROL OVER FINANCIAL MANAGEMENT, MOST NOTABLY THE PROCESSING OF EXPENDITURES AND REVENUES. AUTHORIZE LINE-ITEM TRANSFERS BY THE COURT NOT SUBJECT TO EXECUTIVE BRANCH APPROVAL. VEST GENERAL FINANCIAL MANAGEMENT CONTROL IN THE SUPREME COURT TO FOSTER CONSISTENT COMPREHENSIVE ALLOCATION OF JUDICIAL RESOURCES AND FINANCIAL PLANNING.

- 16.3 ORGANIZE A PERSONNEL SYSTEM TO INCLUDE ALL COURT EMPLOYEES OF THE STATE.
- 16.4 MAKE THE POSITION OF PROBATE JUDGE A FULL-TIME POST BY EXPANDING THE COURT'S JURISDICTION OR ASSIGNING PROBATE JUDGES TO OTHER COURTS BASED ON AVAILABILITY. THIS COURT SHOULD END USE OF FEE SYSTEM TO FINANCE COURT OPERATIONS.
- 16.5 BASE THE NUMBER OF JUDGES NEEDED ON SIZE AND CHARACTER OF CASELOAD IN ADDITION TO POPULATION.
- 16.6 REDUCE WAITING TIME FOR WITNESSES INCLUDING POLICE OFFICERS, BY INTRODUCING PROCEDURES TO NOTIFY WITNESSES WHEN ACTUALLY NEEDED.
- 16.7 PROVIDE EFFICIENT ADMINISTRATIVE SERVICES AT ALL LEVELS OF COURT AND WHERE FEASIBLE, CENTRALIZE ADMINISTRATIVE FUNCTIONS.

**END**